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Urban planning and management in small and medium-size towns¹

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One of the greatest dilemmas that face a large number of African towns has to do with development funding and maintenance of essential services like collection of refuse and provision of safe water. In spite of financial support from national governments or donor organizations—which is generally used only to build facilities and not make them work — municipal authorities depend especially on taxes, levies and local fees. [...] Given these financial constraints, municipal authorities tend more and more to privatize or subcontract service delivery. In East Africa, private organizations are routinely called upon to collect refuse. In Nairobi, refuse collection was privatized in 1997 in the central business district while some hundred small enterprises operate in other districts, many of which have never really enjoyed this service.²

Despite the lack of sensitization from the Ministry of Local Government, local authorities are conscious of the millennium development goals. In addition, the mission and vision of most municipalities in Kenya is to provide better and efficient services to their residents—and they are indeed doing everything within their means to achieve this—more often than not encouraging and mobilizing active participation by the residents. Despite these efforts, municipalities in Kenya are still faced with urban planning and management problems, mainly of three types: political autonomy problems, financial autonomy and human resources, which limit the scale of action they can take to ensure access to basic services for their residents.

Administrative and political structures of local authorities in Kenya

Kenya has eight administrative provinces³ divided into various districts, divisions, locations and sub-locations, including local government areas⁴: municipalities, counties, townships and cities. For administrative purposes, the constitution of local authorities in Kenya include municipal councils for every municipality, county council for every county, town council for every township, and urban councils for every *county* division—all these as established under the Local Government Act.⁵ Cities (and city councils) have more responsibilities and autonomy.⁶ The county council boundaries correspond more or less to the district administrative boundaries, such that a county includes several urban councils in a district. Whereas city, municipal, town and urban councils essentially consist of local urban governments, county councils are more of local rural governments. Theoretically, the law gives all authorities the same responsibilities but the creation of multiple small authorities fragments the resources needed for ensuring access to basic services. In practice, municipalities provide more services than counties and towns.

Municipal councils are run by elected and nominated councillors⁷ and chief officers; including technical staff employed by the government and those employed by the council. In essence two organs manage the municipal councils in Kenya. On the one hand, there are the elected and nominated councillors who are the policy makers and on the other hand there is the executive arm headed by the Town Clerk. Administratively, the Town Clerk oversees the operations of the council. S/He works closely with the councillors in ensuring efficient operations of the council. S/He is essentially the council chief executive and the link between policy makers (politicians or councillors) and executives. The councillors are elected during the general presidential and parliamentary elections held after every five years. The political leader of the municipal council is the Mayor (and his/her deputy) while in town, urban and county councils, the council chairperson takes charge. Notably, there are no mechanisms that guarantee women representation in the local authority, even though women were only 2.6 per cent of all the councillors in 2002.⁸

To be able to carry out their tasks efficiently, municipal councils work through four main departments. These are the Town Clerk's department, Municipal Engineer's department, Municipal Treasurer's department and the Department of Housing and Social Services. The Town Clerk's department is the one in charge of the day-to-day running of local authorities. The department comprises of personnel, registry, establishment, enforcement and legal sections. The Municipal Engineer's department is mainly in charge of roads, buildings, maintenance, fire fighting, housing, environment, drainage, public health and cemeteries. The Municipal Treasurer's department is mainly concerned with revenue collection, accounting, expenditures, audit and salaries. The Department of Housing and Social Services is in charge of the council's rental houses, education, sports, community development activities, markets, HIV/AIDS issues and street children.

In addition, municipal councils have different standing committees headed by a councillor. These are: finance and general purpose committee, public health and environment committee, water and sewerage committee, education, housing and social services committee and town planning and works committee.⁹ Each councillor belongs to at least one of these committees and a minimum of six councillors per committee is recommended. The Chairpersons of the various committees are elected through secret ballot. The finance and general purposes committee is mainly concerned with the administration of council finances. The works and town planning committee administer development controls on all development within the municipality. The committee gives guidelines on maintenance of all council utility and it also addresses issues pertaining to infrastructure development such as roads, storm water, street lighting as well as maintenance of public cemeteries and parks. It also approves all physical development within the town.

The public health and environment committee administers all matters relating to health including the cleaning of environment and ensuring that all health related aspects are adhered to at all times. The department also has the responsibility to ensure that all land activities are environmentally sound. The housing, education and social services committee is responsible for approving licenses for those who

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want to establish nursery schools and provides burial rights for unclaimed bodies in the mortuary. It also has the responsibility of regulating municipal housing standards including the review of the councils owned house rents. Lastly, the water and sewerage committee is responsible for all water and sewerage services issues. Resolutions by these committees are passed to the full council for approval and adoption. The committees are required to meet regularly but this hardly happens. In case of an emergency, any committee including the full council can be called to a special council meeting.

Urban development actors and partners

The effectiveness of development projects depends to a large extent on the type of relationship local authorities have been able to establish with the government, on the one hand, and, on the other, with the international organizations and non-governmental ones, private companies or even with the citizens. Though consultation mechanisms have been put in place in Kenya, a number of problems still remain: poor coordination, lack of autonomy and lack of confidence.

The relationship between local authorities and government ministries

Local authorities and the Ministry of Local Government

The local government minister supervises and manages the local governments, develops national policies to support local communities, and manages the *Local Authorities Transfer Funds* (LATF), in accordance with the Local Government Act (Cap 265) of the laws of Kenya. Local authorities in Kenya are semi-autonomous with legislative and administrative powers delegated by the central government. On the whole, the Ministry of Local Government needs to provide an institutional environment and a stable policy for the local authorities, give them effective systems and means to access basic services for the sake of responsibility, efficiency and transparency.

Examples of management of access to basic services

Cap 265 of the Laws of Kenya

Section 152: Schools and education bursaries

- A municipality can, in agreement with the ministry, build and maintain schools and educational institutions, including boarding schools and hostels.
- A municipality can, with the ministry's approval, award education bursaries to students living in the municipality.
- A local authority can, following conditions set by the Ministry, financially assist pupils or students, who are in general resident in the area, to provide access to education in an institution located or not in the same geographical area as their residence.

Section 153: Establishing a public transport service

- A municipality can, with the approval of the ministry, (a) establish a public transport service and ensure it is properly run; and (b) sign a contract with any person for the establishment and maintenance of public transport services.
- In case the local authority manages the entire service, it can, in agreement with the Ministry, ban certain persons from providing public transport for a predetermined duration of time with possible lifting of the ban if the Ministry approves the decision.
- The authority must mention its reasons for the ban or extension of the ban once a week for a month in the official gazette and at least in a newspaper distributed in the area covered by the proposed transport.
- Any objection to this ban shall occasion a meeting of the local authority, which will then refer the matter to the Ministry.
- Any person other than the one appointed by the local authority providing transport for residents by any means of transport, shall be guilty of an offence; the minimum sanction is a 2,000 shilling fine or imprisonment for not more than two months plus a 200 shilling fine.
- Before entering into any agreement with the Ministry of Local Government, the Ministry of Local Government must refer the matter to the Ministry charged with licensing public service vehicles.

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Relations between local authorities and their parent ministry, the Ministry of Local Government, are therefore very close owing to the Local Government Act. The Act concerns different aspects, namely:

- Local government areas
- Constitution of local authorities
- Local government elections and membership
- Meeting and proceedings
- Officers
- Duties and functions of municipalities, *counties* and townships
- Duties and provisioning relating to municipalities, townships and county divisions
- Duties and provisions relating to roads and ferries
- By-laws
- Financial provisions
- Loans of local authorities
- Accounts and audit
- Reports, returns and inquiries
- Powers arising on default of local authorities
- Legal proceedings

The examples of the Laws (see previous page) illustrate the dependence of the local authorities on ministerial decisions, and especially the Minister. By extension, the Local Government Act gives the central government the power to oversee the running of local authorities in Kenya. For example, the Minister must approve the sources of revenue of various local authorities as well as any measures they take to access basic services. It can also dissolve a council and appoint a new commission if such a decision is called for.

The local authorities are in charge of access to local services, including markets, slaughter houses, home refuse collection, road maintenance, municipal lighting and some health services. However, owing to bureaucracy, this law has occasioned very long implementation delays. Local authorities also manage with difficulty to introduce new services. As a matter of fact, even though the authorities are clamouring for more autonomy, they are not in a position to be completely independent of the Ministry. Furthermore, municipalities do not have political, financial or human resources needed for proper management of these services.

Water Supply (Section 178): Not yet fully independent

The municipalities have a responsibility and duty to supply water to residents in accordance with the Water Act 2002. However, a Ministry of Local Government officer must inspect at any time the state of water pipes and facilities to check the quality of water, to determine what quantity of water has been supplied and to check the prices charged. The aim in doing this is to show the government's responsibility to control and ensure quality for residents.

A national response to information exchange: ALGAK

Within the framework of the Association of Local Government Authorities of Kenya (ALGAK), local authorities are able to share information and their experiences in planning and management. ALGAK was created in 1959 by local authorities as a national forum for development of local institutions. The key target areas are local capacity building, contribution to technical and advisory services, governance and democratization, information and communication, development of innovations as well as development of organizations.¹⁰ ALGAK committees occasionally organize meetings, consultative workshops and exchange visits between local authorities. As the meetings are not regularly organized, ALGAK's impact on planning and management of the municipalities is yet to be realized fully.

Local authorities and other government ministries and departments

For proper coordination of their activities and provision of services to urban residents and for the implementation of national policies, local authorities work closely with other relevant ministries and government departments. This is mainly in the areas of health, education, road construction, housing, physical planning and water. In other words, for every newly implemented project, local authorities have to make reference to the Ministry of Local Government and the relevant government technical ministries and departments.

For example, although municipalities have their own municipal council-run schools, the Ministry of Education Science and Technology provides them with teachers and oversees all education matters in the country. The Ministry of Environment and Natural Resources supervises the National Environment Management Authority (NEMA) and formulates policies aimed at improving the urban environment. It allows local authorities to deal with water, garbage and management of cemeteries. The Ministry of Gender, Sports, Culture and Social Services coordinates the National Council of Social Services, Kenya Association of Youth Services, while the local authorities manage museums, libraries, municipal parks, etc. Municipalities are also responsible for children's gardens, family planning and social affairs. Local authorities can build, maintain, renovate, sell or buy parcels of land or residential houses with the approval of the Ministry of Local Government (Section 177) and the Ministry of Lands and Housing, which has legitimate power over management of land ownership, transactions and allocations, and also slum upgrading, etc.

Even with these structures in place, it was noted that local authorities and other government ministries and technical departments do not consider themselves as partners. In reality, they work together but remain distinct entities in thought. In other words, there is a chasm between the executives and politicians. ALGAK could have a role to play as a go-between but the areas of interest remain too vague to forge a close partnership.

Notably, owing to the various types of relations, both political and financial, between the town residents and the government (ministries), local authorities have

often cited the problem of corruption, locally and nationally. Several local elected leaders find themselves under pressure: their duty to satisfy the needs of residents is sometimes relegated in favour of personal or external influence. For example, the price of access to a basic service can be inflated to satisfy personal interests.

Other partnerships that promote urban development

Partnerships with international, national and local organizations

International organizations are the main donors when it comes to development projects in small and medium-size towns in Kenya. Donor organizations, like the UN-Habitat or the World Bank, have different types of development projects, for example access to water and sanitation or building of markets, which fall under the responsibilities of local authorities.

For example, Municipal Council of Homa Bay is working closely with the UN-Habitat to increase access to potable water, building of sanitation facilities, improving sewerage systems and laying pipelines, and garbage collection, with two priority objectives: covering at least 30 per cent of the current geographical water shortage and deal with garbage and a proper sanitation system to at least 50 per cent of the low-income residential areas. Another major outcome of this partnership is improvement of the quality of water coming from Lake Victoria. On the other hand—thanks to World Bank funding – Municipal Council of Kakamega has managed to provide cyclist paths for the *boda boda* (bicycle taxi) sector and Nyeri was able to put up the Soko Mjinga market.

While the Kenyan constitution mentions the freedom of association following the 1990 law, due to bad experiences, lack of trust and counter accusations of inefficiency, municipal councils have for a long time been reticent to the idea of making non-governmental organizations (NGOs) development partners. More often than not NGOs have been running their own affairs in the municipalities without a structured partnership and coordination with the local authorities. This has sometimes led to duplication of efforts towards a common cause. However, as a result of success stories, mainly in Nairobi, local authorities have begun to encourage NGO partnerships for the town's welfare.

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The Municipal Council of Kakamega is currently collaborating with an organization called *Kazi Mashambani Development Group* (KAMADEP), which has donated a number of garbage bins, to be used in the municipality. Still in the area of sanitation, Municipal Council of Kitale is collaborating with organizations such as *Small Green Towns* and *Green Cities of the World*. The Municipal Council of Naivasha is working in collaboration with the *World Wildlife Fund* (WWF) and *Action Aid* on water and sanitation projects. In the area of health, Municipal Council of Homa Bay encourages partnerships if every party (municipality, NGO and residents) find it in their interest to do so. As such programmes geared towards fighting the spread of HIV/AIDS have been initiated with the support of *Médecins sans Frontières*. The Municipality of Nyeri is also working with *Caritas*, *Hospice*, *SWAK* and *Good Samaritan* in developing sex education in schools and on health issues in general. Finally, Municipal Council of Thika collaborates with *Rotary Club* and *Action for Children*, whose main interest is on child welfare. The Municipal Council of Homa Bay also works along the same lines with *Plan International*.

Public–private sector partnership: The case of privatization of water and sanitation services

Owing to problems facing municipalities in water management (i.e. frequent water shortages and wastage, illegal connections, mismanagement of funds from water bills, non collection of water bills and non payment of water), the government in 2002, embarked on water reforms by introducing a new Water Act. The objective of the Act (*Water Act 2002*) is to create favourable conditions for the establishment of performing service through a decentralized body, with an implication of separation of central administration, the Ministry and the national water company. The Act favours decentralized management, i.e. delegated to service providers who are financially and operationally autonomous, with the option of public-private sector partnership being put on hold for the time being, pending the completion of sector reforms. The new arrangement relies on the creation of several autonomous entities at national and regional levels.

In line with the *Water Act 2002*, the government strategy (*National Water Strategy for Service Providers*) provide for services to first of all be assigned to community or local management firms having the status of a private legally incorporated and financially autonomous company. After a transition period, their performance is assessed (thanks to *Service Provision Agreements*) and a decision is taken on a possible public-private sector partnership.

Consequently, the majority of towns that were included in this study are either in the process of forming a management company or are in the process of operationalizing their company. Nyeri and Naivasha have already responded positively to the new Act by setting up a management company. For their part, Homa Bay, Kakamega, Kitale and Machakos (yet to implement the *Water Act 2002*) are facing a myriad of problems of water distribution: prices that are too high for slum dwellers to pay, worn out and rusted machines, water pipe bursts, growing illegal connections, vandalism, etc. In addition, owing to increase in urban population, all residents do not have access to water since municipalities had not taken this growth phenomenon into account at the time of putting up the pumps or sinking the wells. This explains why it is important to create water distribution companies.

On a different note, the Municipal Council of Thika is reticent to this Act for several reasons: the municipal council has never had water management problems, the main reason behind the *Water Act 2002*; water distribution is source of revenue for the town and that a private company would raise the price of water which has remained cheap and clean. On a positive note, Nyeri Water and Sewerage Company is a shining example of how successful privatization of water and sanitation services can be in Kenya's local authorities.

The management of the provision of services to the town residents by the municipalities must quickly integrate the momentum set by donors about ten years ago concerning decentralization and privatization of services and popular participation. The challenges are many and do not only include water, but also the issue of slum areas, unemployment, or even the management of solid waste.

NYEWASCO: A Kenyan benchmark in the provision of water and sanitation services

Nyeri Water and Sewerage Company (NYEWASCO) is a good example of a public corporation that is working well. Because of many water management problems faced by the Municipal Council of Nyeri, a group of council employees decided to set up this company in 1997. Currently, NYEWASCO is an independent body and its management is autonomous. The council does not interfere in the day-to-day running of NYEWASCO, even if some councillors are board members of the company. The company is currently working on the expansion of the water network, so that the entire community will have access to water, including the peri-urban areas. With this expansion, the town will be able to provide clean and tap water to its residents until 2025.

NYEWASCO serves water to about 60,000 people in the municipality with about 9,400 active connections. The water network has increased from 65 km² of piped lines in 1986 to the current 85 km² and 20 km² of in-fill sewers. The current production is 9,000 m³ per day and is set to increase to 27,000 m³ per day. Moreover, the quality of water has improved; water billing and revenue collection has improved, and when there are breakages, they are repaired promptly.

NYEWASCO is a success story because of four main reasons:

- The company has received a lot of support from the municipal council.
- The company functions professionally and autonomously, without political interference.
- The company recognizes the need to equip its staff with the necessary skills to perform well. As such, the company has trained all the staff they inherited from the council.
- The company recognizes the needs of the population. They involve the community in their activities to provide them with a sense of ownership.

For the municipality, the company is a very good source of revenue: the efficiency of revenue collection has risen to 98 per cent from the previous 60 per cent when they took over the management of water services in Nyeri. The more efficient NYEWASCO is, the more the town residents will demand for their services.

NYEWASCO has effectively demonstrated among others that:

- Team work and cooperation among civic leaders, chief officers, the private sector and the general public are cornerstones to sustainable service delivery with a human face.
- Good governance (transparency, accountability) is key to pro-poor service delivery.
- Improved water and sanitation services and predictable delivery system can be achieved in Kenyan local authorities.
- Social responsibility is important in any organisation.
- Pro-poor programmes are compatible with commercialization of basic services.
- Improved communication does lead to sustained support from customers, suppliers and others.

Whereas the budget of small and medium-size towns is inadequate in tackling these problems, a large section of residents have no means to pay for urban services. The risk is ending up with a definition of urbanization of poverty. For everyone, public authorities and the people, building a town is building a society.

Based on some of these success stories (like NYEWASCO), local authorities are gradually showing more interest in developing public-private sector partnership to improve access to basic services. For example, as a result of partnership between a private company (BIDCO Oil Refinery) and Municipal Council of Thika, the municipality has been able to tarmac the road leading to the refinery. Together with Western University of Science and Technology, Municipal Council of Kakamega has implemented bio-latrines in the town and Mumias Sugar Company has joined in the town's beautification programme. In another success story, the Municipal Council of Nyeri has already privatized its slaughterhouse and is presently getting more revenue in rent than before. As such the municipality is considering privatizing its refuse collection and entering into more alliances with the private sector.

Several formulas are possible through authority and responsibility sharing, commitment and risk sharing, joint investment and the sharing of benefits. However, in order to be effective, a public-private sector partnership requires a stable political, administrative and economic environment.

Revenue and budget management

Local authorities benefit from a variety of sources of revenue, either centrally or locally, which should allow them to initiate development projects for access to basic services, yet municipalities have several ordinary expenditures that stand in the way of new urban development projects. Following the 2003 Africities Summit held in Yaoundé, governments admitted that local authorities needed to be more involved in urban planning and management for the achievement of millennium development goals. That is what the Kenyan government is trying to put into practice, especially with the local authorities budget management procedure. The process consists first and foremost discussing real needs, particularly in terms of operation and maintenance costs. Secondly, the municipal councils deliberate on budget allocations from various departments and finally, an all-inclusive budget is sent to the Ministry of Local Government for approval.

Multiple sources of revenue

Local authorities benefit from different sources of revenue, both local and from the central government. The main sources of revenue from the central government are the *Local Authority Transfer Fund* (LATF), *Contribution in Lieu of Rates* (CILOR) and the *Road Maintenance Levy Fund* (RMLF). These sources contribute to about 34 per cent of the local authorities' total revenue. During the financial year 2004/2005, LATF represented 21.7 per cent of the budget the government of Kenya allocated to local authorities. This fund allows communities to have limited revenue for initiating development projects at the ward level.

Contribution in lieu of rates ranges between 1 per cent of the total budget per year in Nyeri and 6.8 per cent in Kitale. This contribution theoretically replaces

the interests to be paid by the government. For the financial year 2004/2005, the government planned to allocate to CILOR 2.7 per cent of its budget to local authorities. In practice, this government assistance remains insufficient. Road maintenance levy fund, which comes from fuel levy, is equal to 1.9 per cent of the government budget for local authorities for road maintenance. Proper use of the road maintenance levy fund was witnessed in Machakos town. The municipality in 1984 used the fund to build its bus park. The bus park is well organized with seating spaces and sheds for passengers, paved roads, well-arranged stalls and clean toilets. The bus park is very clean, orderly and surprisingly there is no touting and the gate collection is very efficient as every passenger vehicle is charged.

On the other hand, the local sources of revenue, contributing to about 66 per cent of the municipalities' total budget, include (mainly):

- Single business permits
- Market fees
- Property rates (including interests and penalties, if levied)
- Bus park fees

Others are: slaughterhouse fees; vehicle parking fees; house rents; enforcement; administration, treasury and social services receipts; surveying and town planning fees; waste and sewerage charges; conservancy; advertisement; natural reserves/parks; and water supply and sewerage treatment.

Figure 1 represents the various sources of revenue in small and medium-size towns in Kenya. The percentages are based on budgets of six municipalities: Machakos, Nyeri, Naivasha, Thika, Kitale and Homa Bay, with RMLF estimated according to oral interviews. On the other hand, a specific example of the Municipality of Machakos is given in Table 1. The Municipality of Machakos gets funds from a variety of sources: a third comes from the central government while the rest are local sources of revenue.

Local Authority Transfer Fund (LATF)

LATF, introduced in 1999/2000, is an Act of the Kenyan parliament (*LATF Act No. 8 of 1998*). It is a grant from the central government meant to equip local authorities with means to provide their citizens with basic services like access to water and electricity, among others. At the time of its inception, most local authorities were faced with increase in unresolved debt, reliance on the central government for their capital investments, poor leadership and economic governance and poor delivery of services to residents. To address these problems, the Kenya local government reform programme embarked on policy and legal framework changes aimed at decentralisation and local empowerment of local authorities. LATF was created as part of this reform strategy and is based on three key objectives:

- Enable local authorities to improve and extend service delivery to citizens.
- Debt resolution.
- Improve revenue mobilization, accountability and financial management in local authorities.

According to the Act, 5 per cent¹¹ of income tax is transferred to the 175 local authorities of Kenya following a predetermined distribution system. This allocation is based on the previous year's budget and the number of residents in the urban units. The funds are divided along three main lines: financial (for debt settlement), administrative (for payment of salaries), and technical (for various development projects). Municipal councillors are supposed to use these funds for developing their respective wards. In this regard, development projects remain unique to each ward.

The government requires local authorities to direct at least 50 per cent of the funds towards access to basic services. Half of this should be channelled through the Local Authorities Service Delivery Action Plan (LASDAP). Introduced in 2001, LASDAP compels local authorities to submit to the government a plan identifying and defining local priority needs. In addition, municipal staff remuneration should not be above 60 per cent of the total sum of the funds. Attaining the sum of 50 billion euros per year, LATF is considered supplementary to the local authority budget aimed at encouraging access to basic services and improving infrastructure.

Figure 1: Main sources of revenue in six towns (%)

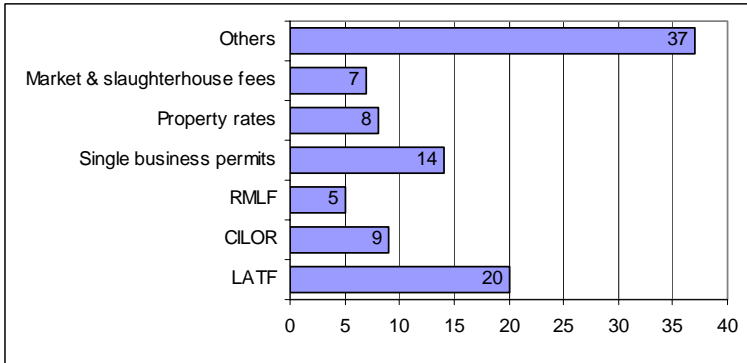


Table 1: Municipality of Machakos sources of revenue (2004/2005 financial year)

Revenue	Million KSh	%
<i>From the central government</i>	<i>32.69</i>	<i>37</i>
LATF	20.44	23
RMLF	10.76	12
CILOR	1.49	2
<i>Local sources</i>	<i>55.25</i>	<i>63</i>
Bus park	17.85	20
Single Business Permits	11.23	13
Market Fees and Slaughter House	10.82	12
Property Rates	3.61	4
Others	11.74	13
<i>Total revenue</i>	<i>87.94</i>	<i>100</i>

Whereas local authorities have a responsibility to levy taxes and other fees, the Ministry of Local Government must approve any changes to the “specified and regulated” charges or fees. This implies that municipalities are not able to benefit from any other sources of revenue they may find necessary, apart from those specified. Furthermore, they are not able to increase or reduce the existing charges and fees.

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Unequal distribution of expenditure

Local authority expenditure is distributed among all municipal departments. More often than not, expenditure is concentrated on three main aspects: staff salaries and wages, operation costs and maintenance costs. In many municipalities, staff salaries account for more than half of the total fixed expenses. For example, about half of the expenses in the Municipality of Machakos is set aside for staff remuneration. Debt servicing and maintenance costs, each takes up a quarter of the budget, with very little left for capital project (Table 2). This shows the financial incapacity of local authorities to introduce new development projects. It also implies that the huge wage bill prevents local authorities from investing in other projects.

Table 2: Expenditure by Municipality of Machakos (2004/2005 financial year)

Expenses (estimated)	Million KSh	%
Salaries and Wages	38.18	47
Operation and maintenance	19.64	24
Debt resolution	20.64	25
Capital Projects	2.68	3
<i>Total expenses</i>	<i>81.14</i>	<i>100</i>
<i>Surplus (Deficit)</i>	<i>6.80</i>	<i>/</i>

A general situation of continued weakness in budget management

In reality, local authorities in Kenya lack autonomy and money, with the result that even if the government gives its approval of the budget, the municipalities could only adhere to their budgetary plans with difficulty. Added to this are difficulties like urgent disbursement deadlines and arising treasury problems. LATF, for example, is divided into three payments during the financial year. Given the many needs, a good part of the funds is first allocated to salaries and debt servicing.¹²

Municipal councils also lack infrastructure and means to attract investment and they still do not have means to collect taxes and service-related charges. For example, the *boda boda* sector is growing fast but due to reasons, which are often political, local authorities do not levy any charges on the operators. Another factor

that explains low revenue can be attributed to the importance of the informal *jua kali* sector to the urban economy. This sector, which is not registered, does not generate any revenue for the municipality, even when municipalities put in practice a policy of regulation and control.

Imposition of fees and charges

Cap 265, Section 148

According to Local Government Act, Chapter 265, Section 148, local authorities can (a) charge fees for any license or permit in respect of any person or matter, premises or trade, whom or which the local authority is empowered to control or license; and (b) impose fees or charges for any service or facility provided or goods or documents supplied by the local authority in connection with the discharge of any duty or power of the local authority or otherwise. However, all fees or charges imposed by the local authority shall be regulated by a by-law, or if not, may be imposed by resolution of the local authority with the consent of the Ministry of Local Government and such consent may be given either in respect of specified fees or charges or may be given so as to allow specified local authority to impose fees or charges by resolution in respect of a specified power or a particular matter.

As much as local authorities are advancing solutions that would translate in different ways into an increase in revenue, nothing much can be achieved without the approval of the Ministry of Local Government. An example is the much cited revenue enhancement programme, which is yet to be fully exploited. Given powers, municipalities are able to enhance their revenue base through the introduction of parking fees, increasing services on which fees can be levied, and sensitizing town residents and defaulters on their responsibility to pay taxes (sometimes at the risk of waiving the accumulated interests and penalties). Local authorities can also invest and undertake income generating projects, even though they often are unable to do this due to lack of means. The Municipal Councils of Machakos and Nyeri, for example, invest in fixed deposit accounts.

The human resource management factor

Local authorities are also facing other human resource management problems in terms of qualification and quantification, which reduce professional efficiency and therefore at a different level slow down the achievement of millennium development goals. As indicated before, local authorities' staff is recruited by two different entities: the officers recruited by the Ministry of Local Government through the Public Service Commission stand out from other employees recruited by the local authorities. Whereas those recruited by the Ministry are permanent, those employed by the local authority can be either permanent or temporary.

Quite often, the majority of council employees are not skilled, particularly those employed by the local authority. Skilled employees represent only about 5 to 10 per cent of the all the council workforce. In other words, the manpower structure is pyramidal: very few (skilled) people at the top and the majority (unskilled) at the bottom. The majority of the unskilled labour is employed in the cleansing, road construction and enforcement (mainly council *askaris*) sections. Where there is need, temporary or casual labourers are normally hired. Even then, the municipalities cited lack of qualified personnel in planning, security, enforcement (mainly lawyers and prosecutors), public health and fire brigade sections. Notably, all the municipalities visited have no designated town planners. Town planning portfolio is more often than not taken by the Municipal Engineers, who work closely with the District Planning Officers.

Nonetheless, the municipalities are aware of the importance of on-going training and occasionally channels part of its financial resources towards this purpose. In Machakos, the municipality has focused mainly on the training of middle-level officers, while in Homa Bay, the training is directed towards technical and social assistance teams. However, in the eyes of the authorities these training programmes are quite often too short and remain very elementary.

On the whole, municipalities lack personnel: the rise in cases of diseases like malaria, tuberculosis, the AIDS virus (in some areas) result in high morbidity and mortality rates and staff members who retire are not systematically replaced due to government restrictions in employment. Some have even been retrenched during

the on-going retrenchment programme. This implies that the number of officers remains inadequate. In Homa Bay, the rise in cases of diseases, without proper medical care, results in frequent absenteeism of the workers.

Furthermore, employees in local authorities are experiencing lack of motivation owing to low salaries, salary delays and rising standards of living. Salary delays have been a major cause of strikes in most local authorities in Kenya. Coupled with this, the working conditions are often bad: lack of proper housing and transport to work, working without protective clothing, lack of proper tools and equipments, lack of office space and computers, inadequate medical care and lack of vehicles for refuse collection.

Councillors versus chief officers: patronage and loyalty?

Councillors threw out the Machakos Town Clerk from her office yesterday. [The Town Clerk] was in her office working when the councillors ordered her to leave after a stormy special meeting at the council's chambers in the morning. Thirteen of the council's 14 civic leaders took part in the eviction after they accused [the Town Clerk] of abandoning her responsibilities. They also said the council's finances should be investigated.

(Source: Daily Nation, Saturday February 25, 2006).

The above scene is not an exception in most local authorities in Kenya. Whereas the policy makers (i.e. councillors) and the Chief Officer (i.e. the Town Clerk) are supposed to work harmoniously for the common good of the residents, the "ejections" seen above may occur, especially if the Town Clerk is not "popular" with the councillors. Given that councillors are from different political parties, political patronage and loyalty may sometimes overshadow their role of provision of services to the people. It is definite that when the policy makers and the executive arm are not working together, urban planning and management is affected.

LATF and CDF: Urban management through local development funds

Local Authority Transfer Fund (LATF)

Within the LATF framework, municipalities involve the community and citizens of each area in identifying projects that respond to their needs. To do this, either a task force on social assistance visits the wards to discuss the people's needs, or residential area meetings are organized. A list of activities is then prepared, generally with two projects per area. This is mainly because the fund is equitably distributed between wards. However, LATF is often first redistributed for debt settlement and payment of salaries before being invested in development projects. LATF resources, which increase year after year, represent between 20 per cent of the total revenue (in Nyeri) and 40 per cent (in Homa Bay). Thika is an exception among the towns studied since LATF do not exceed 9 per cent of the total revenue.

LATF development projects affect all aspects, from building to maintaining roads and or bridges, to erecting streets lights, water access projects, toilets, and drainage systems. Dispensaries as well as classrooms have also been built. Finally, towns invest frequently in the running of municipal markets thus promoting the local economy. To create employment, local authorities rely on infrastructure improvement projects to attract investors. They also finance small enterprises like in Homa Bay where they intend to introduce an automatic car wash area.

Although LATF has a positive impact on debt servicing, there is still a lot that remains to be done on projects geared towards access to basic services. In one of the municipalities, the Town Clerk noted that LATF could be more effective in service delivery if the councillors focused on projects that benefit the municipality other than using the current allocation per ward, sometimes for political gains. The fund's allotment often appears inappropriate given the citizens' real needs and several constraints in its implementation limit its scope. In conclusion, local authorities have mixed feelings about their satisfaction with LATF.

LATF projects

- *Machakos*: Sinking boreholes; construction of water tanks; grading of roads; and construction of the municipal market.
- *Thika*: 7 police posts (5 are currently operational); 2 social halls; 1 clinic; opened new roads; extension of water kiosks; and extension of street lighting. Thika was voted as the best local authority in Kenya in the use of LATF. The municipality attributes this to their transparency, relationship with the community and political will. As a result, the municipality has achieved a 90 per cent completion rate of LATF projects compared to Nairobi's 10 per cent.
- *Kakamega*: Grading of roads; protection of water catchment areas; construction of classrooms (i.e. Township); construction of dispensaries (i.e. Lwesero and Nabongo); and construction of bridges (i.e. Lihanira, Lwatingu and Murram).
- *Nyeri (2004/2005)*: Grading of roads; bursaries; fencing of Kamkunji grounds; construction and rehabilitation of classrooms; rehabilitation of children's homes; council staff training; water projects; construction of refuse chambers; computerization; solid waste management study; construction of dispensaries; and rehabilitation of rental houses.
- *Homa Bay (in the last five years)*: Road repair and opening of new roads (i.e. 45 km of roads have been opened so far); water projects; rehabilitation of markets (i.e. Soko Mjinga and the main open air market); street lighting; building of foot bridges; building of storm water drains; and construction and rehabilitation of toilets (i.e. in Sophia market and Got Rabuor).
- *Kitale*: Shimo La Tewa foot bridge (with the help from ITDG); boreholes in 3 wards (also with the help of ITDG); Soko Mjinga market; classrooms in some wards; a community centre; the on-going street lighting programme; ablution blocks; and toilets.

Small and medium-size towns in Kenya

Constituency Development Fund (CDF)

Established in 2003, the CDF puts funds at the disposal of elected Members of Parliament, in order for them to carry out development projects in their constituencies. In 2004/2005, each constituency received between 25 and 30 million Kenya shillings (300,000 to 350,000 euros), depending on the level of poverty in the area. Ten per cent of the fund can be used to allocate education bursaries and 5 per cent must be set aside to respond to emergency situations. Finally, 3 per cent serves as administrative costs to cater for local implementation.

The Member of Parliament must, beforehand, put in place local management committee over which s/he presides (i.e. the Constituency Development Fund Committee). The committee consists of two local elected representatives, one of the district officers posted in the area, two representatives of religious organizations, and a representative of NGOs working in the area, and two men, two women and a youth to represent residents of the community. Residents of all the municipalities in the area must in theory be consulted and propose projects which the committee is then charged with listing in order of priority. Another committee at the district level verifies the consistency of the programmes suggested by the various constituencies under its jurisdiction. Finally, the National Management Committee, charged with reporting project implementation to parliament, ends the process by approving the proposed programmes. In May 2006, Members of Parliament voted to triple the CDF budget allocation, which will now be 3 billion Kenya shillings for the implementation of new development projects.

For these development funds (LATF and CDF) to be more efficient, there is need to harmonize their implementation to avoid duplication of projects and conflicts of interest. Local area Members of Parliament should work closely with the councillors for the benefit of town residents. That is, provision of basic services to the residents should be void of politics.

Endnotes

1. As part of this study, visits were organized in seven towns: Homa Bay, Kakamega, Kitale, Machakos, Naivasha, Nyeri, and Thika. The purpose of the interviews (with Mayors, Town Clerks, Councillors and other council officials) was to have a better understanding of how local authorities manage their towns in terms of finances, policies and human resources, and to evaluate access to basic services towards the achievement of the millennium development goals.
2. Ernest Harsch, *Divers projets visent à améliorer logements, services, sécurité et administration, Des villes africaines fragilisées* (www.un.org).
3. Including Nairobi with its special status.
4. As defined in the Local Government Act (Cap 265) of the laws of Kenya.
5. The Local Government Act does not provide a clear definition of these local government areas but gives the Minister powers to “establish any area to be or cease to be a municipality, county or township”.
6. There are currently three cities in Kenya, namely, Nairobi, Mombasa and Kisumu. Mombasa and Kisumu were elevated to city status in 2001 though they are yet to get their charters.
7. The number of nominated councillors is normally one-third of the elected councillors. The elected councillors are elected directly in their wards.
8. Kenya held its last general election in 2002.
9. The formation and functions of standing committees may differ from one council to the other.
10. www.algak.net
11. The current development plan (2002–2007) provides for a gradual increase in the fund from 5 to 20 per cent within the plan period.
12. According to a 2003/04 Commonwealth Local Government Forum report, Kenya’s financial debt was about 13 billion Kenya shillings while debts owed by Nairobi and Mombasa had reached the 8 billion shilling mark. The remaining local authorities shared between them 38.5 per cent of the debt (www.clgf.org).

Small and medium-size towns in Kenya

Nyeri Water and Sewerage Company



LATF project: Police post in Thika

