

KENYA'S URBAN DEVELOPMENT IN THE 21st CENTURY

The Call for Innovative Initiatives from Local Authorities



Marcel C. Werner

Viola A Otieno

Judi W Wakhungu

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MARCEL C WERNER, VIOLA A OTIENO, JUDI W WAKHUNGU



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DTIA

P.O. Box 59948-00100 GPO

Nairobi, Kenya

www.dtia.or.ke

ACTS

P.O. Box 45917-00100 GPO

Nairobi, Kenya

www.acts.or.ke

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FOREWORD: SUMMARY FOR POLICY MAKERS

One of the most enjoyable aspects of my work is the occasion I have to engage with policy makers throughout Africa, and beyond. I have the unique opportunity to observe and to appreciate debates, to moderate assessments, and to participate in policy implementation processes of new ideas and visions for transforming sustainable development. This is a privilege I do not take for granted. Therefore, among the most exciting emergent policy making processes, for me, revolves around the challenges and opportunities provided by Kenya's new Constitution. As you are all aware, since August 2010, Kenya's national policy development and implementation has been guided by a new Constitution. A significant national policy virtue of this potentially transformative anthology is devolution of government and the role of public participation in state and government affairs.

The practical implication of this devolution, for purposes conveyed in this publication, is that Local Authorities will be at the forefront of the development agenda. From the vantage point of a person that is keen to influence devolution and sustainable development policy, I am excited about the responsibility that will be vested in the Counties and Local Authorities as issues concerning leadership, representation, equality, equity, and accountability will be more apparent than ever before in our history. Success will require vision, proven leadership, and integrity.

As a result of unprecedented public participation, Kenya made tremendous strides to reach this critical milestone of devolution, responsibility and transparency. Moreover, as Kenya's Vision 2030 preceded the new Constitution, the expectations of Vision 2030 to transform Kenya into a country providing a regionally competitive quality life to all by the year 2030, are high. It is worth noting that Vision 2030 embraces the Millennium Development Goals to eradicate extreme poverty by 2015, the bulk of which from a development perspective and implementation is vested in Counties. From an innovative perspective, this is a tall order! But the summation of policies in place if implemented, are encouraging. Even though County Councils have not been able to deliver sufficient services in the multitude of villages and townships under their care, it is totally unclear how the new County Governments will handle this in future. Establishing and maintaining public markets appears an obvious and viable service that needs attention. Our manuscript shows how the onus and opportunities lie in the hands of Local Authorities.

Liberalization of the information and communication technology (ICT) sector, for example, has shown that indeed public participation in planning and policy implementation in a devolved government is possible. It is worth noting how ICT has, and continues to transform Kenyan society, with more than half of the population now being regular users of mobile phones and with Internet continuing to enjoy widespread dissemination. This publication emphasizes that many other sectors are poised to benefit as the resolution to engage in public-private partnerships will represent a powerful approach for Local Authorities to surge ahead and make a mark on national development.

Judi Wakhungu

Executive Director

African Centre for Technology Studies

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The authors

INTRODUCTION

In municipal councils in Kenya, urban environment development plans are drawn up but not followed through. In rural councils, environment development plans are not made at all and therefore development comes about in a haphazard manner. Community development efforts led by local government are minimal and have little impact. Local government, within the new framework of devolved management in Kenya, has the capacity to re-invent itself so as to play a leading role in the development of living space for the country's citizens.

The evolution of local government in Kenya has shown continuity inasmuch as it has preserved a narrow, traditional role for local authorities. This narrow role covers the issuance of permits, public sanitation and the control of physical development. The mean budget per capita of a municipal council stands at KES 2,800 or USD 30. A strategy to stem the decline of service delivery has been instigated by central government, while the legal and financial framework continues to pose challenges to realization of the objectives of this strategy. The new Constitution of Kenya (2010) calls for devolution of government. The implementation of this devolution principle will be a learning progress with built-in financial and human capital hurdles, not to mention legal challenges. Devolution will place local government afresh in a spot where it can prove itself as development agent at local community levels. A new style of local government will make it possible to overhaul traditional management within two areas of development, namely physical development and community development. It is likely that Kenyan towns and cities will be awakened to be more active players in the bid to improve the quality of life of their inhabitants and to attract investment.

The success record of managing these two development domains has been poor. The management of physical development has largely failed. Municipalities and cities make plans that are not followed through. Counties, as the rural local authorities, do not make plans at all and therefore physical development occurs without proper guidance. There is no evidence of the promotion of sports and culture. The local government role in community development, has with the best of intentions, been marginal. The Local Authorities Service Delivery Action Plan (LASDAP) is a small mandatory kitty at each local authority that carries out residual development, projects that complete or complement existing government projects. A burgeoning new instrument on the scene is Public Private Partnership, already being tried out by a few local authorities. A new legal and regulatory framework is in the making.

Access to information and the style and quality of democratic interaction are still far from sufficient to allow meaningful public participation in local development. Information and Communication Technology (ICT) has held out the promise of community inclusion in the set-up and activities of local authorities. Government-sponsored ICT development has attempted to institute financial good governance. Numerous additional ICT developments are prompting local authorities to open up to the public. Development Trust Innovation Africa has a history of involvement in ICT activities in local government over the past five years. These activities evolved from the promotion of awareness and making contributions to national policy development, to engaging 'champion' councils in modernization through ICT. Since 2011, ICT services have been taken as a given in order to facilitate development and to engage communities.

The role of local authorities in development could be more clearly defined and greatly enhanced. It has been advanced that for a local authority “development is the management of informality, in terms of the built environment, land use, infrastructure and environmental services.”¹ At the moment, local authorities manage informality with repression as a starting point and then moving to tolerance followed by reform, and at times experiencing all these management styles at the same time. The concept of Public-Private Partnership (PPP) for services and facilities is hardly ever on the agenda of local authorities in Kenya, although it may well be the most promising avenue for realizing development. In high-income countries, local authorities have per capita budgets that can be as much as two hundred times higher than those seen in Kenya. Therefore PPPs are the biggest prizes to pursue. Local Authorities are in a position to become pro-active in development and at the same time inspire the ongoing reform process. The evolution scenario in Kenya is a learning experience with relevance for other developing nations.

CHAPTER 1

PUBLIC POLICY 2000 – 2011

National development policy in Kenya has seen a focus on stimulating economic growth and driving up national income. Internationally, development policy priorities are better qualified to guide sustainable development.

Ranking Cities according to 'Liveability'

Which locations around the world provide the best or the worst living conditions? A "world liveability index" has been introduced as a measure of the quality of life in towns and cities. Liveability is increasingly used by city councils as a guide to make their towns as attractive as possible. Competition has become a driving force for many councils: Best known are the 'beauty contests' for hosting the Olympic Games and other world sports' tournaments, but there is also much competitiveness to host international organizations or to attract international trade fairs. The newly devolved government in Kenya will definitely spur competition between counties and towns. The 'World Liveability Index 2011' of the Economist Intelligence Unit ranked cit-

ies in areas where local authorities can make a difference: Culture and the Environment which analyses sports, cultural activities, religious restrictions and corruption; stability which assesses crime and civil unrest; and Infrastructure which considers roads, public transport, energy and water. Melbourne, Australia came out on top. There was no African city in the top 10².

What is Progress?

Progress cannot be measured solely in terms of economic success. What value can be placed, in a given society, on such things as life expectancy, access to education, access to ICT, democratic participation, the fight against pollution, safety, job security and community spirit?

The United Nations Development Programme (UNDP) looks at progress in a much broader way than simple emphasis on growth of per capita income or Gross Domestic Product (GDP). The following words were spoken by Kenya's Minister of Finance in his budget speech to Parliament in 2011: "First, Mr. Speaker, I would like to assure Kenyans that in



Is it possible to create 'liveable' cities? Nairobi City Council transformed Standard Street into a semi-pedestrian zone. The idea was unexplainably abandoned after this first step

framing this year's Budget, we have ensured: one, that we continue to nurture the growth momentum in the face of emerging domestic and global challenges."

The annual UNDP Human Development Report (HDR)³ provides policy guidelines for a wide range of agendas, besides finance, that make up quality of life. In the final analysis, human progress means expanding freedoms and reducing threats to human existence. The Report looks at a wide range of elements besides national income which shape our lives and which can be influenced by policy: It looks at the tension between economic development and human development, caused by unbridled infrastructure development, lax environmental protection but also social factors like giving room for communities to participate in the economic decision-making processes. Success does not always mean fast growth, in the philosophy of the Report. The 2006 HDR exposed the inequalities in the use of water and their implications for human development: it showed that people in slums in sub-saharan Africa pay more for their drinking

water than do residents of New York or Singapore. The 2007/2008 HDR Report applied a human development lens to climate change: the implications of climbing world temperatures, reflected in changing patterns of local rainfall, rising sea levels and forced adaptation by some of the world's most vulnerable groups.

Kenya comes 128th on the 2010 Human Development Index of 169 countries. One area that helps determine this ranking is 'Civic and Community Well-being'. In Kenya, 54% of the population is satisfied with affordable housing, 64% with the education system and schools, 79% with air and 45% with water. Of great relevance to the management of social living space is the number of people who live on degraded land. Land degradation is based on four aspects of ecosystem services: biomass, soil health, water quantity and biodiversity. Very severe degradation indicates that biotic functions are largely destroyed and that land is nonreclaimable at the farming level. In 2010, in Norway 0% of the population was living on degraded land : 5% in the Netherlands;

Human Development Index (HDI)

A composite index measuring average achievement in three basic dimensions of human development— a long and healthy life, knowledge and a decent standard of living. The most commonly cited definition of sustainable development is “development that satisfies the needs of the present without compromising the ability of future generations to meet their own needs.” (World Commission on Environment and Development), 1987. *Our Common Future*. WCED Report. Oxford, UK: Oxford University Press).

Water is the issue

No matter where you go to in Kenya, whether it be in cities or in villages, everywhere you can see people scrambling for water. Donkey carts, queues at water kiosks, water lorries. People cover longer and longer distances, and pay more and more for water...



9% in China and 31% in Kenya. For Kenyans, these statistics should give pause for thought. The same report indicated that 11% of the population had no access to water supply services in China and in Kenya 41%; in China 45% of the population had no access to sanitation and in Kenya 69%. A surprising feature of this research is that there seems to be no clear link between growth of the Gross Domestic Product and improvement of the Human Development Index (HDI).

Kenya's Place in a Competitive World

Kenya is a country in which the private sector is extremely powerful. It has been a regional economic hub for many years, but the past decade has seen a shift in government policy that places increasing emphasis on economic development led by the private sector. This despite the continued presence and often even dominance, not to say monopoly of parastatal

companies in key sectors of the economy such

as energy, water and even agriculture sub-sectors. Kenya competes in the world and its top political and business leadership knows this. There is much interest in Kenya's competitive position in the world economy. The business community is aware of forces that militate against competitiveness.

The most prominent tool in documenting competitiveness is the Global Competitiveness Report of the World Economic Forum. Kenya is climbing up slowly but surely in the world rankings and now occupies the 102nd position out of 142 countries. Some of our competitors are countries like South Africa, which comes in at 50th, the United Arab Emirates at 27th and Mauritius at 54th. If we look more closely at the thematic rankings underlying the overall score, then we see that all of us can play a part in bringing about positive change. The quality and role of public institutions are key factors. Of the essence are such things as land security and ownership of intellectual property, bureauc-



The new Constitution encourages public participation. The traditional way has been through public meetings, or 'barazas'. New ways of facilitating public participation which satisfy democratic principles have yet to be found.

racy and red tape, overregulation, corruption, lack of transparency and the autonomy and trustworthiness of the judicial system, all of which are factors which can put the brakes on economic development. Compounded with other basic areas like infrastructure, Kenya is ranked here in a much lower position 118th, South Africa also in a relatively low position at 85th, the United Arab Emirates can be quite happy at 10th position and Mauritius is 48th. In Technological Readiness where usage of ICT, 'the general purpose technology of our time', is the determining factor, Kenya does much better at 98th position, South Africa is 76th, the United Arab Emirates are 30th and Mauritius is 61st⁵. Under the rubric of Innovation and Sophistication Kenya has cause to be proud, ranked at 53rd position, South Africa is 39th, the United Arab Emirates are 27th and Mauritius is 59th. Kenya has strong company spending on Research & Development, good research institutions and a dynamism in the financial sector. In security Kenya is seen in a bad light, being ranked 124th. It is important to note that as concerns what business leaders single out as the most problematic

factor for doing business, namely Corruption, Kenya is pegged at 21.2%. On Access to Financing Kenya is at 13.5%, on Inadequate Supply of Infrastructure at 11.0%, and on Crime and Theft at 10.3%⁶. There is every indication that local government can play a positive and important role in improving Kenya's condition in all these areas. Improving governance and infrastructure, harnessing investment finance and innovation as well as improving security are definitely areas in which local government can make a marked difference.

The Global Competitiveness Report comes out every year, is available on the Web (www.weforum.org) and recommended reading for county and local government leaders.

National Policy: Devolution and Participation

Since August 2010, Kenyan national policy development and implementation has been guided by a new Constitution. In the context of this compilation, among the most relevant

agendas in this Constitution are devolution of government and citizen participation in state and government affairs. A devolved system of government follows the multi-dimensional approach to the organization and management of governance and state power. It seeks to organize governance and to manage state power both vertically and horizontally and thus to define, distribute and constrain the use of state power in the same fashion. Under this system, two or more levels of government are set up that are co-ordinate but not subordinate to each other. None of the levels of government is a mere agent of the other. Each is created and protected by the Constitution. The vertical and horizontal arrangement will also apply to public finance. The debate on how to distribute public finance between central government and the devolved units is ongoing, and approaches will no doubt have to be amended, fine-tuned in a continuous learning experience.

Fiscal decentralisation has two sides to it. One being the division of expenditure responsibilities and revenue sources between the national and county governments and the other being the level of power and responsibility of county governments over revenues and expenditure. An important factor in determining the type of fiscal decentralization is the extent to which county governments are given autonomy to determine the allocation of their expenditures and their ability to raise own revenues.

The legal requirement for public participation in the planning and budget process for counties is an “innovative element” in a proposed fiscal decentralisation framework, as explained by the Task Force on Devolved Government⁷. This requirement is in line with the Constitution and aims to improve accountability in the use of resources and ownership of development planning at the local level.

The counties cannot finance themselves fully, or more explicitly, they will only be able to finance a small part of their needs. There will be revenue transfers from the national government to county governments as provided by the Constitution, of “not less than 15%” of all central government revenue (Art. 203 (2))⁸. Therefore, a mechanism must be worked out

for ensuring that intergovernmental transfers are equitably shared between national and county governments and among county governments themselves. The question is: what is to be understood by ‘equitably?’

Ideally, county governments should meet their expenditure responsibilities through locally generated revenues. This would align the benefits and costs of delivery of services; and it would be in line with the subsidiarity principle. However, this ideal situation does not even apply in many developed countries and so local or county governments will still rely on revenue sharing with the central government. For example, in many parts of the world, central government funds half to two-thirds of local authorities. The reason for this is the narrow revenue base for county governments, where national governments assign themselves major tax sources like income tax and value added tax, and where expenditure responsibilities are assigned to local governments without corresponding finances.

Vision 2030: The Implications for Local Government

The Government of Kenya has spelt out a strategic plan ‘Vision 2030’⁹ that has guided its actions over the past few years: Vision 2030 aims to transform Kenya into a newly industrialised, middle-income country providing a high quality life to all its citizens by the year 2030. Vision 2030 takes on board the Millennium Development Goals that were formulated by the United Nations to help eradicate extreme poverty by 2015. Some of the development agendas in Vision 2030 are clearly within the ambit of local government. Vision 2030 was written before the promulgation of the new Constitution. The new Constitution does not, however, invalidate Vision 2030, but the main novelty arising from it is that of devolved government. Vision 2030 places infrastructure at the top of its list of development agendas. Consequently, no region of Kenya should be referred to as ‘remote’ by 2030. Land reform is named as a driver of economic transformation. “Land administration, the computerisation of land registries, the estab-

Socio-economic indicators 2011

Population	40.9 millions
Gross Domestic Product (GDP) in billions of USD	32.2
Gross Domestic Product per capita	USD 809
Kenya's GDP in % of world total	0.09%
Urban population in national average	32.3%
Economic output per sector in % of total GDP	
Agriculture	23.2
Transport & communications	12.2
Services	5.9
Construction	3.6
National budget	KES 1.1 trillion
Population below the poverty line %	46.6
Banked population:	70%

sources: Economic Survey 2011¹⁴; www.opendata.go.ke¹⁵.

lishment of national spatial data infrastructure in order to track land use patterns" are topics singled out to be facilitated by a land policy. Environment management is highlighted from an economic angle: "improving pollution and waste management through ... economic incentives" and "public-private partnerships (PPPs) for ... water and sanitation delivery."¹⁰ Flagship environmental projects include rehabilitation of Kenya's five water towers, securing wildlife corridors, solid waste management and a Land Cover and Land Use Mapping Initiative which calls for "comprehensively mapping land use patterns in Kenya."¹¹ Housing and Urbanisation is a key agenda, in recognition of the insufficient production of housing

units from 35,000 (2007) against a projected need of 200,00 units per year. The mid-term aim for housing and urbanisation is a decently housed nation "in a sustainable environment"¹². The document notes that "Kenya's cities and towns are now poorly planned and that must change." Lack of human capacity for regional and urban development planning is noted. Here again, the tool of public-private partnership is mentioned as an avenue to implement housing projects. The document announces that a nationwide urban planning and development campaign will start with the major cities and towns, "but rural settlements will be catered for as well." A Flagship project with this agenda is the Metropolitan

Horizontal Correction for County Funding

“Decentralized funding allocation criteria should have a proper mix of key factors like population, sector weights, poverty levels, geographical spread, regional cost differentials.” (Kenya Human Rights Commission, 2010)¹⁷.

and Investment Plans Initiative: preparation of metropolitan investment plans for eleven (11) regions. These are Nairobi and its environs, Mombasa, Kisumu-Kakamega, Nakuru, Eldoret, Wajir, Garissa, Mandera, Kitui, Mwingi and Meru. Strategic development plans for “special and border towns and for all other municipal councils will also be undertaken”. In an evaluation report of 2006 on Local Authority business permitting practices, the comment is made that “a vast number of local authorities have not identified themselves as agents of wealth creation and economic development”¹³. What has changed since is that many leaders in local government have made a turn-around in their thinking: they have become aware that local government can drive development. What has remained unchanged since the report was launched is the government system itself: there are the same inadequate budgets, the same staff levels, the same mandates. The moment of devolution of government, in 2012, will present an opportunity to truly transform local authorities into engines of development.

Public Private Partnerships (PPPs)

Today in Kenya, the municipal budget per capita has a median value of KES 2,800, or USD 30. What can KES 2,800 buy to make a town or city tick? In Europe, a municipal budget per capita is in the order of 200 times more. There is no way that Kenyan municipalities can finance their urban plans on the sole strength of their annual budgets with local revenue collection coupled with state subsidies. In any event, the financial situation of local authorities is weak.

Revenue collection is a challenge, with many rate and license payers refusing to meet their legal obligations. The success rate of collection of land rates by councils is between some 40 to 60% of the due totals. Staff costs have risen above comparable private sector salaries, without matching productivity levels. The Ministry of Local Government exercises a conservative role as an inspectorate that shuns innovation. In this scenario, it seems overly ambitious to expect that these local authorities will nurture entrepreneurial approaches to public services and facilities. The prevailing culture in council management is nominal maintenance of law and order, through administrative and fiscal management and enforcement. However, the trend in local government the world over is in leveraging legal and regulatory powers to facilitate service delivery and development. And development means investment and the ability to attract investment. The number one instrument for leveraging investment may well be the public-private partnership arrangement. For the Ministry of Finance, this is a given. As the Minister of Finance stated in his budget speech to Parliament in 2011: “Given the limited public resources, we must rely on the private sector to meet the resource requirements. To this end, continued commercialization of public activities as well as improving the business environment is vital to attract Foreign Direct Investment (FDI).” This thinking has been adopted in emerging legislation in Kenya. The Draft Devolved Government Bill, 2011, states: “A county government may enter into partnerships with any public or private organization in accordance with the provisions of any law relating to public or private partnerships for any work, service or function for which it is responsible within its



"You have to think out of the box. We cannot implement the devolved government worrying about the existing structures." Patrick Obath, chairman, Kenya Private Sector Alliance

area of jurisdiction" - Part II, Art. 6 (4)¹⁶. A similar green channel is offered to municipalities: "In the delivery of services ... a council may enter into partnership or joint ventures with other service delivery organisations, or establish service boards in the manner provided for under this Part" - Part IV, Art. 42 (2). It is useful to distinguish between 'outsourcing' and public-private partnership arrangements. In the latter dispensation, not only is entrepreneurial risk shared, but investment is also brought in from elsewhere.

The Desired PPP Framework

The provision of adequate and high quality infrastructure services remains the biggest challenge to development of the country. The government faces a growing gap between public investment needs and available resources. Government and development partners have in the past been the financiers of public infrastructure and services. The level of investment that can be mobilized from these

Suspicion and Integrity

To quote Patrick Obath, chairman, Kenya Private Sector Alliance: "Are the councils poor? My argument is: try to deliver something of value with the level of funding that you have. Why should garbage collection be such a failure? The challenge lies in the way you operate. Outsourcing and especially public-private partnerships are the way forward."

"At each stage of implementing an outsourcing or public-private partnership arrangement are integrity issues. Suspicion is always there. The main pain is the ownership of a venture. In Kenya, we always want a law for any action we want to take. We have become a litigious society. We don't have a law that explicitly allows you to set up a public-private partnership. Our Companies Act dates back to 1948! This is why we are pushing for a legal framework that governs public-private partnerships."

sources is far below the requirements needed to support the accelerated economic growth as projected in Vision 2030. There is a need to shift the way government mobilizes capital to develop and modernize infrastructure for delivery of adequate and quality service.

Policy has been prepared

The Ministry of Finance has prepared a PPP policy to open the way: "the government intends to engage the private sector through PPP arrangements, to close the gap in investment capital, technology and know-how needed to improve the efficiency and delivery of public services"¹⁸. In Kenya, legislation has been passed that specifically allows private sector participation in provision of public services in the transport, water, sanitation, housing and environment sectors. Examples are the Water Act (2002) which provides for water services investments through commercialization and private sector participation arrangements; the Privatization Act (2005) which allows concessions as a form of privatization; the Energy Act (2006) which opens the way to projects



PPP or Outsourcing

Not all arrangements announced as 'public-private partnership' deserve that name. Sometimes an arrangement is outsourcing, whereby the initiator (local authority) does not take a business risk and does not bring an asset to the table.

Join Local Authorities in a PPP

Jurisdictions are increasingly looking for innovative ways to make projects viable by involving multiple public sector entities, both within and across jurisdictions. Public-public-private-partnerships (PPPPs) are starting to emerge as a way to get projects off the ground by combining multiple levels of public support. For example, a new energy-from-waste project being developed in Staffordshire in the United Kingdom is a collaborative effort of a number of local governments that are banding together to achieve economies of scale that will make the project viable.

Other innovative structures emerging around the world include combining multiple public authorities (such as neighbouring local government entities) to procure a single project or service. The improved project economics can attract a broader array of bidders to the procurement, resulting in cost efficiencies for the local authorities.

implemented through the PPP mechanism; the Public Road and Tolls Act (Cap 407, 2007) to allow a private party to toll a road; and the Communications Act (2009) that clears the way to various forms of PPP in multimedia, telecommunications, postal services as well as electronic commerce. Piecemeal legislation, however, is not sufficient to provide leeway to much more investment in more sectors, and with more public partners than have been realized to date. The Ministry of Finance policy is designed to clear the barriers: "the powers of the institutions established under the Public Procurement and Disposal Act, such as Public Procurement Oversight Authority, Public Procurement Review Board, Tender Committees, etc, as well as the process of procurement on matters relating to PPP projects development, are not clear"¹⁸.

LEGAL NOTICE NO. 38, THE PUBLIC PROCUREMENT AND DISPOSAL ACT (Kenya)

10 March, 2009

Highlights of the Draft legislation for Public-Private Partnerships

Definition

"Public private partnership" means an agreement between a procuring entity which is a government institution and a private party under which

- the private party undertakes to perform a public function or provide a service on behalf of the procuring entity
- the private party receives a benefit for performing the function, either by way of compensation from a public fund; charges or fees collected by the private party from users or customers of a service provided to them; or a



Kipchoge Keino Stadium, Eldoret. Can this municipal asset become a world famous sports facility for the regions athletes?

combination of these

- the private party is generally liable for risks arising from the performance depending on the terms of the agreement.

Public Private Partnership Arrangements

A procuring entity may enter into any of the following public private partnership arrangements:

- a management contract whereby a procuring entity awards a private party the responsibility to manage and perform a specific service, within well-defined specifications for a specified period of time not to exceed five years and the procuring entity retains own-

ership and control of all facilities and capital assets and properties;

- a lease whereby the private party pays the procurement entity rent and manages, operates and maintains the facility and receives fees or charges from consumers for the provision of the service for specified time not exceeding fifteen years;

- a concession for a period not exceeding thirty years whereby the private party maintains, rehabilitates, upgrades and enhances the facility in question;

- a Build-Own Operate-Transfer scheme whereby a private party designs, constructs, finances, owns, operates and maintains the





Left: Kipchoge Keino Stadium, Eldoret. Right: Jomo Kenyatta Grounds, Kisumu. This is what is seen the world over: Ajax Stadium (Amsterdam), Wembley Stadium in the UK, Yankee Stadium in New York and Soccer City ('The Calabash') in Johannesburg are all projects realized through partnerships between local authorities, financial institutions, sports associations and government. Municipal councils are not equipped to manage sports, engage sponsors, organize tournaments, and create sports facilities which meet international standards. They can engage in public-private partnerships which build on the assets they have.

given infrastructure facility for a specified time period not exceeding thirty years, or such longer period as may be agreed, after which the facility is transferred to the procuring entity;

- a Build-Own Operate scheme whereby a private party designs, finances, constructs, owns, operates and maintains the infrastructure facility and provides services for an agreed time period;

- any other scheme as may be prescribed by the Public Private Partnership Steering Committee and approved by the Cabinet.

PPP Steering Committee

The Public Private Partnership Steering Committee in the Ministry of Finance consists of:

- the Permanent Secretary to the Treasury-Chairman

- the Attorney-General or his representative

- the Permanent Secretary, Office of the Prime Minister

- the Permanent Secretary for the Ministry responsible for Planning, National Development and Vision 2030

- three other members who are not public servants appointed by the Minister from a list of nominees from private sector bodies approved by the Cabinet

- The Director, Public Private Partnership shall be the secretary to the Steering Committee.

The Steering Committee shall:

- spearhead the public private partnership process and promote understanding and awareness of Public Private Partnership among key stakeholder groups
- review challenges constraining participation or realization of full benefits expected from Public Private Partnership and formulate time bound solutions to address the challenges and to create an enabling environment
- establish public private partnership standards, guidelines and procedures including development of standard procedures for conceptualization, identification, prioritization, development, assessment of Public Private Partnership projects and development of standardized bid documents
- review direct and indirect liabilities and assess contingent liability risk exposure of the Government and advise on the acceptable levels of direct and indirect liabilities
- approve public private partnership projects submitted to the Committee in accordance with the provisions of these Regulations.

The Public Private Partnership Secretariat serves as a resource centre for best public private partnership practice in Kenya including supporting capacity building in public partnership projects' planning, co-ordination and contract monitoring and working as the focal reference point for public private partnership advice.

Conceptualization, Identification and Prioritization of Public Private Partnership's

- When conceptualizing, identifying and prioritizing potential Public Private Partnership

projects, procuring entities shall consider the strategic and operational benefits of a public private partnership, compared to the continuing performance of the function by the procuring entity

- Planning for public private partnership's shall form an integral part of the national development planning whose requirements shall be presented by the Steering Committee.

Bidding

Except as provided for under these Regulations all public private partnership projects shall be procured through a competitive bidding process as provided for under these Regulations or any other written relevant law.

Unsolicited bids: procurement of unsolicited bids shall be authorized where

- innovative and related intellectual property associated with the proposed project's design and engineering costs incurred in developing the design has been considered and recognized; and
- a feasibility study has been carried out and there is presently little interest in the private sector in the proposed project.

The Minister shall issue detailed guidelines on unsolicited bids.

Are Local Authorities Ready for PPPs?

"Bring Value for Money – The key benchmark for any Public-private Partnership project will be an estimate of the costs of providing an equivalent service through public finance" (PPP Policy, Ministry of Finance).

Financial constraints that apply to government agencies and parastatal companies, apply to local authorities as well. In Tanzania and Uganda, municipalities and districts have PPPs in place to take care of services that they were already offering, but now more efficiently. Quite popular are public markets that are serviced and operated by private companies on behalf of local authorities. The benefits here are better services for existing functions, with improved revenue collection¹⁹. But there are many much bigger opportunities for partnerships with private sector: public markets, sports stadia, parking lots, waste collection, slaughterhouses are obvious examples. Given the often precarious state of council finances, it is important not to lose sight of the fundamentals of PPPs. For example, if a toll bridge were to be constructed through PPP, the initiating local authority would set a socio-economic target like 'reducing traffic jams by 30%', in favour of a business target like 'turn a profit of X million shillings'. If the objective is to increase employment opportunities, then projects with a broad scope will emerge: in the UK, Enterprise Zones will now be established across the country, in partnerships with councils, helping to create thousands of new jobs by 2015. The Zones are designed to attract hundreds of new start-up firms, with simplified planning rules, super-fast Internet broadband and over £150 million tax breaks for new businesses over the next four years. The major preoccupation is always value for money: who can offer a service at the best price: government or private sector. At the end of the day, the objective of the venture is not so much a revenue spinner for councils, but a contribution to the local or regional economy.

One of the more striking anachronisms in Kenya today is sports management. Sports stadiums are managed by a state corporation, the Sports Stadia Management Board (www.stadiumskenya.co.ke). This state company owns and manages a collection of dilapidated and dull real estate: Moi International Sports Complex and Nyayo National Stadium are the facilities now in action. Sports stadia are arguably one of the most obvious candidates for

public-private partnership with municipalities. This is what is seen the world over: Ajax Stadium (Amsterdam), Wembley Stadium in the UK, Yankee Stadium in New York and Soccer City ('The Calabash') in Johannesburg are all projects realized in partnerships between local authorities, financial institutions, sports associations and government.

Outreach to Local Authorities

The PPP policy is clearly including local authorities in its ambit. It proposes to facilitate the mobilization by private parties of international and domestic finance by establishing a Project Facilitation Fund. Below is a section from the PPP Policy outlining how this will work²⁰.

Project Facilitation Fund

- i). To enable public entities to prepare the projects for tender including the conduct of project appraisals to ensure that projects are bankable and attractive to potential bidders;
- ii). To extend Viability Gap Finance to projects that are socially desirable but, either, cannot be implemented in the absence of a Government grant because they are not bankable or are only bankable with unaffordable tariffs. In selected cases where financial resources are available, and
- iii). To provide a source of liquidity to meet in particular, calls on contingent liabilities extended to PPP Projects that materialize unexpectedly during operations.

Furthermore, the policy proposes to make an annual budgetary allocation to the Facilitation Fund to create a 'guarantee fund,' capable of meeting government liabilities arising from PPP projects.

In South Africa, much experience has been gained in PPP arrangements. Effective legislation is in place and the National Treasury has developed detailed guidelines and regu-

lations. Not only that, it also provides material support to municipalities in developing PPP arrangements. The Project Development Facility (PDF) is created within the National Treasury to pay consultants and transaction advisors. Disbursed funds are recovered later from the successful private party bidder of the PPP. The PDF's role is to facilitate partnership arrangements at municipal level and monitor implementation ²¹.

The two most common opportunities are applications to fund the feasibility study and to fund the procurement of the private party.

Mombasa: 'Public-private partnership declared illegal'

The Municipal Council of Mombasa, at pains to collect the revenues it is entitled to, entered into a public-private partnership with a firm to collect parking fees in a few sections of the town. A lawsuit followed, where the Kenya Transport Association claimed that parking yards had been allocated without competitive bidding. The High Court ruled against the council and the deal was nullified. (June 2011)

Bottom right: Public market in Mityana town, Uganda. In 1985 Uganda created a devolved government structure. The majority of public markets are managed in public-private partnership arrangements between the local authority as asset owner and a commercial operator. The arrangements are done through competitive bidding. Many of these markets are swept clean with all stands occupied.





Langas, Eldoret. Local authorities are meant to collect and dispose of garbage. It has become obvious that they are unable to cope. Many have argued that this is not just a task to be outsourced, but rather to be handled through public-private partnership arrangements that guarantee both quality of service and environmental responsibility.





Geothermal energy exploration in the Rift Valley. Tourism is likely to suffer and eco-zones may become wastelands if installations like this one in Olkaria continue to be built with the same engineering ideas. Energy, tourism and environment protection are all policy themes in Vision 2030.

Conclusion

There will be more public participation in planning and budgeting in a devolved system of government. This is likely to translate into more public interests than national income growth alone. People will ask: "Where will the growth be, exactly? Where will the ben-

mark on national development.

efits of growth be and where the costs?" For there is no doubt that popular interest in ur-

ban and rural planning is set to grow. At the same time, competition is sure to emerge between counties and municipalities. This will drive counties and municipalities to improve their services. They will need all the resources they can get. This will mean being even more open to innovation, an area in which Kenya is already scoring highly, internationally. The resolution to engage in public-private partnerships will represent a powerful approach for local authorities to surge ahead and make a

CHAPTER

2

ICT AS A POLICY AGENDA

The International Context

ICT spurs economic growth and social development. The scientific underpinnings of this assertion are not in doubt. "Information technology (IT) and the Internet are major drivers of research, innovation, growth and social change," professes the think tank of the world's leading economies Organisation for Economic Co-operation and Development (OECD)²², supported by numerous studies. Much evidence exists on the impact of ICT on economic and social development. The Australian landmark study 'ICT Use and Productivity'²³ demonstrated that ICT investment alone was responsible for a third of the economic growth in Australia. In addition, ICT has been hailed as a facilitator of governance, transparency and democracy, thereby again spurring economic growth (World Bank, IDRC, ITU, etc). It is essential for aspiring economies to ensure that broadband Internet services are widely available, as these types of facilities give one a competitive edge if one has them and a competitive loss if one doesn't. ICT-intensive employment has grown steadily to make up over 20% of total employment in OECD countries. For Kenya, this should tell municipal planners and real estate investors to make sure that town are able to host or-

ganisations with high levels of ICT usage, for instance in the financial sector, research, entertainment and publishing. Indeed, this is the reason behind the 5,000 acres ICT Park initiative at Malili, Makueni County. Priorities in the OECD countries are now on getting the economy moving, focusing on ICT skills and employment, broadband diffusion, ICT Research & Development and venture finance, and last but not least, a major new emphasis on using ICT to tackle environmental problems and climate change.

ICT has shown phenomenal growth all over the world. As statistics on average annual growth figures over the past four years on how many people use ICT demonstrate: mobile telephony continues to grow steadily in the developed world with 4%. In developing countries this figure is 22% per year. Internet usage in the mature markets has grown at 5% per year; in the developing markets this is 21%. Mobile broadband, the ICT innovation that is conquering the world, growth in the developed world is 36% and in the developing world this is 97%. Key ICT indicators for developed and developing countries and the world are published every year by the ITU (www.itu.int)²⁴.



The real-estate project 'ICT Technopolis' is the product of a government strategy to make the ICT sector one of the drivers of the economy. The 5,000 acre project straddles the boundary between Machakos Municipality and Makueni County. The local residents are excited about the prospect of an economic trickle down effect and land speculation has reached high fever levels.

The National Context and Policy

The new era in Kenya that started in 2003 began to recognize the economic power of ICT. Despite vested interests, a degree of regulatory liberalization took hold. By 2011 four mobile telecommunication network operators were in operation and at least five medium size Internet service providers. Two aspects of ICT are relevant: the application of ICT in terms of functional development and access to ICT in terms of infrastructure and facilities.

After some years of tireless lobbying by industry associations such as Kenya ICT Federation, a national ICT policy was unveiled in 2006. This policy elevated ICT to an area of national socio-economic interest and sought to promote ICT with a degree of liberalization of the market. The Government of Kenya intends to achieve an 'information-based' society, stated the national information technology policy gazetted as Information and Communications

Technology Sector Policy Guidelines by the government²⁵. As this policy proclaims: ICT has "affected our traditional approach to public affairs and the delivery of services." Policy objectives include using ICT as an 'empowerment tool' to address gaps relating to gender, youth, people with special needs, rural and urban disadvantaged groups. The policy highlights e-government "as a tool to improve internal efficiency and quality of service delivery and help in the fight against corruption." The goal of e-government is to make the government more result oriented, efficient and 'citizen centered'. E-government will "re-define the relationship between government and citizens" by empowering them to obtain better increased and better access to government services²⁶. The policy further identifies a number of application areas. E-Learning is one of these, to promote dissemination of knowledge and skills. Other areas are e-commerce, on-line content development and 'electronic security' to combat crime and terrorism.

The policy commits the government to realize 'universal access' "throughout the country". Universal access policy objectives include "ensuring that all citizens have access to ICT services, ... ensuring that basic ICT services are available at an affordable price, ... and promoting the availability of widespread access to Internet services..."²⁷. Universal access is to be achieved by licensing conditions imposed on telecommunications network operators and with complementary measures through a Universal Service Fund. This Fund would be managed by the industry regulatory authority Communications Commission of Kenya (CCK) and financed through a levy on telecommunications services.

Ahead of the policy came the National e-Government Strategy, in June 2004²⁸. This strategic plan was inspired by Vision 2030 and aimed at modernising government. The e-Government Directorate of the Office of the President offers help in defining the phenomenon on its website (www.e-government.go.ke): E-government generally involves using ICTs to transform both back-end and front-end government processes and provide services, information and knowledge to all government customers, that is the public, businesses, government employees and other government agencies. E-government uses a range of information technologies, such as the Wide Area Networks, Internet and mobile computing, to transform government operations in order to improve effectiveness, efficiency, service delivery and to promote democracy. Implementing the strategy initially followed a top-down approach, starting from wiring government ministry headquarters.

The National Context and Progress

Liberalization of the ICT sector has shown results. ICT has transformed Kenyan society, with more than half of the population now being regular users of mobile phones and with Internet showing extreme growth. By 2011, five years after the launch of the policy, the number of mobile telephone users had risen to around 24,970,000 according to statistics collected by the CCK and quoted by the International Telecommunication Union

of the United Nations (ITU). The average annual growth over the past 10 years has been 48%. For the Internet, the number of users is already in excess of 8 million, with an increase from 2009 to 2010 of 108%. It must be noted that the spread across the country is very uneven, as will be shown further in this section. Household and public spending on equipment is equally in evidence. Computer imports in Kenya were up 107% in the first quarter of 2011 compared to one year before, according to industry analysts IDC.

Since the adoption of the policy, quite a number of e-government services have been created. The national champion may easily be Kenya Revenue Authority, which places all current guidelines and forms on its website. Kenyans can even submit their income tax returns on-line. On-line tracking of passports and national identity cards has been implemented and is operational. But many government agencies and parastatals are far behind. An observation from a civil servant posted up-country: "Most of the government ministries have failed to embrace ICT. There are full government ministries which do not have official email addresses but even if there, email is never opened." The Public Procurement Oversight Authority (PPOA) has a website www.ppoa.go.ke where a range of standard tender forms are posted. Note that these forms contain numerous typos and even contradictions. The Insurance Tender form states in successive clauses: "Prices quoted should be net inclusive of all taxes, and delivery costs, must be in Kenya Shillings and shall remain valid for () days from the closing date of the tender." "Prices shall be quoted in Kenya Shillings." "The tender security shall be denominated in Kenya Shillings or in another freely convertible currency." "Where other currencies are used, the Procuring entity will convert those currencies to Kenya Shillings." The PPOA Market Price Index of July 2010 was uploaded in October 2010. The PPOA announced that it would continue to update the guide in real time, a promise that had not been kept (at the time of going to print). Some local authorities have also started offering on-line services. The County Council of Makueni has a projects monitor on its website (www.makuenicounty.or.ke) and the Municipal Council of Kisumu



Kipsigis County Hall - the majority of these rural government buildings are not connected, and staff are not ICT literate.

(www.kisumumunicipal.or.ke) offers an SMS and web service to check outstanding balances for Land Rates. Generally, however, although most government agencies and parastatal companies now have websites, these are often poorly maintained and rarely offer web-based customer services. The design quality and content value of government websites is in marked contrast to private sector websites. In government websites, the only content element that is usually up-to-date are the names of the top managers, with ID-type photographs, but incomplete in policy or regulatory information. Language errors and typos are rife. When government demands cooperation from citizens, like paying taxes, then we see a website that facilitates this. When citizens demand service from government, then we see these poor and incomplete websites. Fortunately, the Ministry of Information and Communications leads the way as one would expect, with its website www.information.go.ke, which supports a few useful government-to-consumer services.

Arising from the policy, some measures have been attempted to increase access to ICT on a country-wide basis. The parastatal organization Kenya ICT Board (KICTB) is supporting the roll-out of new “electronic centres” called Pasha Centres, earlier referred to as Digital Villages. Pasha Centres provide a host of services to the public via computers connected to the Internet, or by using and marketing other ICT-enabled applications. The idea is to set up one Pasha Centre in each of the 210 parliamentary Constituencies. Funding was provided by the World Bank in 2007. Entrepreneurs access these funds through a low-cost loan provided through a commercial bank which operates the loan portfolio as a revolving fund. The Digital Village Revolving Fund (DVRF) is operated by a local commercial bank, Family Bank. At the moment, 37 Pasha Centres have been “approved” according to the KICTB website, and an article by Warigia Bowman in the Daily Nation of 30th August 2011 mentions that three (sic) Pasha Centres are operational. Whereas the idea to set up on-line centres country-wide where government information can be



Primary school, Makueni County. No power yet, no ICT yet. There is a long way to go.

accessed on-line deserves sympathy, it seems that four years later implementation of the idea still presents challenges.

Nation-wide access to ICT is an area of primary concern of the regulatory authority CCK which operates the above mentioned Universal Service Fund. Working with this fund, CCK has implemented six pilot projects in different areas of the country and in different types of institutions like schools, community centres and healthcare centres. Its main achievements are the establishment of 16 school-based ICT centres, four community centres, eight centres for persons with disabilities, digitization of secondary education curriculum, and computerization of a few healthcare centres. The main objectives of this programme are increasing ICT facilities and enhancing ICT skill development. The programme is laudable but like other related initiatives it has not been exercised country-wide.

The Huge Rural ICT Gap

ICT has long been seen as an expensive, elitist luxury that was the preserve of urbanites in Nairobi. It has been, and in many rural areas it

still is, quite an effort to convince local leaders of the blessings and benefits of ICT. With the exception of the education sector where one can no longer find a school principal not having or trying to acquire a computer lab, most public sector officers are light or reluctant users of ICT, or limit their usage to mobile phones. The regulatory authority CCK is enlightened enough to at least understand the challenge of rural ICT. CCK commissioned a large study on ICT access gaps across the entire country. The “Study on ICT Access Gaps in Kenya: Final Report” was released in May 2011²⁹. Gaps in ICT access are of primary importance to the local government agenda and development, because this documentary publication is interested in the whole country and the entire population, instead of either the leading metropolis or national aggregate statistics. Vision 2030 stresses access to ICTs based on its potential to increase productivity and raise the competitiveness of local businesses in a knowledge-based economy. From a distributional and generational standpoint, the government plan also considers that greater access to ICTs can equalize opportunities and thus help reduce income inequality by supplementing and/or substituting certain forms



Maize trading by the roadside, near Moi's Bridge. No ICT yet in small-scale agriculture.

of job training. The study finds that despite rapid growth of telecommunication and Internet traffic and user population, “we estimate that there are still 1,119 sub-locations out of 7,149 that lack of access to voice services. We estimate that only 893 sub-locations in Kenya have access to broadband data services.” The mean population size of sub-locations with Internet access 12,239, against mean population in sub-locations without is 4,437. The reasons for this poor spread are seen as absence of electrical power and low population densities, as well as a licensing and fees structure for radiofrequency spectrum use which “disincentivises” rural infrastructure development³⁰. The analysis at the sub-location level makes us realize that there are also a few sub-locations outside Nairobi, Mombasa and Kiambu that have Internet usage levels higher than average. The percentage of the population that uses Internet at least once a month is 20.8 in Nairobi, 13.0 in Mombasa and 10.8 in Kiambu.

In contrast, in Makueni this percentage is 2.1, in Taita Taveta 3.8 and in Turkana 1.8. Even counties like Kisumu and Nakuru only have 6.6 and 6.4, respectively³¹. “Making Kenya one of the top three investment countries in the continent, as envisioned in Vision 2030, requires that a greater part of the population has access to the Internet and especially broadband,” writes the study³². In order to make sure that the devolution project can succeed in all parts of Kenya, the study recommends that funds are freed up to connect all County headquarters to the broadband network NOFBI (National Optical Fiber Broadband Initiative) with an approximate investment cost of USD 4 million. The NOFBI is the government-funded fibre backbone across the country. It already interconnects most Districts in the country. The NOFBI has an extension of 4,500 km, has 60 sites and was built at a cost of around USD 60 million.

The Explosion in ICT: Indicators

Mobile telephone users:	24,968,891
Internet users:	8,392,000
Kenyan web domains:	18,000
access to voice services:	6,030 sub-locations out of 7,149
access to broadband:	893 sub-locations out of 7,149

source: Communications Commission of Kenya

The ITU advocates regulatory interventions to help narrow the Internet gap (SADC Toolkit on Universal Access Funding and Universal Service Fund Implementation (www.itu.int/ITU-D/projects). It appears the CCK is interested in the question of narrowing the gap, but no interventions have been implemented yet that address the gap head-on.

‘Freedom of Information’

The term ‘freedom of information’ in recent Kenyan policy development means public access to government information sources. In most democracies around the world, access to public information is a recognized asset of the democratic process. Countries have legislated and regulated this access to public information. In Kenya, a ‘Freedom of Information Bill’ was launched in 2007. This Bill was rather liberal and would probably have satisfied many. In public debate about this Bill at the time, the sticking point was protection of national security, which should give the State powers to restrict access to public information. A relationship between the Bill and ICT was laid by the Kenya ICT Federation, who argued that government agencies would have to deploy digital information databases if they ever hoped to be able to comply with this emerging legislation. However, owing to many factors including competition for scarce time

resources in the country’s legislative bodies, the Bill never made it to the floor of the National Assembly and has not come back since then. The biggest organized national private sector interest group, the Kenya Private Sector Alliance (KEPSA) has not kept it on its list of priority legislative actions.

There are a number of instances where access to public information may have a direct bearing on the capacity of local authorities to deliver development. These include administrative records of socio-economic projects that they sponsor and implement, and decisions on making land use maps and amending these. Limited access to information and data will hinder implementation of socio-economic projects and to spatial development planning, in a way that harms local communities and that mortgages the future of our living environment.

Of course there are many clauses in legislation that call for public release of certain documents, annual budgets for instance. However, such releases often represent end results or summaries and do not shed light on how these were arrived at. An interesting example is www.opendata.go.ke. This website, a progressive and positive initiative of the government of Kenya through its Ministry of Information and Communications, shows summaries

of statistical series down to county level. The only shortcoming is that the original underlying data has not been released. This means that those community-level players like county governments and local authorities wishing to develop their spatial planning tools may still face hurdles in obtaining statistics and other data at the smallest enumeration level.

For the time being, Kenya will make do with a clause in the new Constitution: Article 35 states that “every citizen has the right of access to information held by the State.” This right was at the very heart of the Freedom of Information Policy and Bill.

Conclusion

The use of ICT at the start of the 2010 decade is growing in double digits. The growth of Internet usage is the fastest, in the developing world at over 20% per year. Access to broadband Internet is recognized as a key factor in international competitiveness. In Kenya, broadband access has not reached 85% of all sub-locations. But even there where access has reached, usage does not follow. Internet usage in Nairobi is more than 20%, but in most of the larger provincial towns not more than around 6%. ICT has been perceived as an elitist, metropolitan affair. Besides mobile telephony with SMS and the ‘Mpesa’ money transfer service, the general public has remained untouched by the ICT ‘revolution’. Government websites are generally of poor quality, especially incomplete as reference sources. The ‘right to information’ is something that government needs to learn to allow and the public needs to learn to enjoy.

THE EVOLUTION OF LOCAL GOVERNMENT IN KENYA

The evolution of local government in Kenya has passed through three significant stages: the colonial era; the early independence period and the reform period. In the colonial era, local authorities had limited responsibilities mainly in public order and sanitation. The system of government was centralised and no element of policy making was left to 'lower' layers of government. The early independence period ran from 1963 to 1999. The reform period started with the introduction of a substantial state subsidy for all Local Authorities in 1999 and accelerated with the state presidency of Mwai Kibaki in 2003.

The Era of Decline

After independence, the local government sector went into steep decline. The darkest period was the 1990s, during which some local government taxes were abolished without any replacement. For example, the important but hugely unpopular graduated personal tax was simply abolished. The service charge on non-state employees was abolished in 1988. Revenues were down, staff levels and salaries went up, and services were gone. Around three quarters of budgets went to salaries. During this decade, councils were virtually grounded, unable to provide any noticeably

service and with officers preoccupied with pursuing personal gains using the purview of the local government legal and regulatory system. Financial transparency was entirely absent. Councillors divided council funds among themselves. More councils were created in response to political pressures, in particular town councils were sliced off from county councils. In Gusii County for instance, nine town councils were carved out of the original body, which original body remained with the debts of all. One of these is the Town Council of Tabaka, small area draped around a village with an open market, some 25 kms away from Kisii town. One would easily overlook the Town Hall: a wooden contraption with three rooms, hand-painted sign 'Town Hall' at the entrance. The purpose of this council seems to collect market fees from traders at the village market and to provide a political stage for community politicians. The annual budget of this particular council is KES 35 million with a deficit of KES 15 million. Various laws and regulations continued to reduce autonomy of councils. The appointment of senior staff was and is still done by the Ministry, whereas appointment of junior levels takes place 'in the village'. Some democratically elected representatives in the Councils, that is to say Councillors with their Mayor or Chairman, began



Town Hall Eldoret. Built in 1958

to exhibit questionable ethical behaviour. Regional rivalries mirror national rivalries, often with less inhibited ethnic undercurrents. On average, only one in four councillors manages to get re-elected: a very low score for elected leaders. It has never helped that a Mayor or Council Chairman is elected neither by popular vote, nor appointed by the government, but elected from among the body of councillors. This has forever given rise to horse-trading and buying of votes. During the election season of 2011, in a certain rural area the price for a vote was in the order of KES 50,000. This election mechanism also applies to council committees: Committee chairpersons who influence budget allocations, are also elected from within. It has also never helped that whereas full council meetings are open to the public, committee meetings are closed. The politicized nature of Kenyan public life is much in evidence in local government. Kenyan taxpayers appear to be spending a significant percentage of local authority budgets

on democratic representation. Typically in the rural councils, the County Councils, the percentage of the council budget spent on the councillors (the 'Civic Department') reaches an astounding 17%, against a median figure of about 4% in municipal councils. Council expenses per councillor vary, with a median expenses level of around KES 1.4 million per year. If it may not always be clear to every citizen what service a council may deliver, it does satisfy many Kenyans who desire having a political platform where politics can be played out at community level. Judging from popular view and commentary, local authority councillors have failed to endear themselves to the people. Meanwhile, councillors as we have known them will become extinct: in the new Urban Areas and Cities Act, 2011, new-style councils will be supervised by a college of appointed commissioners instead. About half of these officials are hired in a competitive process, the other half nominated by government-approved civil professional bodies.

'Vanishing city council askaris only want bribes'

As I drove into Ngara Market parking lot at 9 am Saturday, I was directed to a parking space by a grey uniformed guard manning the parking lot. There was no council parking attendant on site. On return, my car had been clamped and two council attendants were next to the guard who had ushered me into the parking space. He showed me the receipt for clamping, with vehicle registration left blank, because they were "waiting to discuss with me." Too bad for them, I opted to pay at their office near Fig Tree Hotel rather than pay a bribe." (Kisumu). Source: Daily Nation, 2011.

Redemption through Reforms

In 1996, a reform initiative under the Kenya Local Government Reform Programme (KLGRP) was launched. Its aim was to strengthen local authorities. The programme was meant to turn around the entire local government system: rationalise central–local financial relations; improve financial management in local authorities and assist in revenue mobilisation; and strengthen citizen participation in planning and ownership of programmes. All reforms were tightly controlled by the Ministry. It took a few years before reform measures started to be implemented in earnest. The single most important measure was to re-introduce state subsidy to local authorities. This was not a Kenyan invention: it is common the

world over that the central government subsidises local government, given that it is central government that possesses the powers to raise the most important taxes like income tax and value added tax. The instrument for this new subsidy was the enactment of the Local Authority Transfer Fund (LATF) in 1998. Local authorities began accessing LATF during the financial year 1999/2000. The Act provides that 5% of national income tax is sent to local authorities, based on the criteria of population density, resource base and financial performance.

The centralized nature of the Kenyan public administration cannot be better illustrated than by looking at the finances of local authorities. The total amount of LATF for 2011-2012 stands at KES 17.3 billion, against a government budget total of KES 1,155 billion. This



Emali is a vibrant 24/7 town on the Nairobi-Mombasa highway. Despite the commercial importance, the town roads and drainage appear seriously neglected. Are there no funds for town infrastructure?



Councillors on tour, meeting village residents and checking on projects. Top right: Councillor Daniel Kosgei, County Council of Wareng.

comes to 1.5%. The LATF amount works out to a 6.7% share of income tax, this is over the mandatory 5%. The Ministry has worked out a performance bonus mechanism for councils that do well. Of the KES 17.3 billion, KES 692 million or 4% is sent to councils that have realised good financial management performance.

Four Dollars per Capita

Local authorities have little money by any standard. The budget per capita of a rural County Council is on average KES 360 (USD 4) and of a Municipal Council KES 2,800 (USD 30). In comparison, the national budget per capita is around KES 35,000 (USD 380). The table 'Council budgets vs population' below shows a few indicators on expenses for local democracy, funding for projects and benefits per capita in a few rural and urban councils. For example, the 'cost of democracy' of a rural county council reaches no less than about 17% of the total council budget.

Table Local Authority budgets vs population (see overleaf)

Reform in Overdrive

From 2003 to 2011, the reform period went into overdrive. The Kibaki government had been professing reform in all sectors, local government included. The centralized structure of local government, however, remained paramount. A steady stream of administrative measures and reforms rained down on the local authorities.

The Local Authority Service Delivery Action Plan

During the reform period of local government, an attempt was made to give councils an instrument for community capital projects: the Local Authority Service Delivery Action Plan (LASDAP) was called into being in 2004, to show that indeed, councils were delivering services that made a difference to the

Local Authorities Budgets 2011-2012															
	Local authority category	population	Budget 2011-2012 KES mln	Budget/capita KES	Budget/capita USD	Number of Councillors	Civic department budget share %	Development projects KES mln	Development projects buudget share %	Central government supplement % of budget	Local revenue sources % of budget	Local revenue per capita in KES	Land rates revenue KES mln	Cess revenue KES mln	Business Permits KES mln
Wareng	County	894,179	218	243	2	35	17%	53	24%	75%	25%	61	7	24	7
Makueni	County	874,652	363	415	4	52	17%	89	24%	78%	22%	93	1	25	29
Nakuru	County	1,155,472	515	446	4	69	10%	119	23%	74%	26%	117	20	29	42
Mwingi	Town	83,803	67	794	8	8	9%	17	25%	63%	37%	297	0	6	8
Taveta	Town	67,505	109	1,616	16	9	11%	15	14%	33%	67%	1,079	2	26	4
Ruiru	Municipality	238,858	209	876	9	8	10%	43	21%	68%	32%	281	7	1	25
Nakuru	Municipality	307,990	954	3,098	31	13	4%	116	12%	41%	59%	1,817	158	0	110
Eldoret	Municipality	289,380	687	2,373	24	20	3%	103	15%	48%	52%	1,243	104	0	51
Kisumu	City	409,928	1,282	3,127	31	22	5%	149	12%	32%	68%	2,111	180	0	130
Mombasa	City	939,370	2,508	2,670	27	44	2%	374	15%	47%	53%	1,416	466	0	315
Nairobi	City	3,138,369	11,425	3,640	36	99	2%	1,683	15%	38%	62%	2,268	1,800	0	1,530
Rate of Exchange USD - KES = 100, 01 October 2011															

These budget indicators reveal that a rural local authority or 'County' has a budget of USD 2 to 4 per capita (ranging between 200 and 500 Kenya Shillings). The democratic representation in these councils consumes a surprising average amount of 15% of the entire budget. In the larger municipal councils, this budget share for democratic representation is still significant with around 4%. The budget share

for development projects is, across the board, 20% in all the local authorities. The central government supplements the lion's share of budgets for rural councils, around 75%; in the large municipalities and cities this is around 46%, which means that these local authorities are more effective in raising local revenue.

Source: Ministry of Local Government, Government of Kenya



Ndiangu Kanthale Earth Dam - a project sponsored by the County Council of Makueni, from the 'LASDAP' budget. Labour sourced locally; equipment procured through tender. Total costs less than KES 1 million. Completed in 2009. Beneficiaries: 2,000 households. Managed by village committee.

lives of residents. In order to access LATF, local authorities are administratively required to develop a Local Authority Service Delivery Action Plan (LASDAP) through a participatory approach.

The LASDAP is therefore funded by the government. A programme consists of projects, usually capital projects. At least LASDAP operates with a stringent procedure to organize public community participation in decision-making in spending. This makes it a relevant experience for the new devolved government situation. Even though the LASDAP's financial resources are very small by any standard, it has evolved as a mechanism for the democratic identification and implementation of projects that are relevant to local communities. The idea of LASDAP was well liked by some politicians: a competitor to LASDAP was created by Parliament, in the form of the Constituency Development Fund (CDF). The CDF is a kitty for each parliamentary constituency,

to fund development projects based on an investment agenda that is largely managed by the area Member of Parliament (MP). The governance of the CDF has been an issue from the outset: other than the person of the area MP, institutional foundation of the CDF has been its weakest design feature. Public community participation in decision-making on CDF spending has been a bone of contention. Numerous cases have been reported where CDF money has been mismanaged and even misappropriated. In the following paragraphs, an evaluation of LASDAP is presented.

50 Shillings Per Head

LASDAP, the Local Authority Service Delivery Action Plan, is an instrument invented to help councils to prop up their public image and give them a framework by which they could give back to their communities in terms of projects that are desired by the local people. The guiding objective was not



Town Hall, Kitale. The municipality is known for having challenges in budget discipline.

to make a fundamental economic change. The objective was to give councils a means to redeem themselves in the eyes of their constituents. Even then, the material weight of LASDAP is barely a token. Typically, the annual LASDAP kitty for a council gets more or less equally distributed across all wards, due to pressure by every councillor to make sure his ward gets a project. As a result, the median value of a LASDAP project is in the order of one million Kenya shillings (USD 11,000). With a typical ward population size of about 20,000, the financial weight of LASDAP may not be felt by many. If LASDAP represents the net development resource of a rural county council, then this means that the benefit per head of the population is KES 50 or USD 0.56 or ten bricks. At least, management costs of the projects are covered by other council budget lines. Outside the scope of the council budget, the Ministry also does its share of supervision, by sending inspectors all over the republic to pour over the results of the richness of LASDAP. As highlighted elsewhere in this publication, the benefit per capita of local

authority budgets in the high-income world is in the order of 200 times higher than what we see in Kenya.

Community participation was one highly desired outcome of LASDAP. What can be said about the level of community participation in LASDAP projects? When the moment of project identification arrives, at public meetings organized by the council, public turn-out is low in villages, minimal in bigger towns. A survey conducted in 2007 shows that 17.4% of targeted persons participated in LASDAP project identification meetings. When asked whether they felt their participation was making a difference in service provision, 58.8% said it did³³. A deeper survey by the Kenya Human Rights Commission (2010) suggests that a number as low as 36.3% of respondents indicated that there was no tangible benefit from LASDAP activities for them³⁴. Following up on a LASDAP project by the community is mostly erratic. This relatively light level of community involvement is explained by “materiality” as Martin Anyango of the Ministry



New trading centre near Ziwa, Wareng County. There are no traders, no activity. Had the project designers done enough homework?

of Local Government explained. "When we introduced LASDAP in 2004 we thought that citizens would be ready to engage their councils. This was not the case, although there are exceptions where engagement has been better. One example is in Kisumu County where the business community came forward to construct a whole school in 2006, in collaboration with the council. But in general, projects are tiny with really no impact, as each councillor wants to have his own project. The lack of security of tenure of chief council officers also hinders success. A councillor does not always want to do what is right, there are administrative and management challenges. Technical analysis is poor, costing is always too low, under-budgeted. This is why you see so many uncompleted projects. As a result, citizens do not award much time and energy." The choice of development projects of the communities in their wards are habitually simple construction projects. The most popular category is classroom construction at public schools. Once the central government has built a school, to get it extended as required by the growth of stu-

dents is a huge challenge. LASDAP is therefore often used to remedy classroom shortages. Other popular examples are healthcare dispensaries and market sheds. One weakness of all these projects is that they are one-off expenses, without considering maintenance, staffing, or operating revenue. The LASDAP projects factory has not taken on board common practice of project design, with defining target groups, costs and benefits, leave alone anticipating impact. This is how many projects are underfunded and incomplete. Quite literally, many projects are a shape of four walls and a tin roof. That does not guarantee that such a shape is going to be useful to anyone. There are healthcare centres without medical personnel, and market sheds with no floors and toilets. LASDAP has shown to be used as a tool for reactive 'complementary' development as opposed to pro-active strategic development initiatives. Experience shows that the average elected councillor can bring at best just one LASDAP project to his ward every year. They often lack the insight and foresight to make sure that a project is sustainable.



Market shed, Kiunduanani Ward, Makueni County - a project under the Local Authority Service Delivery Action Plan. Only 60% completed after two years.

Fortunately, there are LASDAP funded projects that are well designed, well executed and well managed. These are the projects that justify the methodology of asking local communities what they want and then give them a chance to own their project. Some projects were realized as partnerships between council and community, with the former making capital available and the latter labour, maintenance and operations. Nunguni Dam and Kiteta Dam projects in Makueni County are examples of community owned projects that have become a success as a result of engaged leadership and community effort. It is those projects that demonstrate that the opportunity exists to increase the number of community projects and implement them successfully. The ideal councillor is a community leader and development promoter. The ideal councillor will not leave it to just one LASDAP project but is seen to be actively involved in a multitude of community projects and initiatives. Some councillors exhibit a capacity to support dozens of projects, which goes to prove that it is highly beneficial to have an effective grass-

roots leader operating within existing government structures. Councillors Oscar Kalia from Makueni County, Elizabeth Chepchirchir Sang from Wareng County and the new Mayor of Bomet Town, councillor Joyce Korir were found to be fine examples of active involvement in community projects, income-generating initiatives for self-help groups, awareness promotion and local and international fund-raising. These are some councillors who are seen to use the local government system as it was intended. "The problem with LASDAP is leadership. Councillors compete for the funds and for the same projects," says the Mayor of Bomet, "the women councillors perform better than men who are often unable to sustain themselves on their salaries. We listen, we are involved socially." How does she intend to make a difference in her town? "We'll develop the town according to an urban plan, bring more industry, street lighting, water services, and carry out greening of the town."

LASDAP is not the only devolved development fund in the Kenyan government system. How



A challenge and an opportunity: small-scale farmers lose 10-20% of their produce to poor storage. Local initiative, with support from local authorities who are in touch with the 'grassroots', can create warehousing solutions to assist thousands of farmers, and contribute to national food security assurance at the same time.

much experience do we have in working with devolved funds? The report KNHRC exclaims that a basket of devolved funds, including CDF and LATF, has taken "significant development resources" to the grassroots, at least KES 80 million per year per constituency or nationwide in five years some KES 53 billion³⁵. Again, let us look at the weight of these funds in pure economical terms. Without going into detailed statistical analysis, these KES 80 million come down to about KES 500 or USD 6 per capita. The projects are invariably small projects. That is not to negate their value, quite the contrary, because these projects can indeed assist many people. It does highlight that local authorities do not have experience with initiating and implementing large projects.

Strengthen What We Have

Richard Chepkonga, Clerk, County Council of Warend

Our region is one of the main grain baskets of Kenya. We want to strengthen that. This means a better road network, expanded water

distribution, harvest warehousing. On the social front we need initiatives to support school leavers, healthcare facilities, more education institutions, put up markets with stores. As it is now LASDAP can only support residual development. It is a very small portion of our budget, not more than about 10% or about KES 21 million. This 'resource envelop' is divided by the number of council wards. That means everywhere you get petty projects. But LASDAP has already helped sensitize people in joining us plan for their needs. We have learned from LASDAP that such programmes must be refined, with more resources, more involvement of the people, more serious planning. Coordination is needed among counties and councils. What I know is that they need each other in doing business: sharing water resources, building roads including a bypass, industrial zoning. They need to exchange information. We will put strategies in place to develop as counties.

Eldoret, June 2011



The principals of Wareng County: Council Clerk Richard Chepkonga (left) and Council Chairman Councillor Paul Kering

Management Decrees

During the reform period of 2003-2011, numerous new regulations were introduced by the Ministry of Local Government. In the form of ‘circulars’ issued by the Permanent Secretary, management decrees were handed down to all councils in the Republic on financial management, procurement, Council performance contracts, staff rules, the “Rapid Results Initiative” (RRI), on evaluation procedures, on ISO certification and even ICT. In 2009 all councils were ordered to set up a website. All these decrees can be seen as measures to put pressure on councils to become more efficient and to improve service delivery.

Inward looking

However, these measures have been largely inward looking, focused on procedures and audits, and without ever having been able to formulate a meaningful business purpose for local authorities. Indeed, ISO certification essentially means that an organization confirms

that it does what it says it does, but it does not have a bearing on the relevance or purpose of its product or service. After three years and many millions of shillings for travel and consultants, not one council is ISO certified. In local government, it appears that reform is prescribed from above, with little ownership at the grassroots, that is to say council level.

One concern among the architects of the devolved government is staffing. Once the devolved system has set in, local government executives will have to un-learn being micro-managed and to learn to be responsive to local needs. The manner in which personnel management will be conducted in the devolved system is yet to be seen. Currently, if performance of a senior officer is considered wanting in the eyes of the Ministry, for whatever reason, this officer will be posted away to try his hand at yet another council. All senior officers in the local authorities constantly percolate throughout the system. By the time of the adoption of the new Constitution (2010), the public had lost much confidence and inter-

est in their councils. In the new dispensation, the major change is that the senior officers are appointed by the county government and answerable to this government.

The Rapid Results Initiative

The Rapid Results Initiative (RRI) is a change management instrument that the Ministry of Local Government injected into the local government system in 2009³⁶. Through the RRI, local authorities commit themselves to achieve a set of short-term goals. There are three 100-day RRI cycles in a year. They must report to the line ministry which stands ready to crack the whip, cut or delay LATF and/or post senior officers away to unpopular locations. Inside every council, the RRI has become the supreme law. It can be seen to preoccupy senior officers almost incessantly.

The RRI mechanism was launched with the best of intentions, drawing on common practice in the private sector. The RRI looks like a small catalogue of performance targets and

obliges councils to formulate a set of goals that can be achieved within a time-frame of a hundred days. If a council falls short of its RRI undertaking, sanctions apply, for instance, passing of bonuses and even reduction of the LATF subsidy. The RRI was created in response to the demand of the National Economic and Social Council (NESC) of 2002, a forum of government and the Kenya Private Sector Alliance (KEPSA), to inject private sector management style into government. "Why do companies make profit, as government agencies run on a deficit?" asks Philip Kamau, a director in charge of the RRI at the Ministry of Local Government. A novelty created in the same storm, across all government, is the adoption of Performance Contracting. Government departments, parastatal companies and local authorities with their senior managers are to achieve performance contract goals. These contracts comprise detailed lists of tasks to be done and goals to be realized. An example might read like this: Garbage Collection 100%; Road Grading 900 kms; Tree Planting 116,000 seedlings, Construction of 10 School Class-



Municipal market, Machakos. Public markets are maintained by their councils. Unlike this market, most of these have no concrete drained floors, have no amenities and are not clean.

Behind city's collapsing buildings lie a long chain of corrupt officers

It is scarcely a week since a building collapsed in Embakasi, Nairobi, with fatal consequences. We are again reading of another one in Langata. Something is seriously amiss somewhere.

This is a serious indictment of the concerned authorities. Someone must be sleeping on the job both at the City Council and at the judiciary that places injunctions against the council with less than thorough scrutiny.

Measures should be taken to avert this seemingly ceaseless occurrence of tragedies. If local contractors lack what it takes to put up quality buildings, then as we have done with roads, reputable foreign contractors should be permitted to come and take over the construction industry.

The argument that that will be tantamount to pushing our own contractors out of job does not add up. In view of the fact that many lives are being lost as a result of the substandard work by our contractors. We can still have our contractors doing the mental work, but let the main work be entrusted to reputable foreign contractors.

Meanwhile the office in charge of approving building plans at City Hall needs a thorough overhaul. The people at these offices have remarkably failed in their work. Contrary to construction rules which demand that any building going up to five floors should be fitted with a lift, there are countless residential buildings in Nairobi with up to eight floors, yet they have no lift.



A journalist walks on the rubble of a four-storey building that collapsed near Langata Road on Sunday.

Why the concerned officers remain silent over this flagrant violation of construction rules remains unclear. Can Town Clerk Philip Kisia expeditiously look into this issue and spare us more tragedies?
EDWIN MULOCHI, Nairobi

Skilled labour

In less than a week, we have experienced buildings collapsing in Nairobi killing and injuring scores of people. The incident at Pipeline in Embakasi saw many people including the PM blaming the architect, engineer and City Council.

That Kenya lacks skilled labour in the building sector as we work

towards realisation of Vision 2030 is stunning.
CHARLES MGHENYI, Mombasa

Blame game

The collapse of buildings within the city is alarming. It leaves the public wondering who is responsible for their housing security.

No one is ready to accept liability as the relevant authorities play the blame game.

One fact remains clear though: Behind any insecure building lies a long chain of corrupt persons — owners, finance managers, engineers, courts or suppliers.

WANGUI KARIUKI, Nyeri

'Council askaris worse than criminal gangs'

Nairobians are living in fear due to the constant harassment by city askaris now operating like criminal gangs, literally hunting down city residents and arresting them. The askaris will pounce at the slightest opportunity, such as standing near a bus stop. Even when relaxing, you will be accused of having an intention to board a matatu at a non-designated point. Traffic police have been driven out of jobs as pedestrians are harassed for crossing non-existent red lights. Town clerk Philip Kisia owes residents an apology since the city has been turned into a game park where city askaris hunt prey — residents. *The Daily Nation*, 5th August 2011.

It has been argued that providing council askaris with powers of arrest has been a grave error in application of law, that has been giving rise to unchecked abuse.

There is much public resentment against local authorities: the newspapers tell stories every day on failure of service delivery and harassment by council law enforcement personnel.

rooms, Resolution of Public Complaints: (not applicable), Customer Satisfaction 80%, etc. The list of commitments is impressive and is bound to yield some success in service delivery. In practice, however, it is not clear how all these operational goals can be assessed by a remote government inspectorate in the capital city. Perhaps here again devolution can help. A link is set between Performance Contracts and the RRI, to the effect that achieving the performance targets is aided by the RRI process.

As a result, since 2009 the RRI has become the metaphorical whip to lash the councils with their clerks and their senior officers into action. To quote Philip Kamau again: "in the past, the council budget cycle was not related to a vision, not specific to programmes and not broken down to a level of measured achievements." The Ministry has set up a list of eight 'thematic areas' to guide the RRI process. These are the areas where councils are known to be weak, explains Kamau. A council chooses four out of the eight to work on during

each cycle. The thematic area 'preparation of books of accounts' is mandatory. Probably, if it were in private companies, they would address themes in which they considered themselves to be strong. In the local government system the starting point is more like a cash-based system. "Our RRI is resource based. Do better with what you already have," says Kamau. All 175 local authorities have entered into the RRI process. In each cycle, only about ten of them are found to be non-compliant. At the closure of each RRI cycle 'celebrations' are orchestrated. The Ministry then produces a national ranking of councils and issues award certificates and even trophies. The whole idea is to achieve the rehabilitation of the councils from the depths of decay. Without a doubt, the RRI has prodded council which were doing nothing into doing something, and those who were doing something into doing some things better. However, the RRI does not as yet go into the uncharted waters of councils profiting themselves with activities beyond the bare minimum of street lights, drainage, toilets and garbage.



Public toilet, Turbo Township, Warend County. Why must the signage be so ostentatious? To teach the public about hygiene and sanitation, or to draw attention to the fact that the council exists and is providing a service?

The Rapid Results Initiative: Thematic Areas³⁶

- ***Preparation of books of accounts***
- ***Revenue collection***
- ***Garbage collection***
- ***Project implementation***
- ***Street lighting***
- ***Construction of public toilets***
- ***Maintenance of drainage***
- ***Implementation of customer service***

Popular Expectations of Local Authorities

People develop an emotional attachment to the city or village in which they live. Each place has its character, shaped by its residents, the social and economic activities that go on there, then the way the place is laid

out and how it is managed. If a town estate is over-crowded, lacks amenities and is crime infested, it brings stress to its residents. If a town estate is spacious and clean, it brings about well-being. And investment follows. No other governmental agency than a local authority can have such a bearing on a feeling of belonging and on the quality of life. In many countries, poorly planned cities have seen the creation of gated estates for high-income residents to keeping out the masses. Wherever in the world one goes, public parks are immensely important and perhaps symbolic for the significant impact that a local authority may have on the quality of life of its residents. Central Park in Manhattan, New York, is a social and cultural hub, as is the Vondelpark in Amsterdam. Some Kenyan towns and cities have public parks, but in most places the public areas are the roadsides. An example of a city park is Uhuru Park in Nairobi, large and hugely popular especially on Sundays. The Jomo Kenyatta Grounds in Kisumu are equally popular and lots of activities are organized there all the time. Mombasa has a few parks,

LICENSING BURDENS

	Number of procedures	Time (days)	Cost as % GDP/capita
Developed countries	7	21	7
African countries	11	53	139

Source: *Planning Sustainable Cities*, UN Habitat ³⁷

“A vast number of local authorities have not identified themselves as agents of wealth creation and economic development. The vision expounded by many LAs is short term at best”³⁸.

“Nairobi’s impossible by-laws”

“If they were implemented to the letter, prisons would be burst at the seams, or the city would be deserted”.

“Idle-sitting around Frustration Square (that area outside Hilton Hotel) is illegal as Nairobians are not supposed to ‘sit anywhere’ other than recreational places – Uhuru Park, Central park, City Park and Jeevanjee Gardens. While at it, it is illegal to lean against flower pots.”

“It is illegal to usurp the Council’s roles by collecting and burning your own garbage, so keep your clean neighbourhood initiatives to yourself.”

Daily Nation, 26 May 2011

but they remain untended for long periods of time. If a town hosts a district administration, then there will be a large forlorn terrain with an elevated pavillion painted in the national colours. That is then the public park. Furthermore, some towns impose by-laws on loitering. For instance, it is prohibited by Nairobi by-laws to loiter in public places such as ‘Frustration Square’ and lean against potted plants placed by the City.

Provision of public toilets is another essential service that councils offer. In recent years, council-run public toilets are re-appearing in Kenyan towns. The Ministry has been pushing for this heavily, as a visible sign of service delivery, and suitable implements for performance evaluation. Thus public toilets become proud symbols of council achievement, some taking on the aspect of the branch offices of banks, often with large signage across the length of the facade and

‘Ministries owe Council Sh 300 million in rates’

The government owes Eldoret Municipal Council more than Sh 300 million, the town clerk has said. Mr Stanislaus Ondimu said that they were talking to the government to settle the rates. The Nation, 5th August 2011.

The government owes local authorities land rates for those plots that government agencies occupy. Many councils report that these dues are settled in an arbitrary and piecemeal fashion. As beneficiaries of government support, councils have no powers to press for regularization of such anomalies.

flower pots at the door. But it cannot be denied that town and city dwellers appreciate these installations.

Clean up

The least that people expect from their local authority is to clean up. This is also the most basic of services for which no other public agency can take responsibility. However, it is a service that poses visible challenges to many local authorities. There are cases where this service is just beyond them. If even this basic function is faltering, there must be a larger problem. Many local authority executives explain that the inability to collect revenue is at the heart of all evils: without funds, they cannot offer a service. Rural counties are often so large with so many market centres, that cleaning up seems beyond reach. In fact, there are few public markets in Kenya that are clean. One that was found in Machakos Town might



Residents of and visitors to cities and towns need public parks as recreational outlets. This public park is in the heart of Mombasa, opposite the Town Hall. Most towns have public parks in their central sections, some are well maintained like this one. However, there are no public parks in sprawling neighbourhoods.

be a notable exception (see photograph). Outsourcing and privatising garbage collection services is coming up here and there, but the road to more modern solutions other than to collect and dump somewhere else, towards separation, recycling and processing into energy seems still long, despite many attempts with foreign assistance to create innovative solutions.

No other public agency but the local authority keeps watch over the construction of buildings. Judging from the numerous reports of accidents with collapsing buildings, there must be a problem with councils functioning as construction inspectors. From the press (The Star and Daily Nation, June – July 2011: “Squatters or slum lords put up shacks on land that no one else wants to develop. The precarious locations and poor quality construction make these settlements vulnerable to disasters like diseases, natural calamities and insecurity.” “Dangerous buildings to be brought down / Deputy Prime Minister visits site of collapsed house.” “The Embakasi Member of Parlia-

ment yesterday marshalled a gang of youths and landlords to block the much expected marking of unapproved buildings in Nairobi.” “Avoid planning at your own peril – between the planner and the politician, who is responsible for Kenya’s architectural mess?” “Behind city’s collapsing buildings lie a long chain of corrupt officers.” The latter comment refers to officers in charge of inspecting buildings during the stages of development. There are laid down rules for these procedures, and councils issue certificates for each completed phase. The role of Council officers here is not oversight over commercial contracts, but oversight to ensure safety. Accidents with casualties from collapsing buildings invariably evoke a huge public outcry, because, in the perception of the public, they could have been avoided if proper standards had been followed by contractors and if council inspections had been done as prescribed.

The gap between public expectations of the local authorities and their ability to deliver has not narrowed in the past two or three



'Frustration Square', Central Business District, Nairobi. Many pedestrians are not safe from predatory city askaris, who have powers of arrest on suspicion of loitering, spitting, and purchasing from street hawkers.

decades, notwithstanding lots of reform efforts. The stagnation is reflected in the Town and County Halls. Few new halls have been built during the past few decades. The challenge of keeping our Town Halls in a good state of maintenance is evident. Hopefully, some of the Town Halls will be rehabilitated soon, as they lend character to a town and are often iconic to the local living environment.

The natural role of these local authorities is undisputed and public expectations have survived the frustration: citizens continue to demand services that provide a quality living environment for all and that are conducive to investment. There was, and still is, a gap between the ineptitude of today's local authorities and their growing awareness and aspiration of need and will to change. In evidence is the Kenya Alliance of Residents Associations, a thorn in the flesh of ineffective councils, and business associations like the Nakuru Business Association, the national apex Kenya Private Sector Alliance and the National Taxpayers Association who never relent on demanding value for money.

"It's Impunity!"

Tubmun Otieno, Town Clerk, Municipal Council of Mombasa

Mombasa has a population of about 890,000 and the municipal council believes that the population in daytime is between 1.2 and 1.5 million. The council has a budget of KES 2.5 billion, of which 1.4 billion is collected locally with the balance sent by the State. The Council has 2,600 employees.

"Our biggest challenge is service delivery: this needs a very high revenue base. Garbage collection is the most challenging area. Our revenue collection is very low compared to expenses. We are operating on a deficit budget. We have 100 vehicles that have to move Around at all times. Not all are operational and yet we need 200 vehicles."

"If we would get an additional one billion Shillings, I would invest in solid waste management. Using modern technology of recycling and incineration. And I would train the work-



The public has become tired of pointing it out: garbage is left in public places, posing a health risk. Pictured: Municipal market, Kiambu

ers and pay them salaries. The population might not practice waste separation. Discipline is lacking. But I would pursue serious enforcement."

"By a low estimate, Mombasa receives about 5,000 visitors per day. There is a municipal levy of KES 3 per bed per night, this should amount to about KES 15,000 per day revenue. But the hotels don't allow us to check. We receive less than KES 2,000 per day."

"We had created a Public-Private Partnership for managing parking fees. The council received 37.5% of collections. It operated for six months in 2010 and we collected about KES 15 million. But the council was taken to court, accused of having awarded the PPP in an unprocedural manner. That was the end of this." The Council nevertheless still pursues PPP arrangements. Transaction advisers are being recruited for the construction of a free market, housing estates and parking areas, and low-cost street lighting with solar energy and LED lights, "if we are given a free hand, but local authorities have not been given a free hand."

"Mombasa's growth is not at par with Nairobi. Look at the development of Nairobi. Ring roads, dual carriageway to Thika, and so on. Who is doing that? The government, not the City Council. Mombasa is a port city. Other port cities in the world create wealth and receive financial support from government to underpin this function.

"We don't have a strategic urban plan yet. Until that is there it is blind walking. There are no dedicated areas yet. No concepts on what development could be done in a harbour area. Then once we have an urban plan, we must enforce it. There is lack of capacity in planning, even ignorance. But the purpose of not planning has been land grabbing.

"Beijing is the most developed city in the developing world. They have enforcement. The government is giving funds. That makes all the difference." Berlin is a green city. Our sister municipality Ljusberg in Sweden is green. The City of Rio de Janeiro started tree planting in 1977. Now daytime temperature has come down, despite population growth."

“Western cities are well developed, why? One, residents pay taxes. Two, residents obey the law. What is our biggest problem? Impunity!”

Mombasa, June 2011

‘Penalties’

Mombasa in the press: “Firms could lose land over council rates – Mombasa Municipal may sell Telkom land to recover unpaid fees” (Daily Nation, 7 July 2011). “Council to mete out stiffer penalties on offenders – Mombasa Town Clerk Tubmun Otieno said the council would ensure residents and businessmen abide to by-laws ... start by taking action against owners of buildings that had not been painted in the last three years” (Standard, 7 July 2011).

‘Women go for projects that make life easier’

Elizabeth Chepchirchir Sang (1956), Kipchamo Ward, Wareng County, was elected as councillor for the first time in 2007. Now she says she may not aim for re-election, because she would prefer to devote all her time to community work. Politics absorbs too much unproductive energy. “I’m a mobilizer and a leader. I want to educate women to keep homes, run small businesses.” Elizabeth is the coordinator of Kipchamu Poverty Eradication Programme (KIPEP). KIPEP has divided the ward into 16 Small Business Organizations. “We have members’ records. We ask people in our community ‘what are you doing? How would you like to be assisted?’” KIPEP has attracted a commercial bank loan that it can lend on to members. Elizabeth Sang is involved in scores of projects, beyond the council-sponsored annual LASDAP project for Kipchamo Ward. Dairy, horticulture, water distribution,

Elizabeth Chepchirchir Sang, councillor in Wareng County: “LASDAP cannot make a very big impact. The funds are very limited and the process is too political, a competition for money. In the community consultation meetings for LASDAP, the most vocal people get their way.”





Above: Councillor Oscar Kalia, Makueni County: "LASDAP projects take too long to be implemented. There are too many government offices to deal with. The bureaucracy is too much." Right: Kango Dam, Iiani, Tulimani Ward. Materials contributed by the Council, labour by the community.



feeder roads, bee-keeping, cereal growing and more. She has also worked to complete projects started by political predecessors. "These projects are not for me, it is the community that benefits." Does she believe there is any difference between the kind of projects voted in by men, compared to projects voted in by women? "Women go for projects that make life easier. A woman's decision would be for a water project. Now children will not go hungry because meals are prepared. LASDAP cannot make a very big impact. The funds are very limited and the process is too political, a competition for money. In the LASDAP consultation meetings, the most vocal people get their way." In Elizabeth Sang's view, community members are not able to analyze their environment and identify priority projects, they still need education in this. That is where more effort must be made.

Note: not all councillors are productive development project promoters. Many only manage to get one off the ground, in the framework of LASDAP funded by their council, and

often that single project is not even implemented as intended. By crude local observer estimates, only one in four councillors can show development projects realized on the ground under their tenure.

'A county assembly will pass a decision today and tomorrow a project is tendered'

Councillor Oscar M. Kalia, Kiteta Ward, Makueni County

Oscar Kalia (1954), Mbooni East, Kiteta Division, Kiteta Location, Kakuswi sub-location, was an elected councillor from 1993-1997, a nominated Councillor from 2003-2007 and re-elected in 2008. The ringtone on his cellphone is an audioclip from Parliament where a member castigates corruption. Kalia has promoted many small-scale community projects in his area: school expansion, community water distribution, healthcare dispensary, irrigation scheme, all through Community Based Organizations (CBO's). Some of these projects are funded through LASDAP, some through other channels.

“Central government has continuously weakened the LAs. Most functions of LAs have been taken away including: health, water and sanitation, roads and education.” Association of Local Government Authorities Kenya (ALGAK), 2010



Town Hall, Municipal Council of Chuka (above). Local authorities have not had adequate powers and resources to deliver against their mandate and the people's expectations.

Kalia: “We see three categories of people in our area. Destitutes with no income at all, many are orphans, teenagers with many babies and children. They don’t go to school. This group is probably around 15% of the population. Then we have those with very low incomes, mostly subsistence farmers, 80%. Many have under-developed shamba’s (farms). Then there are the stable households, salaried people, business people, these are 5%. Our projects target the first two groups. We have registered three self-help groups in my location for the orphan teenagers. They get some relief supplies through sponsors, and we try to place some of them in youth polytechnics. We show them farming methods. Projects for subsistence farmer CBO’s are more substantial. Here we have irrigation projects, piped water distribution projects. We help introduce new drought resistant crops using demo plots. Members often participate in the investment.”

“LASDAP projects are always physical projects. Four walls and a roof. There is often no attention to sustainability where there should be.

This is how we can get a dispensary without a nurse, a water borehole that grinds to a halt. The LASDAP process is shallow, community consultations are superficial. Projects don’t embrace new technology, found on the web. Implementation is weak because monitoring is weak. Many LASDAP projects are under-funded to begin with but then not finished, either because the cash from the council is not flowing as budgeted, or because corruption has spoiled the works.”

“Conserving the environment is one of our big challenges here in Makueni County. We are not implementing and enforcing our rules. Charcoal burning is regulated but this practice is out of control. If you cut a tree in my place I take you to court. The idea of vetting leaders is very important. Corrupt leaders should go. We have been seeing unequal distribution of resources. Take electricity. This is not evenly distributed. The problem is monopoly. There is no competition. There are many institutions and state corporations doing no or little work. Phase them out. Merge them. Why do

Kenya Alliance of Residents Associations

The Kenya Alliance of Residents Associations (Kara) is the 'trade union' of gated residential estates in Kenya. Kara represents an important section of Kenya's middle class. What are the biggest challenges in Kenyan local authorities? The chief executive Steve Mutoro of Kara offered an analysis: "One is corruption, two is lack of citizen participation. Stealing and diverting money of public resources to private pockets. We also see misplaced priorities and white elephant projects, all over the country. An incoming politician will not continue a project started by a predecessor. There is apathy in councils and lack of interest by residents. You grow up knowing that your council is not offering anything of value. We see apathy among citizens when it concerns their council. The most natural role of local authorities is to realize the vision and mission of the national government at local level: protect the people, provide basic needs like food security, essentially allow everyone to live a life of dignity. Of course this is easier said than done, but I say: don't give them an excuse. Kara is in favour of devolution. Devolution must provide a mechanism to the new counties to offer services similar to national government services. Of course the basic assumptions are that there is peace and leadership of integrity." Kara is concerned about the ease by which 'change of user' of existing physical plans is approved, in disregard of sound environmental considerations. "The scenario of questionable Environmental Impact Assessment licenses is repeated in several parts of the country and in each case the National Environment Management Authority (NEMA, www.nema.go.ke) is on the spot for its role in issuing the licenses," according to Kara's magazine # 16 of June 2011. In 2009 Kara wrote: "The common aspect of the suspect approvals so far granted by NEMA is that the proponents are men and women of influence. They apply their intense economic and political muscle to undermine environmental interests and to threaten and intimidate law abiding citizens who oppose their destructive propensities." Kara (www.kara.or.ke) is the apex body representing residents' associations on consumers' and taxpayers' rights countrywide, on accelerating access to public service delivery. At an operational level, Kara focuses on delivery by Kenya's local authorities as engines of the economic growth and national re-construction in terms of improved service delivery to their residents.

we need separate ministries for livestock, for agriculture, for commodity co-operatives. Our bureaucracy hinders development. There are too many authorities giving directions, issuing instructions. And often obscure politics play in the background. With the devolved government a county assembly will pass a decision today and tomorrow a project is tendered. If people don't know understand the devolved system that will slow development. The people should be prepared for what is coming."

Tawa, July 2011

Note: not all councillors are productive development project promoters. Many only manage to get one off the ground, in the framework of LASDAP funded by their council, and often that single project is not even implemented as intended. By crude local observer estimates, only one in four councillors can show development projects realized on the ground under their tenure.

Devolution: Politicians, Please Leave!

Kenya's new constitution necessitates rebuilding legislation for local government. The two most challenging agendas are governance and funding. The Ministry of Local Government organized a country-wide round of public consultations in the early months of 2011, to guide the legislative drafting processes. The results breathe a desire of citizens to break with a past of florid failure of development initiative in the local government and district administration system. The Task Force on Devolved Government has done impressive work, is looking into the future and seems to be asking all the right questions. "This developmental devolved government must yield functional development for the estimated 64 million Kenyans in the year 2030. By this we mean that the era where hospitals, schools and other facilities were built, without the requisite operational resources to enable their utilisation."



Town Hall, Nakuru. Behind the building is a jail. Recently a Municipal Court was established. The clientele for jail and court comprises mostly street hawkers and boda-boda operators.

tion must come to an end.”³⁹ Here reference is made to a tradition of setting up local community projects that never had popular interest leave alone support and participation, were bedevilled by government branches grinding against each other, and that in the end only served to alienate ordinary people from the government agencies in their communities. Essentially, Kenyans are happy with the devolution idea and the expected increase of public funds managed at local level. It is one of the fundamental elements of the constitution that was endorsed by the referendum. Most comments from members of the public centered on governance. Interestingly, a common wish expressed by many citizens in several public consultation sessions was that people want to see politicians leave the scene of local development.

Collaboration Between Counties

In the new devolved system of government in Kenya, local authorities will continue to be controlled to a large extent by the government

as a regulator, but answerable to the county government which holds the big purse. That is different from being controlled by a central government ministry operating as an inspectorate holding a big purse. What nobody knows is how county governments will collaborate between each other. There is no tradition of development coordination between local authorities. No agenda for coordination between two adjacent councils has ever existed. New legislation for the devolved system prescribes some coordination between counties, therefore between towns, but how this will materialize remains everyone’s guess.

Eyes on Future Generations

The Task Force on Devolved Government has addressed social, economic, fiscal, environmental, administrative and political questions. Below are a few statements from its April 2011 report.

1.Task Force Report: “The imperatives of effective and efficient public service delivery



Setting priorities for development projects. Village residents decide on where and how to spend development funds of their county council. This village meeting in Makueni is about managing the LASDAP funding for the sub-location.

include the need for effective, integrated economic and spatial planning, appropriate financing/funding mechanisms, sound service management practices, good governance, and monitoring and evaluation.”

2.Task Force Report: “Building quality places is a priority for the counties. The operative question is simple: why would a citizen, a visitor or investor choose one locality over another for their engagement? Literature shows that the quality of a place is key to attracting the necessary human and other resources to achieve desired development outcomes.”

The road to achieving these noble goals may, indeed, prove to be lengthy and bumpy. The domestication of the devolution aspects of the Constitution into local government legislation is easier said than done. The Constitution dictates that “not less than 15%” of state resources go to the counties. In all likelihood, some conditions will be attached to disbursements, conditions related to accountability for instance. Then agreement has to be reached

on how state funds are distributed. Minimum levels can be set easily, but how about variations depending on specific needs or circumstances? Funds allocation will be on the basis of number of people, the poverty index and the capacity to utilize funds. “The formula for horizontal revenue allocations among counties is not provided by the Constitution,” notes the Task Force ⁴⁰. The question leaves some room for discussion, to put it mildly.

Counties are expected to collaborate in areas of regional development. Will there be a higher authority to govern this kind of collaboration? The constitution does away with the Provincial Administration. The Provincial Administration does not like that. Eventually, a compromise will be embraced: devolution and centralization at the same time. Whatever the outcome in detail, local authorities in Kenya will have larger budgets, greater autonomy and more professionalism.

Getting information on CDF and LASDAP: Usage Percentages

	CDF	LASDAP
Interpersonal	25	15
Radio	21	10
TV	4	2
Newspaper	7	7
Officialdom	12	10
Barazas/ Forums	16	14
Internet	1	1

*How do citizens get information on working with devolved funds? Two such funds which are well known are the Community Development Fund and the Local Authority Service Delivery Action Plan. According to the KNHR survey, the most reliable way of getting information is 'interpersonal'*⁴¹

Experience with Devolved Funds

Many countries are relatively more advanced and successful in the decentralization process than Kenya. Many have succeeded in reducing regional inequalities through better coordination, popular public participation, accountable and responsive governance.

The Task Force on Devolved Government reports from its round of nation-wide consultations that communities felt that devolved funds, in particular LASDAP and CDF, have transformed lives in the rural areas and recommended that the government should continue disbursing them. However, they suggested the need to establish a central office within the county to coordinate the use of the funds to avoid duplication of projects and uncoordinated activities. They also indicated that devolved funds should not be directly managed by politicians. For transparency and accountability, the use of the funds should be more participatory. The offices of

KACC (Ethics and Anti-Corruption commission) should be decentralized to the counties to avoid corruption and mismanagement of funds⁴². Seven devolved funds have been reviewed in a study : Constituency Development Fund (CDF), Local Authority Transfer Fund (LATF), Free Primary Education (FPE), Secondary Bursary Fund (SEBF), Water and Sanitation Trust Fund WSTF, HIV/AIDS Fund, and Roads Maintenance Levy Fund (RMLF)⁴³. The primary focus of the research was to assess the extent of citizen participation in the management of decentralized funds in Kenya including monitoring and evaluation. What the study found is worthy of note as the country moves towards wholesale devolution in 2012. The report found that the role of District Development Offices in harmonization of the various development efforts has been weak, and that capital expenditure among the local authorities has averaged at a low level of 15% nationally: too little for infrastructure development⁴⁴. Genuine and meaningful involvement by citizens in the management of the funds has been a challenge. Citizens are

Citizen involvement in managing devolved kitties

Stage	average all devolved funds	LASDAP
Identification	25%	25%
Budget/planning	14%	12%
Implementation	17%	13%
Monitoring	16%	13%

Source: Kenya Human Rights Commission (KHRC) 2010

Politics everywhere, all the time

"The various development Funds seem to be in 'unhealthy competition' with regards to preferred devolved development harmonization framework." In: Harmonization of Decentralized Development In Kenya: Towards Alignment, Citizen Engagement and Accountability. Kenya Human Rights Commission (KHRC) and Social And Public Accountability Network (SPAN), 2010. Released by the Association of Local Government Authorities of Kenya (ALGAK).

more involved in project identification, with 25%, than in the project implementation, 17%, and follow-up phases ⁴⁵.

The information flow on the devolved funds has proven to be a challenge and this does not advance their impact. The majority of respondents in the KHRC study were of the view that there is need for more public sensitization on decentralized development and enhanced citizen involvement in all stages right from project identification to monitoring and evaluation ⁴⁶. The KHRC study is reserved in its impact assessment.

Funds lack the will and know-how to encourage citizen participation

"Most funds lack the will, know-how and institutional mechanism to encourage or up-scale citizen participation." "Despite the presence of the LASDAP process, which requires local authorities to hold consultative meetings with civil society organizations to agree on the broad allocation of the budget; the extent of citizen involvement is low. Often community mobilization is done through word of mouth including through local churches, chiefs' barazas, or through advertisement in the media. These communication strategies seem to be inadequate. There is also no clear role and re-

sponsibility of the community in other levels of project cycle after project identification. As a result, the quality of citizen engagement is very poor" ⁴⁷.

Conclusion

Local government in Kenya shows a history of decline. The pace of decline pace levelled after the year 2000 with sector reforms that stabilized local authorities in a gridlock of micro-management by the government coupled with wholly inadequate funding. The mean rate of funding per capita in a municipal council is KES 2,800 (USD 30) and in a rural council KES 400 (USD 5). Kenya has been using a variety of small devolved funds to support community development. The 'Local Authority Service Delivery Action Plan' funding is arguably the best in comparison of many, such as the Constituency Development Fund of the Members of Parliament, in terms of community governance and participation. Its main problem is its level of funding which reduces its benefit to a trickle of KES 50 (USD 0.50) per capita per year. The prospect of a devolved government from 2012 onwards creates an opportunity to rejuvenate and enhance the level of local government in public administration.

CHAPTER

4

ICT IN LOCAL GOVERNMENT: A PRE-CONDITION FOR PROGRESS

Local authorities are riding on the waves of the dynamic development trends of Information and Communication Technology (ICT), be it generally at a slow speed. These waves are reinforced, articulated and prescribed by the line ministry, the Ministry of Local Government. The ICT industry shows what is possible, delivers mainstream ICT solutions such as local area networks at council headquarters, implements websites with dynamic applications, builds SMS customer services and creates geographic information systems. Some implementations are pilots, especially geographic information systems for revenue collection and planning support. A standard financial management system for councils developed under the auspices of the Ministry was introduced in 2005. Since 2005, the industry association Kenya ICT Federation and Development Trust Innovation Africa have ran awareness and pilot projects in local government in various parts of the country. These actions have demonstrably spawned ICT policy at the Ministry of Local Government.

The Ministry of Local Government

Every Friday, driving on the highways towards Nairobi, one encounters vehicles with green number plates, an indication that they are the property of local government, coming back from the city. All official correspondence and reporting between the Ministry of Local Government and the local authorities under its supreme authority is hard-copy, carried by hand. Circulars with instructions or new rules are couriered throughout the Republic. These circulars are not posted on the Ministry's website www.localgovernment.go.ke. In any event, this website is frequently 'down.' Actually, the number of full-text reports and policy documents on this website is limited, it is certainly not complete and not up-to-date. The most recent annual report on LATF is 2007-2008. Ministry officers inconsistently but rarely use email: they require hard-copy correspondence and reports. It is hoped that when devolved government comes into place, the unhelpful, expensive and outmoded culture of hardcopy correspondence will become a thing of the past.



Towards ICT in local authorities - paper mountain in the Town Council of Eldama Ravine (2011)

In 2009, all councils were ordered by their Ministry to set up a website. The websites of some councils are now of better quality than the website of the Ministry itself. Many local authorities have learned, with good advice from private sector, that their websites should reach out to their stakeholders: residents, visitors and investors. There are fewer councils that publish websites where all emphasis is on personalities of their officers. Nevertheless, it appears that most councils have not really internalized the world wide web. Almost no council is up-to-date to announce the new Mayor or Chairman, after the 2011 council elections. Very few councils have published their budget for 2011-2012 online.

Financial management

Nevertheless, the Ministry has provided leadership in modernization through ICT, by spearheading the implementation of a financial management system that is now prescribed for all local authorities. This system is known as LAIFOMS, the Local Authority Integrated Financial Operations Management System, first installed in a Local Authority in 2006. LAIFOMS is a cash management and receipting system. This system is managed by the government. Its functionality is incomplete, system security is grossly imperfect and user support is chaotic. All the same, this LAIFOMS has brought solace to many councils: financial management in many of them has, at least, become orderly. At the moment, about half of all 175 local authorities have implemented this system. Its roll-out is controlled by a unit in the Ministry. At the current stage of government ICT strategic development, the e-Government

Directorate in the Office of the President is considering to move all financial systems to a web environment, for improved control, security, financial consolidation, integration across government, implementation and user support.

Two years after the introduction of LAIFOMS, possibly in reaction to a process that started back in 2004 whereby each Ministry was required to articulate an ICT policy, a policy document on ICT in local government saw the light of day: Strategy for the Sustainable Implementation of Information and Communication Technology in Local Authorities, Office of the Deputy Prime Minister & Ministry of Local Government and Kenya Local Government Reform Programme⁴⁸. This document proposed a few ICT measures for and by all local authorities. Among the "Key Result Areas" in this document are: improved ICT awareness and capacity within local authorities; appropriate institutional arrangements in place which means setting up an ICT committee at the Ministry to coach and regulate developments; institutionalisation of LAIFOMS and even porting this to a web platform, while bringing in private sector to help implement and manage this; encourage all local authorities to establish a web presence that supports interactive services to customers.

Computer programmers

Three years later, some of these Key Result Areas show evidence, whether induced by the Ministry or by other agents or factors. Progress in evidence is in hiring of 'computer programmers' by many local authorities. This has helped to keep a few computers up and running after being purchased, and promote ICT awareness within a council organization. Other progress in evidence is in continued spread of LAIFOMS, though numerical targets are not being met. The most concrete and desirable benefit of ICT as articulated in the Ministry's ICT policy document is "improve communication and collaboration between key stakeholders using ICT to promote shared outcomes for communities." This benefit is a promise. In some local authorities, early ICT implementations begin to show some prospect of realization.

“Contact your Council”

The National Conference ‘ICT in Local Government’ by Innovation Africa and the Ministry of Local Government, and support of the e-Government Directorate in the Office of the President (Nairobi, 3 September 2009) has been influential in government policy to promote and prescribe ICT in local authorities. Almost all 175 local authorities in Kenya heeded the campaign call “Contact your Council” and participated with their senior management. ICT was promoted as a means to improve service delivery and reach out to citizens in their communities.

Three ‘champion councils’ each presented their new ICT Plan and website at the occasion: Municipal Council of Nakuru (www.mcn.or.ke), County Council of Nakuru (www.nakurucounty.or.ke), County Council of Makueni (www.makuenicounty.or.ke)⁴⁹. Of these three, the latter two have continued to develop their ICT activities. Dozens of local authorities have followed suit, especially with websites and a few with SMS information services. The County Hall of Makueni in Wote town has become an ‘ICT pilgrimage site’ for local authorities.

ICT Champions

By 2011, a climate has emerged that is favourable to modernization of local authorities with ICT vitamins. In anticipation of major reforms as required by the new constitution, service-oriented ICT experiments are being undertaken by progressive champion councils. Possibly the most advanced council in terms of ICT is the County Council of Makueni. There we find a range of trend-setting ICT implementations. There is a geographic information system that supports community development planning in education and access to water; an SMS query service for land rates; an SMS suggestion box that sends automated requests to council departments; and on-line LASDAP projects monitoring on the website. This council, operating in a vast area of 7,200 sq kms, has also started to open ICT-enabled information centres. In 2009 a survey was done in three councils, Makueni included, among all visitors to the Council Hall. It transpired that 19% of visitors spend a whole day for a business visit to the County Hall, and 54% half a day⁵⁰. This convinced Makueni to invest in computerised service points at selected townships. Often however, ICT implementations within coun-



cils are no more than ‘window-dressing’. If it looks good, then the Ministry appreciates it, but council staff and the public don’t actually use it. ICT is the general purpose technology of our time, but it is hard to make our councils and their stakeholders take advantage of it.

Many ICT initiatives within councils are inspired by a desire of local leadership not to fall behind in development and technology. “ICT is the future”, they say. ICT is a catchword that easily wins the attention of leaders and senior officers and technocrats in the councils’ administration. The technocrats realize that ICT will assist them achieving performance targets set by the Ministry of Local Government. The ICT initiatives are not inspired by an express need ‘at grassroots’ level. The new ICT services are not being used in daily life. If the intermediary level between local authority residents and administration is the body of councillors as the democratic representatives, then this level is not the ICT-savvy conveyors of public sentiment and the apparatus of public administration. An interesting experiment was done in Makueni County in 2011. All 52 Councillors of the County Council of Makueni took a one-day training course on using e-mail and the world-wide web. It was conducted at



Emali, 7th October 2011 - Makueni County leaders officially launch 'County-SMS', a public complaints/alert service by the county council. From left: Rebecca Mutua, Council Treasurer, Robert Musyoka, Council Clerk, Alois Muia, Council Chairman.

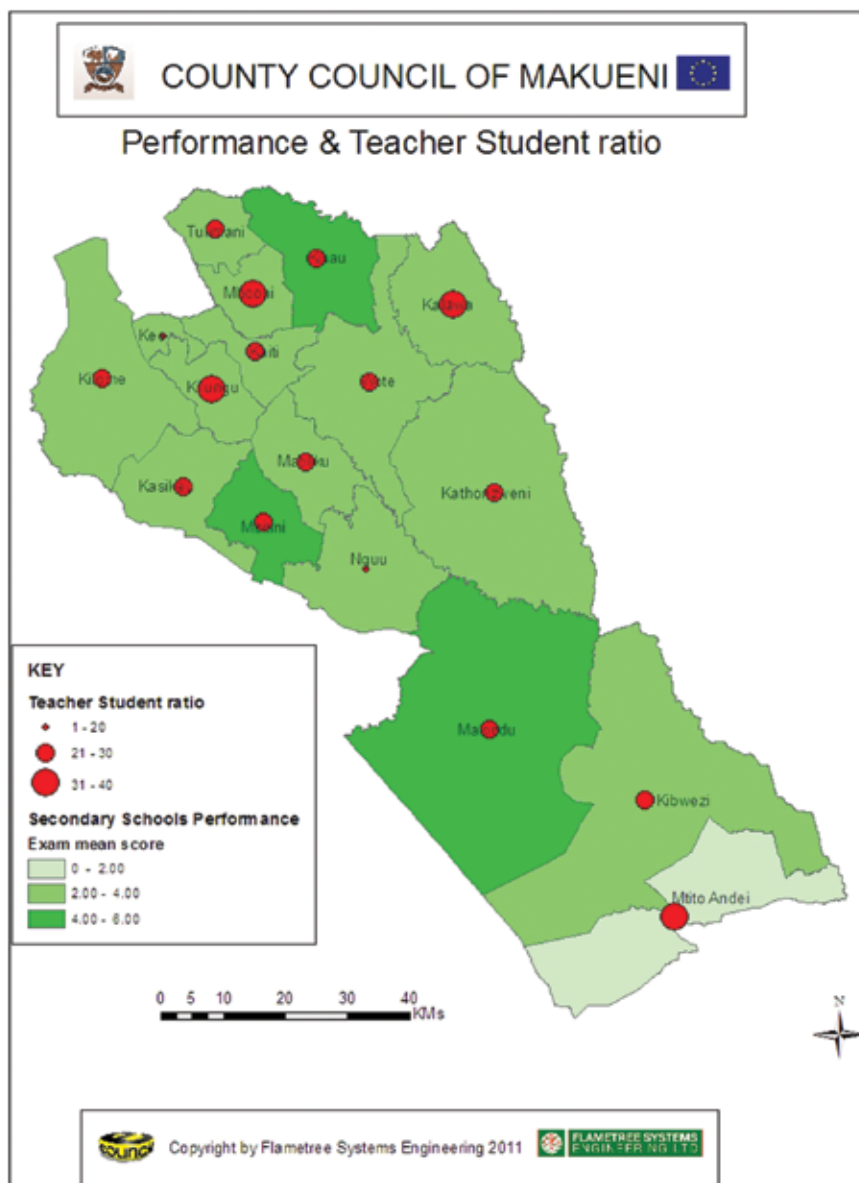
Wote, the county capital. All councillors who did not have an e-mail address yet were issued with a 'g-mail' account. An award scheme was part of the initiative, with a prize contributed jointly by the County Council of Makueni and the ICT company Flametree Systems Engineering Ltd. The award was tied to successful completion of an assignment: reply to an email from a ward resident, estimate the population size of your ward, and give suggestions on how to improve the council website. The award scheme appeared to be a reality check: 16 out of 52 councillors sent e-mail responses but only six had sent the required three entries. Although this was a low number, it may have been possible that those few councillors with previous Internet experience did not participate and that others resided in remote areas without Internet access. These results suggest that rural councillors are conservative and not leaders in adopting ICT. This does not mean that ICT is a wrong route to take. For the stake-

holders of a council, their interest in interacting with this body through ICT will depend on the relevance of the council to them, and the ICT solution that is provided for this interaction. The question of the appropriateness of an ICT solution is a challenge for ICT designers: they must understand the environment, and be sure that their solution adds value to stakeholders. For the time being, it will be a media mix: use ICT to produce print output that is helpful in a public meeting, use SMS but integrate it in an information processing system.

GIS in Community Development - Makueni

The last decade has seen rapid growth of Geographic Information Systems (GIS) in transforming how earth and environments are visualized, represented and understood. This growth is more prevalent in the developed countries and has seen local authorities there utilize and immensely benefit from the this technology. Local authorities in Africa have been slow in adopting GIS. With GIS being per-

ceived as expensive in terms of implementation and maintenance, local authorities have shied away from it. But with the emergence of low-cost GIS technologies, they have begun to introduce GIS in their mainstream operations. GIS technology has evolved from desktop GIS available only to the engineers to the use of web-based GIS is gaining popularity. Web GIS allows spatial data to be available to a wider audience. In Kenya, a few local authorities have implemented GIS. This will change with the implementation of the new Constitution in urban legislation that even prescribes the use of GIS in planning by both county governments and municipal councils.



'In Africa, Technology Helps Citizens Hold Their Governments Accountable'

"Though the continent is rapidly urbanizing—3.5 percent of Sub Saharan Africa's one billion people move into cities each year—and local governments have trouble providing essential public services to the growing numbers of people, many municipalities are taking advantage of the rise of ICT to improve the lives of their residents. "By linking citizens and municipalities, ICT can serve as an effective tool for strengthening urban governance, which is the key to addressing the challenge of urban development," said Junaid Ahmad, the World Bank's Sector Manager for Africa Urban and Water.

In Addis Ababa, Ethiopia's capital, one municipality is using Geographic Information System (GIS) technology to create urban planning proposals, arrange public services, and devise 'targeted' revenue models. City officials apply this GIS to scientifically assess property transaction information as well as accurately evaluate all taxes related to land. As a result, in just the first year of implementation, the municipality increased its revenue from Ethiopian birr 5 million to 36 million—significantly adding to the return on investment for GIS.

"GIS can help cities gather information in real-time on infrastructure and water issues to pin-point which areas need attention," said Gaurav Relhan, an ICT specialist at the World Bank. "Geo-referenced data can generate maps that reveal spatial relationships, patterns and trends that governments can use to manage and plan urban infrastructure by using the participation of their citizens."

source: World Bank, May 2011 - www.web.worldbank.org/

The County Council of Makueni: Background Information

The County Council of Makueni (CCM) is located in Eastern Province (1° 47' 00.90"S, 37°38'00.45"N), Kenya. It has a population of 884,527 (49% male and 51% female) and a population density of 110.4 people per km sq (2009 census; Kenya National Bureau of Statistics). It spans an area of over 7,200 square km. 36% of the urban population lives below the poverty line, while 67% of the rural population lives below the poverty line. Charged with service delivery to such an expansive and populated area coupled with a dry climate, the task of equitably distributing the scarce resources to ensure social inclusion and providing affective service delivery to residents, remains a formidable challenge.

CCM can be described as an 'ICT champion council,' having introduced ICT in its mainstream operations. CCM realizes that GIS is a powerful analytical tool that can generate a fuller, more realistic picture of service provision, development progress and citizen needs. Mechanisms to use GIS in decision-making already exist. Such mechanisms include using GIS in the Local Authorities Service Delivery Action Plan (LASDAP) meetings and other development forums. Councils are required by law to involve the community in the LASDAP process, right from project identification to its

implementation and evaluation. GIS provides a tool for the community to assert their needs and influence development decision making, thereby promoting transparency and reducing individual vested interests.

Registered Achievements

In 2010, CCM in a partnership with engineering firm Flametree Systems embarked on implementing a pilot GIS for Kibwezi, a town within its jurisdiction. The resulting Kibwezi Community Planning Service featured a spatial database with more than 40 layers of information. These layers are categorized into different information agendas such as education, health, water, security and demographics. An application was developed to disseminate this spatial database. The application is available to the community in form of a compact disc (CD) running on any computer without the need for pre-installed GIS software. Data collection and mapping was done through Public Participation GIS (PPGIS). PPGIS is an approach that makes spatial decision-making tools relevant to all those with a stake in official decisions⁵¹. PPGIS is meant to bring academic practices of GIS and mapping to the local level in order to promote knowledge production.

In 2011, CCM through the European Union-sponsored "Makueni Community Information Empowerment Project-2011" embarked on



Rivers for Boundaries

Many administrative boundaries are set by natural features, such as rivers. The map on the left shows a river as border between Kitui and Makeni Counties.

The new Counties, with more political autonomy, will assert themselves towards each other. The increasing water scarcity may lead to disputes on access to water catchment bodies, such as rivers that mark these County boundaries. How will these disputes be managed?

expanding the geographical coverage of its GIS from just Kibwezi to the entire area of its jurisdiction. CCM has adopted an incremental GIS implementation methodology. This approach allows local authorities to implement GIS a step-by-step, starting from a few basic agenda layers of information and expanding the spatial database over time. CCM now has a county-wide GIS with two information domains: education and water. Education was chosen because of a tradition of local authorities to fund school building projects. Water was chosen as a result of the Makeni Investment Forum organized with CCM and Development Trust Innovation Africa in 2010⁵². Apart from this, CCM has implemented a GIS Land Management system for three townships Sultanhamud, Emali and Kibwezi. The new GIS is a development monitoring tool for education and water, as well as a Land Rates revenue collection tool. Residents and stakeholders will be able to read the GIS, both at the County Hall and at community information centres, currently being opened in selected townships.

With the GIS, CCM can assess its current standing in achieving two of the Millennium Development Goals (MDG's):

Goal 2: Achieve universal primary education
– By mapping all the schools (both primary and secondary) CCM is able to assess the distribution and access to schools. Additionally it

is able to assess the quality of education by relating the schools' performance to facilities and personnel.

Secondary Schools – Student Performance and Teacher/Student Ratios

While access to education is documented with government statistical series, the map *Secondary Schools – student performance and teacher:student ratio* goes a step further to link the impact of education to number of teachers. A correlation exists between performance and the number of teachers and thus the map presents a decision support tool to identify where intervention is needed to improve the quality of education. The GIS also links education performance to facilities such as classrooms and toilets. The performance on the map is based on national examination results for the year 2010. The Kenya Certificate of Secondary Education (KCSE) is graded out of 12 points and the average of each school thus ranges from 0 to 12 points. The map shows the average KCSE result of the schools within a particular administrative Division. From the map, Mtito Andei division has very low performance and high teacher:student ratio.

Goal 7: Ensure environmental sustainability - Target 7c: Reduce by half the proportion of people without sustainable access to safe

Static information, no on-line services

Local authorities are only in the beginning stages of on-line presence. "At this stage the focus is on rolling out informational content, which is largely static, concerning for example the procedures of and guidelines on various public services offered by respective government agencies. Only the city of Johannesburg in South Africa had online services. This would be expected in other big cities such as Cairo. However, hardly any local government had moved to the point of achieving electronic interactions between government actors and civil society (e-society)"⁵³. Those local authorities who have established a web presence show low usage results of roughly 100 to 200 unique visitors per month. This is roughly less than 0.1% of their population. Considering that more than half of these Councils' web traffic is generated from places outside a County, these indicators suggest that the public have not yet appreciated seeing their Councils on-line.

drinking water and basic sanitation. By mapping all water resources (dams, rivers and reservoirs) CCM can assess access to safe drinking water, and overlay this information with other relevant information such as population.

Water Sources and Vegetation Cover

The map *Water sources and vegetation cover* shows the location of water resources in relation to vegetation cover and population per division.

Distribution of Water sources and Population

The map *Distribution of water sources and population* shows the location of water sources and population distribution per location. The darker the color the higher the population density. The map indicates that the northern section of Makueni is more developed than the southern section.

Water Resources on Administrative Boundaries

When water resources straddle political or administrative boundaries, conflicts on water

usage are bound to arise. GIS visualizes such situations and provides an information tool to aid in decision-making. The boundaries map shows three local authorities: Machakos, Kitui and Makueni. These three local authorities have seasonal and permanent rivers flowing along their boundaries. They are party to decision-making on management and use of the river water. GIS has proven to be helpful in visualization of potential conflicts on water resources.

Makueni County GIS is a work-in-progress and aims at providing a low threshold, highly usable planning tool. With Phase 1 completed, Phase 2 will feature more layers in order to further improve its decision-making support function. The new county governments will have a wider mandate and larger resources than local authorities. It is expected that the new Makueni County Government will take advantage of the start with GIS realized under its wings in the local authority.

Methodology

In December 2009, a stakeholders meeting was held in Kibwezi town. Government officials, business community,



Guesswork - The Ndituni Water project in Makueni uses this all important map of the pipeline network. About 400 households are benefitting from the service. There is no information on water production and consumption.

non-governmental organizations and the local community came together and through a SWOT exercise (strengths, weaknesses, opportunities, threats) identified the layers of information that are important and relevant to the Kibwezi community. The results of this SWOT informed the type of data and information to be collected and mapped into the KCPS.

The Makueni investors' forum of 2010⁵² identified the main problem in the region as lack of adequate water, making water-related investments the main investment opportunity in Makueni area. Mapping the water resources, highlights this problem in a spatial perspective while overlaying this layer of information with demographic and topographic (contour) data highlights investment opportunities to improve the current situation. With a large area lying within the ASAL area (Arid and Semi-Arid Lands – designated administrative sections of Kenyan national territory), dependence on

rain to is out of the question, and other techniques and methods such as dam construction and conservation of the water sources have to be adopted if the problem of inadequate water is to be dealt with.

Where does GIS fit in

It is evident that there is an inevitable need for local authorities to adopt GIS. The question is, are there institutional mechanisms in place to ensure use of the GIS? The answer is yes. The GIS maps can be tabled in LASDAP meetings as well as in various other development forums, to have a more informed debate on prioritizing development project. In addition, GIS is relevant for physical planning and revenue collection. Local authorities can use GIS to manage and monitor physical and environmental development. They can further use GIS to monitor revenue collection of land taxes, by linking their existing fiscal database with spatial data, thus providing a platform



Digging for water - where should the next dam be built?

for monitoring revenue collection as well as developing policies to improve revenue collection. GIS is a powerful analytical tool that can help local authorities to improve internal efficiency, service delivery and development planning. A GIS platform supports participatory development.

Conclusion

In local government, ICT is relatively new. The uptake of ICT is hindered by the double obstacle of limited access to ICT in rural Kenya and the marginal position of local government in the public administration system. Despite this, champion councils have started to introduce ICT solutions that are relevant to their mission in development: simple SMS services have been introduced to help citizens interact with their council, and low-threshold Geographic Information Systems have been created that help participatory development planning.

CHAPTER

5

CHAOS, PLANNING AND MANAGEMENT

The premise is that for a local authority to bring about 'development' is for it to manage informality. Informality in terms of the built environment, land use, infrastructure and environmental services. A committed promoter of this view is the United Nations agency UN Habitat, which has carried out analyses in towns and cities around the globe to ascertain the extent to which urban poverty and urban sprawl are either well managed or mismanaged. At the moment, local authorities manage informality on a scale from repression to tolerance to reform. Often enough, repression, tolerance and reform occur concurrently in a given community. A well known example is that of the small food kiosks lining streets in towns. These are non-licensed businesses, tolerated by the council whose enforcement officers routinely demand pay-offs. Then a crack-down is organized by the same council and the kiosk structures are razed to the ground by bulldozers. On occasion, some reform is undertaken, by demarcating an informal traders' market in a non commercial, off-central area. Local authorities are in a position to become pro-active in development while at the same time inspiring the ongoing reform process. Given the scale of necessary reform, these are token responses or public relations

exercises without the potential for a major economic impact.

"Generally, informal land subdivision and property development is a response to ineffective planning, inappropriate standards and unenforceable regulations. The presence of informal economic activities illustrates the government's inability to catch all enterprises in the regulatory or statistical net – they are informal because of arduous registration procedures and inappropriate standards or requirements (UN Habitat)."⁵⁴

The cost of regulatory compliance to start a business compares as follows between developed countries and African countries:

What is 'Urban Informality?'

Rural informality is commonly accepted and expected. Urban informality, on the other hand, is regarded as undesirable. But what is informality? The term is not well defined. Rather, assumptions are made about it. What seems to be understood is that informality is any situation that is not formal as a state land administration system embracing land tenure and land registration, regulation of land use and development, property taxation,



Busia Town, at the Kenya-Uganda border. Infrastructure is in a state of decay and traffic management out of control.

and direct public intervention, often involving ownership of public land. Literature from UN Habitat gives this viewpoint: "Generally, urban development that comes within the purview of this system and complies with its legal and regulatory requirements is labelled 'formal' and all land subdivision and development that do not comply with one or another requirement are considered 'informal'.⁵⁵

Security of tenure

'In many settlements, property owners have no security of tenure and therefore invest little in their houses or other aspects of neighbourhood development'⁵⁶.

There is more informality in a disguised way, where higher-income residential neighbourhoods are created after building permission is secured through influence, in areas not zoned for development. Such areas often become gated estates. On the surface, all legal and regulatory requirements seem to have been met. Another common trend is increasing

housing density in areas already designated for residential use, due to population pressure. Often existing building regulations are compromised, by allowing more storeys or by allowing more plot coverage.

In economic activities, businesses that don't comply with a licensing regime, say all licences requirements, are easily declared irregular, even illegal if not criminal. From time to time, hawkers are expelled from the roadsides in town centres and in some exceptional cases, the municipality creates a designated trading zone for them away from the town or city center. Thus, "policies towards the informal economy often simultaneously embrace and condemn it. ... The relationship between informal entrepreneurs and the state was ambivalent, marked by both periodic harassment and a degree of tolerance, albeit backed by bribes." ... The mixture of toleration, support and repression continued, with the latter often justified on grounds of informal activities' illegality, contravention of health and safety regulations, and 'untidiness'" (UN Habitat)⁵⁷.



The C102 road was recently re-built. Almost immediately settlements began to emerge in seemingly desolate places alongside the road, such as this one near Kimana, some 25 kms from Loitokitok.

Colonial Legacy

The colonial administration regulated urban migration, restricting township growth to labour demand. "The planning and housing policies inherited from the colonial authorities proved completely unable to cope with the scale and speed of urban growth, and the scale of informal settlement increased markedly."

"A prominent feature of urbanization and growing informality in Africa has been the expansion of the built environment into peri-urban areas." ... "The channels through which land for peri-urban development is supplied combine adapted customary practices with official and semi-official procedures." (UN Habitat)⁵⁸.

The ineffectiveness of colonial-era inherited urban planning is attributed to financial and human resource limitations 'especially at local government level' and limited public understanding of and support to urban planning.

Attempts to upgrade slums by providing mains services have often fallen victim to leakages upward to middle-income population segments, as the value of erstwhile slum parcels has shot up.

A number of planning responses exist to manage informal settlements. The most simple responses are eviction and regularization. Eviction can be brutal and at odds with human rights legislation, or can be quite orderly, with compensation being paid to occupants. Regularization can be a simple amnesty, or upgrading of neighbourhoods with land-sharing arrangements between land owners and occupants. Issuing title deeds looks like the ultimate solution but this dispensation also has its disadvantages: Titling is the most costly, complex and time consuming method for tenure regularization. From UN Habitat literature, once again: "Evidence suggests that low-income landholders prioritize 'good enough security' that protects them from eviction, enables them to improve their houses when they can afford to do so, ... and provides them



Mau-Narok, Nakuru County. Sprawling small-holder farms on formerly forested land. Inadequate feeder roads, electricity supply inadequate. There has never been a development plan.

with access to affordable and accessible channels for resolving conflicts when necessary.” (UN Habitat)⁵⁹. In such scenarios, both tenants and local authorities are in a win-win situation, since both are interested in expanding the revenue generation society, and seeing public schools, markets and mains services appearing in the settlements. Local authorities have a role to play in looking for ways to upgrade informal settlements, in consultation with local communities on the one hand and national policy makers on the other. However, upgrading an existing settlement may sometimes be too costly. Ideally, regularization also includes new land development for settlement. There are only rare examples of the latter approach in Kenya. One of these is the ‘New Town’ in Taveta where around 6,000 new residences are being built in a development spearheaded by the town council (see below, Chapter 6).

“Planning in advance of development is preferable and more efficient than regularization,” writes UN Habitat⁶⁰. Some Francophone African countries are working with ‘Urban Reference Plans’, where a road network grid and street and sanitation layout pattern are planned at the rate of anticipated population


growth. Apparently, sufficient land can be found to implement such a phased development strategy. Perhaps in some areas, some state-owned land for planned and anticipating high-density urban expansion can still be found. Often enough, such land may have to be assembled from different landowners, through purchasing at commercial rates. This may well be the scenario in the fast growing town of Eldoret. In areas where new urban development is already occurring, developers can be made aware of the benefits of infrastructure planning so that they support it and contribute land space. This will require a fair amount of advocacy and negotiation.

As a first step to improve urban planning and increase its effectiveness, local authorities can recognize the contributions made by the informal sector to the entire local economy. As a second step, local authorities can review their by-laws to make these relevant to realities on the ground and conducive to sustainable development. Most local authorities have by-laws that have survived for decades and that are more of a policing tool than a set of rules that facilitate orderly development. Worse still, the law enforcers or askaris in some local authorities have a way of interpreting by-laws

Land deals

Land is the most hotly contested property in Kenya. In the absence of physical planning, especially in the rural counties, properties tend to be offered further and further away from population centres: the more remote parcels are likely to be more affordable for colonization. What is less likely is that such remote colonizations will receive infrastructure like roads, water and sanitation, public markets, electricity, education and healthcare facilities. The July 2011 advertisement shown right features small parcels of 50x100 feet, at 10 kms from the nearest township and 3 kms from the tarmac road.

PLOTS FOR SALE
KISERIAN-ISINYA (PIPELINE ROAD)
 10KM from Kiserian Township & 3km from tarmac



- 1/3 acre plots introductory price of 400K
- 1/4 acre plots introductory price of 300K
- 1/2 acre plots introductory price of 1.5m
- 20% downpayment, balance within 90 days.

You become a co-owner of a common borehole by purchasing any of the plots

Call 0722 158760

at will and subject citizens to unwarranted and unnecessary harassment. 'Loitering' and 'idling' are outlawed sins that are hard to define, making enforcement an arbitrary affair.

The challenge for local authorities is to work with informality and turn this into a strength rather than a target for oppressive and unenforceable, ineffective regulation. Large-scale and wholesale overhaul of informality may not be achievable: the resources simply do not exist. "What is needed is a differentiated and incremental approach," says UN Habitat⁶¹. In fine-tuning the approach, community participation is of paramount importance.

Every Square Foot for Sale

The most elementary stage of physical planning is developing and adopting land use maps. Most councils have such land use maps, for built-up population centres. However, these can be quite old. For instance, the Municipal Council of Machakos (population 100,000) has a land use map dating back to 1971. It is being

used every day to assess applications for new construction projects.

'Change-of-User'

If a developer wants to develop a commercial building in a residential area, the procedure for 'change-of-user' kicks in. The application has to be publicized and the public has 60 days to lodge an objection. But it is a council committee that considers the application. Fees apply, fixed fees according to a laid-down schedule. In essence, 'change-of-user' is always and routinely considered by the council, and usually granted without regard to any planning consideration. One may come across a zone with superb commercial potential like a new highway, demarcated for residential use, only to wait for developers to come knocking at the door of the Council Planning Committee, with a 'change-of-user' application.

Probably only in those demarcated residential areas with strong organization level among residents can 'change-of-user' be resisted effectively. Residents associations in up-market



Isinya, Kajiado County. Mushrooming horticultural developments lead to a mushrooming need for accommodation. This innovative two-storey apartment block was placed on open land in a matter of days.

areas, like those under the umbrella of the Kenya Alliance of Residents Association, have sometimes succeeded in resisting “change-of-user.” The approved council land use map is not a guide, it has no status. It will simply follow any decision to change. Any proposal for zoning change is for sale. The council makes a bit of money in every case. Council committee members are generally offered financial inducements. The plot developer also benefits in some way. Everyone stands to gain. Everyone except the general public. For, as a consequence, public parks vanish, sports grounds vanish, school compounds vanish. What does a town look like after such unethical behaviour has been condoned for decades?

The good news is that the new Urban Areas and Cities Act (2011) makes urban planning mandatory and enforceable. The bad news is that physical planning in rural areas, that has never been undertaken and has therefore has never been implemented, has fallen by the wayside in new, emerging legislation. The hope is that the new county governments will somehow fill the gap.

Evidence of Rural Planning

In rural areas, much land is often owned by communities and held in trust by local authorities. Development projects, whether residential or commercial, are simply negotiated between community and developer. If a plot is demarcated as ‘agricultural land’, its use will be changed into ‘residential’ or ‘commercial’. The District administration comes in to confirm and approve a project. Zoning plans are non-existent in rural areas, including areas adjacent to urban areas. As a result, any development plan approval is granted. This explains the scattered patterns of urban expansion into surrounding rural zones. It also explains how high yielding agricultural land gets converted into residential developments. There are current examples of this in Thika, Eldoret, Kitale and many other towns. Rapid urbanization is visibly driving the over-night mushrooming of accommodation. Anything goes. A common development formula is a one-acre unit, fenced off, in the middle of nowhere. Alongside the sides single-room shacks are constructed, facing inside, with some open space



Real estate or agriculture?

Kenya faces a food security challenge. At the same time there is demand for high-income residential real estate. Sergoit Golf & Wildlife Resorts, at 15 kms from Eldoret, is new real estate in the middle of a high-potential agricultural zone. Coordinated planning does not exist here.

in the centre. One such plot easily hosts some 20 dwellings. A recent architectural novelty is that of mabati flats: two-story single-room apartments built with wooden frames and corrugated iron sheets. An example is seen in Isinya, Oleka Juado County. Although a very innovative and low-cost solution, especially for young families, utilities and services, even access roads are absent. And household energy is 'harvested' as firewood and charcoal. A new tarmac road C102 was opened in 2010 connecting Emali on the national Mombasa-Nairobi highway with the small town Loikotokitok near Mount Kilimanjaro. Already, three, four villages have started mushrooming by the roadside near Kimana township. Within no time, people come forward to occupy these unlikely spaces. In Nairobi, blocks of flats spring up long before roads and sewage ducts are constructed, as shown in Kasarani area.

Urban planning decisions about how cities grow lock society into development patterns that persist for decades to come. OECD, 2010.

Sergoit Golf & Wildlife Resorts

Many towns and cities are witnessing the construction of 'gated estates', higher income residential estates surrounded by a perimeter wall and protected with guarded gates. Some of these estates are becoming more and more sophisticated with swimming pools, gyms and even golf courses. These gated estates have become the preferred choice for upper middle-class habitats. After Nairobi, other towns

are following suit. Eldoret in North Rift Valley, with 300,000 inhabitants, also has its higher income segment that is attracted to gated estate living. Sergoit Golf & Wildlife Resorts at 15 kms from Eldoret town is designed to meet this demand for luxury. There is no denying that an important centre like Eldoret should also seek to offer this calibre of residential accommodation. However, it is happening in an agricultural production area within Wareng County. Dilemmas await local leaders: what will happen to local small farmers, what will be the impact on the local economy? No analysis has so far been attempted. Decisions have been taken on intuition. Says the chairman of the County Council of Wareng, councillor Paul Kering: "We supported it. It will bring economic activity and jobs into the area. But there is a disadvantage too. Sergoit is on prime agricultural land. That land will now be lost to food production. Even the adjacent plots will become more highly priced due to development pressure. Some of the original residents of the area will lose out. Only government can regulate such large projects and align them to our food security policy. We cannot stop such projects and by the way if we did, the first victim would be the county clerk. He would be chased away and the next victim would be me."

The Unbridled Mania for Land

The government, through the Ministry of Communications and Information, is implementing a plan to build an ICT business park,



Malili township in the shadow of the proposed “ICT Park”: land mania is likely to yield a slum rather than a dream complex. Please note the approval stamps and signatures of government officials responsible for planning. There are four stamps with signatures.

in a rangeland area some 40 kms east of Nairobi, at the northern tip of Makueni County. It is a 5,000 acre project baptised ICT Technopolis and a ‘Vision 2030 Flagship Project’. The project will host offices with state-of-the-art ICT infrastructure facilities. Here, companies will find a conducive environment to compete internationally.

Malili Land Company Limited

What is happening next-door to this project is amazing. A land holding firm Malili Land Company Limited was jointly owned by some 2,200 shareholders with equal rights. Shareholders felt that the ICT park had the potential to turn their fortunes around. The company reached a decision to sell out. A plan was designed with a commercial township of about 4 sq kms wrapped around the national highway A109, surrounded by a wide zone of agricultural plots. Each shareholder was allocated one commercial plot of 50x100 feet and

one farm plot of 7.8 acres (equivalent 2 ha.). To avoid lengthy negotiations, it was decided that two plots per shareholder would be allocated at random. In summary, the Malili township foresaw lucrative commercial developments right next to an ultra-modern ICT park. To be fair, a few public facilities were also foreseen, plotted at the far ends of the township: an entertainment centre with sports grounds, a healthcare dispensary and police post; a refuse dumpsite; and a bus park. However, enforcement has been weak: sections of these public grounds have already been hived off for private developments. It seems that everyone is happy and excited: all shareholders will possess their own commercial plot and commercial farm. Already, a row of new mabati (corrugated iron) shacks is already lining the sides of the highway, ready to hit the jackpot. A few of these kiosks are open for business, some are padlocked, possibly pegged in the ground for speculation purposes.

100 die in fuel fire



PLANNING AND POLITICS: THE SINAI CATASTROPHE

Nairobi, 13th September 2011 - a fuel pipeline running through the Sinai slum neighbourhood exploded. More than 100 people died. "There is no civilised country where people, with the support of politicians, do what they want, build structures where they please, how they please, with what they please. ... Our leaders should find the courage to evict all those who live in slums, provide alternative housing, by all means, if you can, and end this indignity." Mutuma Mathiu, managing editor, Daily Nation 16 September 2011

THE STANDARD

Like fire from hell nothing was left standing after its killer wave; not even humans, homes and livestock – but it could have been prevented

WHY IT HAD TO HAPPEN



Land Mania

Now, there are only two questions: is there business potential for 2,200 individually owned tiny plots for duka's (shops), spread out to up to a kilometre from the highway? Is there farming potential for 2,200 dry range-land plots of 7.8 acres without a roads grid? Has no-one thought how the erstwhile land company could add value to the ICT park?

Would that park not benefit from middle-class housing estates, a mall and entertainment-centre, rather than from what it is hoped will not degenerate into a slum? Land mania, and the belief that land is the first and foremost avenue to wealth, may well have undone the 2,200 shareholders of this land holding company.

Meanwhile, subdivision of land, and allocation of government land, is continuing, in circumstances that will lead to conflict sooner or later.

Subdivision

"Makueni's giant Konza ranch to be subdivided – The unanimous endorsement was given during a public hearing organized by the National Environment Management Authority" In the proposal, each of the 14,900 members would be allocated 10 acres of land for agricultural development, and a further two acres for commercial development. Makueni County Council Chairman Benard Musau advised that at least space public facilities like schools and roads should be set aside.

(Standard, 21 June 2011)

Local Government Modernised in Planning Legislation

The existing local government system will find a place in the new system of devolved government in Kenya, be it with many new features. The most important proposed changes in the Urban Areas and Cities Act, 2011, are in a layered system of popular representation, from village elders at the grassroots level to sub-county councillors.

The function of planning by re-styled local authorities is articulated in great detail. The Urban Areas and Cities Act has an entire section devoted to planning. Below are some highlights of Part VI—Integrated Urban Development Planning of this Act.

Urban Plans to be Binding

Every municipality and city established under the Act shall operate within the framework of integrated development planning. The integrated plan will be the basis for provision of physical and social infrastructure and transportation; preparation of annual strategic plans for a city or municipality; disaster preparedness and response; overall delivery of service including provision of water, electricity, health, telecommunications and solid waste management. In contrast with prevailing practice to date, an integrated urban development plan “shall be binding and shall be the principal strategic planning instrument which shall guide and inform all planning, development and decisions regarding planning, management and development in the city or municipality.”

An integrated plan will include a spatial development framework which shall include the provision of basic guidelines for a land use



Instant land allocation: the county council chairman issued plot allocation letters at a public event at Emali market. October, 2011.



Wood fuel harvesting in Kakamega Forest. Village households need energy and they will do anything to find it: unknown amounts of firewood are consumed each day in Kenya. There are no policies for rural household energy. Forest services issue transport permits; county councils levy 'cess'. Both government agencies earn revenue from forest products.



Household energy for cities: 500 tons of charcoal are needed every day for Mombasa alone.

A CASE FOR MORE PROPERTY TAXES

*Urban property taxes offer a significant, and largely unexploited, opportunity for taxation. According to projections by the United Nations Population Fund (UNPFA, 2007), Africa's urban population will more than double between 2000 and 2030, from 294 million to 742 million. It is becoming urgent to put in place local tax structures that can grow with urban development and the corresponding need for urban infrastructure. Property taxes are a natural candidate as they are one of the few types of tax that is progressive, administratively feasible in Africa and that scales up automatically with urban expansion. Whereas a large number of African countries do apply some sort of urban property tax, the general observation is that property taxes yield revenue well below their potential.*⁶²

management system for the city or municipality. In preparing an integrated plan, a municipal council will take care it meets community needs in alignment with the Constitution. "Overall delivery of service" is mentioned, singling out "provision of water, electricity", but implementing task this will be a challenge. For instance, provision of energy for industry and households is not mentioned. Yet energy is one of the greatest challenges of our time. A council shall, within the first year of its election, adopt a single, inclusive strategic plan for the development of the city or municipality for which it is responsible. The county government will review and approve a plan and ensure it is aligned with national policies.

Interestingly, there is only vague provision for succession of county councils in this body of legislation for towns and cities. Rural areas with their villages will be 'taken care of' by the county government. It is not clear how physical and environmental planning will be managed in the large areas that were county council jurisdictions.

Conclusion

Municipal and city councils make physical plans that are simply not followed through. County councils, in charge of the rural areas, make no plans and therefore physical development in rural Kenya occurs without proper guidance. As long as this situation is allowed to continue, we shall continue to mortgage the future of our living environment.

CHAPTER

6

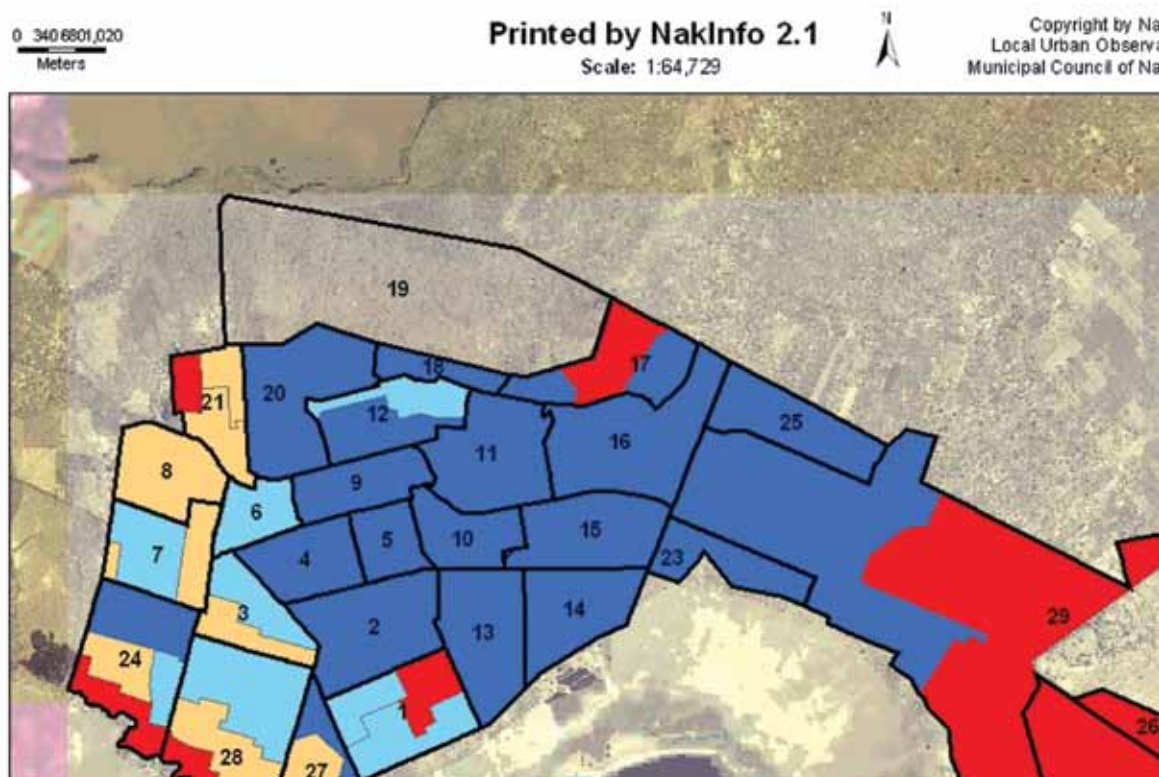
CASE STUDIES

Nakuru: A Town Bursting with Energy

Nakuru, the capital of Rift Valley province, is a very active, cosmopolitan town (S 0 17.088 E 36 04.219). In 2009, its population was estimated at 309,000 people out of 1.6 million people in Nakuru County as a whole. Its economy is as diverse as its population. The local economy hosts a bevy of regional government services. Large-scale agricultural value addition and trade take place, notably in horticulture, dairy and maize subsectors. There is a strong manufacturing industry: textiles, battery making and recycling. The entertainment and leisure industry is also fairly buoyant, with social clubs, churches and sports. Lake Nakuru is world famous and generates an amount of employment in tourism. There are many secondary and tertiary education institutions. In the rural zones around the town such as Mau Narok, agriculture is the main economic activity. Land ownership is characterized by large-scale private farms established in the colonial days or in the first decades of national independence and multitudes of subsistence farms looking like post stamps. The population shows a high degree of diversity, with all ethnic groups of Kenya

strongly represented. The scramble for individually owned farm-land is intense. So is the pressure on practising farming in forest areas of the 'water towers' such as Mau Narok.

Nakuru is a town bursting with energy but not achieving economic progress rates in line with national yardsticks. The Municipal Council of Nakuru has not been excelling as the best performing local authority in recent decades. Service delivery is visibly poor, particularly in the densely populated low-income - not to say poor - estates. Public toilets in the busy town centre have been put up through community and privately sponsored effort, not by council effort. The town is struggling to give living space to petty business operators like street hawkers and bike taxis (boda-boda's), all considered to be a nuisance that even evades paying council fees. From time to time, council crackdowns against informal sector operators like 'boda-bodas' and hawkers are carried out in the town. As do other councils, this municipality also operates its own municipal court with a jail that stands conspicuously right behind the Town Hall. Only four out of 16 elected councillors have succeeded in being re-elected, which situation suggests that these may not be the leaders capable of offering the town's residents a better future.



Water scarcity areas shown on NakInfo, Nakuru Town.

The county council is notorious for failing to honour accepted standards of accountability in the local government sector. People still remember the a motion that was passed by the council for the municipality to issue personal loans to councillors by diverting funds away from already underfunded service areas. In 2008/2009 the council launched an attempt to quintuple land rates, by a public notice. The locally established Nakuru Business Association, with around 100 members, managed to halt this bid. The association was set up as an attempt by civil society to respond to “the rapid deterioration of goods and services in Nakuru Town, dilapidated infrastructure, improper waste disposal, high levels of insecurity, negligence and mismanagement of existing resources within the town and its environs.”⁶³ A savage indictment, indeed.

The area surrounding the town is Nakuru County. This county possesses a remarkable collection of natural assets: besides high-potential agricultural land, also geothermal energy, tourism attractions and even archaeo-

logical sites. Interestingly, the local population is hardly aware of these richness, which does not help the local authority in protecting and promoting these assets⁶⁴.

NakInfo: a Progressive Community Information Service

The Local Urban Observatory in Nakuru (LUO, Kenya 2003) has developed a progressive and to date unique electronic information service called NakInfo. The objective of LUO is to make residents aware of public services delivery by their Local Authority, in this case the Municipal Council of Nakuru, and give them a voice in achieving improved quality of life. NakInfo facilitates community participation in local government business and demonstrates how to implement such participation in a developing country. LUO participated in various programmes of the Kenya ICT Federation, Development Trust Innovation Africa and Flame-tree Systems since 2005, with collaboration from the Ministry of Local Government and the e-Government Directorate (Office of the

Knowledge Laid at the Council Doorstep

Knowledge to support sustainable planning in rural areas is abundant but scattered. In numerous research projects carried out in partnership between Kenyan organizations and foreign institutions, information, knowledge and management tools are laid at the doorstep of government divisions mandated to manage rural development. CETRAD (Nanyuki) with the Centre for Development and Environment (CDE) - University of Berne (Switzerland) is one example of such research collaboration. Their theme is sustainable development, using surveying and participatory analysis methods that result lasting knowledge hubs that support water-related negotiations, aid regional conflict mitigation, and help to steer stakeholders towards evidence-based, participatory, benefit-sharing approaches.⁶⁵ The Municipal Council of Nakuru has benefitted from a community services planning system since 2005, but this system is yet to be mainstreamed in the operations of this council.

Nakuru Town 2011 at a glance

Population 2009	309,000 persons
Municipal budget	KES 954 million / USD 10.6 million
Municipal expenditure per capita	KES 3,100 / USD 34
Budget share Councillors	8%
Formal employment	44,000 persons
Completed private buildings 2010	KES 330 million / USD 3.7 million
Completed private buildings increase 2009-2010	14%
Completed pvt buildings incr. 2009-'10 nat'l average	71%

source: Economic Survey 2011⁶⁶; Ministry of Information and Communications⁶⁷

President, Government of Kenya). The project relies on the visualisation and analysis potential of Geographic Information Systems (GIS): the interface through which users access the LUO database is a computer application with GIS functionality, known as NakInfo. NakInfo has lived in isolation: it has not been used to date by the municipal council apparatus to inform policy making and investment decisions. Despite this, successes can be seen. Community action in some of the estates has resulted in improved quality of life in some sections of the town, notably in sanitation and garbage collection. NakInfo has been brought on-line, at the moment at nakinfo.unibe.ch. The LUO project was formally initiated by the Municipal Council of Nakuru in January 2003, in collaboration with the Centre for Development and Environment (CDE) of the University of Berne (Switzerland) with funding from the Swiss Agency for Development and Cooperation (SDC). See table with development indicators above.





Makueni County has been hit by climate change, aggravated by an absence of investment in water management.

Makueni: Water is the Challenge

Makueni County is a large area of 7,263 sq km and over 874,652 population (2009 census⁶⁸). The county lies in between the Municipality of Machakos to the north and the Municipality of Voi to the south, stretched along the country's main highway Mombasa – Nairobi – Eldoret – Kampala. The administrative centre is the town Wote (S 1 47.421 E 37 37.418). Water scarcity is the dominant challenge in this county. Irrigation is only practiced in very few river bank areas. There are relatively few dams in the mostly seasonal rivers: only about 100 dams are in use in 2011. Many of these dams are built by communities, sometimes with financial support from the county council. Makueni is frequently plagued by drought, frustrating farming and destabilizing many households. The budget of the County Council of Makueni is KES 363 million, or about USD 4 per head of the population. Once the new system of Counties prescribed by the new Consti-

tution is implemented, there will no longer be a County Council that does what the existing Council tries to do. Makueni is a rural county in every way. Given the large geographical area, there are few urban centres: Kibwezi, Kathonzweni, Makindu, Kikima, Emali and Wote are small towns with between 10,000 and 20,000 inhabitants. Of all these towns, interestingly, Emali is a 24-hour town, one of the very few in Kenya and this is explained by its location halfway on the national highway between Nairobi and Mombasa. The urban population of Makueni is estimated 11.8 %. The northern section has higher altitude areas, with high population density and more productive agriculture even including some coffee farming. The south-western section are low-lying plains with little development and low population densities. Livelihood is characterised by subsistence farming with a few promising crops including citrus fruits and sorghum. There are few commercial farms in Makueni, the rare examples grow sisal, citrus and other horticulture crops, in areas where irrigation is feasible. The prevailing maize va-



Mbooni, Makueni County. Water management supports small-scale farming.

rieties in Makueni mature within 90 days, not bad but the cobs are small. There is hardly a support infrastructure for agriculture. Only three cold storage facilities for horticulture exist, operated by a parastatal company Horticultural Crops Development Authority (HCDA). The cost of storage here is about 20% of wholesale market prices and probably as a result, these facilities do not seem to be all that busy. Even in peak harvesting season, one does not see much movement of produce in the compounds of these splendid looking facilities. The dominant challenge of Makueni is access to water. An investment forum in 2010 observed: “Increased access to water will boost agricultural and horticultural production. In particular, dams, boreholes and irrigation schemes are required. Currently, water projects are identified and implemented on a one-by-one basis without coordination at County level but with expert and regulatory interventions from government agencies. Regulatory requirements for water projects are often experienced as challenging. Communities are ready to make an effort: a large number

of water projects is community owned, implemented and serviced. The council implements less than 10 water projects per year, whereas many dozens are likely to be required to make impact on poverty alleviation”⁶⁹.

KES 400 / USD 4 per head of population

Given its extremely limited resources of USD 4 per head of the population, this council is doing well with these efforts. Yet, there are mechanisms that work against these good initiatives: Makueni is a source of sand, needed to build Nairobi, the capital city. The sand is harvested in a rather crude manner at sand dams in riverbeds. Lorries are loaded by casual labourers. Unfortunately, sand beds have a capacity to hold water, and this water is used by farmsteads and households in the riverine areas. With sand removed, water disappears. On the exit routes from the county area, the council has toll stations where a tax called ‘cess’ is levied: KES 1,000 for each lorry. Good money every year: Total cess is KES 24.8 million. The council may therefore not harm the sand mining business, but by letting it go on



*Sosiani Falls, Wareng County. "The characteristic feature of the Sosiani Park is the absence of public conveniences such as washrooms and solid waste disposal bins. It is also poorly maintained."*⁷⁰

uncontrolled, it harms its villagers. To its defence, there are no resources for this Council to regulate the sand business on the basis of some soil and hydrology analysis.

ICT champion

The County Council of Makueni has been recognized as a highly efficient local authority since 2009, scoring high on the ranking of the Ministry of Local Government. The council achieved the top performance in utilization of the Local Authority Transfer Fund, in a national ranking by the National Taxpayers Association in 2011. This council practises rigorous financial management with a zero-debt policy. The council came forward in 2008 to embrace ICT as an avenue towards improved service delivery. In September 2009 at a national event for local government organized by the Ministry of Local Government and Development Trust Innovation Africa, this Council emerged as a national champion. It was the first Local Authority in Kenya with an ICT Plan in place. Its web-site www.makuenicounty.or.ke was a trend-setter, mainly because it addresses cli-

ents: residents, visitors and investors, rather than profiling key officers, the common approach in government culture. By 2011, the website had a public projects monitor for the LASDAP programme and a public complaints service by SMS embedded in its website. It is also the first rural Local Authority to implement a geographic information system to help with planning of development projects. The Makueni GIS has two themes: public education and access to water. The council funds projects in both agendas: it contributes to construction of school facilities and to water projects like dams and boreholes. The majority of Makueni's LASDAP projects are in school construction. The GIS shows pupil performance across the whole County. The darker the shade, the better the performance (see map, page 55). This performance is related to availability of resources teachers and classrooms. The map reveals a correlation between low performance and high pupil-to-teacher ratios, or high pupil-per-classroom ratios. This can now help communities agree on where to channel their very limited LASDAP funds. In

2011, the council has begun to set up community information centres at its existing service points across the county. Equipped with all those maps and other information, these centres will reach out to community groups. The first centre has been operating successfully for one year.

Impact of ICT

However, the impact of the ICT activities at the County Council of Makueni has so far been more external than internal. The successes of Makueni have inspired many councils. Makueni has received around 40 delegations from other councils keen to learn about its ICT activities. The pace of progress in this county seems to have induced government to ask councils to move with ICT. Internally, few of the ICT services are used heavily. The

financial management system has so far yielded the best results, with strong financial performance. The council has not yet marketed its website successfully. As a result, visiting statistics show weak interest.

Councillors on the web

In 2011, all its 52 councillors took a training on using email and the world-wide web. An award scheme was part of the initiative, tied to successful completion of a simple assignment to use email and the web. The award scheme was a reality check: only six out of 52 councillors had completed the assignment. These results suggest that the county's rural councillors are a conservative group and therefore, not leaders in adopting technology.



Bumper harvest in Wareng, 2010. What happens if there is no other bumper harvest?



Wareng is the worldwide success of the athletes from its soil. Kenyan athletes bring back gold from every world tournament. Is this asset being nurtured?

Gold from Wareng

Rural counties like Wareng in the North Rift region (N 0 31.159 E 35 16.387), are large entities. Wareng County had about 894,000 people, according to the 2009 census⁶⁸, living in an area having more than 25 townships, in a territory of 3,328 sq kms. Wareng is part of the historical Kalenjin area, which is bounded by the Mau Escarpment in the east, Mount Elgon in the west and Cherangani Hills in the north. There is a rich cultural diversity and efforts are being made to keep old traditions alive. In 2007 The Kapnasu Cultural Women's Group of Moiben township established a cultural centre on a school compound. The county is draped around the municipality of Eldoret, the dominant regional centre town. There is yet another enclave: the town council of Burnt Forest, an administrative creation of the 1990's. When the implementation of the new constitutional dispensation with 47 new counties is completed, the three local

authorities are expected to consolidate into one single county.

The output of this county is significant, especially agriculture output which was estimated at KES 50 billion (USD 1.75 billion) in 2010. Wareng is one of the breadbaskets of Kenya. There are many thousands of small-scale and subsistence farms, but also many large-scale commercial farms. By harvesting time the whole area presents a view of rolling, golden hills. However, the support infrastructure for agriculture is far from adequate: not only are there not enough feeder roads, there is inadequate warehousing capacity for produce. As a result, most small-scale farmers sell their produce at harvest season at low prices. In the 2010-2011 production cycle, the price of a 90 kg bag of maize had gone up from between KES 1,000 and 1,200 to between KES 2,800 and 3,000, three months after the harvest season. The most famous 'assets' of Wareng are athletes: many international gold medals winners call Wareng home. Wareng harbours a number of institutions of higher learning,



left: Councillor Paul Kering, chairman County Council of Wareng. Right: His Worship Councillor William Rono, Mayor, Municipal Council of Eldoret.

including Moi University, as well as a modern airport large enough for commercial jets. In the bigger townships like Moi's Bridge and Turbo some town planning has been done, but, by and large there are no signs of physical planning in this rural county. Development takes place as dictated by economic needs or opportunity, mostly along main roads. A new phenomenon is the proposed construction of a large up-market residential project on 3,100 acres at Sergoit (N 0 38.622 E 35 23.211), about 15 kms from Eldoret. This project sits in the middle of high-potential agricultural production land. There are more examples of such agriculture-turned-real-estate projects.

No indications are in evidence that a national policy of food security is linked to the real estate industry. National awareness of the character and features of Wareng is low. The county has not been well documented in literature. No comprehensive statistics series has been developed. The recent (2010) website development project of the County Council of Wareng (www.warengcounty.or.ke) seemed like a self discovery tour for civic leaders and council staff members who participated in the exercise.

USD 3 per head of the population

County Council of Wareng 2011 at a glance

Population 2009	894,179 persons
Council budget	KES 218 million
	or USD 2.3 million
Expenditure/capita	KES 244 / USD 3
Budget Councillors	17% of total
Formal employment	no data

source: Economic Survey 2011⁶⁶; Ministry of Information and Communications⁶⁷



Stanislas Ondimu, town clerk Eldoret Municipality. Eldoret is the only town in Kenya that has a strategic urban development plan in place. The challenge is to follow the plan.

The 2011-2012 budget of the County Council of Wareng is KES 218 million, that is about USD 3 per head of the population. About 24% of this budget was earmarked for investment in development projects.

Eldoret: A Development Plan is on the Table

Eldoret is the fourth largest town in Kenya, situated in the North Rift Valley (N 0 31.159 E 35 16.387). The population is 289,000 inhabitants, according to the national census of 2009. The town is arguably the most important regional trade hub for cereals, as an estimated 25-30% of national food reserves are produced in the region. Eldoret has become a major economic centre, with airline, railway and highway connections, large scale agricultural warehousing and bulk manufacturing and even textile mills. Many of the manufacturing plants and warehouses are built between the 1950s and 1970s, tired looking and in need of a lick of paint today; there are hard-

ly any modern industrial facilities to be seen. There are hardly any big apartment complexes being built yet, as in other towns. Imposing office blocks, shopping malls and garden restaurants are coming up though, signs of a rebounding local economy. In addition, much investment takes place in higher education, triggering much more economic activity. By and large however, Eldoret in 2011 shows all the signs of under-investment and backlog of maintenance of public infrastructure and assets. Most roads in the town look like village roads, muddy, potholed and often with completely disappeared pavement. The sidewalks along sections of government roads crossing through the municipality are heavily eroded and loaded with refuse materials. The steep population growth of 8% per year, twice the national average, overstretches all services, most visibly transportation. Interestingly, the private car has access to all parts of the town, whereas public transport vehicles are barred from many areas. This is a common arrangement in more Kenyan towns, promoting chaos and punishing the non-motorised masses. In



ELDORET - Under-investment characterizes the local industry. The council needs to promote economic growth through provision of services and a conducive environment for the business sector.

Unplanned changes in peri-urban areas

“Urbanisation in Eastern Africa comes with spatial challenges requiring systematic local planning, provision of infrastructure and shelter as well as delivery of urban services...” This is important not only within metropolitan boundaries “but also in peri-urban areas where the more significant unplanned changes take place, often on high-potential agricultural land that is required to feed the city.”⁷⁴

developed countries, the opposite arrangement is common: private cars restricted, public transport facilitated. Garbage collection has reached breaking point: only the Central Business District (CBD) and some higher income areas are served regularly. In outlying areas, odorous piles are mounting. Some relief has been brought by outsourcing collection to six contractors, in different segments of the municipality. There are two public parks in Eldoret: the Municipal Park, closed to the public, and Sosiani Park, without toilets and waste-bins. The town community seems relaxed about ignoring all rules, and authority enforcement seems permissive to let it be.

Town land parcels lying idle

The map of Eldoret town looks strange: the town is crowded yet there are large swathes of land right in the town centre that are lying idle. Most of these are privately held parcels in heart of the town. The result is an urban layout picture with strange-looking large gaps, surrounded by heavily built-up areas. The legacy of a few decades of land deals in the old boys' networks? The report states that “since privately owned land (freehold) form the bulk of land in Eldoret, siting any development ac-

tivity involves extensive bureaucratic procedures related to rights.”⁷¹

The good news is: reforms have been initiated and may now take hold. In 2008, five Kenyan Municipalities undertook to prepare a strategic urban development plan. So far, only one of these five has put a plan on the table: Eldoret.

“As evidenced from the aerial photograph, planning seems to be following development,” says the Strategic Urban Development Plan (SUDP) of Eldoret⁷². The SUDP “presents a mutually agreed upon integrated land use plan that would guide development within the town towards the realization of Vision 2030. The land use aims at making the town not only habitable, but also attractive to the numerous investors ready to invest in a well planned town”⁷³. The starting point was a culture of unplanned development and non-compliance with existing laws and regulations. Uncoordinated sub-division of land is rife, leading to hanging roads and inadequate provision of public facilities and services, roads, schools and open spaces. For instance, an approval for land sub division requires the applicant to surrender or set aside 20% of the total



Eldoret is growing at 8% per year. The biggest challenge is land for expansion. Large swathes of land surrounding and even inside the town are lying idle, held by plot owners waiting for the deal of the century.

land planned for community facilities. "Most applicants find it difficult to comply with this requirement and opt to subdivide their land illegally and to sell the plots without the approval of the Commissioner of Lands. Consequently, the council should be strengthened to bring plot owners who violate the building requirements to book. Unplanned buildings should be demolished and the owner of the plots on which they stand should be prosecuted. This should be a continuous process and not limited to periodic raids. Uncontrolled urban activities such as car-washing and repairs adversely affect the River Sosiani, one of the main sources of water sources for the town. "There is therefore a need for a comprehensive urban growth management programme that goes into detail the design of neighbourhoods, streets, town centres, and so on," according to the Strategic Urban Development Plan⁷⁶. There is need for a common vision shared by the local community that has a common responsibility to make the town a better place in which to live. "The emergence of neighbourhood associations in urban areas

in Kenya may be considered a positive step towards the achievement of this goal in the long-term. More work should be done in the poor neighbourhoods to encourage the formation of these associations and participation in planning matters that in turn will offer cover and legitimacy to decision makers and planners." Eldoret town has become a congested place surrounded by a vast under-developed hinterland. The Strategic Urban Development Plan has proposed, after consulting with community stakeholders, to put a stop to this: "Contrary to the existing situation where all activities are concentrated within Central Business District, the proposed land use plan has attempted to decongest the CBD by empowering satellite centres as avenues of development and settlement. This has been undertaken while taking into consideration population trends and physiographic features."⁷⁷ The report is in tune with current trends, by pointing out that financial resources could be attracted from various government divisions as well as from the private sector. This would help to "develop the recreational facilities on public and donat-



Eldoret has a few historic buildings, but they appear to be in a state of disrepair. Meanwhile, the Strategic Urban Development Plan advocates for a new museum in the town.

ed lands and also reposes or surrender back the grabbed spaces for recreational facilities, especially the riparian reserve which could be used as a recreation site,” adding that “recreation facilities found in the public institutions can be a way of creation of revenue.”⁷⁸

The Strategic Urban Development Plan (2008-2030) for Eldoret Town is the first such plan ever adopted by a municipality. This plan was adopted in June 2010 and the council has started to implement its recommendations. Short-term recommendations are demarcation of a bus park, allocation of hawking space and so on, pushing large investment projects like ring roads and waste recycling further ahead.

Eldoret Town 2011 at a glance

Population 2009	289,380 persons
Municipal budget	KES 687 million USD 7.6 million
Expenditure / capita	KES 2,400 / USD 26
Budget share Councillors	3%
Formal employment	no data

Completed private buildings 2010: no data
source: Economic Survey 2011⁶⁶; Ministry of Information and Communications⁶⁷

tional average = 71%)

Stanislas Ondimu, Town Clerk, Eldoret

Born on 22 October 1972, Kisii County, Kenya. Master of Commerce, Indore University, Madra Pradesh (India) 1995.

“I arrived in Eldoret at the height of the election upheaval (early 2007). The council had lost property and revenue. The public markets were not operating. The bus stages were not working. The municipal fire station was overwhelmed. Then, all but one Councillors were new, with no experience with the local government system.”

“Eldoret has an advantage by its geographic location. During the daytime, the town gets very full. By night we have 300,000 people, by day 600,000. There is ample land for expansion. Fortunately, here you can buy land. We have a master plan for our development, a process that started in 2008. Our ‘Strategic Urban Development Plan 2008-2030’ is the result of a consultation process with all stakeholders. The result is a zoning plan: residential low, middle and high income, industrial areas,



Ruiru, township in metropolitan Nairobi. Land speculation and building fever have reached unprecedented levels.

public utility areas, public parks. It points the way to an integrated transport system.”

“For implementation of the Strategic Urban Development Plan we looked at long term goals and short term goals. We have already relocated five bus stages. Traffic flow is improved by converting streets in the CBD into one-way streets. Long term implementation is a bit tricky. This depends on where the money will come from.”

“Langas is the largest high-density, low-income estate, about 60,000 population on 400 acres. Minimum allowed plot size is 1/8 acres. Tenants have not been given title deeds, what they may have are ‘sale agreements’. We have started to formalize these holdings in estates like Langas. That requires surveying, processing of ownership documents, submitting plans for permanent structures, security measures, demolition orders. The surveying alone is a huge task.”

“Our planning activities rely heavily on consultations. How? We have Area Development Committees, with the councillor as a patron. Sometimes surprising suggestions emerge from these committees. Like tackling the roaming of pigs, in a popular estate. Or demands to open up roads that have been clogged up by illegal structures. It is the people who say we want order.”

We partner with the private sector. We run consultative fora with Kenya Association of Manufacturers, Kenya Chamber of Commerce and Industry, Friends of Eldoret, Green Town, and more.

We want to have development plans detailed down to plot level. The challenge is a huge backlog in surveying.

“Our Strategic Urban Development Plan is ambitious. Acquisition of land is a big challenge. Most land is in private hands, even big vacant terrains right inside CBD. We will have to spend money to buy land. But we may need to resort to compulsory acquisitions to realize the Plan.”

“Enforcement is a big issue, if we want our Strategic Urban Development Plan to have a chance. We want everyone to strictly follow the new zoning plan. Now road reserves are being opened up, public market places are being identified. New buildings in CBD must be at least four storeys high with underground parking.

“We have planned a bypass road around the town centre, for which we are negotiating bank credit. We want a Municipal bus transit service that links the five main satellite bus stations. The Strategic Urban Development Plan costs KES 20 billion. Our budget currently stands at KES 800 million, of which roughly KES 150 million can be spent on development. Arrears in collection of Land Rates are about KES 1 billion.”

“The new County arrangement will bring more accountability: administrative and legislative powers are separated. The allocation of state subsidies to the Counties should look at the potential of a region. We are one of the food baskets of the country. Why can a region like ours not be given more, so that we can pro-



Nairobi 2011: Kasarani estate - New housing estates spring up every day. No roads, no water and sanitation, no energy supply.

duce more?"

Eldoret, 13 June 2011

Metropolitan Nairobi

"Land use plans are up for change all the time"

Philip Onyango Sika, Permanent Secretary, Ministry of Nairobi Metropolitan Development

"The councils in the Nairobi metropolitan area don't understand our role as a Ministry. They are worried that Metropolitan Nairobi will take over their functions, expand the city at their expense and take over sources of revenue. This is not the case. The purpose of this Ministry is planning coordination."

"The economy of the whole country is skewed towards Nairobi. Within the metropolitan area, development is skewed towards Nairobi. And within Nairobi, development is skewed towards the city centre."

There is only a metropolitan ministry for Nairobi. Not for other urbanizations, like Mombasa with its port, Kisumu, Nakuru, Eldoret or Embu. "We have not had a national spatial plan yet. But the problem is we often make nice plans but we don't follow these. For the past 20 years, we have not effected urban plans. Land use plans are up for change all the time. Everything is for sale."

The Ministry of Nairobi Metropolitan Development has a mandate to coordinate urban planning for a group of 23 local authorities. It does not have powers to enforce planning, neither budget for implementation. "We have asked the Task Force on Devolution to give us laws for an implementation framework."

"We fear that slums are coming up in the open plains of Olkajiado."

Nairobi, June 2011

Access to services and infrastructure depends on income

On development of Nairobi, the UN Habitat study observes that “access to social services and infrastructures is dependent on income rather than population density ... , with excellent standards of provision in well-off areas and next to none in high-density, low-income areas.” “Nairobi requires 15,000 new housing units every year, but only 3,000 are built at best. ... Based on relatively cheap land in the urban periphery and the expectation that Nairobi’s satellite cities will, over time, provide viable and vibrant economies of their own, the allocation of low-income residential functions at a distance from the metropolis is preferable in the longer term, despite short-term inconveniences.”⁷⁹



New by-pass road around Nairobi. Services will only be available to those who can afford them.

Building Frenzy in Ruiru Town

The Municipality of Ruiru is situated between Nairobi and Thika, with about 239,000 people in an area of 290 sq kms in size. This is arguably the most densely populated area of Kenya. A huge amount of urbanization is taking place in the area, spearheaded by the construction of a six-lane highway between Nairobi and Thika which cuts across the municipal area. The value of buildings under construction can be estimated at over KES 30 billion, at mid 2011. The building frenzy is nowhere more conspicuous than in this town. Apartment blocks, townhouses and commercial blocks are mushrooming all over. Many land parcels are divided up into 50x100 feet units, the legal minimum plot size for residential use, some

even in units as small as 30x60 feet. “How can we bring amenities to such places,” complains Town Clerk Lesley Khayadi whose council tries to ensure that building standards are met. Rough estate grids are laid out quickly, with no pavement, water pipes or sewage lines in sight.

Part of Metropolitan Nairobi

The Municipal Council of Ruiru is part of a larger consortium of local authorities loosely assembled under the young Ministry of Metropolitan Development. This consortium counts 15 councils. The population of metropolitan Nairobi is around 6.5 million people, in an area of about 32,000 sq kms. The vision for a grandiose metropolitan Nairobi has been nurtured from the beginning of the Kibaki administration in 2002. The official landmark reference document of this administration ‘Vision 2030’ celebrates the large city as the



Lesley Khayadi, Town Clerk Ruiru Municipality: “we don’t have the skilled manpower to develop our town. We are forgotten, we are not in the mainstream of public service development.”

goal and symbol of progress: “Consensus also exists that the 21st century will be a century focused on the great cities of the world. This is in many ways a return to the norm,” observes the Ministry of Nairobi Metropolitan Development⁸⁰, citing a list of examples like Jerusalem, Rome, Shanghai and New York. This Ministry also cites UN Habitat, which advises the world community that more than 60% of the world’s urban population is already concentrated in metropolitan areas of developing countries. Public consultations have been held in the process of articulating the NMR project. The main point for the private sector is efficient transportation. The main points for resident associations and the ‘general public’ are safe and secure living and working conditions. Provision of housing remains a huge challenge for thousands of residents: especially in the low income housing segment demand continues to outstrip demand. The Ministry’s manifesto professes to achieve a delicate balance between promoting world competitiveness, livability and environmental protection, as the

metropolitan vision gets implemented. The manifesto is a wholistic document and all ingredients for urban prosperity and wellbeing for the masses are there. The need for alignment with other policy goals is also recognized. “The size of the Nairobi Metropolitan Region and the diversity it brings will require active measures to protect agricultural, conservation and other special areas.”⁸¹ “Urban sprawl has rapidly decimated the rural land uses by encroaching into rich agricultural hinterland in Kiambu, Thika and Kajiado areas.”⁸² In 2011, the speed of this decimation shows no signs of relenting. The manifesto highlights a few interesting strengths and weaknesses of the metropolis. Strengths include abundant skilled workforce, presence of international organizations and a number of forests and parks. The metropolis has potential to become a regional knowledge economy hub. Weaknesses include urban poverty, poor governance by local authorities, inadequate land planning and enforcement, and the metropolis being a principally daylight economy. Un-



Unique in Kenya: Taveta is creating a new town on a former sisal plantation, based on a comprehensive plan: commercial, residential, transportation, recreation, water and energy.

derdeveloped local authorities around Nairobi translate into an “inordinate focus on core Nairobi ... where a lot of the main functions are located.”⁸³ “Development in the country is skewed towards Nairobi, and in Nairobi it is skewed towards the city centre,” says Permanent Secretary Philip Sika, Ministry of Metropolitan Development.

With the total number of households being 3.7 million in 2030, the housing demand is estimated to be two times the current demand. Of this total 3.7 million, 86% demand is expected to be in urban areas and 14% in rural areas. Considering that about 71%, of the total urban population in Kenya, resides in slums, the above mentioned increase in housing demand is alarming. Sessional Paper No.3 on National Housing Policy for Kenya dated July 2004 focuses primarily on research, good intentions, some regulation and legislation on planning, and the setting up of a Housing Development Fund. This publication does not further assess this initiative.



Taveta new town expansion: new public market under construction. Will the town council stick to the integrated urban plan?

“Promote secondary cities”

“Urbanisation in Eastern Africa comes with spatial challenges requiring systematic local planning, provision of infrastructure and shelter as well as delivery of urban services...” This is important not only within metropolitan boundaries “but also in peri-urban areas where the more significant unplanned changes take place, often on high-potential agricultural land that is required to feed the city.”⁸⁴ In Kenya, urbanisation policy has favoured development of secondary towns like Thika, Kitale, Homa Bay and Malindi. Promoting secondary cities without simultaneously and vigorously boosting their economic development and livelihood-generating capacities merely results in transfer of poverty to smaller cities,” already resulting in “expanding slums, with mobility depending on informal transport, increased street vending, lack of planning, and rises in violence and crime.” On development of Nairobi, the UN Habitat study observes that “infrastructures is dependent on income rather than population density ... , with excellent standards of provision in well-off areas and next to none in high-density, low-income areas.” “Nairobi requires 15,000 new housing units every year, but only 3,000 are built at best. ... Based on relatively cheap land in the urban periphery and the expectation that Nairobi’s satellite cities will, over time, provide viable and vibrant economies of their own, the allocation of low-income residential functions at a distance from the metropolis is preferable in the longer term, despite short-term inconveniences.”⁸⁵

The Solution is New Towns!

"With the population explosion, cities are getting congested. The traditional downtown cities are being replaced by regions. In the absence of planned regions, there is emergence of unplanned urban sprawls. The logical and optimum solution would be to create new towns "to be developed as a part of the planned regions, to check the congestion and urban sprawl." This is the recipe expressed in a major study of 2011 on Metropolitan Nairobi.⁸⁶ The main objective is to develop a planned region and to check the congestion and urban sprawl of existing cities. New towns will be self-contained cities to create new growth centres in the national economy as well as to accommodate new activities and they will encourage and reinforce the incentives for such development. The New Towns are self-contained cities in the regions surrounding great metropolitan areas. A compact city idea is applied. Compact cities are more energy efficient as compared to other city forms. The New Towns will be "infrastructure-led," where high quality urban services for public transport, telecommunication and IT connectivity, water supply, sewerage and waste water recycling, power and solid waste management shall be provided. These urban services shall compliment the urban form and structure with emphasis on energy and environmental conservation. For once, the 'New Town' sites have been selected as low agricultural value/ productivity of the land, and least interference with ecological sensitive areas and conservation areas. A grid-iron plan is adopted for urban structure of the New Town with modular grid of 0.8 km by 0.8 km. Six New Towns are proposed and have already been given names: Aerotropolis near Thika, Knowledge-cum-Health City near Kiambu, Cyber City near Machakos, Transport New town in Kajiado, Sports City in Machakos and Amboseli New Town along Amboseli National Park. The population of each town is 100,000 in an

area of 2,000 ha. each, with population density of 50 ppha. The location of each new town, its occupational structure; development guidelines for residential sectors, transportation, infrastructure and services and urban forms, Urban Design Principals have been defined.⁸⁷

NMR - recommendations - Adopt Public-Private-Partnership (PPP) model in the implementation of major projects in the region; Establish Special Purpose Vehicles (SPVs) to implement major infrastructure projects. To realize the Nairobi Metropolitan Region, massive investments would be needed of a scale and magnitude not remotely seen in the country. The consultants' report offers an inspiring vision but financial estimates are not provided.

NEW TOWN STRATEGY

"The strategy will address the dilemma on whether to allow indiscriminate land subdivisions and change of user or to promote agricultural activities by restricting urban growth and also address issues of food security." ⁸⁸

'Public Market Most Successful Council Service'

Lesley Khayadi, Town Clerk, Municipal Council of Ruiru - Nairobi, 1972. Bachelor of Arts, University of Nairobi (Kenya) 1998
"Our biggest challenge is resources. Another challenge is to balance the different interests of the civic wing and the administrative wing. Councillors often have a short-term plan covering no more than five years. We in the administrative wing may have different views on what is good for the town."

"The popular perception of our council is not very positive. Many residents especially business operators complain about paying our taxes. In the same breath they complain about garbage collection or roads not being repaired. A medical doctor tells us he pays license fees to his professional bodies. We ask them to

Art brings prosperity – Assilah, Morocco

Cherries, camels, dates and even saffron; all are celebrated in colourful, traditional festivals in towns and villages throughout Morocco. Yet none has brought enduring social and environmental benefits like the art museum in the coastal town Assilah, Morocco. The process began in 1978 when a few cleverly placed licks of paint began the transformation of a rat-infested, rubbish-strewn eyesore with open sewers into a clean and environmentally aware city. Setting up a festival based on festooning the town's white walls with murals was a deliberate tactic by its photographer mayor, Mohamed Benaissa, to encourage civic pride in the town. "We don't have any resources other than the cultural abilities and imagination of our residents," he explains. "But my faith in them has paid off. "This city council has a duty to provide its citizens with shelter, employment and basic infrastructure," he says. "We dovetail these with running the festival." (quoted on BBC, www.bbc.co.uk/news/business-14829617).



Assilah, Morocco - an popular movement of painting buildings has transformed this town into a regional arts centre, with international festivals attracting international support.

facilitate our services. Once a doctor opens shop, he's a commercial operator within our town. There is a lot of non-compliance with legal fees and charges among community members. The government through Kenya Revenue Authority can enforce payment of taxes, councils cannot."

"The public market is the most successful service of our Council. Anyone who wants is able to use our market to come and sell. This helps many in our community." Collection of market fees? "We

miss about 40% of what we should collect."

"Ruiru is in very high demand with developers, we border Nairobi, we're right at the highway Nairobi-Thika and on the new Nairobi by-pass. We could be more pro-active in controlling town planning. But this is also a question of capacity. Within our jurisdiction we have agricultural, industrial and residential land. Being next to Nairobi we risk becoming a dormitory town. But we should have more industry, like an ICT park."

"Planning and zoning are in progress, but what happens on the ground follows its own course. All councils have land use plans but on the ground these are not followed. The Council may have a rule not to allow multi-storey apartment blocks in a zone. Before we know we're engaged in court injunctions as a developer may have obtained a green light from another government authority. Subdivision of land is a very sensitive issue. We don't allow units smaller than 50x100 feet. Yet we see 40x80, even smaller plots. How can you put amenities there? Then all these small plot owners have title deeds. How can you coordinate a couple hundred petty titles if you want to bring some infrastructure? I cannot move!"

"The Ministry of Metropolitan Development helps build capacity in urban planning. But what we need is more practical, think of planning pilots."

"We need human resources management. We are some sort of a museum department. Only the accounting function is now at par with what you see across our government system. What about the other areas? Planning, environment management? Unless I go out of my way and pick courses, we are forgotten. We feel we are not in the mainstream of public service development."

"If I had an extra KES100 million to invest, I would think of building some foot bridges. Projects that benefit our community. And some courses for our staff."

Ruiru, 21 June 2011

Taveta Town: Doing What No Other Town Has Done

Taveta Town lies isolated at the western tip of Taita Taveta, south of Mount Kilimanjaro at the border with Tanzania (S 3 23.835 E 37 40.621). It has a population of 76,000 in an area of 375 sq kms. The town is booming, due to East Africa Community trade and despite an incredibly bad, 115 km road that links Taveta to the A109 highway. In a rare example of community action and demonstrative blocking of the A109 highway in early 2011, road construction has now finally started. However, some sources reveal that the plan to build this road existed long before this date.

Taveta may be one of the more ignored yet underrated parts of Kenya. It is a peaceful place with good agriculture and cool rivers flowing through its valleys and plains. It also has an interesting history, of amalgamating different peoples through the centuries. As far back as the nineteenth century, "immigrant groups were given land and were attached to one of the existing Wataveta clans newcomers were accepted and assimilated into the community and became Wata-veta."⁸⁹

Town expansion with a plan

The Town Council of Taveta has a most remarkable project of town expansion. The council acquired a derelict sisal plantation of about 2,000 acres, sitting along the road from the town to the border post. This plantation is earmarked for town expansion. The remarkable fact is that this expansion is governed by a quality urban plan. The new town features a bus stage, a market, youth centre, schools, playground, shopping lanes and residential blocks. There are low, medium and high density residential sections. Taveta's councillors have resolved to support the development of the new town by giv-



Taveta town clerk Shariff Rashid (left) and council chairman Pascal Kihara.

ing it priority status in the allocation of development funds. The council had received technical assistance from the Municipality of Walvisbaai, Namibia, in designing the new town.

Taveta with its civic leadership is so far the only local authority in Kenya that manages expansion by plan, with modern town planning principles.

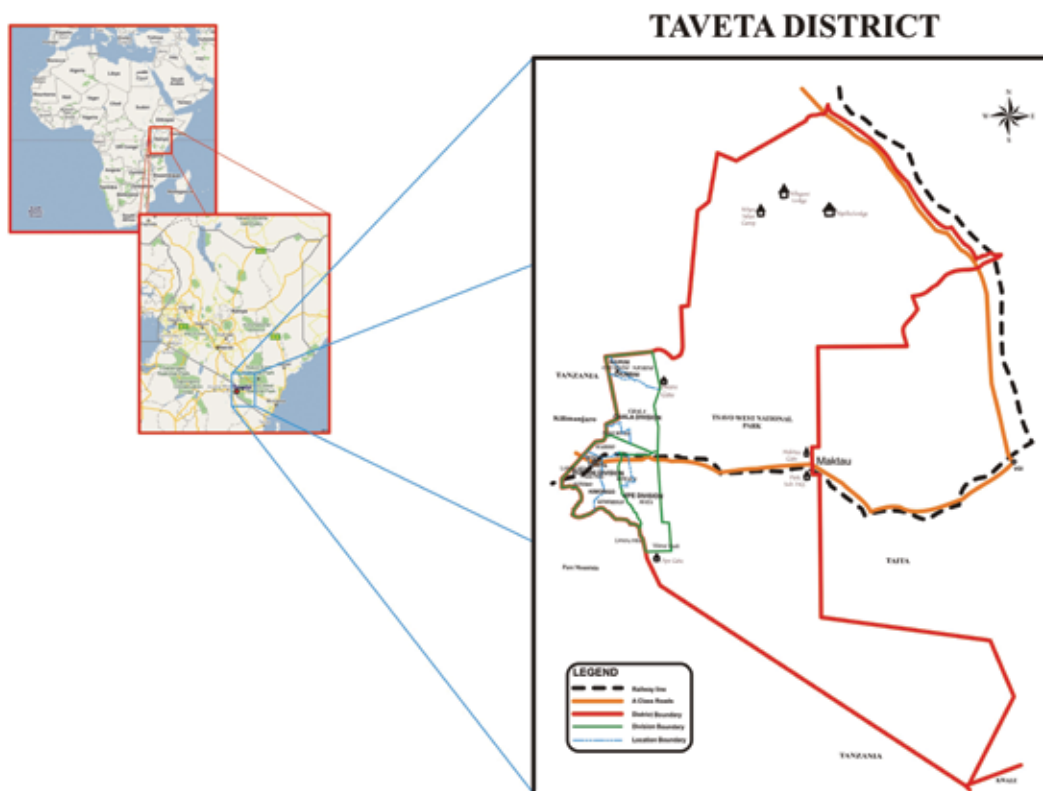
“Development plans will be enforced”

S.M. Rashid, Town Clerk, Taveta (1956, Moyale, Kenya. Diploma Urban Management, Erasmus University Rotterdam (Netherlands) 2008) - “The idea to acquire land came up about ten years ago. Taveta was sandwiched between the old town, game park and the border with Tanzania. The town could not grow. An offer came by to purchase 2,000 acres from

the government who in turn had acquired a ranch of 15,000 acres from a bank. There was a general feeling among all councillors that the whole Taveta community would benefit from expansion of the town.”

“Now we had a large parcel of land with no squatters. We felt we should look elsewhere at an example of town development. We came across Walvisbaai in Namibia where a new urban scheme was laid out around the old centre. We saw control of development, facilities and everything was working. Even slums were serviced, had public toilets and wide streets with street-lights.”

“We held meetings with the community and commercial operators. The idea of a planned new town took shape. By now the new town has been planned. There is a circular lorry park of 400 metres diameter,



Taveta is a fast expanding town at the Kenya-Tanzania border

the only one of this type in the country. There are investors in private schools, a motel, private clinic, banks and so on. The bus stage and public market are already under construction. There will be public schools and green areas. We have low, medium and high density residential plots and 6,000 plots have been surveyed. Letters of allotment – with conditions – are being given out and Taveta residents are signing up. People will get building plans from the council. There are four types of residential houses to choose from. Development plans will be enforced. Any application for change-of-user needs to be brought before the community. We will not allow a rush. We will have eight staff to moni-

tor and enforce our development plan.” “We are now preparing to set up our own water, solid waste and electricity company, in a partnership with a Norwegian firm. The production capacity will be sufficient for Taveta. We know this is unique in Kenya. But we want to be the first with everything.”

Taveta, 30 June 2011

CHAPTER

7

SUGGESTIONS FOR A WAY FORWARD

On 30 September 2011 the forum “Developing our Region in a Devolved Government System” was hosted by the County Council of Wareng and the Municipal Council of Eldoret, upon an initiative led by Development Trust Innovation Africa and the Hanns Seidel Foundation (Germany). These two local authorities, together with a third, the Burnt Forest Town Council, will occupy the area of the new Wareng County once the devolved government system takes effect, which is foreseen for August 2012. It will be interesting to monitor developments in this enlarged area, because it has an important urban centre, a well developed infrastructure, natural resources, a diverse and vibrant local economy, and a concentration of institutions of higher learning and healthcare facilities.

Planning, Financial Governance, Leadership

The purpose of the forum was to sensitize stakeholders in the region on the challenges and opportunities of the devolved government system. The forum sought in particular to shed light on development planning, financial governance and leadership. Participants were drawn from councillors and senior staff of the three local authorities; the business community, led by the Kenya Association of

Manufacturers and the Uasin Gishu Forum, farmers and residents from within the region; government—owned companies including Eldoret Water; institutions of higher learning; the Ministry of Local Government, as well as representatives from other regions including the Busia County Forum, Kakamega Town, Makueni County and Nakuru Town. It emerged that the stakeholders in Wareng County were poorly informed and had limited understanding of the challenges that are bound to confront them. The forum programme itself comprised a few helpful presentations on devolution structure and governance. It also emerged that public awareness on existing development plans by the Municipal Council of Eldoret was very low.

The over-arching concern among the non-state actors at the forum was the quality of governance. Stakeholders require checks and balances on the governor, who will be an elected chief executive officer of the county government. They also require assurances that ethnic bias will not have a place in county government affairs. Security management also stood out as an area of mayor concern at the forum.

The over-arching concern of insiders in the government system at the forum was the

implementation of the intended devolution system. In particular, it was felt that there was room for law making activity that carries a risk of erosion of the essential spirit of devolution, through existing and newly engineered government controls.

Suggestions for a way forward included:

Awareness: devolution will lead to a transformation of the government system that will trigger decentralisation of the economy as well. Local stakeholders cannot afford to be unprepared to assume their roles in the new governance and development management dispensation.

Leadership: local stakeholders should play an active role in putting forward development priorities for the county, rather than wait passively for solutions and initiatives designed and implemented elsewhere. New opportunities should arise for ward-level development, with better utilization of in-county resources and a reduced reliance on the national treasury.

Planning: land is one of the region's most conspicuous assets and must be managed better, especially avoiding continuing subdivisions of family land and land speculation. Stakeholder participation in planning must improve to break away from a long standing trend of passivity.

County Caucuses Take the Lead

In many of the new counties, a caucus of county development promoters is emerging. They are all different. One may look like an election platform for an aspiring governor, another like a think tank of bankers and engineers, yet another like a lobby of local NGO's and business operators. Some progressive local authorities are helpfully stepping in to support these caucuses with mobilisation efforts and meeting facilities. All these initiatives are important and timely, and deserve support and attention. Ideally, a county caucus should be all-inclusive, reaching out to all citizens and aiming to articulate a development agenda with a specific action plan.

CHAPTER

8

CONCLUSIONS

Introducing integrated planning and improving community participation are key to the success of devolution and redemption of local government.

Once a plan is well prepared and adopted, it must be followed. To have it followed, requires integrity and leadership.

Embracing public-private partnership promotion is essential to realizing the expectations of devolved government.

The Kenyan local government system has suffered from decades of administrative repression and neglect. One could maintain that in the old dispensation under the Constitution of 1963, with subsequent legislative evolution, local government hardly had a place. This was aggravated further with land ownership legislation and a records management culture, where it is observed that records at the supreme apex in the Ministry of Lands and the lowly councils often don't correspond, giving rise to endless disputes in the courts of law. Within the little space left, quality of demo-

cratic participation through elected councillors was allowed to go down. councillors could often not appreciate their own power to spur development and often blended community well-being with personal gain.

In any country, there will always be a tendency to centralize power along with a competing tendency to decentralize power. Kenya is no exception. The devolution agenda, after a long battle now enshrined in a new Constitution, can only be realized with more battle. Devolution is no 'done deal'. Local authorities never lost their 'natural' place to continue having profound influence on development and quality of life for the communities they were intended to serve. The mechanism of community projects sponsored by councils has demonstrated its value and potential for scaling up under new and more encouraging legislation.

Without exception, all local authority leaders who contributed their views and experiences to this publication, see community participation as a cornerstone for the success of a development agenda of a local authority. This is unlikely to change after implementation of the new Constitution with 47 newly shaped coun-



Devolution will lead to a more harmonized society, with more viable and prosperous economic centers all over the country, and meaningful opportunities for young people.

ties. The challenge is to make community participation more real, more interactive, more genuine, more democratic, by making sure all segments of society are seen and heard. We have been witnessed public forums or 'barazas' where meaningful response by the crowds is smothered by protocol, speeches by VIP's and absence of information of any substance to help deliberations. But development led by community participation is not enough. A local community may easily be concerned with neighbourhood improvement and lose sight of the big picture of regional development.

This is where a professional local authority comes into the picture. In the old/existing dispensation, senior executives with qualifications in economics, environmental or urban planning are rare species. Not surprising. In a minefield of laws, regulations, government circulars, court injunctions and government layers that all have a say in local authority affairs, one can find senior officers seasoned in law or accounting but none with a background in economics and planning. Planning qualifications are non-existent. Wherever a development plan, or 'land use plan' exists, it is hardly being followed. An area earmarked for agriculture becomes a satellite town. In

the rural areas, 'communal land' is converted into anything anyone wants. The fact today is: whatever the land use plan says, anything is for sale. All local authority managers can corroborate this.

The local government initiatives spawned by Development Trust Innovation Africa have resulted in policy development at central government; in policy implementation at various local authorities. Mainstreaming of DTIA results is slow, due to inherent development processes within the prevailing political environment and due to a generally conservative environment at local authorities. Even if ICT is applied for window-dressing, this is a result because once started, there is no return. These results will now be utilized to build a foundation for the ambitious role for local authorities as development agents.

ABOUT THE AUTHORS

Marcel Werner

Marcel Werner is the co-founder of Development Trust Innovation Africa (DTIA, 2008), an independent non-profit organization in Kenya. He has a career as an Information and Communication Technology for Development (ICT4D) expert. Much of Werner's work is related to the liberalization of the ICT industry in Europe and in Africa, through the International Telecommunication Users Group and International Chamber of Commerce. He contributed to the development of a national ICT policy in Kenya through the Kenya ICT Federation (KIF). He served as chairman of KIF from 2007 to 2008. DTIA has played an influential role in promoting ICT in local government. He is a partner in Flametree Systems Engineering Ltd., a Kenyan company specializing in rural ICT with web technology and geographic information systems.

Werner was born in the Netherlands and has a master's degree in Economic History from Radboud University (Nijmegen, Netherlands) followed by a programme of coursework in New Media at the New School for Social Research (New York, USA). He has published several books on the relationship between development and ICT, as well as on regional development.

Viola Otieno

Viola Otieno is a senior geographic information systems (GIS) consultant at Flametree Systems Engineering Ltd., a Kenyan company specializing in rural ICT with web technology and geographic information systems. Otieno has a career in Information and Communication Technologies for Development (ICT4D). She has carried out research with Development Trust Innovation Africa on ICT integration in local authorities, efficiency and quality of local authorities' service delivery to citizens. Much of her work is related to integrating GIS into mainstream management of local authorities. Viola Otieno is a Kenyan. She has a bachelor's degree in Computer Science from Jomo Kenyatta University of Agriculture and Technology (Nairobi, Kenya).

Judi Wangalwa Wakhungu, Ph.D.

Prof. Wakhungu is the Executive Director of the African Centre for Technology Studies (ACTS) in Nairobi, Kenya. ACTS is a Nairobi-based international inter-governmental (IGO) science, technology, and environmental policy think tank that generates and disseminates new knowledge through policy analysis, capacity building, and outreach. Prof. Wakhungu's research interests include science, technology, and innovation; agriculture and food security; biodiversity and natural resource management; energy and water security; and gender issues in science and technology. She has published widely in these fields.

Prof. Wakhungu serves on several national and international boards, task-forces, and committees. These include the African Conservation Centre (ACC), the International Assessment of Agricultural Science and Technology for Development (IAASTD), the GoDown Arts Centre, the Institute for Security Studies (ISS), the Lemelson Foundation, Legatum Centre at M.I.T., The WorldFish Centre, Malaysia, the World Bioenergy Association (WBA), Development Trust Innovation Africa, the World Bank's Energy Sector Management Assistance Program, and the Commission on Sustainable Agriculture and Climate Change.

Prof. Wakhungu received a B.S. in geology from St. Lawrence University in New York, a M.S. degree in petroleum geology from Acadia University in Nova Scotia, Canada, and a Ph.D. in energy resources management from Penn State University.

DEVELOPMENT TRUST INNOVATION AFRICA

Development Trust Innovation Africa (DTIA) promotes development through innovative technology in support of innovative partnerships. The Trust has a focus on environmental management in partnership with local authorities. To date, its tools of development are information and communication technology, renewable energy, and public-private partnership formulae. Our programmes have been concentrating on Kenya.

DTIA is an independent private organization, started in 2008. Its programmes have been funded by the Government of Finland and sponsored by private companies. DTIA has collaborated with the Centre for Development and Environment (CDE) - University of Berne (Switzerland) and the Hanns Seidel Foundation (Germany).

Trustees:

The trustees of DTIA are from different industry and academic background. They contribute their long track records of activities in Kenya and around the world. They are:

Prof. Judi W. Wakhungu

Ambassador Dennis N.O. Awori

Marcel Werner

www.dtia.or.ke

FOOTNOTES

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KENYA'S URBAN DEVELOPMENT IN THE 21st CENTURY

The Call for Innovative Initiatives from Local Authorities

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The planning of our living environment affects every citizen. In municipal councils in Kenya, urban environment development plans are drawn up but not followed. In rural councils, environment development plans are not made at all and there development happens without guidance. The evolution of local authorities in Kenya has shown continuity with a narrow role: permits, public sanitation, zoning. Informality is suppressed and tolerated at the same time. More recently, local authorities have started to implement small programmes of small-scale community projects. Access to information and the style of democratic interaction do not really allow meaningful citizen participation. Kenya's local authorities play their role with limited success. In high-income countries, local authorities have per capita budgets that can be as much as two hundred times higher than those seen in Kenya. They use public-private partnerships to leverage their capacity to deliver. The Constitution of Kenya (2010) calls for devolution of government. Devolution will be a learning process with built-in legal, financial and human capital hurdles. Local government has the opportunity to re-invent itself to lead in the development of living space for the country's citizens.

Development Trust Innovation Africa (DTIA) has a history of activities in local government over the past years, with 'champion councils' now leading the way in modernizing operations. KENYA'S URBAN DEVELOPMENT IN THE 21st CENTURY documents and reviews the situation of local government in Kenya with many examples, case studies and suggestions for development.

The authors Marcel C Werner (DTIA, www.dtia.or.ke), Viola A Otieno (Flametree Systems, www.flametree-systems.co.ke) and Prof Judi W Wakhungu (African Centre for Technology Studies, www.acts.or.ke) are active in engineering and research in a broad range of development themes.