

Reforming Local Governance: Kenya with Special Focus on Nairobi

Itoko Suzuki
Chief, Governance and Public
Administration Branch,
Department of Economic and
Social Affairs
Secretariat, the United Nations

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Introduction

While re-inventing government, or establishing and “enabling environment” for good governance is vocal everywhere, it is difficult to locate a country where administrative reform is not underway including the world organization such as the United Nations secretariat. The United Nations has continued to play an important role in assisting governments at both central and local levels in designing and implementing their administrative reform programmes over the last five decades of the UN technical assistance to developing countries, and more recently to the countries with economies in transition (e. g., in East and Central European countries and CIS). This UN technical assistance has been undertaken through the UN Programme in Public Administration and Finance. Our experience indicates that even if the themes and popular phrases used are different from time to time, the core of the reform has always rested on strengthening the capacity of governing and focused on public service systems change.

Decentralization has been a continued message and instrument for reforming government. Decentralizing key authorities and functions of government from the centre to regions, districts, municipalities, local authorities and communities, is an effective mechanism for enabling people to participate in governance. As such, decentralization is a major determinant of whether a nation is able to create and sustain equitable opportunities for all its people.⁽¹⁾ The worldwide experience of administrative decentralization has indicated that the capacity of the local government has to be reinforced with appropriate delegation of policy-making, fiscal and personnel management authority as part of a decentralization programme.⁽²⁾ On the other hand, in many developing countries, while decentralization is vigorously expressed by political leaders and technical cooperation programmes, it is very nominal or in some cases re-centralization has been occurring to improve the capacity of local service delivery. In every case, capacity building of local governance is called for to improve the local governance.

This short paper will focus on reforming local governance in Kenya. It will address the recent struggle of the country in restoring good governance in general and efforts to improve local governance, particularly using the case of Nairobi, the country's largest urban center, where the country's economy is predominantly dependent on. The paper is written from the technical cooperation point of view and does not necessarily reflect the position of the government or local authorities of Kenya.

^{*} The opinions expressed in this paper are those of the author, and do not necessarily reflect those of the United Nations Secretariat.

As an important point of reference in addressing reforming government in this paper, the role of the United Nations technical cooperation must be identified as a facilitator to the country's efforts of reform, but not a promoter, as the UN Programme in Public Administration and Finance has kept its neutral position. We are not financial suppliers like banks and acting to advise at the request of a recipient country, by pointing out problems and areas of improvement and methods towards the remedies.

At present, the United Nations itself is going through a major administrative reform which the Secretary-General Kofi Annan announced, so-called Track II⁽³⁾ in which he stated that "Reform is a process, not an event" and introduced a package of three types of measures:

- (1) Reform by streamlining, etc., which can be taken on his own initiative (which included alignment of three economic and social affairs departments into one and possible future decentralization);
- (2) Reform that requires approval of Member States for immediate action aimed at enhancing strategic direction (establishing a new post of Deputy Secretary-General, etc.);
- (3) Measures aimed at longer term action by the General Assembly.

Cutting 1000 secretariat posts, zero-growth in budget, 33% cut of administrative costs and 30% reduction of papers, etc. are hitting the financial crisis of the largest inter-governmental body of the world. But, even if the goal of the organizations (governments or inter-governmental bodies) are different, there are similarities in the issues and methods of the administrative reforms in many governments, including Kenya.

In the nutshell, each reform is destined to improve the capacity of governance that inevitably involve all stakeholders including employees, employers, politicians and political parties, central government, local authorities, private sectors, eye-watching NGOs and civic groups; and above all citizens of the world. The United Nations can also learn examples of administrative reforms which Member States or cities are struggling and striving for.

Kenya's Recent Overall Governance Reform Efforts

Kenyan Government Sessional Paper No. 1 of 1994 on "Recovery and Sustainable Development to the Year 2010"⁽⁴⁾ stated that the government strategy of reform would take account of historical experiences, aspirations, diverse cultures and values. The paper acknowledges the Kenya's experiment with democratic process, moving from a one-party system to a multi-party democracy in the initial years and then to a single party system of government during the later part of 1960s til 1992, when a multi-party system was re-introduced.

This paper further stated that Kenya must develop national unity and social cohesion in terms of economy, justice, cultural diversity, political stability, system of governance, quality of life and national pride. By the year 2010 the country is targeted to be a united nation, fully democratic and economically equitable and the

society to be tolerant, and guaranteed of freedom and equality between men and women and among different races with living in partnership.

To achieve the goal, the government programme outlined in this Sessional paper the following institutional framework:⁽⁵⁾

- Constitutional reform, and the development of a political system based on democratic principle of openness, tolerance, freedom of expression, association and choice, and the enjoyment of freedoms enshrined in the Constitution;
- Development are equitably distributed among individuals and across the country; citizens will be offered equal opportunities in the economic sphere and in access to basic welfare provisions; and
- Maintaining friendly international relations and regional and sub-regional cooperation.

Overall, the government programme is endorsing the "Good governance" as prerequisites to sustainable political, economic and social development. Kenyans maintained that "good governance" is also prerequisite to political and social stability of the country. The government also maintains that good governance implies open decision-making, transparent public transactions, rule of law, participatory management and accountability of the government. It defines clear role of respective partners of governance recognizing the roles of private sector and citizens.⁽⁶⁾

To realize these aspirations, donors cooperated with the government to identify the constraints in the following three areas in their "Governance programme,"⁽⁷⁾ which are also spelled out in the afore-cited Sessional paper No. 1:

- i) The legal and institutional framework comprises laws and institutions which need to be revised in order to encourage greater public participation in governance.
- ii) Some key public watchdog institutions and personnel do not have the resources and skills to police the activities of the state and to serve many and varied public interests.
- iii) The environment in which the Ministry of Local Government is working is fast changing but the Ministry has not yet been internally reorganized to handle the complexity of local governance. Within this context, frameworks for local authority institutions are often modified. The resulting complexity underscores the need to make local government the arena for participatory development whilst retaining supervisory powers over local authorities at the ministerial level.

These three areas are inter-related. And some donors provided combined packages of assistance. The United Nations Programme in Public Administration and Finance also have been dealing with all three aspects to assist the country's governance programme. However, this paper concentrates on the third area, i. e., local governance. It is of significance that the third area does not include specific "decentralization" issue, while hinting the diminishing of the central government intervention over local authorities.

Issues Addressed in the Sub-programme of Local Governance

On local governance, the following outstanding issues were further addressed in the Sub-programme:

- (1) The need for re-organizing the Ministry of Local Government (MLG) into functional departments;
- (2) The need to review structural issues related to the creation of many local authorities (at present, 47 local authorities existing; criteria for creating new local authorities is necessary to deter unnecessary creation which may negatively affect the financial base of the central government);
- (3) The need to review financial management of local authorities;
- (4) The need for a long-term strategic planning within the MLG to indicate the sources of financial and human resources requested for local authorities;
- (5) The need to review the Local Government Act; and
- (6) The need to decentralize planning to improve rural areas.

Within the above context, the Subprogramme spells out the following six main elements:⁽⁸⁾

Element 1: Functional reorganization of the MLG. This will involve conducting a management audit of the ministry to be followed by its reorganization into functional departments. The management audit can be done by the DPM or private management consultants. It is important that this be the lead activity for it will set the framework for subsequent activities. This form a significant aspect of civil service reform.

Element 2: MLG capacity building for at least 10 local authorities' budget and audit supervision. Integrating the budgeting and audit ministerial functions should be taken care of in the MLG functional reorganization. Thereafter, there is need to build up the capacity for supervising budgeting, programme and financial auditing processes of local authorities.

Element 3: Current and future human resources needs assessment for local authorities and MLG. Although many recognize that local authorities are expected to serve more people and to increasingly get services privatized, there has not been any systematic evaluation of human resources needs of the local sector. The supervision and regulation regimes of the future will call for new skills, among which are infrastructure, environmental, data, long-term strategic planning and financial management specialists, over and above the existing staff specializations. These needs should be identified now.

Element 4: Functional classification of local authorities. There is a need to evaluate the existing local authorities and to decide a method of creating new ones for the future. The key issue is the relationship of county councils and other types of local

authorities. It may be that some types will be de-gazetted for they are not functional or do not serve the greatest numbers. A national strategy needs to be worked out in this domain. Viability criteria need to be established now so as to guide future policy. This up-front activity could be undertaken under the UNDP's scheme of needs assessment (that can be allocated to UN).

Element 5: Revision of the Local Government Act. There is a need to liaise with the AG's chambers to modernize the legal framework of local governance. Such a revision should be undertaken after the above problem areas are tackled.

Element 6: Decentralized planning to enhance people's participation. Planners need to organize their work at local level in order to provide much more scope for the integration of dynamic and evolving inputs and perceptions by the local populations.

Physical Features Affecting Local Governance

As governance takes physical (locational) and historical background into its account, before we proceed with what led to the current state of local governance in Kenya, a brief review must be made of physical features that constitute the local governance. As in most of the countries, Kenya is no exception that the country's economy is substantially dependent on urban areas. Urbanization in both developed and developing countries over the past three decades has transformed the global nature of the economy. According to the UN statistics, by the year 2005, the majority (over 50%) of the world's population will live in urban areas. While cities are engines of economic growth, they are also generating impoverished people and infrastructures which both government and local authorities must cope with. Another feature of urbanization is the metropolitanization of urban sectors (i. e., larger areas and accelerated growth of populations making many more mega-cities). In Kenya, however, the population in urban areas is not the majority. The largest urban sector is Nairobi, which has a population of 2 million.

Urbanization in Kenya during the last three decades has been rapid. The following statistics⁽⁹⁾ indicate that even if Kenya's majority of population are not in urban areas, their growth is more than double (7%) of the total population compared to rural growth. In Kenya, any human settlement with a population of 2,000 and above is considered to be urban.

In Table 2, Kenya's urbanization is not particularly progressed compared to other African neighboring countries. However, for economic development, urban sectors are inviting foreign investments. Therefore, urban infrastructure must be well developed to induce more investments. In this urbanization scenario, Nairobi, as the capital city, has been a strategic cog in Kenya's demographic and economic growth with more than 60% of the present GDP generated by the national capital.

To this background, governance of Nairobi has been far from satisfactory in the development of infrastructure, garbage disposal, sanitation and health services or other basic social service delivery. It is interesting to note that the President of the Kenya, who attended the Habitat II Conference in June 1996, right after his return to

Table 1: Growth of Urban Population in Kenya

Year	No. of Towns	Total Urban Population	% of Total National Population
1948	17	276,240	5.1%
1962	34	670,950	7.8%
1989	139	3,900,000	18.1%
1996	177	5,579,000	20.5%
2010 (projection)	280	11,554,000	26.4%

Table 2: Urbanization in Eastern Africa

Country	Urban Population % of Total Population (1993)	Annual Growth Rate % (1980-1993)
Djibouti	82.8	4.9
Re-Union	67.8	3.8
Seychelles	54.5	0.9
Zambia	43.1	3.8
Mauritius	40.6	0.6
Mozambique	34.3	8.4
Zimbabwe	32.1	5.6
Comoros	30.7	3.7
Kenya	27.7	7.0
Tanzania	24.4	6.5

Source : ECA & SA, 1996

the country, ordered "Clean-up Nairobi operations," on 19 June 1996, including refuse collection, roads maintenance, street lighting and health service delivery to be undertaken by Nairobi City Council (only city status in the country) and other local service delivery agencies. The Presidential initiative was very visible as at least for the following two months, huge heaps of accumulated garbage were gone in all parts of the city; repair of crater-like potholes of city roads and streets was done. But this created a massive tension among council officers and councilors over the poor city service delivery. It ended up in a one-time shot.

To the background of urban crisis, United Nations initiated under the framework of UNDP's scheme, in early 1996 the Sector Review aiming at capacity-building of Nairobi City Council (NCC) and other local governance. The Sector Review is also tied to the afore-mentioned six areas identified in the Sub-programme of Local Governance and aimed at improvement of core metropolitan functions and other key local authorities as well as improvement of MLG management over the local authori-

ties.

During the Sector Review⁽¹⁰⁾ the following key capacity problems of NCC have been identified:

- Prevalence of corruption;
- Poor revenue generation, collection and utilization;
- Mismanagement of human resources, quantity vs. quality staff, undisciplined recruitment of unnecessary staff;
- Improper and out-dated city management;
- Poor governance, low caliber of elected councilors and leaders;
- Obstructive relationship and obsolete legal framework between Ministry of Local Government and Nairobi City Council;
- Lack of participatory development and community/citizen participation;
- Disregard and abuse of urban planning, land utilization, building codes and development control;
- Inadequate and inappropriate urban transportation system, lack of traffic management, poor roads and street lighting;
- Inadequate and mismanaged environmental infrastructure, refuse services, water and sanitation;
- Inadequate housing, education and health services delivery;
- Limited and unplanned private sector participation and partnerships; and
- Ineffective and inefficient accounting and auditing systems.

Nairobi, with an estimated population of over 2 million (high estimate of 2.8 million and low estimate of 1.9 million in 1996), is presently unable to provide the above-mentioned core metropolitan city functions and service delivery to the citizens. The present administrative capacity needs to be much improved. The effectiveness of the service delivery system is constrained by poor governance, structural factors such as over-staffing, lack of sufficient number of high quality professionals and technical personnel, and inadequate incentives; and by limited management capacity. Furthermore, Nairobi has a unique geographical position in the East African sub-region and African region in terms of trade, investment, tourism and international cooperation. There is a lot of potential for development due to physical locational advantage. (See annex I.) Therefore, improving those governance and administrative issues are acutely needed to tap the potential as well.

Historical Evolution of Kenya's Local Governance

With the physical features and general administrative issues in background that must be tackled, it is necessary at this junction to review how the current local governance system has been evolved. While the government aspires for good governance, for which transparency, accountability and legal framework are corner stones, their quality is dependent on decentralization (including de-concentration) of powers from the center to various branches of government and to local communities. In Kenya, however, deconcentration of even administrative powers to the local authorities is not a reality. Decentralization implies power-sharing with organs of govern-

ment. Local authorities can be semi-autonomous. Deconcentration, on the other hand, involves the administrative structure in the provinces and districts, which is the extension of the executive authority to the hinterlands through the deployment of central government officials as the Provincial Commissioners, the District Commissioners and the District Officers. Historically, Kenya's local governance took the latter pattern. This is considered to be the major cause of the current state of metropolitan governance of Nairobi and governance of other major municipalities of Kenya. Voluminous capacity-building efforts are needed in the local authorities as a condition to enable decentralization.

From the early days of the British colonial rule, local governance in Kenya had evolved and gained its place in a peculiar way. The main stages of this evolution were as follows:⁽¹¹⁾

- The enactment of the East African Townships Ordinance of 1903 which created Nairobi and Mombasa with nominated committees and the two were elevated to Town Council status in 1919.
- Municipalities Ordinance of 1928 elevated Nairobi and Mombasa to Municipal status with a majority of elected members. Kisumu, Nakuru and Eldoret were later added. The status quo remained thereafter until close to independence when new Town Councils were created, e. g., Thika.
- The Native Authority Ordinance of 1912 created some semblance of Local Government system for the African areas. But the membership of the Councils so created consisted of Chiefs who were nominated and acted as advisors to the District Commissioners, who wielded the authority as Crown's representatives in the Districts. The District boundaries were created quite early as an instrument of achieving close administration.
- The Native Authority Amendment Ordinance of 1924 permitted some dialogue with the Government through some representatives nominated by the District Commissioners.
- The African District Councils Ordinance of 1950 for the first time recognized the need to create bodies of responsible citizens in the African areas who will present the views of the people to the central government. This move strengthened the Clerk to the Council as well as the Chairman who were often Government servants elevated to higher positions because of their prominence in the society. The District Commissioner still remained a major influence in these Councils.
- The County Council Ordinance of 1952 created representative Local Councils in the predominantly white highlands. These were administered very much like the County Councils in Britain from where the system had evolved.
- At independence all the local authorities were brought under one Act, the Local Government Act (Cap. 265) of 1963 approved by Parliament in 1977 and which became law in 1978.
- The local authorities in Kenya have been created under the Laws of Kenya and their functions are spelled out under the Local Government Act, (Cap. 265) of the Laws of Kenya. The Act has its origin just before independence when the

then Governor of Kenya under the British rule published the Local Government Regulations in April 1963 under Legal Notice No. 256.

- Legal Notice 183 of 1963 replaced the title Governor with that of the Minister for Local Government.
- Local Government (Amendments) Act No. 11 of 1967 prohibited the Ministers and Assistant Ministers from seeking elective positions in Local Councils. It also disqualified the Councillors who changed their party affiliation from continuing to be members of councils and to seek re-election. The act also provided for Inspectors of Local Governments Account.
- Local Government Regulations (Amendments) Act No. 9 of 1968 removed the position of Aldermen in the Municipal Council.
- Legal Notice No. 36 of 1969 transferred services such as education, health and roads from the County Councils to the parent Ministries. The Audit of Local Government Accounts was also vested in the Controller and Auditor General. The notice also abolished the Graduated Personal Tax in the case of the County Councils and made provision for the gradual abolition of this tax in the case of the Municipal Councils.
- By 1978 the Local Government Regulations of 1963 had been consolidated to an Act of Parliament, the Local Government Act (Cap. 265) of the Laws of Kenya.

Historical Drawbacks Making Local Authorities Incapacitated

The above historical evolution of local governance testifies to a few basic features and drawbacks of local governance in Kenya. These features certainly affected negatively the growth of sound local governance base in Kenya.

First of all, heavy centralized features. Although some consultative mechanisms were established between local and central agents, from the beginning, there was no decentralized system; not only that, the functions allocated to local authorities were drawn back to the central ministries. Local governance was not given a high place in the governance of Kenya.

Obviously, the Local Government Act gives too much power to the Minister for Local Government and does not grant the local authorities the required autonomy or responsibility. The managerial cadres in the local authorities are from the Local Government Ministry and the Act is subject to interpretations for those cadres from and in the Ministry of Local Government.⁽¹²⁾

The Act is vague about the criteria for the establishment of new local authorities. This allows ad hoc creation of local authorities without consultation with either existing municipalities or the County Councils.

Another example of weakening local authorities is the enactment of amendments to the Local Government Act (No. 11 of 1984), which allowed the transfer in appointment of Nairobi City Council (NCC) senior officers (scale 1–9) to the Public Service Commission. The Minister for Local Government has powers to transfer officers from NCC to other municipalities, or to bring in such officers into NCC ad-

ministration without prior consultation.

The officers at this level tend to feel that they are answerable to the Minister for Local Government only and owe no allegiance to the Council. The problem of the administration of the City was exacerbated by the fact that from 1983 to 1992 the city administration was in the hands of several Commissions appointed by the Minister for Local Government. Thus the officers appointed under the new rules worked under a system which was entirely run as an organ of the Ministry of Local Government. The officials appointed by the Public Service Commission just like the appointed Commissioners, acted at the directive of the Minister of Local Government and owed allegiance to no other higher authority.

The main reason why the appointment of the officers was transferred to the Public Service Commission was the frequency in which some Councillors harassed the senior officers and at times exerted pressure for the removal of such officers. The transfer of these appointments to the Public Service Commission therefore was done with the purpose of giving these officers some security of tenure. But the Public Service Commission does not have the machinery to deal with the discipline of the officers they appoint. The report of the Sector Review has therefore recommended that a further amendment be effected to the Local Government Act, which creates a Local Government Service Commission, with the powers to appoint, promote and discipline local government staff (scale 1-9).

To enable and induce this change, the NCC administration must demonstrate its ability to deal with human resources management effectively. The Sector Review also proposed the capacity-building in this regard.⁽¹³⁾

Another major drawback weakening the local authorities is caused by the abolition of the Gradual Personal Tax (GPT) under the transfer of functions Act of 1969. It naturally weakened the NCC and other local authorities, as the tax was the major revenue source of local authorities. No substantial grants were provided except for ad hoc basis by the government which obviously collapsed the financial base of local authorities. NCC and other local authorities in Kenya receive no grants from the central government today. This legislation was a major blow to local authorities. Instead of revitalizing local authorities, this legislation in fact re-centralized major social services, including primary education, health services and road maintenance from local authorities to the central government as of January 1970, except for seven original municipalities, including Nairobi, Nakuru, Mombasa, Kisumu, Eldoret, Kitale and Thika. This legislation also transferred the Graduated Personal Tax, a local payroll levy, to the central government, and abolished general grant revenues to local authorities.

The NCC had appealed to H. E. President Kenyatta for a reversal of the decision. There was a temporary postponement of the decision. But in 1973 the entire GPT was abolished. Further outcry and protest by the municipalities compelled the Treasury to give temporary compensation grants for services such as health care and education. But these were gradually reduced and finally abolished in 1978.

Without authority to local tax and local human resources, the above drawbacks testify the fundamental reasons why local authorities are weak and de-centralization

in both financial and human resources management have been called for.

Why Centralization was strengthened in Kenya

In such a centralized governance, local governance is obviously weakened. Central government tends in general in any country to keep their authority. Nobody willfully diminish or give up his or her own power. In the case of Kenya, of which population is a multi-racial native and historical Chieftains governing in several territories before the colonial intervention, for the sake of establishing national unity, especially during the period governed by a single-party system, the government deliberately weakened the local authorities.

The abolition of Section 2A from the Constitution of Kenya which had legalized the single party system brought in the multi-party system. The rewards of democratization brought in by the multi-party system have not been without some teething problems.⁽¹⁴⁾ In the case of Nairobi the dominant group is a combined force of Councillors drawn from the opposition. There appears to be a rivalry between the opposition and the ruling party within the Council which sometimes degenerates into confrontational politics. But the opposition itself is characterized by a lot of in-fighting and turmoil. As the Central Government does not trust the political forces in control at the City Hall, there has been a tendency to work through the appointed officials such as the Town Clerk and the City Treasurer.

According to the authors of the 1996 Sector Review conducted on behalf of the United Nations for the NCC and MLG, some of the controls exercised by the Ministry of Local Government can be easily dispensed with. For instance, little items of expenditures which currently require ministerial approval (e. g., Mayor cannot use his vehicle twenty miles away from city without prior ministerial approval), can be at the discretion of the NCC administration. Government can put ceilings of discretionary expenditure, while NCC can demonstrate their strength of accountability. This is in fact recommended by the President Commission Report as well as the proposed Kenya Local Government Reforms Programme. (See recommendations in the later section.)

Devolution and decentralization require the local authorities themselves to demonstrate a convincing degree of responsibility, especially in the areas of financial management. Rampant mismanagement would always be a source of conflict between the Government and the concerned local authority. In Kenya the problem of decentralization of powers from the central government to the local authorities is hampered by the problems of maladministration and incompetence in the local authorities. These have historic roots. Thus the local authorities themselves have also a major responsibility in bringing about more decentralization through their capacity building and by acting in a responsible manner. But it requires a lot of efforts and needs external support.

In essence, as Dele Olowu, a prominent African governance specialist, once asserted,⁽¹⁵⁾ the problem in many African countries is to perceive any social organization outside the center of power as a threat to the regime. As long as this perception

exists, decentralized and democratic local governance is not possible.

Actual Setting of Local Governance in Kenya

Role of the Ministry of Local Government

At present, the Mayor of Nairobi is elected by Councillors; two-thirds of whom are elected by citizens, but one-third are nominated by the Minister of Local Government. The nomination process is meant to bring in professionals such as doctors, nurses, architects, planners, etc. But it is not always the case. In general, the aforementioned UN Sector Review recommended to change local authority election and democracy. The Local Government Act (1963) should be changed to give Nairobi its own rules to be termed Nairobi Metropolitan Ordinance. The Ordinance should, *inter alia*, stipulate that: (See later recommendations Section)

- (a) The Mayor of Nairobi should be elected by the Nairobi citizens and special election beheld every five years for the election of the Mayor. The Deputy Mayor should also be elected by the citizens in a similar manner.
- (b) The elected Councillors should have a minimum educational level for which a standard should be set; and
- (c) Nominated Councillors should include professional such as doctors, nurses, valuers, urban planners, senior accountants with Municipal Accountant qualification or similar qualification, four non-Africans to represent the Asian and White interests in the Council (two from each community). All the nominated members should be selected after consultation with the Council.

Relation of the Ministry of Local Government and Local Authorities

The Ministry of Local Government is the parent ministry of all local authorities, including Nairobi City Council, 19 Municipal Councils, 23 Town Councils, 27 Urban Councils and 50 County Councils. All institutions in Kenya have a parent Ministry. The reasons for having a parent Ministry are given officially as follows:⁽¹⁶⁾

- The Ministry is the media through which the Government interlinks with local authorities.
- The Ministry is also the link between the local authorities and the Parliament. Consequently, only the Ministry of Local Government can present local authority issues in the Parliament.
- The Ministry is the financial spokesperson (did not guarantee to provide resources) for all local authorities on matters pertaining to the Treasury, necessary for the allocation of public funds to all local authorities.
- The Ministry is the platform for partnership between and among all local authorities for local government present and future policies.
- The local authorities form the critical link between the electorate and the Ministry.
- The Ministry, in a nutshell, is the coordinating organ for all local authorities'

activities, a role it cannot abdicate. (author's caption: It sounds like an absolute monarch!)

Structure of Local Authorities: the Case of Nairobi

A detailed structure of Nairobi City administration as an example of local authorities in Kenya is annexed to this paper. (See Annex II.) The present administrative structure of Nairobi is divided into ten major departments, each reporting to its relevant Council Committee, which in turn reports to the Full Council.

The administrative structure is in conformity with the 1963 Local Government Act (Cap. 265), which gives the Minister of Local Government powers to establish and stipulate the functions of local authorities. The annexed structure of NCC was constituted in 1963 and remains without any substantial changes, despite the difference of coverage of population from 200,000 in 1963 to now over two million. It is due to this fact that NCC's capacity is in peril.

Table 3: NCC Departmental Staff and Wages

Department	No. of employees	% of total employees	Total monthly wages, K. Shs.	% of total monthly wages
Public Health	4,918	28.21	30,291,690	30.99
City Engineer	3,061	17.56	15,071,160	15.42
City Inspector	3,042	17.45	13,958,130	14.28
Water & Sew.	1,917	11.00	11,097,550	11.35
City Education	1,671	9.58	8,700,420	8.90
So. Ser./Hou.	1,136	6.52	5,908,930	6.05
City Treasurer	611	3.50	4,963,470	5.08
Town Clerk	442	2.54	2,987,720	3.06
City Plan/Arch.	389	2.23	2,833,720	2.89
Housing Dev.	246	1.41	1,937,170	1.98
Total	17,433	100.00	97,749,880	100.00

Source: NCC Town Clerk's Department, Payroll, May 1996.

Table 3 is a summary of the total number of employees (17,433) of Nairobi City Council. Usually, the staff structure is bottom heavy. Recruitment is extremely at random as there are no valid scheme and political consideration is favored in recruitment. As a result, unqualified personnel are recruited leading to over-staffing in some departments. As Table 4 indicated, in 10 years between 1983–1993, the staff payroll more than doubled. In 1996 it tripled. The staff size over 13 years increased only 15%. This growth was indicated by many officers without parallel planning or improvement in performance.

Financial Management-the Case of Nairobi

As Table 5 shows, the major source of local authority's revenue is Rates, which

Table 4: Nairobi City Council Staffing and Payroll Cost (1983-1993)

Year	Average no. of employees	Total Payroll (K. Shs.)	% increase/decrease in payroll cost
1983	16,981	358,044,580	-4.0
1984	16,275	343,743,460	-9.5
1985	15,954	311,159,620	4.4
1986	12,162	324,709,080	-4.0
1987*	12,142	312,450,640	20.5
1988	14,630	376,656,220	35.3
1989	15,150	509,204,820	7.6
1990	16,123	547,899,160	57.0
1991*	16,857	859,987,720	-8.5
1992	18,104	786,952,300	3.0
1993*	18,818	810,591,000	

Notes: 1. 1978, Low figure because of mass retirement after reduction of retirement age from 60 years to 55 years by a Government Directive.

2. 1991-Payment of arrears resulting from salary award.

3. 1993-Figures given related to 6-month period to June 1993, and were doubled to the end of 1993.

Table 5: Main Sources of Revenue-Nairobi City Council

Service	% of Total Revenue
Rates	60
Fees and charges (licen and house rents)	35
Contribution from service charge	5

go into paying the salaries of the workforce of the City Council. In recent survey,⁽¹⁷⁾ 87% of the total revenue of the City Council is being spent on staff salaries and related costs. The rest is for operational and development costs. One problem cited is that NCC collects only a small percentage of total collectable revenue. Average monthly revenue collection is about K.Shs. 170 million or K.Shs. 2.04 billion per annum in 1995. Fee collection management needs also to be improved. (See recommendations section).

However, the major reason for the financial crisis is due to the afore-mentioned historical fact that local authorities do not possess the taxation authority. Loss of revenue after abolishing the Graduated Personal Tax by the government, are not compensated by the grants from the Central Government.

There are various constraints due to the present fiscal relations between the Central Government and the local authorities. These include limitations in generating additional revenue based on the consideration that "Finance follows function," i.e., agreement between the Central Government and local authorities on sharing

functions and corresponding finance, including sources which are presently under the authority of the Central Government, e. g., the road maintenance levy, motor vehicle road licences, hotel taxes, etc.

No system of grants from the central Government to local authorities such as NCC for the costs of social services including education, health, natural disasters, etc. Restrictions in licensing regulatory framework, are set by the Central Government and NCC has no authority to set the rate of fees that are realistic to cover the NCC's costs.

Additionally, while privatization of city services such as refuse collection, have been done on an ad hoc basis without any city planning. Community-based options are much talked but no policy is set for the use of private sector or NGOs.

There is an acute need of decentralization of tax authority and better dialogue and mechanism to determine the functions to be shared between the Central and local authorities. (See recommendations). On the other hand, there is an urgent need for an integrated financial management strategy to resolve the city financial crisis. Such strategies should include:

- Enhanced financial resource mobilization and administration strategies;
- Accountable procurement and contract standards strategies; and
- Transparent auditing and accounting practices strategies.

Recommendations to Strengthen the Capacity of Local Governance

Some of the areas to be improved have already been noted in this paper in the context of problems addressed. The Sector Review which the United Nations has undertaken since 1996 in the City of Nairobi has touched the issues corresponding largely to the six issues addressed in the afore-cited Sub-programme of Local Governance issued by the Government of Kenya and several donors. Following are the summation of the recommendations from the Sector Review for strengthening the Capacity of Nairobi City Council in particular, but for other local authorities as well in general. These summation are made in the context of the issues addressed in the afore-cited Sub-programme of Local Governance. These recommendations in fact emanated from the Strategic Planning Meeting on Capacity-Building for Metropolitan Governance of Nairobi, which was co-organized by the United Nations, the Ministry of Local Government and the Nairobi City Council, during 24–26 February 1997.

On Reorganizing the Ministry of Local Government into Functional Departments

The general idea of this need is endorsed in the Sector Review. Function of demarcation in the Central Ministry will enable the Ministry's departments to directly assist the functional departments in the local authorities, thus strengthening the guidance authority and professional power to the local authorities. Capacity building of the Local Government Ministry itself was called for and a separate technical cooperation programme was generated during the afore-cited 1997 Strategic

Planning Meeting, which both government and UNDP authorized to implement. In a highly centralized system of local governance in Kenya, strengthening the capacity of local governance which inevitably and eventually requires the decentralization of the authority of fiscal and human resource management, must go hand in hand with the capacity-building efforts of the Central Government.

Structural Issues and Criteria for Creation of Local Authorities

This issue was addressed in the Strategic Planning Meeting. It is interesting to note that another study to improve and restructure the finances of the local authorities in Kenya has been undertaken during 1996 under the Kenya Local Government Reform Programme (KLCRP) funded initially through a Japanese Government Programme for Human Resources Development — a grant administered by the World Bank. This programme included the review of the necessary legislative and institutional reforms. The fundamental issue is the weak legal framework with which local authorities are being created. This is causing more problems to the Ministry of Local Government and also to the newly created local authorities as neither of them possess any appropriate level of revenues. Creation of new local authorities can be interpreted to dump the central government responsibilities to the local authorities without giving necessarily associated authorities or resources for governance. This is creating frustration and tension in both central and local institutions.

On Strengthening Financial Management

The World Bank supported programme also identified this area as a major bottleneck of sound local governance. Our Sector Review and the Bank's Programme also recommended the following:

- Broaden the revenue base and improve collection management;
- Design and implement a simplified accounting system in local authorities;
- Design and implement a plan to improve resource mobilization and fiscal management;
- Support budget preparation;
- Intergovernmental fiscal relations study and recommendations for reform;
- Debt management/capital financing alternatives for local authorities.

However, the fundamental issue is the availability of local taxation authority and the capacity of tax base identification and collection. Decentralization of taxation authority is requisite, while such act is dependent on appropriate degree of human capacity to be developed in the local authorities. Over this issue, there is at present tension between local authorities and the MLG, particularly the senior staff of MLG and the Mayors.

On Long-Term Strategic Planning within the MLG

The Nairobi Strategic Planning Meeting also touched upon this issue. The Central Government strategy to establish the base of human and financial resources for local authorities involving in its process the local authorities is a pre-requisite to

future decentralization and concretizing the sequences of action to deconcentration, if not decentralization. The MLG does not currently favor decentralization. Neither local authorities are ready to go through at the same time. Citizens and politicians of the country must re-think the need and benefits of planners and implementors to be near themselves. Unless some steps are taken toward decentralization of fiscal and human resources management, local governance in Kenya can never be fundamentally improved. At least an initial consultative process can be established to place a dialogue among different stakeholders with the help of outside supporters such as the UN.

On Local Government Act

The Strategic Planning Meeting also endorsed the review of this Act. One important area addressed was that it is essential that Mayors and Deputy Mayors be elected directly by citizens, rather than by councillors, for a term of fixed years. Criteria for nomination and election of councillors should be redefined. Professionalism must be strengthened in the Council. Local Civil Service Commission should be established to select and appoint employees of local authorities. Scientific criteria for selection and scheme of local civil service system should be established. This decentralized human resource system is however, extremely difficult to be created under the current political circumstances and capacities of both MLG and local authorities. Leadership of the central government, particularly the President and the pressure of citizens are the key to move a step forward to such decentralized system. To arouse the citizens' support, local authorities need to satisfy the service delivery.

To improve the service delivery, for example in the City of Nairobi, it is recommended that the NCC should streamline its current organizational structure and redefine its objectives and policies. On human resources training, at one point the Kenyan Institute of Public Administration catered the services of management training for local officials but it has been stopped for some time. To strengthen local governance, common management training programmes for NCC personnel (majority are after all central government officials) and civic leaders can be organized. Procurement, planning and procedures need to be improved and information technology must be vigorously utilized for various management.

These capacity-building requirements need to be spelled out in the Local Government Act and the resources must be allocated. The afore-cited Strategic Planning Meeting proposed and both the government and UNDP approved further capacity-building of Nairobi City Council and management development of MLG. It also endorsed programmes of similar sector review which donors and government approved at the requests of Mayors, who attended the Strategic Planning Meeting for NCC, for their own municipalities including Mombasa, Nakuru, Kisumu and Eldoret, the four largest municipalities next to Nairobi. United Nations, as an advisory body to the Central and local government is intended to serve the needs of the country and municipalities, and help them identify specific areas for improvement. Even a small programme of efforts made jointly by the central and local authorities may provide an incentive to review the Local Government Act for changes.

On Decentralized Planning, Particularly to improve Rural Areas

Even if Kenya's majority of economic outputs are produced in the cities, the majority of its population resides in rural areas. Delivery of social services to the majority in dispersed rural areas definitively requires individualized planning as the needs of specific rural community is so different from one another. Central government uniform plans have been recognized as dysfunctional and decentralized planning has been called for some time. This again leads to the very issue of capacity of the district or local authorities to make plans and to involve the traditional rural sectors, minorities, women and local leaders in policy planning for specific services. When the Central government does not have adequate capacity to make strategic plans, this country has a long way to go to attain the decentralized system to make their public administration more sensible and truly useful for the people of the country.

Concluding Remarks

This paper is a brief account of current Kenya's local governance and overview of its major bottlenecks. While the paper is written in the context of technical assistance to the country describing how the issues are addressed and remedies are presented in Kenya, many of the issues and remedies presented herein have remarkable resemblance with those in other African countries. One stark difference in current technical cooperation to these countries from the past is the stance which the government and donors maintain, i. e., that reforming the government requires an integrated overall governance programme and that governance which stresses the participatory approach and democratic system development inevitably must include with a major degree of importance, the issue of local governance. The link between central and local governance is "decentralization". A review of the decentralization issue clearly reveals the deficits of both sides. For Kenyans, good governance and participatory democratic empowerment are synonymous, and the government is now striving for good governance. Nevertheless, the country is governed far from the decentralized system and local authorities need much to be improved before decentralization starts. When more efforts to attain appropriate level of sound local governance are mobilized, the possibility of realizing the Kenya government aspirations set for the year 2010 may be increased.

Notes

- (1) S. Cheema, "The Policy Framework-Decentralization of Local Governance," *Local Governance*, (UN and UNDP, New York, 1997), p. 10.
- (2) Itoko Suzuki, "Metropolitan Governance: An Approach to Decentralization and Cooperation in Large Cities," in *New Trends in Public Administration for the Asia-Pacific Region; Decentralization*, (Local Autonomy College, Tokyo, 1996), p. 440.
- (3) GA document A/51/950 dated 16 July 1997, available at "UN Reform" on the UN Home page: www.un.org/reform.
- (4) Quoted in the UNDP's draft programme support document entitled "Strengthening

- Capacities for Governance." (Joint programming by GOK and donor agencies) dated 13 February 1995.
- (5) Ibid. p. 1.
 - (6) Ibid. p. 2
 - (7) Ibid. p. 2. UN technical cooperation projects also correspond to these areas.
 - (8) Ibid. p. 8.
 - (9) National Report and Plan of Action on Shelter and Human Settlements of the Republic of Kenya, Habitat II, June 1996.
 - (10) UN/UNDP Sector Review on Capacity Building for Metropolitan Governance of Nairobi, October 1996 (draft), p. 13
 - (11) Ibid., pp. 25–26.
 - (12) The authors, T. S. Chana and J. P. Mbogua, who acted as consultants to the UN in the Sector Review testify this point to the author. Also see Ibid., p. 28.
 - (13) See the overall recommendations made in the later section of the paper.
 - (14) Not only T. S. Chana and J. P. Mbogua, the authors of Sector Review; it is almost a common knowledge in Kenya.
 - (15) J. S. Wunsch and Dele Olowu, "The Future of the Decentralized State in Africa: Institutions and Self-Governance." (1990) p. 182.
 - (16) The development of the Local Government System in Kenya, including as it relates to the city of Nairobi and linkages between local authorities and the Ministry of Local Government, has been articulated in various studies which have been undertaken since 1963, including
 - Report of the Local Government Commission of Inquiry of 1966 (Hardacre Report);
 - Local Government Act (Chapter 265) of 1963 and subsequent amendments;
 - Sectoral Acts from 1963 to date with direct and indirect impacts on local government;
 - Subsidiary legislation (including various by-laws);
 - National Development Plans from 1963 to date;
 - Sessional papers from 1963 to date;
 - Local Government Law Reforms Workshop, May 1994;
 - Presidential Commission on Local Authorities, May 1995; and
 - Economic Reforms for 1996–1998: The Policy Framework Paper, February 1996.
 - (17) See 1996 Sector Review, op. cit., p. 34.

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- UN/UNDP, *KEN/95/100: Enhancing Public Administration and Participatory Development Programme: Progress Report*, dated 30 September 1997, by Elizabeth Odour-Noah (Programme Adviser).
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