



# UNDERSTANDING THE LOCAL GOVERNMENT SYSTEM IN KENYA

A CITIZEN'S HANDBOOK



Institute of  
Economic Affairs

# Understanding the Local Government System in Kenya

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A Citizen's Handbook

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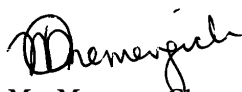


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**Ms. Margaret Chemengich**  
Chief Executive Officer



## List of Abbreviations/Acronyms

<b>ALAT</b>	Association of Local Authorities of Tanzania
<b>ALGAK</b>	Association of Local Government Authorities of Kenya
<b>ALGE</b>	Association of Local Government Employers
<b>CA</b>	Cities Alliance
<b>CAO</b>	Chief Administrative Officer
<b>CDF</b>	Constituency Development Fund
<b>CDS</b>	City Development Strategies
<b>CEO</b>	Chief Executive Officer
<b>CILOR</b>	Contribution in Lieu of Rates
<b>CIFAL</b>	(French Acronym for) International Training Centre for Local Actors/Local Authorities
<b>CLG</b>	Commonwealth Local Government
<b>CLGF</b>	Commonwealth Local Government Forum
<b>DC</b>	District Commissioner
<b>DED</b>	(German Acronym for) German Development Services
<b>DO</b>	District officer
<b>EALGA</b>	East African Local Government Association
<b>EU</b>	European Union
<b>FES</b>	Friedrich Ebert Stiftung
<b>FY</b>	Financial Year
<b>GPT</b>	Graduated Personal Tax
<b>GTZ</b>	German Technical Cooperation
<b>IDEA</b>	International Institute for Democracy and Electoral Assistance
<b>IEA</b>	Institute of Economic Affairs
<b>ICJ-KS</b>	International Commission of Jurist -Kenya Section
<b>KARA</b>	Kenya Alliance of Residents Association
<b>KEPSA</b>	Kenya Private Sector Alliance
<b>KHRC</b>	Kenyan Human Rights Commission
<b>KLGRP</b>	Kenya Local Government Reform Programme
<b>KLGWU</b>	Kenya Local Government Workers Union
<b>KAM</b>	Kenya Association of Manufacturers
<b>LAC</b>	LATF Advisory Committee
<b>LAIFOMS</b>	Local Authority Integrated Financial Operations Management System



<b>LAP Trust</b>	Local Authorities Pension Trust
<b>LAProfund</b>	Local Authorities Provident fund
<b>LASC</b>	Local Authority Service Charge
<b>LASDAP</b>	Local Authority Service Delivery Action Plans
<b>LATF</b>	Local Authority Transfer Fund
<b>LED</b>	Local Economic Development
<b>LGA</b>	The Local Governments Act
<b>LGLA</b>	Local Government Loans Authority
<b>LGS</b>	Local Government System
<b>LGSRS</b>	Local Government Sector Reform Strategy
<b>LSK</b>	Law Society of Kenya
<b>MDGs</b>	Millennium Development Goals
<b>MoLG</b>	Ministry of Local Government
<b>MoSPND</b>	Ministry of State for Planning and National Development
<b>NCBDA</b>	Nairobi Central Business District Association
<b>OPM</b>	Office of the Prime Minister
<b>ODPM</b>	Office of the Deputy Prime Minister
<b>PC</b>	Provincial Commissioner
<b>PGG</b>	Principles of Good Governance
<b>PS</b>	Permanent Secretary
<b>PSC</b>	Public Service Commission
<b>PPP</b>	Public Private Partnership
<b>RALGA</b>	Rwanda Local Government Association
<b>RBM</b>	Results Based Management
<b>RMLF</b>	Roads Maintenance Levy Fund
<b>RPRLGSP</b>	Rural Poverty Reduction and Local Government Support Programme
<b>SALGA</b>	South African Local Government Association
<b>SBP</b>	Single Business Permit
<b>SNV</b>	Netherlands Development Organisation
<b>SoCR</b>	State of the City Report
<b>UCLG</b>	United Cities and Local Governments
<b>UCLGA</b>	United Cities and Local Governments of Africa
<b>VNG</b>	International Co-operation Agency of the association of Netherlands Municipalities
<b>UNDP</b>	United Nations Development Programme
<b>UN-HABITAT</b>	United Nations Human Settlements Programme
<b>UNITAR</b>	United Nations Institute for Training and Research
<b>WB</b>	World Bank



## Executive Summary

Local government is such an important concept to local community that all residents should know what it entails and find ways of taking part in its activities. The main function of local government is to improve the livelihoods of citizens through the provision of basic socio-economic and other services. Local government activities affect and influence the lives and livelihoods of all residents. Their importance cannot therefore be over emphasised.

The first objective of this handbook is to provide citizens with information and insight on local government matters. The second objective is to sensitise citizens and other stakeholders to use the information and engage Local Authority leadership in demanding improved services, and participation in providing those services. The handbook addresses the two objectives by providing background information on the concept of local government, the importance of cities and local governments, and the principles of good governance. The handbook further analyses the concepts of decentralisation and devolution in relation to provision of effective and efficient services.

The objectives and mandates of local governments are described in relation to the changing environment where the citizens are demanding transparency and accountability in the provision of Local Authority services. The description and analysis of how revenues are raised and spent at the local government level is aimed at highlighting the revenue challenges, potential and how citizens can effectively be involved in monitoring the collection and expenditure of the same.

A section on community participation and Public Private Partnership (PPP) is included to illustrate how Local Authorities, community private sector and public can participate in the planning, implementation and evaluation of Local Authority service provision and governance. The handbook discusses resources mobilisation as an important element in improving Local Authorities revenues and service delivery.

Chapter one gives the conceptual framework of local governance by discussing the principles of good governance; devolution and good governance and the importance of local governments.

The concept of local government is developed in chapter two by defining local government and then describing its objectives and mandate. The chapter further considers the evolution of Local Authorities in Kenya and how Local Authorities systems work.

Chapter three covers the structure and functions of Local Authorities in Kenya. The chapter covers

the types of Local Authorities, the local government election and membership. It concludes with the discussion on the powers of the mayors/ chairpersons and those of the clerks.

Chapter four provides detailed explanation of the sources of Local Authority revenues from a global perspective and from the Kenyan situation. It also gives a detailed description of the Local Authority Transfer Fund (LATF) and shows how LATF is an important source of Local Authority revenue. The issues of budgeting, accounting and auditing in Local Authorities and how they affect the provision of services are also discussed in chapter five.

Chapter six covers resources mobilisation. The chapter discusses in detail the current sources of Local Authority revenues and the unexploited new areas. The resource mobilisation strategies including Public Private Partnerships, the City Development Strategies (CDS)/ Local Economic Development and the reforms implemented by the Kenya Local Government Reform Programme (KLGRP).

Chapter seven introduces the concept of networking as a strategy for providing effective services in Local Authorities. The chapter covers the importance of Local Authority/stakeholder partnerships and networking by identifying some stakeholders and their functions in relation to Local Authority services.

Chapter eight discusses legislative and other challenges affecting Local Authorities. The chapter gives an insight into the challenges affecting the local government system and those related to the removal of powers for Local Authorities by the state. The chapter concludes by making observations and recommendations on the legislative challenges.

Chapter nine concludes the handbook by providing to citizens and stakeholders an overview on local authority governance matters. The information includes an emphasis on the principles of good governance, devolution and participatory representation. The importance of revenues to Local Authorities, the challenges faced in collecting the revenues and possible strategies to overcome the challenges are discussed in this chapter.

The chapter ends with general and specific recommendations for improving Local Authority's governance and management.

A glossary highlighting key definitions and explanations of some technical terms is included in the handbook. The appendices 1-3 provide the citizens and general readers more information on the principles of good governance, duties and functions of the town clerks and Local Authorities' election. The general references at the end of the handbook provide further information and reading on local government matters.

## Local Governance – A Conceptual Framework

### 1.1 Introduction

The concept of devolved Local Government is receiving attention worldwide as a tool for implementing sustainable development. Local Governments are strategic institutions for the provision of basic socio-economic and environment services. Their strategic position makes them valuable and viable for providing effective and efficient services required by the community. Local authorities/Local Governments also provide platforms where community members exercise their democratic rights by electing their representatives who in turn coordinate the provision of the local services. It is therefore important to understand the operations of these institutions. The terms Local Governments and Local Authorities are used interchangeably in this handbook.

Local authority/government activities affect every citizen on a daily basis. By their design Local Authorities are supposed to make cities and towns livable through provision of the services they are mandated to provide by the statutes that establish them. In the Kenyan case the establishment of Local Authorities is covered by the Local Government Act cap 265 of the Laws of Kenya. In this chapter of the handbook the following areas are covered in relation to Local Authority service provision and the citizen's involvement and participation:

- Principles of good governance
- Devolution
- Devolution and good governance
- The importance of Local Governments

### 1.2 Principles of Good Governance (PGG)

For cities and Local Governments to play their role as institutions for service delivery and centres of public administration for citizens, they must be governed by widely accepted Principles of Good Governance (PGG). The principles or elements of good governance (for example democracy, justice, peace, equality, transparency and accountability) have been described by various people including Joel Barkan (1995) and Katama Mwangi (1994). Christopher Mulei (1994) lists the factors that nurture good governance as shown in Box 1 below.

### Box 1: Factors that nurture good governance

...enabling legal and constitutional framework which upholds freedom and justice, the right attitude (culture), civil society, rule of law and bold independent judiciary, democratic electoral process and strong parliament; parliamentary vetting of top positions in public service; transparency in government; solidarity with outside democratic movements and sustaining pressure to force government to establish genuine political and economic reforms.

Transparency in government (one of the principles of good governance) encourages accountability. Transparency and accountability in turn eliminate corrupt practices, provide ready access to information, ensure fair and impartial application of the law and maintains high standards of personal and professional integrity among the elected and appointed officials.

Participation is considered to promote the principle of civic engagement and citizenship. Application of this principle empowers and engages the citizens, particularly women and the poor, to take part in the municipal elections, citizens' forums, citizens' advisory councils and all other forms of participatory democracy.

The factor of solidarity with outside democratic movements and sustaining pressure to force government to establish genuine political and economic reforms gives value to the principle of sustainability. The principle emphasizes on balancing the social, economic and environmental needs of the present and future generation in all dimensions of urban development including a clear commitment to urban poverty.

The explanation of the factors is obtained from the seven point universal principles of good governance as advocated by the UN-HABITAT for its campaign on urban governance (Tibaijuka A.K, 2005). The details of these principles are explained in Glossary 1.

Using the principles of good governance, Local Authorities and the citizens can develop community participation frameworks that can be used to address community needs and demands. Such frameworks do encourage Local Authorities' commitment to transparency and accountability.

## 1.3 Decentralisation

There are three forms of decentralisation described variously as follows:

- **De-concentration**  
When central government sends its officers to provinces and districts to carry out regular functions under the authority of central government, this is referred to as de-concentration.
- **Delegation**  
Delegation is when central government hands over certain functions to provincial or Local Government levels (or indeed any other organisation) to be performed on an agency basis. On both cases (de-concentration and delegation), there is no transfer of power.
- **Devolution**  
Devolution involves the transfer of functions, resources and power to sub-national (provincial or local) levels. These levels, for example, provincial and Local Government levels assume full

responsibility and accountability for the specified functions. Devolution also referred to as democratic decentralisation that provides space for community participation in governance.

Decentralisation is another important process that local and national governments and their stakeholders can use to implement efficient effective services in response to community demands. The purpose of decentralisation is basically to promote participatory democracy and sustainable development for the benefit of all citizens. The process of decentralisation seeks to bring the Government closer to the people. A decentralisation policy enables people to make their own political, cultural and developmental decisions at their own level (Government of Namibia, 2007).

The decentralisation process can also be used to define and design stakeholder participatory framework and policy strategies to be adopted. This is an important step in the process of community participation.

## 1.4 Decentralisation and Good Governance

Both decentralisation and good governance contribute positively to the processes of community participation which are transparent, effective, responsive and accountable to the stakeholders. This is because decentralisation policies enable citizens to take part in the decisions that affect their livelihoods. Good governance as described earlier creates an enabling environment for sustainable human development. The relationship between the two is conceived in the context of governance where legal and organisational structures are created to empower citizens to participate in local governance and decision making. The relationship can be captured in a decentralisation policy with defined objectives as shown in Box 2 below.

To extend, enhance and guarantee participatory democracy; and sharing of responsibilities at all levels the implementation of such policy is guided by enabling legislations; institutional frameworks; strategic intervention areas; capacity building; fiscal transfers; Local Government reforms and public participation (Government of Namibia, 2007).

In the Kenyan situation the decentralisation framework is set out in the Vision 2030 and the Medium Term Plan (2008-2012). Nevertheless, what is needed in Kenya is a decentralisation policy framework that will define policies on:

1. Financial decentralisation (resources redistribution) by strategic allocation of grants and taxes to be levied by Local Governments.
2. Powers and responsibilities (political decentralisation) to the Local Government levels.
3. Legislations that guide the decentralised reforms.
4. Participatory frameworks to guide citizens and Public Private Participation (PPP) policies.

Good examples of decentralisation policies and the constitutions in Africa include those of Malawi, Rwanda, Namibia and South Africa (Republic of South Africa 1996). In the Namibian case, the objectives of decentralisation ensure sustainable development; transfer of powers to regional and local levels; and provision of better services.

The constitutions of South Africa, Namibia and Rwanda include Acts on government fiscal transfers, decentralisation, institutional framework, responsibilities and relationships between national and Local Governments. This is aimed at ensuring the three objectives illustrated in the Box 2 below.

## Box 2: Objectives of Decentralisation and Institutional Frameworks

- ensure, enhance and safeguard rapid sustainable development;
- transfer power to the lower level of government (Regional and local authorities);
- promote capacity building at the regional and local authorities to plan, implement, monitor and manage delivery of services to the community.

As the structure and functions of Local Authorities (governments) are discussed in chapter three, an analysis will be made to relate the functions of Local Authorities and the characteristics of good governance. These characteristics include: participation, transparency, responsiveness, consensus, equity and inclusiveness, effectiveness and efficiency, accountability, rule of law and tolerance.

### 1.5 The Importance of Local Governments

The Local Authorities (cities and Local Governments) are very important to the citizenry. They are the engines of growth and centres of development. They provide cultural; educational; management, research, commerce and political services. They also do offer employment, best health facilities and boost the country's economy (UN-HABITAT (2004). For instance, the City Council of Nairobi, the largest Local Authority in Kenya, produces more than half of the country's Gross Domestic Product. This means that Local Governments are important institutions in a country's development. Further, most of the services provided by Local Governments address the eight Millennium Development Goals (MDGs) (SVN 2006). The MDGs status report of Kenya (2005) illustrates the eight goals as follows: eradication of extreme poverty and hunger; achieving universal primary education; promoting gender equality and women empowerment; reduction of child mortality; improving maternal health; combating HIV/AIDS, malaria and other diseases; ensuring Environmental sustainability and; developing global partnership for development.

The activities to achieve these goals are part of the services provided by Local Government as discussed under the functions and provision of Local Authority services (chapter 3 section 5). The implementation of these functions and mandates including MDGs programmes are essential in promoting community's well-being (Freire M. and Polese M. 2003).

The Cities Alliance Report (Menkveld, P.A. and Cobbett, W. 2007) describes Local Government as providing platforms for productivity, entrepreneurship and economic modernization, poverty reduction and practicing good governance. This means that activities of Local Governments affect the livelihoods of their inhabitants and hence their importance.

#### Key Points

- ⇒ The main function of Local Government is to improve livelihoods of citizens through the provision of basic socio-economic services.
- ⇒ For Local Governments to play their role as institutions of service delivery for citizens they must be governed by the widely accepted principles of good governance e.g. transparency which serves to eliminate corruption.
- ⇒ The process of decentralisation seeks to bring the government closer to the people. There are 3 types of decentralisation: deconcentration, delegation and devolution. Deconcentration and

delegation mainly involve transfer of functions while devolution involves transfer of functions resources and power to the sub national level.

⇒ Decentralisation and good governance contribute positively to the process of community participation. It enables citizens to take part in decisions that affect their livelihoods.



# The Concept of Local Government

## 2.1. Introduction

As discussed elsewhere Local Authorities provide socio-economic and environmental services to their citizens. The activities of Local Authorities affect and influence the lives and livelihoods of all residents. This chapter discusses definitions and functions of Local Authorities, their objectives and mandates in relation to provision of services and how such services affect the lives of the citizenry. The areas discussed include:

- Definition of Local Government
- Objectives of Local Government
- The Mandate of Local Government
- Evolution of Local Authorities in Kenya
- How Local Authorities work in Kenya

## 2.2. The Local Government

Local Government has been defined differently by different people and organizations. The Omamo Commission of Inquiry on Local Authorities defines Local Government as “a system of government whereby the state allows the establishment of local units of government with powers and authority to make local decisions on matters that affect the local communities and to mobilise local resources for implementation or execution of the decisions made” (Omamo, 1995). Wanjohi N.G. (2003) considers Local Government as an institution whose operations addresses the needs and aspiration of the citizenry and also extends the administrative and political control to the community. The American Local Government is an example of a popular participation and sovereignty system. Local Governments elsewhere (as shown below) are also referred to as sub-national organizations which are comprised of democratically elected representatives.

The definitions of Local Government outlined here emphasize the concepts of decentralisation and participation. For example, communities in America form Local Governments which in turn form states and states form the federal government. In Europe similar types of Local Governments can be found in the United Kingdom, Germany and Sweden. In the African continent, South Africa, Namibia, Uganda and Malawi are good examples of decentralised Local Governments. The Constitution of the Republic of South Africa of 1996 devotes chapter seven (7) to Local Government covering the status, objects, duties, establishment, powers and functions of municipalities.

## 2.3. Objectives of Local Government

Local Government has many objectives. However the main one is to respond to local community demands. The Local Government objectives are summarized in the Omamo (1995) report as:

- i. Establish local representative government institutions through which appropriate services and development activities can be made more responsive to the wishes and initiatives of the local community
- ii. Provide opportunities for local communities to exercise their democratic right to self governance and determination at the local levels of society, and to encourage and develop initiatives and leadership potential
- iii. Mobilise human and material resources through the involvement of members of the public in their local development
- iv. Provide a two way channel of communication between the local communities and the central government

These objectives compare very well and can be used to address the concept of decentralisation and the principles of good governance. For example using objectives (ii), (iii) and (iv) above the community and indeed all the stakeholders can be mobilised to take part in the Local Authorities development and governance.

## 2.4. The Mandate of Local Government

Based on the objectives discussed above, Local Governments have a mandate to provide basic services to the community. These are the provision of:

- Services to residents within their areas of jurisdiction
- A platform for democratic governance at the local level where the community exercises their democratic rights by electing leadership to manage their affairs.

As mentioned earlier in the executive summary section, services provided include water and sanitation, health, education, general infrastructure, security, and employment and other economic activities. To undertake these mandates Local Authorities are empowered by the current Local Government Act Cap. 265 of the Laws of Kenya part XIV to make and enforce by-laws; to raise funds through rates, fees and other user charges to implement their obligations. The LGA cap 265 part XV sections 212 to 221 provide Local Authorities with the financial provisions for the management of funds in terms of annual and supplementary estimates, expenditure, capital and consolidated funds, general rate and reserve funds.

Other responsibilities like borrowing powers, issue of stocks and bonds, appointment of receivers; accounts and audit balancing of reports are mandated under Parts XVI - XVIII sections 222 to 245. The legal procedures in Local Authorities are covered in part XX sections 256 to 264.

Apart from the main legislation that governs all Local Authorities (The Local Government Act Cap 265 of the Laws of Kenya of 1997), there are other pieces of legislations that affect and influence the management of Local Governments. These include:

- Local Government Loans Authority Act (Cap. 270)
- Land Planning Act (Cap. 330)

- Trade Licensing Act (Cap. 497)
- Rating Act (Cap 267)
- Valuation for Rating act (Cap 255)
- Agriculture Act (Cap 218)

Other Acts that influence the operations of Local Authorities are water, education, public health, planning and tourism Acts. The management of the Local Governments is therefore a complex matter that requires cross referencing of various legislations when making decisions. As a result, the management of Local Government require personnel that is either multi-skilled and/or one that access professional advice on a cross-section of issues.

## **2.5. Evolution of the Local Government System (LGS) in Kenya.**

For the reader to appreciate how the Local Governments/ Local Authorities work in Kenya and how to participate in their programmes, activities and governance some highlights of its evolution would be useful.

In early 19th Century Kenya had some form of Local Government that had started before independence in 1902 with the Village Headman Ordinance. Chiefs were appointed by the colonial administration to manage these units of Local Government. Some forms of municipalities were established in Kenya in 1903. The first townships were established in Nairobi and Mombasa to serve European settlers (Muia, 2005).

The purpose of the Local Government system at that time was to control the local communities. The structure of the hierarchical system included the Governor, the Provincial Commissioner (PC), the District Commissioner (DC), the District Officer (DO) and the Chief. In the Local Authority Ordinance of 1912, selected chiefs were appointed to head councils. In 1919 the Local Government system witnessed some change when Nairobi Municipality was allowed to have a mixed race council. However this was without Africans.

A number of changes were introduced in the Local Government system. The Native Ordinance of 1924 gave powers to D.Cs to chair native local councils. The mandate of these councils were to collect local taxes, provide some services like water, markets, education, roads and bridges (Muia, 2005). The 1928 District Council Ordinance segregated the district councils in the areas settled by European farmers. The post of the Commissioner for Local Government and the Ministry of Local Government was established in the same year.

It is in 1937 that Africans were elected as Councilors (Cllrs) for the first time. The local native councils were renamed African District Councils (ADCs) and the settler District Councils were changed to County Councils in 1950 (Muia 2005). By 1950 the functions of the Local Government system were described as “representation for decision making; resources mobilisation; agency for central government and link between local community and central government” (Ndegwa, 1971).

The Sessional Paper No. 2 of 1961 formed the basis of the Local Government Bill of 1962. The bill was passed in 1963. The law provided for the Local Government regulations (1963) and the establishment of municipal, county, urban and local councils (Republic of Kenya, The Local Government Regulations 1963).

It is worth noting that Local Government Regulations (1963) provided the councils with some powers and responsibilities including those of imposing fees and charges and acquisition and dealings in land among others. The Local Authorities provided a wide range of services including primary education, health, road maintenance, water and sanitation, public housing and land administration. During the same period apart from the Local Authorities there existed another administrative structure consisting de-concentrated provincial administration system emanating from central government.

These dual structures remain to date and have sometimes caused governance problems. This situation is further complicated by the decentralised Constituency Development Fund (CDF) whose focus is outside the Local Government structure while serving the same constituents served by Local Authorities. This situation distorts the focus of the leadership at the location and district level between the roles of the DC and Chief with those of the Mayor/Chairperson and the councilors. This situation confuses the citizen as to whom they should refer their issues to for proper addressing. The district focus for rural development was in many respects a delegation of responsibilities by the central government to the district level. This reduced the powers of Local Authorities from planning and implementing all activities in their jurisdictions.

After independence, the Local Government Regulations of 1963 were replaced by the current legislation, the Local Government Act (Cap 265 of the Laws of Kenya). This Act passed by the National assembly in 1977 has been amended several times to address the changing Local Government environment (Muia 2005).

Currently the Act provides for the establishment of authorities and defines their powers and functions. For example, sections 5 to 9 of the Act gives the Minister of Local Government powers to establish, alter boundaries and assign names to Local Authorities. Part III of the Act, sections 12 and 28 describe the establishment and incorporation of the Local Authorities.

The elections and membership of Local Authorities are dealt with in Part IV. Other functions such as meetings and procedures are dealt with in Part V; and issues concerning appointments of officers are covered in Part VIII. The powers, duties and provisions of the Local Authorities are found in Parts IX-XIII sections 143 to 199.

The Act governs the operations of all categories of Local Authorities. As discussed earlier the Act will require a complete review to make it adaptable to the principles of good governance and decentralisation.

## **2.6. How Local Authorities Work in Kenya**

Local authorities in Kenya are established under the Local Government Act Cap 265. Once constituted, the first function of the councilors is to elect their mayor in respect of the City Council of Nairobi and the Municipalities, or the chairperson in the case of county and town councils. After the election of the mayors or chairpersons and their deputies, the councils elect the chairpersons and their deputies of the various committees. The number of committees as will be discussed later will depend among other factors on the size of the particular council.

The Local Authorities therefore work through legally constituted committees of elected and

nominated councillors. The responsibilities of councilors include formulating policies and planning of activities that help the community engage in socio-economic and political responsibilities in their areas (Omamo, 1995). The council committees discuss departmental programme and activities and propose their budgets. These budgets finally form the council budget discussed during the council budget day. Members of the public are allowed to attend the budget day of their Local Authority. The council committees determine the annual programme and services offered by the council. The community and stakeholders should take interest on what goes on in these committees since the funded services affect them. Examples of crucial services provided include water, roads, building plans (in municipalities) and solid wastes to name but a few.

It is through the council committees that the community and stakeholders when invited can participate in council deliberations. In Kenya community participation is made possible through the Local Authority Service Delivery Action Plans (LASDAP) and the budget day (The issue of LASDAP is discussed in chapter 4 section 7).

Internationally the role of Local Authorities is to manage affairs of the local community as exemplified by the German basic law governing their municipalities (Wanjohi 2003); the South African Constitution of 1993 (Section 174) and the Ugandan Local Government Act (ULGA, 1997). The legislations in different countries give Local Authorities different powers and hence the varied functions found in their Local Authorities. For example, Local Governments in Uganda implement their functions by involving the community in decision-making through participatory governance. In South Africa participation of the community in Local Government matters is recognized in the Constitution Chapter 7 section 152 (1)e. The participatory framework in South Africa clarifies the different roles to be played by each involved stakeholder.

In the Kenyan situation such framework can assist the Kenyan citizens to demand for involvement in Local Authorities programmes. There is an opportunity for this when reviewing the current Local Government Act and the constitution.

## Key Points

- ⇒ According to the Omamo commission, Local Government can be defined as a system of government whereby the state allows the establishment of local units of government with powers and authority to make local decisions on matters that affect the local communities and to mobilise local resources for implementation or execution of the decisions made.
- ⇒ Local authorities have many objectives but the main objective is to respond to local community demands.
- ⇒ Local authorities have a mandate to provide the following basic services to the community: water and sanitation, health, education, general infrastructure, security, employment and other economic activities.
- ⇒ To undertake these mandates Local Authorities are empowered by the current Local Government Act Cap. 265 of the Laws of Kenya part XIV to make and enforce by-laws; to raise funds through rates, fees and other user charges to implement their obligations. However, there are other pieces of legislations that affect and influence the management of Local Governments.
- ⇒ Since 1902 Kenya had some form of Local Government which has evolved over time to the current structures we have today. When Local Authorities were created by the Local Government Regulations in 1963, there existed another administrative structure consisting de-concentrated

provincial administration system from the central government. These dual structures remain to date and have sometimes caused governance problems.

- ⇒ Local authorities work through legally constituted committees of elected and nominated councillors. The responsibilities of councilors include formulating policies and planning of activities that help the community engage in socio-economic and political responsibilities in their areas. It is through the council committees that the community and stakeholders when invited can participate in council deliberations.

## Structure and Functions of Local Authorities in Kenya

### 3.1. Introduction

For citizens to engage Local Authority leadership and evaluate their performance they need to have basic facts and information on the structures and functions of Local Authorities. This chapter aims at giving the citizens and readers such information and will include the following topics:

- The four different types of Local Authorities in Kenya
- Local Government election and membership
- List of permissive and mandatory functions of Local Authorities
- Local Government election and membership
- Powers of the mayors and town clerks

### 3.2. The Four Types of Local Authorities in Kenya

The Local Government system in Kenya is divided into four categories (Omamo, 1995). These are: city, municipal, county and town councils. Currently (year 2009) the Local Authority system has 175 Local Authorities composed of one city council (Nairobi), forty five municipal councils, sixty seven county councils and sixty two town councils (see table 1 below).

**Table 1: Types and Number of Local Authorities in Kenya**

Category	Local Authority	Total No.
I	City Councils	1
II	Municipal Councils	45
II	County Councils	67
IV	Town Councils	62
<b>Grand Total</b>		<b>175</b>

Source: Omamo, 1995

The powers to establish a county, municipal and town councils are vested in the Minister of Local Government under the LGA Cap 265. However, the Act is silent on the criteria to be used for the establishment of the different categories of Local Authorities. Further, currently there is no law in Kenya that establishes city councils. However, it is important to note that the Local Government Act (LGA Cap. 265) of the Laws of Kenya, section 2 classifies and recognizes the City Council of Nairobi

as a Municipality despite the fact that it was given the city status in 1950. It is therefore treated legally as a municipality in all respects.

### 3.3. Establishment and Sizes of Local Authorities in Kenya

Municipal councils are established by the Local Government Act section 12 (1) which states that “for every municipality there will be a municipal council established under this Act and every municipal council shall consist of such number of councilors as may be elected, nominated or appointed under section 26”. The county and town councils are established in a similar manner under section 28 of the LGA cap 265. All Local Authorities in Kenya are established as corporate bodies. This means that they have names, common seals and perpetual succession. They can sue and can be sued, can acquire, hold and alienate property.

The city council of Nairobi and the municipalities of Mombasa and Kisumu are relatively large in terms of population compared to the other Local Authorities. Table 2 below shows the population comparisons of a sample of the big and small authorities (CLGF 2008). It is worth noting that, the eight provincial headquarters are also the seats of large municipalities. These are: Nairobi City Council; Mombasa; Kisumu; Nakuru; Kakamega; Nyeri; Embu and Garisa Municipal Councils. The headquarters represent: Nairobi, Coast, Nyanza, Rift Valley, Western, Central; Eastern and North Eastern provinces respectively.

**Table 2: Selected Local Authorities and their Population**

Local Authority	Largest		Smallest	
City Council	Nairobi	2,143,254	Kisumu	322,734
Municipal Council	Kehancha	151,887	Karatina	6,852
County Council	Nakuru	751,260	Moyale	53,479
Town Council	Kangundo	187,389	Chepareria	8,812

Source: Commonwealth Local Government handbook (2008) table1 pp.97.

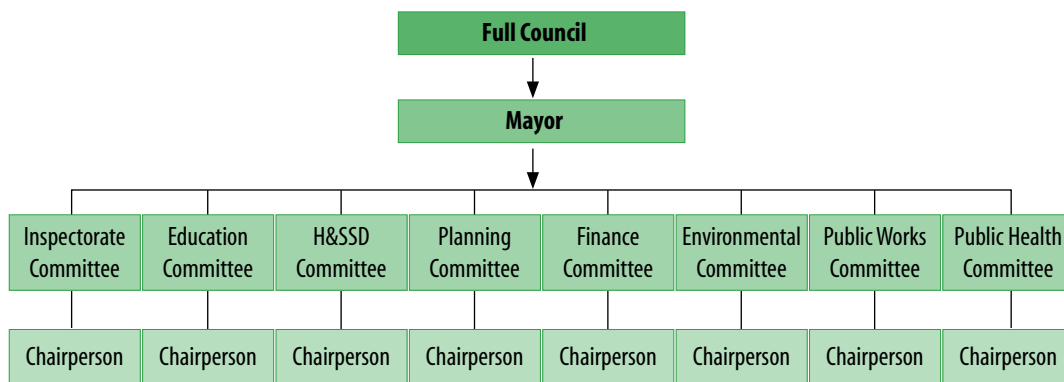
The various population sizes of Local Authorities, their strategic position coupled with their economic activities and increased population put a lot of demand for Local Authority services. The larger the Local Authority the bigger the demand for services. For example, Nairobi city council with a population of 2.1 million people gets a higher demand for services from citizens than Kisumu with a population of 300,000 people. The Kenya urban authorities are centres of job opportunities. Many people from the countryside move into towns in search of better livelihoods. This means that part of the population of the urban Local Authorities is from in migration.

### 3.4. The Structure of Local Authorities

The structure of the different Local Authorities is related to their sizes and the categories. It is important for the citizens to know that Local Authorities are run on a committee based systems. In each Local Authority there are two structures. One is the decision making (political) structure headed by the mayor or chairperson and the other is the administrative structure headed by town/county clerk. The figures below show typical political and administrative local council structures.



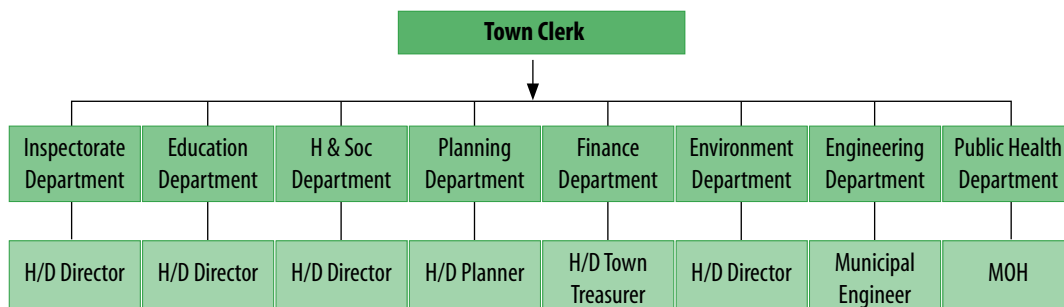
**Figure 1. An Example of a Political Structure Based on a Committee System.**



Key: C- Committee; H& SSD- Housing and Social Services Department

In Figure 1 above, the governing or policy making organ of the council is the meeting of all councillors called Full Council. The full council is chaired by the mayor/chairperson of a county or town council. Under the full council are found the different standing committees chaired by chairpersons (elected or nominated councillors). These committees deliberate on sectoral policy matters referred to them by relevant departments shown in Figure 2 below.

**Figure 2. Administrative Structure Based on Departments.**



Key: H/D – Head of Department; MOH- Medical Officer of Health.

As shown in Figure 1 above, the highest decision making organ of a Local Authority is the full council whose membership is all councillors. This committee is chaired by the mayor or chairperson of the council. The mayors or chairpersons, and their deputies, the chairpersons of the different council committees are elected by councillors during their first meeting of the council and after every two years. The councillors’ main role is to make decisions on service delivery and by-laws based on the council’s plans, financial resources availability and technical advice from the management staff.

Figure 2 above is referred to as the management (administrative) structure and is headed by the town/ county clerk. The structure is composed of heads of departments and senior managers of Local Authorities. The management team consolidates the departmental recommendations to be presented to the relevant committees shown in Figure 1 above for consideration. The technical meeting recommendations are meant to advise the policy making committees including provision of services and council by-laws. The team is organized in service departments as shown in Figure 2.

As discussed elsewhere the sizes of the Local Authority determine the number of political committees and technical departments. The service provision in these councils is based on such structures. For example in the organizational structures Mombasa Municipal Council has thirteen (13) committees and eleven (11) departments while Kakamega Municipal council has seven (7) committees and five (5) departments

The citizens should note that where the political and the management structures work in harmony, Local Authorities services tend to be provided effectively. The other way is true for when the two structures are in conflict.

### **3.5. Functions and Provision of Services by Local Authorities**

Services in Local Authorities are provided by using two types of functions as specified by the Local Government Act. These are mandatory and permissive functions. Mandatory functions are functions that are Local Authorities must do under the law. For example to provide for the burial grounds and crematoria; and bury destitute persons who die in the Local Authority areas and whose bodies remain unclaimed from the local hospital mortuaries.

Permissive functions are those that Local Authorities may exercise at their own instance and others that they may perform subject to the approval of the Minister or subject to compliance with the law (Omamo, 1995). Such functions may require Local Authorities to have organizational ability and financial capacity in order to carry out their functions. Most of the provisions allowed by the Local Government Act (as specified in sections 143-197) are essentially permissive.

#### **Box 3: Example of services provided by Local Authorities in Kenya:**

Markets, parks and gardens; sanitary inspection and refuse disposal; burial grounds and crematoria; fire services and fire brigade; public transport; social welfare services; basic environmental sanitation; roads and drains, water supply; and basic planning and development control; among others.

The Sections 3.3 - 3.4 on the establishment and structures illustrated that different Local Authorities have different sizes in terms of categories, population, committees and departments. It is therefore a fact that the basic services are not uniformly provided by Local Authorities. For example, the city council and the municipalities provide more services than the town and county councils.

Nairobi through its 15 departments provides many services including health, primary education, planning, roads, housing, markets and solid waste management among others. Mombasa with 11 departments provides facilities for primary education, health services, markets, health, solid wastes management and planning. Kakamega has 5 departments and eight committees with similar services like Mombasa.

The smaller the Local Authority the less number of services they can provide. For example, only a few Local Authorities can effectively provide such services as water and housing due to their high investment and infrastructure requirements.

This means that citizens in different Local Authorities should expect different types of services. Their expectation should be adjusted accordingly.

### **3.6. Local Government Election and Membership**

Citizens have a responsibility to elect Councilors who represent them in the councils and make decisions that affect their daily lives. Citizens also have a right to stand for councilorship and to be elected. They therefore need to know the qualifications and understand the process of that election. The handbook gives a few highlights and recommends some references for more details to those interested.

#### **3.6.1. Qualifications and Disqualification for Registration as a Voter**

Section 53 (1) of the Local Government Act of the Laws of Kenya cap 265 provides that each electoral area can elect one or more councillors.

The details of qualifications and disqualifications of Councilors are described in sections 53A, 53B, 53C and fifth schedule (Local Authorities election) of the Local Government Act cap 265 of the laws of Kenya (see appendix 3).

The rules for the voters and electoral roles, elections, re-election and memberships are covered in sections 55-59. Sections 61 to 65 deal with the dispute to validity of elections, declaration by councilors, resignation of councilors and filling of vacancies, vacation of office as councilor, absence of councilors from meetings and tenure of seats of councilors. The details of the Local Government election rules are provided for in the subsidiary legislation of the Local Government Act (LGA, 1998 section 53C).

Citizens interested in offering themselves as candidates for councillorship need to familiarize themselves with the information in this section of the handbook.

#### **3.6.2. Election, Functions and Powers of Mayors/Chairpersons of Local Authorities**

As discussed in section 3.4 the Mayor or chairperson, their deputies and chairpersons of the different council committees are elected by councilors. The elections, filling of vacancies of these offices, and allowances for those offices are covered under sections 14 to 19 and sections 29 to 34 of the Local Government Act. The main function of the mayor/ chairperson as provided for under section 77 is presiding over council meetings. Sections 78-84 describe the conduct of the council meetings including; record of attendance and quorum; attendance by public officers; the keeping and signing of the minutes; legality of the meetings; inspection of the minutes, adjournment of meetings and admission of press. The Mayor/chairperson is empowered by the Local Government Act (LGA second schedule standing orders) to summon public meetings to discuss matters affecting the inhabitants. The standing orders of Local Authorities that regulate the conduct of business are provided for in section 85 of the Act and in Part I of the Second Schedule.

The mayors/ chairpersons face a challenge in performing their duties. As discussed earlier in section 3.4 when the administrative structure headed by the town/county clerk does not work in harmony with the political structure headed by the mayor/chairperson then there will be no effective service delivery in that council. Unfortunately the current Local Government system is such that the town clerks and other senior officers of the councils are controlled by the Ministry of Local Government and any mismanagement can only be reported to the Ministry of State for Public Service which has the

mandate to discipline council officers. Sometime actions take long and council services suffer.

Equipped with the foregoing information the citizens can effectively take part either as a voter or a candidate for councillorship in any Local Authority in Kenya. The other role the citizens can play is to lobby for efficient and effective service delivery by making sure that both political and administrative structures of the council perform their duties.

### **3.6.3 Functions and Powers of Town Clerks**

The functions and powers of the offices of the town clerks are provided for in the LGA cap 265. Part VIII, section 107 empowers the Public Service Commission (PSC) to appoint a town clerk on a full time basis to a Local Authority. The clerks to County Councils are appointed under section 109 of the same Act. The qualifications of a town clerk include being an advocate of High Court of Kenya or having ten years experience of Local Government administration. The Town/County Clerk of a Local Authority is empowered by the LGA under section 129 to be the Chief Executive Officer and Chief Administrative Officer (CEO/CAO) and has the general responsibility of coordinating the whole of the work of a Local Authority. The duties of the Clerk in relation to the appointment are specified in Part I of the third schedule (see appendix 2).

As discussed in section 3.6.2, the appointment of the Clerks by the Public Service Commission and the control of them by the Ministry of Local Government sometimes cause conflict in the operation of the council as far as discipline of the officers is concerned. It is therefore important for citizens to know the powers of the clerk to their Local Authority since decisions of the Local Authority implemented by the clerk do affect the services provided and hence their livelihoods.

### **Key Points**

- ⇒ The Local Government system in Kenya is divided into four categories: city, municipal, county and town councils. Currently (year 2009) the Local Authority system has 175 Local Authorities.
- ⇒ In each Local Authority there are two structures; the decision making (political) structure headed by the mayor or chairperson and the administrative structure headed by town/county clerk. The citizens should note that where the political and the management structures work in harmony, Local Authority services tend to be provided effectively. The contrary is true when the two structures are in conflict.
- ⇒ Services in Local Authorities are provided by using two types of functions mandatory and permissive functions. Mandatory functions are functions that Local Authorities must do under the law. E.g. provide for the burial grounds and crematoria. Permissive functions are those that Local Authorities may exercise at their own instance.
- ⇒ Different Local Authorities have different sizes in terms of categories, population, committees and departments. Consequently basic services are not uniformly provided, meaning citizens in different Local Authorities should expect different types of services.
- ⇒ Citizens have a right to stand for councillorship and to be elected. They also have a responsibility to elect councilors to represent them.
- ⇒ The Mayor or chairperson, their deputies and chairpersons of the different council committees are elected by councilors. The main function of the mayor/ chairperson is presiding over council meetings. The Public Service Commission (PSC) appoints a town clerk on a full time basis to the Local Authority. Qualifications of a town clerk include being an advocate of the High Court of Kenya or having 10 years experience of Local Authority administration.

⇒ The current Local Government system is such that the town clerks and other senior officers of the councils are controlled by the Ministry of Local Government and any mismanagement can only be reported to the Ministry of State for Public Service which has the mandate to discipline council officers. Sometime actions take long and council services suffer.

## Sources of Local Authorities Revenues

### 4.1 Introduction

The main function of a Local Authority is to provide services. For them to provide these services adequately they need corresponding human and financial resources. For the citizens to evaluate the effectiveness and efficiency of the Local Authorities in the provision of services, they need to know the status of the Local Authorities revenue in terms of types, collection and expenditure. This chapter of the handbook discusses these issues along the following topics:

- Global perspective of Local Authorities revenue
- Local Authorities revenues: The Kenyan situation.
- Kenyan Local Authority revenue structure for the FY 2006/2007 and 2007/2008
- Other sources of revenue available for the Kenyan Local Authorities.
- Local Authority Transfer Fund (LATF)
- Challenges Local Authorities face in realising the required revenue

### 4.2. Local Authorities Revenues: Global Perspective

The purpose of establishing a Local Government financing system is in recognition of the important role played by Local Authorities as agents of decentralisation; grassroots democracy; and engines for development. Many countries aware of this potential are transferring more resources and service responsibilities to Local Authorities. Equipped with such resources Local Governments are increasingly taking on more responsibilities to meeting Millennium Development Goals (MDGs) as well as facing the challenges of globalization” (Basil Morrison 2008).

The challenge in developing countries including Kenya is the fact that there is a slow growth in the revenues for Local Authorities due to limited grants from central governments as well as limited capacity within Local Authorities to collect as well as grow own resources. The Omamo report (1995) sites the second reason for the slow growth as the lack of insufficient taxing authority at the local level and shortfall in revenue collection (Omamo, 1995).

### 4.3. Local Authorities Revenues: The Kenyan Situation

Currently the Kenyan Local Authorities have a number of sources for their revenues. These include: Local Authority Transfer Fund (LATF), Roads Maintenance Levy Fund (RMLF), Contribution in Lieu of Rates (CILOR), property rates, single business permit, vehicle parking, plot rents, water and sewerage

fees, cess receipts, game park fees, and house rents. LATF is the main source of Local Authorities revenue. For instance, the revenue structure for the years 2006/2007 and 2007/2008 illustrated by table 3 below shows the LATF allocation of KShs. 7,460.7M. This accounts for 36.2% of the total revenue of KShs. 20,618.6M for the period. The LATF allocation percentage for the year 2007/2008 is 36.3 percent. Tables 3 and 4 confirm LATF's position as one of the main source of Local Authorities revenue. How LATF is managed will therefore reflect on the effectiveness of the targeted services by that fund. The focus of the citizen's attention on the evaluation of the use of the Local Authority revenue should focus more on the LATF.

#### 4.4. Revenue Structure for the Kenyan Local Authorities for the FY 2006/2007 and 2007/2008

The budgeted and the actual revenues collected by Local Authorities in Kenya for the FY 2006/2007 and 2007/2008 were KShs.18.20B and KShs. 20.62B respectively. The planned revenue for the FY 2007/2008 is estimated to be KShs. 22.8B. This is an increase of 10 percent. Table 3 below shows the details of all the Local Authorities revenues for the described period.

**Table 3: Kenyan Local Authority Revenue Structure for the FY 2006/2007 and 2007/2008 (in KShs. Billions)**

Sources of Revenues	Planned 06/07	Actual 06/07	Planned 07/08
LATF	7.50	7.46	8.25
RMLF	0.61	0.87	0.64
Sub-Total Revenues from Central Government	8.12	8.33	8.89
CILOR	0.47	0.33	0.42
Property Rates	2.54	2.99	3.33
Single Business Permit (SBP)	1.95	1.96	1.96
Vehicle parking	1.00	1.30	1.77
Market Fees	0.90	0.95	1.15
Plot rents	0.17	0.20	0.30
Water and Sewerage Fees	0.51	0.52	0.19
Cess Receipts	0.49	0.57	0.62
Game Park Fees	0.58	1.01	0.73
House rents	0.35	0.31	0.63
**Others	1.84	2.16	2.77
Sub-Total Local Revenues	10.81	12.29	13.87
Total Central and Local Revenues	18.20	20.62	22.76

Source: LATF Annual Report 2006-2007, Table 2 page 6 and 7.

The revenues of Local Authorities have been increasing upward since the FY 2002/2003. Table 4 below illustrates the details of the increase. Analysis of tables 3 and 4 show that the central government revenue transfers to Local Authority revenue have been increasing. However, this increase was not sufficient to cover the cost of the increased demand for services and inflation rate over the same period.

Another challenge is that by 30th June 2007 Local Authorities had an outstanding debt of KShs. 12.9 million and that of 2007/2008 is over Ksh.9 billion. This situation limits the available revenues to

provide the ever increasing demand for services. The issue of debt resolution will be discussed later after considering other sources of revenues for Local Authorities.

**Table 4: Local Authorities Actual Revenues for the FY 2002/2003 to FY 2006/2007 (KShs. Millions)**

Revenues Sources	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007	% 2006/2007
LATF	2,97	3,719	3,930	4,986	7,461	36.18
RMLF	77	323	524	506	869	4.22
Sub-Total: Central Government	3.05	4,042	4,453	5,492	8,329	39.81
CILOR	178	365	270	300	327	1.58
Property Rates	2,348	2,028	1,840	2,497	2,986	14.48
Single Business Permit	1,343	1,572	1,674	1,736	1,963	9.52
Vehicle parking	492	615	973	1128	1300	6.30
Market Fees	623	706	701	832	550	2.66
Plot rents	136	166	163	169	202	0.97
Water and Sewerage Fees	1,761	1,767	535	472	518	2.52
Total Cess Receipts	386	440	494	569	569	2.76
Game Park Fees	471	458	688	729	1,011	4.90
House rents	494	386	314	314	308	1.49
Others	867	994	843	1367	2,156	10.46
Sub-Total Local Revenues	9,100	9,497	8,495	10,112	12,289	59.60
<b>Total Central and Local Revenues</b>	<b>12,146</b>	<b>13,538</b>	<b>12,948</b>	<b>15,604</b>	<b>20,619</b>	<b>100</b>

Source: Adopted from LATF Annual Report 2006-2007.

#### 4.5. Other Sources of Revenue Available for the Kenyan Local Authorities

The other sources of revenues listed in the two tables include: European Union (EU) Poverty Reduction Fund Grant, charges, fines and interests, advertising fees and planning approvals amounting to KShs.2.156 million for the FY 2006/2007. Details are shown in table 5 below.

**Table 5: Other Revenues for the Kenyan Local Authorities for the FY 2006/2007.**

Description	KShs. Millions
EU Poverty Reduction Fund Grant	138.5
Other Grants	76.5
Administration charges, fines, and interest	175.3
Advertising fees and planning approvals	402.4
Income from commercial activities	330.5
Public health and Waste charges	214.4
Miscellaneous	818.8
<b>Total</b>	<b>2,156.4</b>

Source: LATF Annual Report 2006-2007.



Table 5 above shows that Local Authorities received a total of KShs. 2.156 million for the FY 2006/07. This is less than half of the LATF received for the same period. Collection of revenue is a big challenge to Local Authorities. For example there is a very high rate of rate defaulters. For instance, the city council of Nairobi by the 3rd quarter of the FY 2007/2008 had collected KShs. 3,737,477 against the budgeted Ksh. 6,600,000. This means that the City may implement only 50% of the programmes they had planned the money for (City Council of Nairobi, 2009). Since LATF is a major contributor of the Local Authority revenues, this handbook will look at it in greater detail below.

## 4.6. Local Authority Transfer Fund (LATF)

As shown in the previous sections and in tables 3 and 4 above, LATF is a very important source of Local Authority revenue in Kenya. In the FY 2006/2007 it contributed 36% of the total Local Authority revenues. Since this is a specific government grant, it is important for citizens to know what it does and how it is managed.

### 4.6.1. LATF: Establishment, and Institutional Framework

The Local Authorities Transfer Fund (LATF) is a fund established by the LATF Act (No. 8 of 1998) to replace the Local Authority Service Charge (LASC). The Act came into effect on the 10th of June 1999 and provided the transfer of 5% of the national income tax. LATF has therefore facilitated the disbursement of funds to Local Authorities to assist them finance some of the services they are required to provide under the Local Government Act as discussed above.

#### Box 4: The Objective of LATF:

- Improve service delivery to the public;
- Improve financial management and accountability; and
- Eliminate all outstanding debts by 2010.

The LATF Act No. 8 of 1998, the LATF regulations of September 1999 and administrative circulars from the ministries of finance and Local Government provide an administrative framework for the operation of the fund. Institutionally the Fund is the responsibility of the Ministry of Finance but is administered by the Permanent Secretary (PS) MoLG. The regulations cover the appointment of the LATF Advisory Committee (LAC), the criteria for the disbursement of funds, reporting and records keeping. The fund is being managed by two ministries (Finance and Local Government) through the LATF regulations and the LATF advisory committee.

The committee monitors and guides the operations of the fund to ensure that the provisions and the requirements in the LATF Act and regulations are followed by all Local Authorities. Failure to comply by Local Authorities attracts penalties. Local Authorities can lose 15% or 40% and in a worse scenario 100% of the LATF allocation if they fail to abide with the regulations.

### 4.6.2. The Structure and Components of LATF

The citizens should hold the Local Authorities accountable for the failure to meet the LATF conditionality and objectives. For them to do this effectively they need to know the components of LATF. The following is very important for that evaluation. The LATF components are: service delivery

(60%) and performance (40%). The disbursements of these components are based on the fulfillment of the LATF conditionality (LATF annual report of FY 2006/2007). For example, table 6 shows typical performance conditionality for LATF for the FY 2006/2007. The conditionality elements include: a statement of receipts, payments and balances for the FY 2005/2006; a statement of debtors and creditors for the FY 2005/2006; Local Authority Service Delivery Action Plan (LASDAP); an abstract of accounts for the FY 2005/2006; and a Revenue Enhancement Plan (REP).

**Table 6: Performance Conditionality for Local Authorities to Access LATF 06/07**

Submission Date	Documents Required
30th September 2006	<ol style="list-style-type: none"> <li>1. A statement of receipts, payments and balances for the FY 2005/2006.</li> <li>2. A statement of debtors and creditors for the FY 2005/2006 with an explanation of the previously signed debt reduction plan.</li> </ol>
30th November 2006	A Local Authority Service Delivery action plan (LASDAP) documenting that Local Authority conducted a participatory planning process and identified a 3 year rolling programme of projects and activities- the first year of which was to be incorporated into the next years budget.
31st December 2006	An abstract of accounts for the FY 2005/2006 to be submitted to the Controller and Auditor general for audit. Copies to be submitted to the Ministry of local Government and Ministry of Finance.
28th February 2007	A revenue enhancement plan (REP) outlining how the Local Authority was going to improve its revenue mobilization during the FY 2007/2008.

Source: Adopted from the LATF Annual Report FY 2006-2007.

The LATF service delivery and performance conditionality and the penalties form part of the accountability checks on Local Authorities' compliance to LATF Act. The other measures are the publication of the LATF allocations by the Ministry of Local Government and the financial profiles/budgets by the Local Authorities. The signing of the performance contracts by all Local Authorities is aimed at ensuring that the targeted activities planned and agreed upon by the Local Authorities and government are implemented and these include the LATF projects. The LASDAP process is meant to create an opportunity for members of the public to take part in the planning of activities that will be funded by LATF and other council revenues (see section 4.7 below).

#### 4.6.3. LATF Allocation for the FY 2006-2007.

The LATF act stipulates that the fund will receive 5% of the national income tax to be distributed to Local Authorities to address the objectives listed in box 4. The amount of LATF allocation for the FY 2006/2007 is KShs.7.5 billion the disbursement dates are as shown below:

**Table 7: LATF Allocation for the FY 2006-2007**

Date Payment Due	Gross Amount (Ksh)	Net Amount After Penalties (KShs. in billions)
30th September 2006	3.38	3.37
31st January 2007	3.53	3.49
30th April 2007	0.60	0.60
<b>Totals</b>	<b>7.50</b>	<b>7.46</b>

Source: LATF Annual Report FY 2006-2007.

Table 8 below shows the different amounts allocated and expected by the sample Local Authorities. The criteria used to distribute LATF for the year 2005/2006 was as follows:

A basic minimum lump sum of KShs.1.5 million was allocated to each Local Authority (6.56%); 60% was allocated on the relative population of each Local Authority; 30.73% was allocated based on the relative urban population of each Local Authority. The remaining 2.71% is left for the administration of the fund (LATF annual report of FY 2006/2007).

**Table 8: LATF Allocation for the FYs 2005/2006; 2006/2007 (in KShs. Millions)**

No	Local Authority	KSh.05/2006	KSh.06/07	Expected KSh.07/08
1	City Council of Nairobi	889.44	1,350.35	1,531.80
2	Municipal Council of Mombasa	273.69	430.33	476.33
3	Municipal Council of Kisumu	96.43	148.44	164.04
4	Municipal Council of Eldoret	73.50	113.41	125.38
5	Municipal Council of Nyeri	26.39	39.94	44.00
6	Municipal Council of Machakos	25.21	38.20	42.01
7	County Council of Kakamega	52.03	77.30	84.88
8	County Council of Embu	19.25	28.14	30.80
9	County Council of Narok	36.33	53.81	59.06
10	County Council of Olkejuado	64.74	98.04	108.02
11	County Council of Gusii	33.24	49.11	53.88
12	Town Council of Mandera	15.07	22.58	24.83
13	Town Council of Kwale	5.78	8.01	8.68
14	Town Council of Malakisi	6.63	8.46	10.09
15	Town Council of Litein	11.04	15.87	17.32
16	Town Council of Chogoria	5.27	7.21	7.80

Source of Information: LATF Annual Report for the FY 2006-2007.

For example as shown in table 8, in the year 2006/2007 the City Council of Nairobi received KShs. 1.35 billion, the Municipal Councils of Mombasa, County Council of Kakamega, and Town Council of Mandera received KShs. 430M; 77M and 22M respectively. This illustrates that the bigger Local Authorities in terms of population and activities receive larger amounts of LATF allocation.

#### **4.6.4. Importance of LATF as a Source of Revenue to Local Authorities.**

LATF is an important source of revenue to Local Authorities. As illustrated in tables above. In the absence of any other grant or revenue source, LATF will continue to play a major role in financing Local Authority programmes and projects. It has assisted in maintaining Local Authorities expenditures within the budget levels due to its conditionality. Most Local Authorities are showing significant levels of capital expenditure and debt resolution payments.

### **4.7. Local Authority Service Delivery Plan (LASDAP)**

Among the laws that require Local Authorities to involve community participation in decision making in Kenya is the Local Authority Transfer Fund (LATF) Act. According to the LATF Act the Local Authority Service Delivery Action Plans (LASDAP) are prepared by Local Authorities in collaboration

with their relevant ward communities. LASDAP is used to:

- Assist Local Authorities in planning/prioritising their use of LATF and other resources through community participation
- Encourage Local Authorities to spend resources on service delivery to citizens
- In line with Poverty Reduction Strategy Programme (PRSP), to encourage Local Authorities to meet the needs of the poor

The participatory process of LASDAP is essentially a stakeholder/ community participation process. The stages of the process are shown in appendix 1. The LASAP process can therefore be used to encourage participation, partnership and ownership of the Local Authority projects and programmes. The process has a number of advantages including accountability and ownership of the process by the participants. The challenges of the process include: inadequate resources, capacity and knowledge needed in the participation process. Local Authority Service Delivery Action Plan (LASDAP) and City Development Strategy are examples of tools currently available that can demonstrate participatory partnership and networking. Citizens need to know this and get involved in the process. For more information on LASDAP see “Guidelines for the Preparation, Implementation and Monitoring of Local Authority Service Delivery Action Plan (LASDAP); by the Ministry of Local Government, July 2005”.

## 4.8. Challenges Local Authorities Face in Realizing the Required Revenue

### 4.8.1. Local Authorities Expenditure

The table below shows the budgeted estimates of revenue and expenditure for most Local Authorities for FY 2008/09; nearly half the Local Authorities have budgeted for more expenditure than revenues. Local authorities are faced with a challenge of raising adequate revenues to finance their expenditures.

**Table 9: Budgeted Estimates of Revenue and Expenditure FY 2008/2009 (in billions KShs)**

	Local Authority	Total Revenue	Total Expenditure	Surplus/Deficit
1	City Council of Nairobi	7.68	9.54	(1.86)
2	Municipal Council of Mombasa	2.03	2.34	(0.32)
3	Municipal Council of Nakuru	0.61	0.70	(0.97)
4	County Council of Baringo	0.72	0.12	(0.49)
5	Municipal Council of Eldoret	0.54	0.58	(0.42)
6	Municipal Council of Naivasha	0.12	0.15	(0.31)
7	County Council of Samburu	0.16	0.18	(0.24)
8	Town Council of Sotik	0.21	0.44	(0.24)
9	Municipal Council of Kericho	0.12	0.14	(0.20)
10	Municipal Council of Maua	0.41	0.59	(0.18)
	Others	13.26	13.70	(0.44)
	<b>TOTAL</b>	<b>24.65</b>	<b>27.58</b>	<b>(2.93)</b>

Source: LATF Annual Report, FY 2007/2008

Deficits lead to increased borrowing hence an increase in Local Authorities debt. One of the objectives of the LATF is the reduction of Local Authority debt and the regulations require the elimination of

arrears of debt by 2009-10. The overall amount outstanding has risen again from KShs 12.9 to 13.6 billion which is disappointing and means that for many Local Authorities the 2009-10 target will not be met. The bulk of the increase however again comes from the City Council of Nairobi and the remaining Local Authorities have in fact reported a small decrease in the balance owing (LATF annual report, FY 2007/2008).

**Table 10: Five-Year Comparison From FY 2003-04 Actual Expenditure (KShs. Millions)**

Expenditure Classification	03/04	04/05	05/06	06/07	07/08	% Change on 06/07
Civic Expenditure	712	833	1,102	1,315	1,236	(6.0%)
LA Personnel	4,399	5,770	6,138	7,830	9,047	15.5%
LA Operations	2,572	2,203	3,233	3,899	4,008	2.8%
LA Maintenance	718	563	628	723	807	11.7%
<b>TOTAL RECURRENT EXPENDITURE</b>	<b>8,401</b>	<b>9,369</b>	<b>11,101</b>	<b>13,767</b>	<b>15,098</b>	<b>9.7%</b>
Capital Expenditure	1,158	1,559	1,511	3,073	3,469	12.6%
Debt Resolution	554	2,202	2,268	3,317	4,229	27.5%
Loan Repayments	41	217	174	23	13	(43.4%)
<b>TOTAL EXPENDITURE</b>	<b>10,154</b>	<b>13,347</b>	<b>15,054</b>	<b>20,180</b>	<b>22,809</b>	<b>13.0%</b>

Source: LATF Annual Report, FY 2007/2008

Local authority expenditure classification is shown in the table above. The table shows five year comparison of Local Authority actual expenditures. Expenditure on personnel and civic expenditure falls between 42% and 47% of total expenditure. Towns and counties, however, with smaller revenue bases tend to spend a higher portion of their expenditure on civic costs—ranging from 9 to 12 percent. The amount spent on maintenance continues to be low and Local Authorities should allocate increasing amounts for this type of expenditure to ensure that assets created through capital investment are sustainable. On average, Local Authorities spent 15% on capital expenditures and about 15% on debt resolution, though the City Council of Nairobi has greatly increased the proportion of its expenditure on debt resolution and capital projects (LATF Annual Report, FY 2007/2008).

#### 4.8.2. Inadequate Revenues for Local Authorities in Kenya

In the years 1969, 1973, 1978 and 1989 Local Authorities saw a gradual removal of their functions to central government ministries and departments, consequently a decline in sources of revenue. For example, in 1969 the Transfer of Functions Act mentioned earlier authorized the transfer of primary education, health services and road maintenance from rural Local Authorities to central government. The removal of these powers were due to the fact that Local Authorities were unable to deliver the services effectively.

The Graduated Personal Tax (GPT) was removed from municipalities in 1973. This was followed with the removal of grant system from county councils. The GPT was replaced with specific grants to cover certain services. In 1989, the specific grants were replaced by service charge. This was a charge levied to business premises and employees in formal and informal sector. Again the service charge was abolished and in its place the Local Authorities Transfer Fund Act (LATF 1998) was introduced.

The Challenge is that all these government efforts to supplement Local Authorities income are still inadequate to meet the growing community demand for basic Local Authority services. This therefore means that Local Authorities require establishing suitable financial resources and financial sustainable strategies for them to contribute meaningfully to the economic; social and political development as envisaged in the vision 2030.

#### **4.8.3. Fiscal Decentralisation from Central Government to Local Authorities**

One possible solution to the issue of inadequate revenues for Local Authorities is that addressed by the first Medium Term Plan (2008-2012) of the Vision 2030. The MTP (2008-2012) describes a comprehensive review of laws relating to decentralisation of funds and the Local Government Act. The solution to this situation is a complete devolution where fiscal and political decentralisation is established.

It will be prudent financial management if the Local Authority Transfer Fund (LATF), Roads Maintenance Levy Fund (RMLF), Constituency Development Fund (CDF), Bursary Fund and any other devolved funds could be pooled. These funds are addressing the needs of the citizen at the local level and hence should have one management to avoid wastage, duplication of programmes and activities. The control and accountability of the consolidated fund will be easier than the many funds. What is required as stated in the MTP is the review of the laws governing these funds and legislate one law that will consolidate them.

The Kenya citizens need to know this fact and engage Local Authority leadership on how they plan to collect the full amount of outstanding rates for the implementation of the approved budget available at the various Local Authority offices.

#### **Key Points**

- ⇒ The Kenyan Local Authorities have a number of sources for their revenues including: Local Authority Transfer Fund (LATF), Roads Maintenance Levy Fund (RMLF), Contribution in Lieu of Rates (CILOR), property rates, single business permit, vehicle parking etc. LATF is their main source of revenue.
- ⇒ The Local Authorities Transfer Fund Act (No. 8 of 1998) came in effect on the 10th of June 1999 and provided the transfer of 5% of the national income tax. The fund is being managed by two ministries (Finance and Local Government) through the LATF regulations and the LATF advisory committee.
- ⇒ The committee monitors and guides the operations of the fund to ensure that the provisions and the requirements in the LATF Act and regulations are followed by all Local Authorities. Failure to comply by Local Authorities attracts penalties. Local Authorities can lose 15% or 40% and in a worse scenario 100% of the LATF allocation if they fail to abide with the regulations.
- ⇒ Local Authority Service Delivery Action Plans (LASDAP) are prepared by Local Authorities in collaboration with their relevant ward communities. The participatory process of LASDAP is essentially a stakeholder/community participation process. The LASDAP process can therefore be used to encourage participation, partnership and ownership of the Local Authority projects and programmes.
- ⇒ Local Authorities are faced with a challenge of raising adequate revenues to finance their expenditures. Deficits lead to increased borrowing hence an increase in Local Authority debt. One of the objectives of the LATF is the reduction of Local Authority debt and the regulations require

the elimination of arrears of debt by 2009-10.

- ⇒ Local Authorities have seen a gradual removal of their functions to central government ministries and departments due to the fact that Local Authorities were unable to deliver the services effectively.
- ⇒ It has been suggested that the Local Authority Transfer Fund (LATF), Roads Maintenance Levy Fund (RMLF), Constituency Development Fund (CDF), Bursary Fund and any other devolved funds could be pooled. These funds are addressing the needs of the citizen at the local level and hence should have one management to avoid wastage, duplication of programmes and activities.

## Local Authority Budgets, Accounting and Auditing

### 5.1: Introduction

Budgeting and accounting in Local Authorities are very important functions. The annual budget guides the operations of the Local Authorities and the accounting show the actual financial transactions that occur during the period. Budgeting and accounting are tools that can be used to assess the governance and accountability status of Local Authorities. How well these tools are used indicate the efficiency and effectiveness of the Local Authority.

This chapter discusses budgeting and auditing and how these can be used by citizens to hold Local Authorities to account on the services they provide. The topics to be covered include:

- Annual estimates/ budgets,
- Accounting and auditing
- Importance of budgeting and accounting.
- Role of citizens in Local Authority Budgeting and Accounting

### 5.2. Annual Estimates/ Budgets

Every financial year the finance committee of a Local Authority prepares and presents to the Local Authority detailed estimates of its income and expenditure for the coming financial year. Members of the community on application are allowed under section 212(9) of the LGA to receive copies of the estimates before they are finally approved by the Local Authority. Copies of Local Authority estimates are then submitted to the Minister of Local Government for approval. Once the Minister approves the estimates, section 212(8) requires that a summary of the estimates may be published in a local newspaper circulating in the area.

As one of Local Government reforms to encourage citizens' involvement in Local Authority matters, the Ministry of Local Government has allocated a budget day for all Local Authorities. During the budget day the citizens are allowed to attend the budget presentation by their respective Local Authority. They are allowed to, on request to get a copy of the budget document.

### 5.3. Accounting and Auditing

Section 227 of the Local Government act gives the commencing date of the financial year of all Local



Authorities to be the first day of July and ending on the thirtieth day of June in the following year. Local Authorities are mandated by section 228 to record and keep all financial transactions in proper books and accounts. The accounts kept should record all receipts and payments and capital money of the Local Authority during the year.

Section 229 requires that Local Authorities using their balanced accounts prepare annual estimates or abstract of accounts as prescribed by the Minister of Local Government. Auditing of Local Authorities accounts is done by government auditors under section 230. Such annual audits are presented to the respective LA for deliberations.

Again the Local Authorities accounts and audit reports are public documents and are accessible by citizens on application. Citizens can use the report to query the Local Authorities on the management of the funds.

If the audit reports show mismanagement, the Minister of Local Government is empowered under section 231 to appoint one or more persons to conduct extraordinary inspection and examinations of the accounts and records of affected Local Authorities.

On receipt of the inspection report the Minister may direct the Local Authority to comply with the recommendations there in. The powers and duties on inspection are covered extensively under LGA sections 236 (1-4); 237 and 238.

## 5.4. Importance of Budgeting, Accounting and Auditing

As discussed in sections 5.2 and 5.3, annual estimates or budgets are requirements by law (LGA Cap 265 section 212); Local Authorities must prepare and present them to the council, and to the Minister for approval. Without such approval any payments made are illegal. The approved estimates are published in the media for public information.

The budgets and the accounts are the basis for internal and external audit. Audits are important instruments for checking the use of public funds and can be used to call Local Authorities to account for any misuse of the funds. For example, accessing LATF requires that the council books of accounts are up-to-date. An audit committee in the Local Authority assists to monitor compliance with the LGA and government financial regulations. The committee is the eyes and ears of the Local Authority, the Government and the public. The functions of audit include reviewing financial statements, considering internal controls and assessing Local Authorities compliance with the laws.

### Box 5: Functions of Audit Committee

- Review significant accounting and reporting issues
- Consider the effectiveness of the Local Authorities internal control system, including information technology security and control.
- Review the effectiveness of the system for monitoring compliance with laws and regulations
- Take action on the results of management's investigation and follow-up of any instances of noncompliance.

## 5.5. The Role of Citizens in Local Authority Budgeting and Accounting

Since the public are allowed to receive copies of the estimates on application, their role includes: scrutiny of the approved estimates; comparing these with the end of year audit reports and query any variance and complement compliance of the LASDAP. This will mean that the community is able to know and engage the LA on matters of implementation of the budgeted LASDAP and other council programmes. Citizens are also able to do social audits of projects as further step in ensuring they get value for their resources.

### Key Points

- ⇒ Every financial year the finance committee of a Local Authority prepares and presents to the Local Authority detailed estimates of its income and expenditure for the coming financial year. Members of the community on application are allowed to receive copies of the estimates before they are finally approved by the Local Authority.
- ⇒ Once the Minister approves the estimates, a summary of the estimates may be published in a local newspaper circulating in the area.
- ⇒ As one of Local Government reforms to encourage citizen's involvement in Local Authority matters the Ministry of Local Government has allocated a budget day for all Local Authorities. During the budget day the citizens are allowed to attend the budget presentation by their respective Local Authority. They are allowed to on request to get a copy of the budget document.
- ⇒ Local authorities are mandated to record and keep all financial transactions in proper books and accounts.
- ⇒ Auditing of Local Authorities accounts is done by government auditors and presented to the Local Authority for deliberations.
- ⇒ Local Authorities accounts and audit reports are public documents and are accessible by citizens on application. Citizens can use the report to query the Local Authorities on the management of the funds.
- ⇒ An audit committee in the Local Authority assists to monitor compliance with the LGA and government financial regulations. The committee is the eyes and ears of the Local Authority, the Government and the public.

## Resource Mobilisation by Local Authorities

### 6.1: Introduction

For Local Authorities to provide the services required adequately and efficiently, they will need to find new methods and ways of mobilising more revenues. Studies from South Africa have shown that Kenyan Local Authorities have not been vigorous in generating and collecting their own revenues. Some of the reasons given for not realising adequate revenue include lack of adequate human resources, non-compliance by the residents to pay council dues and lack of goodwill by the government to support Local Authorities in realising the uncollected revenues. Weak by-laws and lack of appropriate financial strategies have also been cited as contributing to the low revenue generation and collection. This chapter considers the possibilities open to Local Authorities to collect more revenues. The discussion will focus on the following areas:

- The outstanding Local Authorities debts
- Possible sources of more revenue for Local Authorities
- Revenue mobilisation strategies open to Local Authorities
- Kenya Local Government Reform Programme (KLGRP)

### 6.2 Outstanding Debts of Local Authorities in Kenya

One of the biggest challenges for Local Authorities in Kenya is servicing their debts which seem to be getting bigger and bigger every year. The debt portfolio is illustrated in table 11 below.

#### Statutory and Non-Statutory Debts

Statutory debts are those government debts that are governed by statutes. Examples of these as shown in the table below include the National Social Security Fund (NSSF), and Local Authority Pension Trust (LAP Trust). Non- statutory debts are those that are not necessarily government and not governed by statutes. Examples given in the table are salary arrears of staff of Local Authorities. Table 11 below shows the outstanding Local Authorities debt as at 30th June 2007 as KShs.13 billion.

**Table 11: Outstanding Debts of Local Authorities for the FY 2006-2007.**

Ksh. Millions	30/6/2006	30/6/2007	Increase/(Decrease)
<b>Statutory Debt</b>			
LAP Trust	2,325	2,233	(92)
Provident Fund	1,663	2,022	359
NSSF	518	1,628	1,110
Other	593	677	84
Total Statutory Debt	5,099	6,560	1,461
<b>Non-Statutory Debt</b>			
Salary arrears	1,367	1,725	358
Trade and other	4,091	4,655	564
Total Non-Statutory Debt	5,458	6,380	922
<b>Total Debt</b>	<b>10,557</b>	<b>12,940</b>	<b>2383</b>

Source: LATF Annual Report FY 2006-2007 page (xi).

Although one of the objectives of the LATF is to assist Local Authorities eliminate all outstanding debt by 2010, this may not be achieved because of a number of reasons. The first reason is that LATF is supposed to address two other objectives, namely: improving service delivery to the public; and improving financial management and accountability. This means that not all the LATF money can be used to pay debts. Secondly total debt amounts to KSh. 13 billion but the LATF allocation for the same period is KShs. 7.5 billion. Therefore Local Authorities have to find alternative ways of paying their debts if they have to access LATF by 2010. Other reasons include lack of integrity; poor record of Local Authority in collecting own revenue, poor enforcement, etc

### 6.3 Possible Source of More Revenue for Local Authorities

To resolve their debts and provide effective and efficient services Local Authorities need to find new strategies for raising more revenue. The first step is to ascertain the real status of the debts owed and owing. This activity would assist Local Authorities develop a debt reconciliation strategy. This would be possible with the statutory debts where government departments can be called for a roundtable meeting to reconcile and resolve the debts.

Local authorities are empowered by the Local Government Act cap 265 of the Laws of Kenya under sections 216 and 217 to establish and maintain a general rate fund. The Rating Act Cap 267 empowers the Local Authorities to impose rate on land and buildings in Kenya. Local Authorities are empowered by Rating Act Cap 267 section 17 to enforce payments of rates (Republic of Kenya; The Rating Act Cap 267, 1986). The enforcement of this law has been the weakest point of Local Authorities. Section 26 of the Act on publication and service of notices has not been fully utilized by Local Authorities.

One strategy is to hold stakeholders meeting to sensitise them on the importance of paying for the rates and to form partnership with them on the collection initiatives. The second strategy is to enforce the law on payment of the rates due. This strategy will require the support of the government and the courts of law. The Rates Act should be reviewed to give higher fines for rate defaulters. All lands in urban Local Authorities should be revalued and new assessment made and rate payers informed and involved in the valuation process.

The third strategy is to demand that the government pay promptly to Local Authorities the Contribution in Lieu of Rates (CILOR). CILOR is an annual contribution levied under the Rating Act for each financial year. The government has been one of the major defaulters. With commitment and appropriate budgeting the government can pay the CILOR to Local Authorities.

### **Other Revenue Mobilisation Strategies Open to Local Authorities Includes:**

- **Raising Revenue from Electricity and Water Revenues:** Local authorities in Kenya can benefit from revenue streams from a percentage share of proceeds from electricity; and water revenue generated from their jurisdictions through the formation of companies under for instance, the Public Private Partnerships (PPP). Customers can then be billed using a consolidated tariff receipt for the three services, say, water, electricity and rates resulting into improved collection of revenues. Experience from the City of Durban, South Africa where collection rate is over 90% shows that if rates, water and electricity charges are collected together the results is improved collection of revenues. Example: The city of Durban (in South Africa) collection rate is over 90%. Such revenue if accessed by Local Authorities in Kenya could increase their revenue base and hence provide more services. However, in the Kenyan case we will require the change and revision of the law governing the provision of electricity to enable the implementation of revenue sharing with Local Authorities.
- **Raising Revenue from Stocks and Bonds:** Empowered by the Local Government Act section 222 Local Authorities can borrow funds to implement their functions. Under section 223 Local Authorities can issue stocks or bonds. These facilities have not been used much by Local Authorities. Strategies need to be initiated to prepare Local Authorities to undertake the issuance of bonds or stocks. Success in issuance of bonds will expose Las to a higher level of scrutiny than they are used to as no private sector firms would lend to a Local Authority whose finances are managed without transparency. This will lead to their providing improved service in addition to cleaning up their books through better financial management.
- **Raising of Revenue from Local Government Loans Authority (LGLA):** The use of the Local Government Loans Authority Act (LGLA) can be revived to facilitate Local Authorities access money to fund capital projects at affordable repayment rates. Majority of those Local Authorities that borrowed money from this facility have not serviced their loans. The facility is not functional and its revival can accelerate service delivery. The issue of LGLA defaulters must be addressed together with the other debts discussed elsewhere.
- **Public Private Partnerships (PPP) and Local Authorities:** This section deals with the use of PPP to raise extra funds and management of infrastructure and service functions. Currently some PPPs exist in some Local Authorities. However, what is required in a national and Local Authority policy on PPP. Strategies can be put in place where the citizens are involved in funding specific programmes. MOUs can be undertaken to specify the roles the different actors will play in the provision of the services. Examples of programmes that can be undertaken through PPP include: water provision; solid waste management; street lighting, environmental beautification, roads repair and maintenance and housing. The successful partnerships of Nairobi City Council on street beautification is a good example.

- **Local Economic Development (LED) and City Profiles:** Local authorities in Kenya lack strategies for LED. Such strategies can empower Local Authorities and their citizens to identify potential resources and maximize their use for the development of the authorities. Therefore cities need to understand their local economy and develop City Development Strategies (CDS) that will guide their local economic programmes. The strategies assist Local Authorities improve their capacity for good city management and economic performance (MoLG; 2008). The strategies also provide the Local Authorities and their stakeholders’ economic control and involvement in the development processes. The first step in the development of a CDS is to prepare a city profile here referred to as State of the City Report (SoCR).
- **City Development Strategy (CDS) and State of the City report (SoCR):** The CDS process commits public and private sector actors to their common goals and objectives into action, thereby attracting capital and ensuring accountability. One of the objectives of a CDS would be to “develop economically vibrant and socially inclusive urban Local Authorities and productive, livable, safe, just and competitive city”.

**Box 6: Advantages of Using CDS and SoCR in Local Authorities.**

1. Creation of conditions that facilitate the establishment of vibrant, productive, secure, and competitive local authorities through locally owned strategies and action plans for economic development.
2. Facilitation of a robust and reliable information base for policy and decision making in the local government sector through the development of a National State of the Cities Report.
3. Development of an understanding of the role of cities in local and national economic development.
4. Improvement of the capacities of local authorities and their citizens to manage the CDS process, particularly in skills development and participatory approaches in the areas of leadership in local governance, financial management and strategic planning, among others.
5. Establishment of financing strategies for local authorities to ensure increased implementation of CDS action and investment plans.

The possible financing strategies would include: prioritizing and implementing citizen’s participation and donor support frameworks for CDS programmes.

Strategic capacity building programmes can be developed to enhance the financial and management skills of the staff charged with the responsibilities of revenue collection and management. Specific training can be mounted after needs assessment and analysis of the required skills.

Improved revenue targets and efficient expenditure can be used as indicators in performance contract of Local Authority officials.

## 6.4 Kenya Local Government Reform Programme (KLGRP)

Kenya Government through the Ministry of Local Government is implementing Local Government Reform Programme. KLGRP initiatives that are meant to assist Local Authorities improve their

financial and general Local Authorities management include:

1. Local Authority Integrated Financial Operations Management System (LAIFOMS)
2. LATF - Capacity development in Local Authorities
3. Institutional Restructuring; Local Authority Service delivery Action Plans (LASDAP); and Results Based Management (RBM)
4. Local government stakeholders' forum

The programme focus is to address poor governance and capacity to deliver services; inadequate revenue mobilisation by Local Authorities; dependency of Local Authorities on Central Government weak financial management; partnership/stakeholder development and policy on decentralisation.

This is a useful forum for exchange of information and ideas on how to improve the operations of the Local Authorities in service delivery with community participation.

Local authorities and their citizens should take full advantage of these initiatives to improve their revenue collection and management.

### Key Points

- ⇒ One of the biggest challenges for Local Authorities in Kenya is servicing their debts which seem to be getting bigger and bigger every year. To resolve their debts and provide effective and efficient services Local Authorities need to find new strategies for raising more revenue.
- ⇒ The Local Authorities should device ways to ensure rates are collected. The government has been one of the major defaulters. With commitment and appropriate budgeting the government can pay the outstanding rates to Local Authorities.
- ⇒ Other Revenue Mobilisation Strategies Open to Local Authorities include:
  - Raising revenue from electricity and water revenues
  - Raising revenue from stocks and bonds
  - Raising of Revenue from Local Government Loans Authority (LGLA)
  - Public Private Partnerships (PPP) and Local Authorities
  - Local Economic Development (LED) and City Profiles
  - City Development Strategy (CDS) and State of the City Report (SoCR)

## Networking

### 7.1 Introduction

Stakeholders do play an important role in the provision and management of local authorities services. Local authorities will therefore benefit if they work with and involve stakeholders in their programmes. One challenge is how local authorities can harness this opportunity of networking with the various stakeholders

Network can be used to identify common issues, prepare complementary activities; share experiences, skills and lessons learned. In the local authorities arena stakeholders or and citizens groups can be divided into internal; external and affiliate categories.

### 7.2 Internal Stakeholders

These are those stakeholders whose operations and activities relate closely to those of local authorities.

#### **(i) Association of Local Government Authorities of Kenya (ALGAK)**

This is a voluntary membership organization that serves the interests of all local authorities in Kenya. It was founded to influence local government policies and programmes. It lobbies the Government and other stakeholders for the development of autonomous and sustainable local government system in Kenya. It also advocates for good governance in member local authorities (ALGAK; 2006)

#### **(ii) LAProFund and LAP Trust**

Local Authority Provident Fund (LAProFund) and Local Authorities Pensions Trust (LAP Trust) are provident and pension funds for officers and councilors of local authorities.

#### **(iii) Kenya Local Government Workers Union, Association of Local Government Employers and Federation of Kenya Employers**

Kenya Local Government Workers Union (KLGWU) is the local authorities workers union. It is mandated by its members to fight for their rights. It negotiates with Association of Local Government Employers (ALGE) and Federation of Kenya Employers (FKE) on the terms and conditions of service for local authority officers. Periodically they determine salary structures for the local authority officers.



## 7.3 External Stakeholders

External stakeholders are institutions or groups of citizens whose activities relate to the demand of local authority services; and support the local authority programmes. Example of these include:

### **Kenya Alliance of Residents Association (KARA)**

KARA demand efficient and effective services from the local authorities their members operate from. KARA is a residents' association lobbying for consumers and taxpayers' rights. KARA activities include lobbying for improved access to public service delivery and advocate for Public Private Partnerships.

### **UN-HABITAT**

United Nations Human Settlement Programme (UN-HABITAT) supports human settlement issues like the low cost housing programme in Kenya's informal settlements. UN-HABITAT supports programmes addressing: strategic planning and local economic development; slums upgrading; improving local governance; decentralisation and strengthening of local authorities among other programmes (UN-HABITAT 2005).

### **Cities Alliance (CA)**

Cities Alliance supports City Development Strategies (CDS); citywide and nationwide slum upgrading and sustainable financing strategies.

### **Other Development Partners**

These include: World Bank (WB), German Agency for Technical Co-operation (GTZ), German Development Services, Friedrich Ebert Stiftung (FES), United Nations Development Programme (UNDP) and Netherlands Development Organization (VNG International).

## 7.4 Local Authorities Affiliates

These are stakeholders that basically share experiences, skills, information and lessons learned. The affiliates are based on each local authority or an association of local authority subscribing to the relevant organization. The affiliates of local authorities and ALGAK include: South African Local Government Association (SALGA); Commonwealth Local Government Forum (CLGF); United Cities of Local Government (UCLG); United Cities and Local Governments of Africa (UCLGA); and East African Local Government Association (EALGA). A good example of a network activity is the African cities (Africities) summit organized by UCLGA. The summit enables Governments, Local Authorities Governments, partners and all decentralisation stakeholders in Africa an opportunity to review the progress in the implementation of the MDGs (Africities, 2006).

## 7.5. Other Networking Tools

### **7.5.1. City Development Strategies (CDS)**

CDS can be used as a tool to create partnerships and networks at a local authority, national and regional levels through the development of the participatory capacities of local authorities and their stakeholders to manage the local authorities programmes. Other skills that can be developed through CDS are: leadership, local governance, financial management and strategic planning, among others.

### 7.5.2. Community Participatory Framework (CPF)

CPF is another tool that can be used to strengthen networks. The Constitution of South Africa encourages the involvement of community organizations in local government matters. The South African Local Government Municipal Structures Act 117 of 1998 and the community participation framework provide details of the community participation process in South Africa. Each municipality in South Africa is required by law to establish mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality (Republic of South Africa, 1998)

The framework spells out the role of the community participatory structures. The structures are used by the community to give input into and comment on municipal issues. They are also used by the municipality to communicate to and engage the community in an organized manner. The structures include ward committees chaired by ward councilors; Integrated Development Plan (IDP) forum normally chaired by the mayor or a councilor appointed by the council. Other structures include advisory committee whose members are not councilors and their function is to advise the council on any matters; and stakeholder forum like the Chamber of Commerce.

These are formal structures and are very useful to the management and governance of a local authority.

#### Key Points

- ⇒ Network can be used to identify common issues, prepare complementary activities; share experiences, skills and lessons learned. In the local authorities arena stakeholders or and citizens groups can be divided into internal, external and affiliate categories.
- ⇒ Internal stakeholders are those stakeholders whose operations and activities relate closely to those of local authorities e.g. ALGAK, LAProFund, LAP Trust, KLGWU, ALGE and FKE.
- ⇒ External stakeholders are institutions or groups of citizens whose activities relate to the demand of local authority services; and support the local authority programmes. Example of these include: KARA, UN-HABITAT, Cities Alliance (CA) and other development partners.
- ⇒ Affiliate categories are stakeholders that basically share experiences, skills, information and lessons learned. A good example of a network activity is the African cities (Africities) summit organized by UCLGA. The summit enables Governments, local authorities governments, partners and all decentralisation stakeholders in Africa an opportunity to review the progress in the implementation of the MDGs (Africities, 2006).
- ⇒ CDS is another networking tool that can be used to create partnerships and networks at a local authority, national and regional levels through the development of the participatory capacities of local authorities and their stakeholders to manage the local authorities programmes.
- ⇒ CPF spells out the role of the community participatory structures. The structures are used by the community to give input into and comment on municipal issues. They are also used by the municipality to communicate to and engage the community in an organized manner.

## Local Authorities' Legislative and Other Challenges

### 8.1 Introduction

As discussed in chapter two and three, Local Authorities in Kenya have a number of challenges in terms of their powers and functions. Some of the challenges include legislations whose function either conflict or compete with those of Local Government. A good example is the Constituency Development Fund (Act) whose functions include providing services at the local level. Others include: revenue from Kenya Power and Lighting Company is not accessible to Local Authorities. This limits their revenue. In other countries for example South Africa, revenue from electricity is collected by Local Authorities. High population density, accessibility to shelter and basic services are among the major challenges facing Local Authorities.

### 8.2. Challenges Affecting the LG System (LGS) in Kenya

One of the challenges facing the Local Government system is that the current LGA Act cap 265 does not and cannot effectively be used to provide the required services in line with the decentralisation and the principles of good local governance. The Act requires a complete overhaul. A number of legislations affecting the operations of Local Government provision of services have been amended without amending the LGA thereby creating conflict and competition in their implementation. Good examples of this situation include the water, planning and environmental Act. Another legislation that may create a bigger challenge is the proposed Nairobi Metropolitan Bill. The Bill proposes a number of functions and powers that are already being performed by Local Government through the LGA. For example both the LGA cap 265 and the proposed Nairobi Metropolitan Bill have the powers to establish Local Authorities. There is a need for harmonisation process of all bills and Acts that affect the operations of Local Government service provision to redefine powers and functions of relevant institutions and government departments. A good example is that of Tanzania.

By 1999 Tanzania faced a similar situation of conflicting legislations affecting the Local Government activities. It enacted an Act that amended and harmonised a number of laws pertaining to the Local Government. These included: Local Government District Authorities Act, 1982; Local Government Urban Authorities Act 1982; Local Government Finances Act 1982; Local Government Service Act 1982; Regional Administration Act 1997; Urban Authorities (rating) Act, 1983; and the District Corporations Act 1973 (United Republic of Tanzania; 1999).

### **8.3 Challenges Related to Removal of Powers and Functions from Local Authorities**

Another challenge has been the gradual weakening of Local Authorities by removing some of their powers and functions. The Transfer of Functions Act of 1969, led to the transfer of major services such as primary education, health services, roads maintenance and major local revenue sources to Central Government Agencies (Kenya, Local Government of; 2008). The national environmental management act has functions which require Local Authorities to implement. The controlling of development function under the planning Act can best be performed by Local Authorities. The water Act has deprived most Local Authorities of the revenue collection powers. The reason given for the removal of some Local Authorities functions is that of not able to deliver the required services effectively.

### **8.4 Observations on the Challenges**

The points to note here are that the powers of the Minister of Local Government can either able or disable the operations of a Local Authority. The current poor performance of Local Authorities can be linked to their mismanagement; political interference; over control by the Ministry of Local Government; inadequate financial base due to lack of revenue collection strategies; lack of adequate human resources due to poor remuneration and overwhelmed public service commission. The numerous legislations that are not harmonized do affect negatively on the Local Authority operations. The citizens are also not adequately informed or involved in planning, implementation and monitoring of the Local Authorities programmes.

### **8.5 General Recommendation – Harmonisation of the Legislations**

Local Authorities should be enabled to exercise all powers given to them under the Local Government Act by minimizing the amount of control exercised by the Ministry of Local Government (Omamo, 1995). The many Acts affecting the powers and functions of Local Authorities should be harmonised using amendment legislation; review of the Local Government Act and the review of the constitution. Citizens should be sensitised and encouraged to demand the required services and monitor their provision and to call upon the Local Authorities leadership to account for any inefficient and inadequate services provided.

### **8.6. Specific Recommendation: Restructuring of Local Authorities**

A number of subdivisions of Local Authorities created recently have made them smaller and weak financially. The subdivision made Local Authorities share resources, duplicate functions and created lack of skilled staff. Some of these new Local Authorities are financially unviable.

There is a need for restructuring Local Authorities based on human and financial capacity. A number of strategies are available. Local Authorities could be merged or dissolved. They could also be assisted with sustainable financing strategies to boost their revenues.

The use of specific criteria for the establishment of Local Authorities would be useful. This will limit arbitrary establishment of Local Authorities. Citizens have a role to play during the consultations on

the restructuring of Local Authorities. A legislation should be enacted that will deal with the financing of Local Authorities and coordinate devolved funds. A good example is the South African municipal financing Act no. 56 of 2003. The Act deals with revenue, budgets, debt, responsibilities on mayors and officers, financial reporting and resolution of financial problems among other items.

These challenges impact on the livelihoods and health of populations and Local Authorities should initiate programmes to address them, (Nicholas Y. 2007). This means that the planning, governance and management of the city governments is crucial in the livelihood of their inhabitants and hence good governance is paramount to Local Governments. For such planning and governance activities to be effective and to reflect ownership they should include the participation of residents.

### Key Points

- ⇒ Some of the challenges come from legislations whose function either conflict or compete with those of Local Government. The numerous legislations that are not harmonized do affect negatively on the Local Authority operations
- ⇒ There is a need for harmonization process of all Bills and Acts that affect the operations of Local Government service provision to redefine powers and functions of relevant institutions and government departments
- ⇒ Another challenge has been the gradual weakening of Local Authorities by removing some of their powers and functions. The Transfer of Functions Act of 1969, led to the transfer of major services such as primary education, health services, roads maintenance and major local revenue sources to central government agencies
- ⇒ The current poor performance of Local Authorities can be linked to their mismanagement; political interference; over control by the Ministry of Local Government; inadequate financial base due to lack of revenue collection strategies; lack of adequate human resources due to poor remuneration and overwhelmed public service commission.
- ⇒ Local Authorities should be restructured because recent subdivisions of Local Authorities have made them smaller and weak financially. The subdivision made Local Authorities share resources, duplicate functions and created lack of skilled staff. Some of these new Local Authorities are financially unviable.
- ⇒ The use of specific criteria for the establishment of Local Authorities would be useful. This will limit arbitrary establishment of Local Authorities.

## Conclusion

### 9.1 Overview of the Handbook

The handbook has described the importance of Local Authorities/governments in terms of the provision of Local Authority services. Examples of services provided by Local Authorities are given. The important role that citizens can play in the provision and monitoring of those services are analyzed. The handbook has provided information on a number of Local Government matters. Such information can be used by citizens and other stakeholders to establish working relationships with Local Authorities in matters of Local Government functions and activities.

The principles of good governance, decentralisation and devolution have been discussed in relation to provision of effective and efficient services and improvement of Local Authorities management. The current demand by citizens to be involved in Local Authorities matters is a wake up call for the need to balance between elective and participatory representation and ownership of planned Local Authority programmes. Local Authorities are now more than ever before required to demonstrate to citizens some transparency and accountability in their management of Local Government affairs.

The handbook describes how Local Authorities collect and spend revenues. It further identifies the challenges faced by Local Authorities in realizing their revenues and possibilities available to them to collect even more revenue than the budgeted figures. The handbook has shown good governance at the LA level can be improved by the use of community participation and Public Private Partnership (PPP) in planning, implementation and evaluation of Local Authority service provision.

The description of the objectives, mandates, structure, functions and sources of revenue of Local Authorities offered an insight of the whole Local Government system in Kenya and how citizens can effectively check the Local Authorities operations.

Local Authorities can implement sustainable programmes by using strategies based on the principles of good governance, financial mobilisation, PPP and networks. This means that Local Authorities need to create a favourable environment for business and Local Economic Development (LED).

The challenges discussed in chapter eight give the Local Authority and stakeholders an insight of the strength, weaknesses and opportunities available that can be utilized to turn things around for the better.

## **9.2. General Recommendations**

### **Local Authorities**

The handbook provides useful information that can assist Local Authorities perform their roles and implement their mandate efficiently and effectively. Local Authorities need to take into account the changed environment where residents are more aware of their rights and will demand better services. Addressing community's needs and demands will be a priority for all Local Authorities.

### **Citizens and Stakeholders**

The Citizen and stakeholders equipped with this information should realize their roles and responsibilities in paying the required revenues for the operation of their councils and call upon the council leaders and managers to account for the services rendered. Most of the development activities are implemented using revenue from rates. It is therefore important that rates are collected by Local Authorities. Citizens should also take keen interest and involve themselves in the operations of the Local Authority programmes.

### **The Central Government**

Local Authorities are the backbone of sustainable development and are central in implementing MDGs. The Government needs to provide an enabling environment by establishing Local Government structures, developing policies and providing adequate resources required by Local Authorities to play their rightful roles and perform their functions. Crucial steps should be taken to review and overhaul and harmonize the legislations that affect the functions of Local Authorities.

The information and references contained in the handbook will be useful to Local Government stakeholders, and the central government when discussing reforms of the Local Government system in Kenya. It is hoped that the handbook will motivate citizens to find a role to play in Local Government matters that affect their livelihoods.

## **9.3. Specific Recommendations**

Finally the handbook challenges national and Local Authorities/governments to put in place processes and legislative frameworks for representative and participatory democracy. Such processes and structures will facilitate direct involvement of the community in policymaking and service delivery. Public Private Partnerships (PPP) are becoming more and more formal ways of engagement at the Local Government level. These PPPs should be formalized through legislation, for example the draft Local Government Act (LGA) review bill should include community and stakeholder participation as a key chapter.

## **9.4. Concluding Remark**

Leaders at the national and local levels need to devise ways and means of engaging the citizenry in addressing their demands. Provision and monitoring of services by the stakeholders is one way of demonstrating ownership and involvement. As Africa becomes more and more urbanized; many governance issues will manifest and strategies must be found and put in place to address them. This handbook is a contribution towards that goal of addressing citizens' needs and demands.

## Principles of Good Governance as Advocated by UN-HABITAT (2005):

- (i) **Sustainability:** balancing the social, economic and environmental needs of the present and future generation in all dimensions of urban development including a clear commitment to urban poverty
- (ii) **Subsidiarity:** - the assignment of authority and resources to the closest appropriate level, maximizing the potential for inclusion of citizens in the governing process and assuring the most efficient and cost-effective delivery of services.
- (iii) **Equity:** - equal participation in decision-making process by men and women and equal access to and use of resources and basic services by the poor, ethnic minorities, and the disabled
- (iv) **Efficiency:** - Financial soundness and cost-effectiveness in the management of revenue sources and expenditures, in enabling contribution by citizens and private sector in the urban economy
- (v) **Transparency and accountability:**- consistent action by decision-makers and stakeholders to eliminate corrupt practices, provide ready access to information, ensure fair and impartial application of the law and maintain high standards of personal and professional integrity among the elected and appointed officials
- (vi) **Civic engagement and citizenship:** - Empowerment and engagement of citizens, particularly women and the poor, to take part in the municipal elections, citizens forums, citizens advisory councils and all other forms of participatory democracy
- (vii) **Security:** - Involving stakeholders in crime prevention and preparation for human conflicts and natural disasters as well as by assuring the freedom of citizens from persecution or loss of their inalienable rights



## Decentralisation Concepts

**De-concentration:-** This happens when central government sends its officers to provincial and districts to carry out regular functions under the authority of central government,

**Delegation:-** Delegation is when central government hands over certain functions to provincial or local government levels to be performed on an agency basis. In both cases (de-concentration and delegation), there is no transfer of power.

**Devolution:-** involves the transfer of functions, resources and power to the sub-national (provincial or local) levels. These levels assume full responsibility and accountability for the specified functions. Devolution is also referred to as democratic decentralisation which provides space for community participation in governance.

“**Governance**” in this context refers to the way in which a government acts and functions for the benefit of the society.

**Good governance:-** entails governance free of abuse, corruption, and taking into account due regard to the rule of law.

## Local Authority Terms as Defined by the LGA.

“**Clerk**” referred herewith includes the town clerk of a municipal council, town council or the clerk of a county council

“**Local Authority**” means a municipal, county or a town council

“**The City of Nairobi**” means the City Council of Nairobi incorporated by the Royal Charter dated the 20th March, 1950

“**County**” means an area declared under section 5 of the Local Government Act (LGA) Cap.265 of the laws of Kenya to be a county

“**County council**” means a county council established under section 28 of the LGA Cap 265

“**Control**” includes regulate, inspect, supervise and license

“**Establish**” includes acquire, erect, build, construct, hire, equip and furnish

“**Municipal council**” means a municipal council established under section 12 of the LGA Cap. 265 of the Laws of Kenya

“**Municipality**” means an area declared under section 5 (of the LGA Cap 265) to be a municipality<sup>1</sup>

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<sup>1</sup> Republic of Kenya, 1998; The Local Government Act (1998 (1996)); Section 2; pp12-13, The Government Printers; Nairobi

## The Stages of the LASDAP Process

- Preparation of a list of community organizations (formal, informal), within the Las' jurisdiction.
- Publicizing the preparation of LASDAP, the resources available and inviting inputs/proposals from the stakeholders.
- Holding consultative meetings to which various development partners and community members are invited.
- Holding meetings in more than one location/ward
- Asking invited organizations to consult their members in advance.
- Recognising that the poor may not be adequately represented, and take action appropriately.
- The presence of both Councilors and Local Authority officers at the consultative meetings, but allow citizens should give their views freely.
- Publicity of the meetings to be in English and Kiswahili to accommodate those people not conversant with English.

## Statues, Duties and Responsibilities of LAs Town Clerks Third Schedule (Ss. 129, 130)

### Statutes, Duties And Responsibilities Of Certain Officers

#### Part I-Town Clerk and Clerk (s. 129)

1. He shall be responsible for convening all meetings of the Local Authority and its committees and subcommittees and for the preparation of agenda, minutes and reports of such Local Authorities and their committees and subcommittees.
2. (1) He shall advise the Local Authority and its committees and subcommittees on all matters upon which his advice is necessary, including the standing orders thereof and local government legislation.
3. He shall, either personally or by his nominee, attend all meetings of the Local Authority and of its committees and subcommittees.
4. He shall advise the mayor or speaker of the Local Authority, as the case may be, on all matters appertaining to those offices.
5. Subject to any general directions which the Local Authority may give, he shall have the charge and custody of, and be responsible for, all charters, deeds, records and other documents belonging to the Local Authority which shall be kept as the Local Authority may direct
6. He shall have the duty of ensuring that the business of the Local Authority is carried out with order, regularity and expedition in accordance with the by-laws, regulations, resolutions and standing orders of the Local Authority.
7. He shall have the responsibility for the general correspondence of the Local Authority.
8. Where any document will be a necessary step in legal proceedings on behalf of the Local Authority, he shall sign such document unless any written law otherwise requires or authorizes, or the Local Authority shall have given the necessary authority to some other person for the purpose of such proceedings.

9. He shall have the conduct of such negotiations on behalf of the Local Authority as the Local Authority may require.
10. He shall have the responsibility for conveying decisions of the Local Authority to officers of the Local Authority relating to their work and conduct.
11. He shall, where legally qualified so to do, give general legal advice to the Local Authority, and, whether legally qualified or not, to officers of the Local Authority on questions arising with regard to their official duties and obligations.
12. He shall be responsible for conducting all ballots and all proceedings necessary for determining any question by lot.

Adopted from the LGA Cap 265 of the Laws of Kenya 1998 (1986) pp. 174

## Local Authorities Election Fifth Schedule (Ss.53, 53a, 53b)

### Local Authorities Elections

1. Subject to the provisions of paragraphs 2 and 3 of this Schedule a person shall be qualified to be registered as a voter in elections to Local Authorities if, and shall not be so qualified unless, at the date of his application to be registered, he-
  - (a) is a Kenya citizen and has attained the age of 18 years; and
  - (b) possesses any of the following qualifications, that is to say-
    - (i) is, in the current valuation roll, assessment roll area roll or rate roll of a Local Authority having jurisdiction over the place in which he applies to be registered, named as the rateable owner or rateable occupier of rateable property included in that roll and has paid all rates in respect of that property due from him the year ending with the 31st December next before the date on which he so applies; or
    - (ii) has, in respect of each year in the period of three years ending with the 31st December next before the date on which he applies to be registered, paid to a Local Authority having jurisdiction at the date of such payment over the place in which he so applies a rate or tax (by whatever name called) levied by that authority for general purposes; or
    - (iii) has, for a period of, or periods amounting in aggregate to, not less than five years in the seven years immediately preceding the date of his application to, be registered, ordinarily resided in an area that at that date is within a Local Authority area that includes the place in which he so applies; or
    - (iv) is the spouse of any person falling within subparagraph (b) (i), subparagraph (b) (ii) or subparagraph (b) (iii) of this paragraph.
2. No person shall be qualified to be registered as a voter in elections to Local Authorities-
  - (a) if, under any law in force in Kenya, he is adjudged or otherwise declared to be of unsound mind; or
  - (b) if he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under a law in force in Kenya; or
  - (c) if he is under sentence of death imposed on him by any court in Kenya or is serving a sentence of imprisonment (by whatever name called) of or exceeding three months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or

- (d) if he is disqualified therefrom by any rules made by the Electoral Commission in respect of the place in which he applies to be registered on the grounds of his having been convicted of an offence connected with elections or on the grounds of his having been reported guilty of 'such an offence by the court trying an election petition.
3. (1) A person shall not be qualified to be elected or nominated, as a councillor of a Local Authority if, at the date of his nomination for election or at the date of his nomination,
    - (a) he holds or is acting in any office on the staff of that authority or of any other Local Authority whose area of jurisdiction includes or is included in the area of jurisdiction of that authority or
    - (b) he holds any paid office or other place of profit (other than that of mayor or speaker) wholly or partly in the gift or disposal of any Local Authority or of any committee thereof; or
    - (c) he has within five years before the day of his election or since his election been surcharged under section 218 of the Act in respect of an amount exceeding one thousand shillings by an inspector, or
    - (d) he has within twelve months next before the day of his election been convicted of any criminal offence, whether in Kenya or elsewhere, and has been sentenced to imprisonment for a period of not less than three years and has not received a free pardon

Provided that the Electoral Commission may by order in any particular case remove such disqualification; or

- (e) he cannot read, write and speak the official language, or at least one of the official languages, if there is more than one official language, of the Local Authority:  
Provided that the Electoral Commission may direct that such disqualification need not apply to the members of Local Authorities generally or of any particular class or group of Local Authorities or of any particular Local Authority; or
  - (f) he is disqualified from being elected or from being a councillor or member of that authority under or by virtue of any of the provisions of the Election Offences Act; or
  - (g) he has within three years from the date of his election or nomination or since his election or nomination been convicted of an offence -under section 84 or 87 of the Act.
4. Any question whether a person is qualified for registration as a voter in elections to Local Authorities shall be determined in such manner as may be prescribed by rules made by the Electoral Commission.
  5. A person who is qualified to be registered in more than one place as a voter in elections to Local Authorities may apply to be registered in any or all of the places in which he is so qualified whether those places fall within the same Local Authority area or within different Local Authority areas, but a person who is qualified to be registered in two or more places as a voter in elections to Local Authorities shall, on the final compilation of the register of voters in elections to any one authority, be registered only once in each electoral area for that authority.
  6. For the purposes of paragraph 2 (c) of this Schedule-
    - (a) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them amounts to or exceeds three months, but if any one of them amounts to or exceeds three months they shall be regarded as one sentence-, and
    - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

Adopted from the LGA Cap 265 of the Laws of Kenya 1998 (1986) pp. 177

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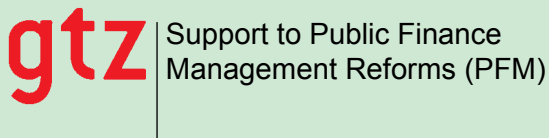
Local Authorities/Governments are strategic institutions in provision of basic socio-economic and environment services at the local levels. In Kenya however, there is very little understanding of Local Authorities powers and structure, functions and mandates, and sources of funds.

The Institute of Economic Affairs (IEA) - Kenya has put together this handbook with the aim of increasing the public's awareness and understanding of how Local Government systems in Kenya operate for them to increasingly participate in decision making at the local level and to effectively demand for better service delivery.

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