

Reforming Local Authorities for Better Service Delivery in Developing Countries

Lessons from RPRLGSP in Kenya



Edited by
Tiberius Barasa
Wim Eising

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Norfolk Towers, P.O. Box 45843 – 00100

Nairobi, Kenya

Telephone: +254-(0)20-22251179/22251429/22251162

Fax 254-(0)20-22251162

Email: info@ipar.or.ke

Website: <http://www.ipar.or.ke>

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[pavillion_ techno@yahoo.com](mailto:pavillion techno@yahoo.com)

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Contributors

Abby Muricho is a development planning and community participation expert, assigned to the RPRLGSP as RSDA.

Angeline Hongo is Programme Coordinator of the Kenya Local Government Reform Programme in the Ministry of Local Government.

Daniel M. Muia is a Senior Lecturer Department of Sociology at Kenyatta University in Nairobi. He is an expert and author in local governance and community development processes.

Emmy Alividza is a development planning and community participation expert, assigned to the RPRLGSP as RSDA. She currently is Programme Officer in KLGRP in MoLG.

George Kioko wa Luka is a financial expert, assigned to RPRLGSP as RSDA.

Janet Kiarie is a project management expert, assigned to the programme as consultant for the PCM capacity building component.

Joel Too is a financial expert, assigned to RPRLGSP as RSDA.

John Mativo is a professional engineer, assigned to the RPRLGSP programme as engineer for the technical audit of the PRF capital projects.

John Ndungu is a financial expert, assigned to RPRLGSP as RSDA.

John Nguri is an international Public Financial Management consultant. He was the financial management expert in the Technical Assistance team to the Programme Management Unit of the RPRLGSP.

John Waithaka is Programme Coordinator of the Rural Poverty Reduction and Local Government Support Programme.

Joseph Ngugi is a financial expert, assigned to RPRLGSP as RSDA.

Martin Anyango is the Governance Programme Manager in the KLGRP in the MoLG.

Mwikali Wambua is a development planning and community participation expert, assigned to the RPRLGSP as RSDA.

Patrick Adolwa is a planning expert, assigned to the RPRLGSP as RSDA. He currently is Assistant Director of the Urban Development Department in MoLG.

Rahab Mundara is a development planning and community participation expert, assigned to the RPRLGSP as RSDA.

Richard Gikuhi is a former town clerk. He was assigned to the RPRLGSP as RSDA. He currently is local governance consultant.

Simon Lapper is an international consultant. In RPRLGSP he is Technical Assistant to KLGRP.

Thomas Nyariki is a Public Financial Management expert, assigned to the RPRLGSP as RSDA. He currently is Programme Officer in KLGRP in MoLG.

Tiberius Barasa is a policy analyst, a governance consultant and Research Associate at the Institute of Policy Analysis and Research and Centre for Research and Technology Development (RESTECH). Barasa has lectured at leading educational institutions in Kenya and written extensively on governance and Public Policy.

Wim Eising is an international governance, programme management and development consultant. He is the team leader of the Technical Assistance team to the Programme Management Unit of the RPRLGSP.

Abbreviations and Acronyms

ALGAK	Association of Local Government Authorities of Kenya
BQ	Bill of Quantity
CB	Capacity Building
CBO	Community-Based Organisation
CC	County Council
CDF	Constituency Development Fund
CEO	Chief Executive Officer
CfP1	PRF 1st Call for Proposal (also named PRF1)
CfP2	PRF 2nd Call for Proposal (also named PRF2)
CP	Community Participation
CSO	Civil Society Organisations
DC	District Commissioner
DDO	District Development Officer
DFRD	District Focus for Rural Development
DO	Divisional Officer
DLAI	Directorate of Local Authorities Inspectorate at MoLG
EC	European Commission
ECD	Delegation of the European Commission in Kenya
EDF	European Development Fund
EU	European Union
FA	Financing Agreement
FBOs	Faith Based Organisations
FMIS	Financial Management and Information System
GoK	Government of Kenya
IEC	Information, Education and Communication
IPAR	Institute for Policy Advice and Research
KLGRP	Kenya Local Government Reform Programme
KENAO	Kenya National Audit Office
LA	Local Authority
LAIFOMS	Local Authority Integrated Financial Operation Management System
LAPAM	Local Authority Performance Audit Manual
LASDAP	Local Authority Service Delivery Action Plan
LATF	Local Authority Transfer Fund

LFA	Logical Framework Approach
LG	Local Government
LTE	Long Term Expert
M&E	Monitoring and Evaluation
MC	Municipal Council
MDG	Millennium Development Goals
MoF	Ministry of Finance
MoLG	Ministry of Local Government
NAO	National Authorising Officer
NGO	Non-Governmental Organisation
OVI	Objectively Verifiable Indicator
OECD	Organisation for Economic Cooperation and Development
PA	Provincial Administration
PC	Programme Coordinator
PCM	Project Cycle Management
PE	Programme Estimate
PFMRP	Public Financial Management Reform Programme
PLGO	Provincial Local Government Officer
PMU	Programme Management Unit
PO	Programme Officer
PRF1	Poverty Reduction Fund 1st Call for Proposal
PPOA	Public Procurement and Oversight Authority
PRF2	Poverty Reduction Fund 2nd Call for Proposal
PS	Permanent Secretary
PSC	Programme Steering Committee
PSRDS	Public Service Reform and Development Secretariat of OP
QR	Quarterly Report
RBM	Results Based Management
RPRLGSP	Rural Poverty Reduction and Local Government Support Programme
RRI	Rapid Results Initiative
RSDA	Rural Service Delivery Adviser
SBP	Single Business Permit
STE	Short Term Expert
TA	Technical Assistance
TL	Team Leader

REFORMING LOCAL AUTHORITIES FOR BETTER SERVICE DELIVERY IN DEVELOPING COUNTRIES

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ToR	Terms of Reference
UDD	Urban Development Department MoLG
UK	United Kingdom
UNDP	United Nations Development Programme
UN-HABITAT	United Nations HABITAT
VfM	Value for Money Audit

Introduction and Overview

T. Barasa

1 BACKGROUND

Different models of government and the roles and responsibilities of local government have emerged over time as different traditions have sought better ways of enhancing citizen-citizen and citizen-state interactions. Within their jurisdictions the Local Authorities in Kenya are charged with the responsibility for providing services such as health, primary education, refuse collection, water and sanitation, and fire protection services among others. However, over the years the service delivery capacity of local authorities has deteriorated to the extent that even the most basic services are not always provided. Central government is forced to fill in the gaps in service delivery when it comes to water and health services for instance. The reasons for the poor state of service delivery by the local authorities are many. Firstly, the existing facilities in most local authorities were not planned to cater for such a large number of people now residing in the municipal areas. The high population growth rates are mainly the result of the expansion in commerce and industrial development. Secondly, the local government capability to provide services is hindered by insufficient resource base, mismanagement, weak technical and institutional capacity to increase service coverage, and lack of planning.

1.1 Defining Local Governance

While local government refers to specific institutions or entities created by national constitutions or central government or state legislation or executive order to deliver a range of specified services to a relatively small geographically delineated area, local governance is a broader concept which refers to the formulation and execution of collective action at the local level (Shah, 2006). It includes the diverse objectives of vibrant living, working and environmentally preserved self-

governing communities. Good local governance therefore goes beyond the provision of a range of local services. It is also about preserving the life and liberty of local communities, creating space for democratic participation and civic dialogue, supporting market-led environmentally sustaining local developments and facilitating outcomes that enrich the quality of life of local communities.

1.2 Unmatched Growth and Opportunities

Kenya's transformation into a multi-party system of governance has been followed by a rapid growth in civil society networks and groups. Such growth in civil society activity has not been matched by opportunities for participation in the local governance. The local government Act guarantees political participation through civic elections, as is assumed that councillors effectively represent citizens. Yet the councillors rarely hold consultative meetings in their respective wards. A commentary by a councillor from Town Council sums up the situation as follows: "Citizens' participation in decision making in the local authorities has been elusive in Kenya, except during elections when citizens participate in electing their councillors. Once this is done they are rarely consulted in any decisions that affect them." Indeed, the Local Government Act makes no reference to citizens' participation. "It allows, but does not require the local authority to publish a summary of a budget estimates in a local newspaper." Also, only for a fee must the local authority provide a copy of the annual estimates if requested. Local citizens can attend full council meetings as observers. They cannot, however, attend any committee meetings as these are held behind closed

doors.

1.3 Shifting Emphasis in Development Discourse

Along with the political liberalisation, the shifting emphasis in development discourse and/or industry towards promoting more socially equitable economic growth and meeting the basic needs of the poor has created pressures for a wider participation of the people in decision-making. "Participation and decentralisation are considered to have a symbiotic relationship, as successful decentralisation requires some degree of local participation." In relation to this, the Kenyan government requires that the local authorities produce a Local Authority Service Delivery Action Plan (LASDAP) together with the local organisations, groups and associations. In the first year of LASDAPs (2001/ 2002) more than 27,000 individuals participated in all together 900 meetings. "Participant groups included market and trade associations, women's groups, self-help groups, handicapped groups, neighbourhood groups, health and medical groups, churches and schools." Elected representatives, both national and local also took part, together with some government officials.

The general concern among citizens, within the government has been that local governance in Kenya has been less responsive (doing the right things - delivering services that are consistent with citizen's preferences or are citizen focused); less responsible (doing the right thing the right way, or working better but costing less and benchmarking with the best); and less accountable (to citizens through a rights-based approach).

1.4 Rural Poverty Reduction and Local Government Support Programme

The Rural Poverty Reduction and Local Government Support Programme (RPRLGSP) was set up to support the Government of Kenya's efforts to reduce poverty, with particular emphasis on support to reform initiatives of the Kenya Local Government Reform Programme (KLGRP) that focuses on improvement in service delivery and financial management at Local Authorities (LAs). The €16.3 million (Ksh 1.6 billion) programme was funded by the European Union and represented the main intervention in the focal area of rural development. This was a five year Programme that started in 2006 and came to an end in 2010.

As a complementary support to the KLGRP, the RPRLGSP focus was to improve accountability

and LA responsiveness in delivering services to the poor. Its planned results were fourfold: (1) Empowerment of rural communities in development process enhanced, (2) capacity of Local Government (LG) in participatory planning and pro-poor service delivery, (3) Policy Development, and (4) Government capacity for transparent financial management. This Programme had 3 components, namely, direct support to the KLGRP (by a Technical Assistance team) focusing on policy development guiding reform of the local government sector, transparent and efficient financial management and improved community participation in LAs. Among the main results were the development of a Local Government Sector Reform Strategy, Service Delivery Tools, the computerised LA financial management system LAIFOMS, Financial Reporting Template, Revenue Enhancement, LATF Higher Performance Account, and a comprehensive performance review system for LAs.

The programme incorporated a comprehensive programme of capacity building at all levels of the programme intervention, i.e., MoLG, LAs and communities. This support focused on a number of areas, including financial management and reporting, project management, and community participation.

The Poverty Reduction Fund (PRF) was a capital project support fund of €5.8 million (Ksh 530m) that was established to encourage improved compliance with the basic principles of the reform programme and relevant capacity building. Funds for 65 selected projects were channelled as grants to 63 LAs showing good performance in improving financial management, rationalising project appraisal and implementation and extending community outreach and particularly targeting the poor. A first group of 38 projects with a value of Ksh 518m, of which Ksh 281m EU co-funding, started in September 2006. A second group of 27 projects (Ksh 311m, of which Ksh 249m EU co-funding) started in October 2007. The selected projects were mainly in the water and sanitation sector, construction and upgrade of markets. Other projects included were construction of roads, health centres, tourism centres and agricultural projects. The projects were spread over the country, with 12 projects being implemented in remote areas.

Implementation of the capacity building and PRF components of the programme was done by a Project Management Unit (PMU) with support from a Technical Assistance team (TA PMU). A team of 11 locally based technical

advisers who were referred to as Rural Service Delivery Advisers (RSDAs) provided the support in the field to the local authorities. Given that this was new and unique programme, the programme implementing partners including the technical team with the approval of both the Government of Kenya and the European Commission undertook the exercise of capturing lessons learned from the programme to share with a wider community of local authorities, development partners and research community in a book form.

1.5 Theoretical Framework

This book is inspired by citizen-centred governance framework advanced by Andrews and Shah, (2006). The distinguishing features of citizen-centred governance include citizen empowerment through a rights-based approach; bottom-up accountability for results; and evaluation of government performance as the facilitator of a network of providers by citizens as governors, taxpayers and consumers of public services. This framework emphasises reforms that strengthen the role of citizens as the principals and create incentives for government agents to comply with their mandates. According to this framework, inadequate responsiveness, responsibility and account-

ability observed in local authorities in Kenya can be mitigated by creating citizen-centred local governance. This involves having direct democracy provisions, introducing governing for results in government operations and reforming the structure of governance, hence shifting decision making closer to the people.

Direct democracy provisions require referenda on major issues and large projects and citizens having the right to vote any legislation or government program. A governing for results framework requires government accountability to citizens for its service delivery performance. This calls for citizen's charter defining their basic rights as well as rights for access to specific standards of public services. Output-based inter-governmental transfers strengthen compliance with such standards and strengthen accountability and citizen empowerment. As the chapters in this book demonstrate, reforming local governance in Kenya requires adoption of reforms that strengthen the role of citizens as principals and creation of incentives for government agents to comply with their mandates.

2 ORGANISATION OF THE BOOK

Following this introduction, the book is

organised into three parts. Part 1 (Situation Analysis and Reform Agenda) contains chapters 2-4, while Part 2 (Reform Principles, Processes, Programmes and Outcomes) comprises chapters 5-8. Part 3 of the book contains conclusions and lessons learned from the LA reform experience in Kenya for other low-income countries.

Chapter 2 (by D. M. Muia, J. Ngugi, R. Gikuhi) explores the evolution of local authorities in Kenya. The chapter sees Local Authorities/ Local Governments as providing platforms where community members exercise their democratic rights by electing their representatives who in turn coordinate the provision of the local services.

Chapter 3 (by D. M. Muia, J. Waithaka, S. Lapper and A.A. Hongo) demonstrates how institutional, legal and policy reforms have affected service delivery in the local authorities, highlighting areas where reforms are needed. It acknowledges the ongoing constitutional reform process, the outcome of which is bound to have a big impact on the local governance in the country. The chapter focuses on institutional, legal and policy reforms in Kenya's Local Authorities, discussing the reforms within the broad context of decentralisation of governance structures. The

reforms in the local government in Kenya have to a large extent sought to focus on the fiscal, institutional and political aspects of governance. This is critical because over the years there has been concern about the extent to which they are able to execute their mandate. Reforms in local sector in Kenya have been undertaken under the Kenya Local Government Reform Programme (KLGRP), started in 1996. Indeed KLGRP develops and disseminates policies, systems and procedures relating to local government.

Chapter 4 (by Tiberius Barasa) presents an organisational structure of local governance in Kenya. It notes that the current structure of local governance is complex and confusing, and needs to be reformed. The chapter highlights the overlaps that exist in functions between local authorities, the Provincial Administration and the constituency and how the structure affects responsive, responsible and accountable governance.

Chapter 5 (by W. Eising, P.S. Adolwa, J. Mativo, J.K. Kiarie, and M. Anyango) examines the important role of Programme and Project Cycle Management (PCM) and its potential to transform local authority visioning and capacity to offer valued public services to citizens. The

chapter positions the emergence of PCM as a management best practice and goes further to expound on the lessons emerging from the Ministry's EU-funded Rural Poverty Reduction and Local Government Support Programme (RPRLGSP) investment in PCM, and associated tools.

Chapter 6 (by John Nguri, Thomas Nyariki, George Kioko wa Luka, Joel Too, Joseph Ngugi, and John Ndungu) focuses on financial management in local government. The authors present the lessons learned on the financial management in LAs through the RPRLGSP's capacity building and PRF components. They come to some interesting conclusions and recommendations on how the overall financial management in LAs could be improved and managed.

Chapter 7 (by J. K. Kiarie, W. Eising, R. Mundara, and A. Muricho) discusses monitoring and evaluation of performance of LA. This chapter examines the utility of M&E systems in enhancing LA accountability. International good practices in accountability management have largely been ignored or applied ineffectively in promoting better service delivery in LAs, and as a result, LAs have continued to suffer chronic failure to provide credible public services to citizens. The authors present a

number of useful lessons from the RPRLGSP to be applied in the design of policies and practices that govern Local Authority accountability.

Chapter 8 (by D. M. Muia, Mwikali Wambua, Emmy Alividza, and Rahab Mundara) is on community participation in planning and implementation of development in the LAs. Increasingly, community participation has become a sought after goal in public administration and governance. The chapter reports on the extent to which stakeholders' participation has been inbuilt in local governance, and opportunities for enhancing participation in LAs in Kenya. Chapter 9 (by T.

Barasa and W. Eising) summarises the book highlighting its key policy recommendations.

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PART 1

SITUATION ANALYSIS AND REFORM AGENDA

Evolution of Local Authorities in Kenya

D. M. Muia, J. Ngugi, R. Gikuhi

1 INTRODUCTION

Local government system is more or less a universal phenomenon of public administration throughout the world. The term local government is usually used to bring out the graphic contrast between the local level system of government and the central or national level government. The central government could be a unitary government or a federated government. Equally in many cases, the terms local government (LG) and local authorities (LAs) are used interchangeably. While increasingly local governments exercise powers more or less at the same level as national government as calls for enhanced autonomy become the norm, the normal practice has hitherto been one of local authorities exercising delegated mandate, often through a constitutional arrangements and/or a legislated process. Nevertheless the question of local government autonomy continues to be a subject of concern as the questions of democratic and participatory governance assume a prime place in governance discourse. As systems for devolved administration, local governments are increasingly being seen as viable vehicles through which people can participate in their own governance since these units are closer to them as compared to central governments.

Moreover, for purposes of capturing the unique nature of communities at the local level, it is critical that appropriate administrative structures are set up at that level. The terminology applied to refer to local government bodies vary from country to country. Some of the common names used include region, province, county, prefecture (as in Japan), municipality, shire), city and town (as in the UK). In Kenya, the commonly used terms are city, municipality and towns. Under the proposed Constitution of Kenya, there are

attempts to use the terms county to refer to the proposed devolution units. Of course it is important to acknowledge that there are already 'counties' in Kenya - the equivalent of English 'shires', that is, rural communities as represented by the county councils. These units are different from those in the proposed constitution. While their mandate may vary from country to country, in almost all jurisdictions local authorities provide basic community services to residents within their areas of jurisdictions. Mboga (2009) contends that

Local Authorities or Local Governments also provide platforms where community members exercise their democratic rights by electing their representatives who in turn coordinate the provision of the local services. They also offer employment, health facilities and boost a country's economy (UN-HABITAT, 2004).

Further, local authorities are also entitled to levy and collect taxes from persons or corporations living and/or operating businesses within their areas so as to finance provision of services. However, in view of the fact that local authorities exercise delegated mandate from the state in terms of service delivery, they often receive subventions from central government so as to enhance their capacity to provide services.

Nevertheless, local governance is a form of decentralisation. It is a fact that decentralisation is an important first step in creating regular, predictable opportunities for citizen-state interaction. Of course central governments are often reluctant to give popular voice by surrendering power, authority, and resources to local - level structures and strengthening local-level institutions and especially local authorities, among other local institutions. According to UNDP (2002) in most jurisdictions,

where decentralisation has been attempted, it has mostly stopped at the level of sub-national authorities or municipalities and rarely does the concept sufficiently extend to civil society level or to communities and institutions that are the real agents of local governance. This chapter however focuses on local authorities as units of decentralisation with a view to documenting their development in Kenya and the lessons that can be drawn there from for purposes of enhancing the functioning of local authorities in service provision.

2 OBJECTIVES, POLICY CONCERNS AND DATA

The chapter seeks to trace the development of local authorities in Kenya, highlighting some critical moments and reform processes in their evolution.

Local governance is an essential administrative unit through which to deliver essential services to citizens. Further, local governance facilitates democratic participation of citizens in the affairs of their government. However local governance systems keep on evolving over time. This means that a clear documentation of this process of evolution is important so that at any time it can be appreciated how far they have come in historical terms. Documenting the evolution process also

offers an opportunity for reflection and learning about what has worked well as well as the best practices that have been adopted over time and the challenges faced in the past and likely to be encountered in the future.

The evidence on which this chapter is based was derived from the existing literature on local government in Kenya. The evidence was collated and subjected to content and thematic analysis with a view to highlighting the critical landmarks in local government reforms over the years.

3 RESULTS

3.1 Local Authorities in Colonial Period

The present system of local government was introduced during the colonial times, and was intended to serve the colonialists and their aspirations. The indigenous people were never involved in self-government in any meaningful way until the clamour for independence intensified in the 1950s (Stamp 1986). In any case, in colonial Kenya, local authorities had no clear recognition in law and did not have development agenda. Local authorities were meant to make governance easier for the colonial government. Indeed, members of the local bodies were purported to represent

the people although they were not elected by the people, but rather were appointees of the colonial government and decisions made in their meetings were subject to approval by colonial Provincial Commissioners or the Governor. On the other hand, the people being governed did not have a meaningful forum for expressing their needs nor were there defined resources allocated to them for their needs. However, some grants were given to finance education, health and maintenance of local roads (Smoke 1994).

The foregoing discussion needs to be understood within the historical fact that colonial authorities executed an indirect rule process that led to existence of a dual structure of governance in colonial Africa. Unfortunately this duality exists today in most African countries. In the colonial dual structure of government Africans, then known as natives, occupied the customary or native domain, defined largely as rural and tribal, while the Europeans occupied the civil domain, defined largely in racial, urban and civilised terms. That dual structure changed and took new guises at the end of colonial rule. In independent Kenya, the Ministry of Local Government (MoLG) tended to assume the functions of colonial native authorities. The tensions between the MoLG and local authorities are real because

the law left urban Africans in legal limbo and a whole series of contradictions continued between the functions of the local authorities and MoLG. It is important to end the duality between rural and urban governance systems and recognise the regulatory and policy making powers of the Local Government in order to strengthen the service delivery role of local authorities.

Moreover, there is need to note that before the colonialists came to Kenya most communities had organized systems of administering their affairs with a centralised authority. Some communities even had organised councils of elders which provided advice on community affairs, settled disputes and handled defence matters.

It is also worth noting that these traditional systems were decentralised, involved popular participation, and arrived at major decisions by consensus. Noticeable too was the absence of a single cohesive local administration system upon which the British could impose theirs.

During the colonial era, the British took over the management of the East African protectorate in July, 1895, from the Imperial British East Africa Company, a company they had earlier given a royal charter. They operated

in Kenya under a system of indirect rule which allowed for a dual structure of administration.

In other words, they encouraged a system of indigenous local governance but only one that they sanctioned and controlled. As such although they did not encourage indigenous systems of community governance, it also became clear to them that total disregard of the traditional forms of political organisations created more problems for their administration. Africans were first involved in administration with the passing of the East African Order in Council in 1897, which created the native courts which had little authority. In 1902, the Village Headman Ordinance was passed which specified the role of Africans in administration. Under this Ordinance, the provincial commissioners had the power to appoint any native or natives to be official headmen or collective headmen of any village or group of villages. These were supposed to maintain law and order, collect taxes, maintain roads in their areas and help in the settling of minor disputes between and among Africans. As time went by, it was discovered that this system was not suited for executive or legislative functions. In the same year, 1902, an ordinance was passed which appointed chiefs as agents of the system of administration as the population was increasing. Also in 1903, the townships of

Nairobi and Mombasa were established and run by committees.

Promulgation of the Headmen Ordinance formed the basis and structures along which the local administration was to function. This became known as the native authority system which was formalised by the enactment of the Local Authority Ordinance of 1912. After the passing of this ordinance, there were attempts to set up provincial level councils consisting of both the settlers and the Africans. This was not successful because, on one hand, it was felt that local authorities should integrate all races but, on the other, there were feelings that Africans were incapable of running their own affairs and were not to be trusted with any responsibility (Stamp 1986).

With the aftermath of the World War I, the growing political awareness among the Africans and the establishment of the Kenya Colony necessitated that changes be made in the way the colony was governed. This led to the establishment of the local native councils (LNCs) by the passage of the Native Councils Ordinance of 1924. It is important to note that LNCs were grafted on the authorities of chiefs and headmen, many of whom existed prior to colonial rule and many others co-opted by the British during the wars of conquest. These

dominated the LNCs in various regions and naturally owed their positions to the colonial structure that had co-opted them. Moreover, LNCs were established in the districts which were administrative sub-divisions of the British provinces. The membership of the native councils was consisted of the other Kenyans appointed at the discretion of the Provincial Commissioner. All resolutions passed by the local native councils were subject to the approval of the Provincial Commissioner and the Governor of the colony. The local native councils became very unpopular in some areas because they were perceived as useless showpieces devised to make Africans think that they were gaining control of their own affairs.

Further, the 1924 Local Native Ordinance mandated the Local Native Councils under the District Commissioner to collect local taxes and provide services such as water, sanitation, roads and bridges in their areas of jurisdiction. However, the Europeans demanded segregated local government councils. Their concerns were addressed through the enactment of the District Councils Ordinance in 1928. As a result the law therefore required two guidelines and mechanisms for the delivery of services to Africans on the one hand and Europeans on the other hand. Incidentally Asians and Arabs also demanded to be treated

3.2 Local Authorities Since Independence

separately from the Africans. A mechanism had to be found to control movement of Africans into urban areas and this was done through a movement pass and employment administrative system that in effect ultimately contained Africans, guaranteed cheap labour in the white highlands and kept the town population low.

The other significant developments in local authorities in pre-independent Kenya were that in 1937, Africans were elected as councillors in local authorities and that Local Native Councils were changed in 1950 into African District Councils.

From the foregoing, it is apparent that colonial local authorities existed to serve the interests of the colonial establishment with natives being given but only nominal representation. In any case, they were units for organizing Africans for ease of administrative management rather than service delivery.

Moreover, modern local government in Kenya is an evolution from a system that was established by the British Colonial Administration at the beginning of the last century. The local government laws have always since colonial times defined the functions of local

authorities in a manner that has continued to ensure a superior-subordinate relationship between the central and local governments.

When Kenya attained independence in 1963, it inherited a local government system that was not designed with community needs in mind. Even where a strong local government was previously established, its functions were mostly administrative and regulatory, having little to do with self-determination. Development strategies were often based on central planning, that is, development responsibilities were concentrated at the central government level and local authorities were largely excluded from planning activities. This situation persisted after independence. Moreover, a general lack of managerial and technical expertise precluded the formation of effective local government. The political preference for centralisation in developing countries, Kenya included, was manifested in a wide variety of constraints on local government development.

The advent of independence in 1963 made it necessary to simplify the local government system by evolving a uniform set of laws instead of dealing with three separate sets of ordinances that had been passed before for each stream of local government. The Governor was instructed to draft and issue an

Order in Council outlining the new government structures, powers and functions and also any necessary regulations that would govern the general administration of local authorities. To accomplish this, the Governor sent out a circular to all the District Commissioners to collect views from the people. No public inquiry was held to harmonise the divergent views therefore, the governor ended up with as many recommendations as there were districts.

The final document which became the Local Government Regulations, 1963, was approved with a few amendments. It was incorporated in the Kenya Constitution at the time of independence in 1963. The system of local government which emerged in 1963 provided for two types of major authorities, namely, municipal and county councils. The former European County Councils were dissolved and the new county councils established alongside the administrative district boundaries. In the former African areas, the African district councils became county councils. Control of local authorities was passed on to the newly created regional assemblies, whose areas corresponded with the provincial boundaries. The regional assemblies fell under the control of the Ministry of Local Government. In the new arrangement, primary education and public health were transferred

to the municipalities and county councils. The regional assemblies gave substantial amounts of grants to the local authorities to carry out specific functions.

According to Stamp (1986), in 1964 the government passed the Graduated Personal Tax Act which became the main local government tax and replaced the former African district poll taxes. At the end of 1964, the regional governments were abolished and the control of local authorities was handed over to the central government. This transferred all the activities of the defunct regional assemblies to the local authorities without any adequate preparations and proper consideration of administrative and financial implications. On the other hand, the control of the local authorities was then returned to the central government because there was strong feeling that racially oriented local governance was not desirable in an independent Kenya and the idea of local governance must have all the essential character of being local where decisions would be made faster and more effectively.

The enactment of the unpopular Graduated Personal Tax (GPT) Act in 1964 to be implemented by Local Authorities was meant to close the financial gap. This act was cumbersome and expensive to implement and it was perceived to

be colonial as it resembled the hut tax (Stamp, 1986). The GPT was abolished and under the Transfer of Functions Act, central government gave compensation grants to a few Municipal Councils (Nairobi, Mombasa, Kisumu, Eldoret and Thika) which had responsibility for delivering central government services on health and education, but these were eventually phased out without any corresponding compensation. The above changes in local authorities which were characterized by abruptness and fragmentation, left little room for any considered logical and co-ordinated evolution. This began to be evident in the period after independence when the general grants given by the government became inadequate to meet the increasing demand for services. The financial situation got worse when the government decided to abolish out-patient treatment fees in all local authorities' clinics and also reduced the scope of the GPT to cover only people whose income was above a certain level. This resulted in a 60% drop in county councils' revenue. Huge deficits on local authority's budgets became inevitable and by 1967 most of the local authorities' level of reserves dropped sharply.

The enactment of the Local Government Act 1965 did not enhance the position of Local Authorities as this was an ordinary law which

could be amended or scrapped by a simple majority of members of Parliament as the local authorities are not entrenched in the country's constitution. Under this Act, local authorities had delegated functions from central government and received grants to run such services as education, health and roads. Local authorities also raised revenues from local resources which they used to provide services to their people.

The level and quality of services depended on amount of revenues each local authority could raise. Therefore areas endowed with more resources, for example, Central Province and parts of Eastern Province which had coffee and Tea, enjoyed more and higher quality services on primary school education and all weather roads. Areas with Wildlife resources such as Isiolo, Samburu, Narok, Kajiado also had high incomes and substantial resources which were in some cases ploughed back to the community in the form of education bursaries. On the other hand, areas with scarce resources could only provide services with resources from central government, a situation that possibly could not have been unfair as most of them lagged behind in development.

Another watershed event in the evolution

of local government in Kenya was the adoption of the recommendations of the Hardacre Local Government Commission in 1966. This led to the removal of the two tier system of local government. African District Councils were replaced by County Councils, while municipalities and townships were left autonomous. Also, in realisation of the need to revamp local authorities, the government, through Sessional Paper No, 12 of 1967 committed itself to revitalise LAs with reliable sources of revenue including grants.

The enactment of Transfer of Functions Act in 1969 transferred major services, primary schools, health services and road maintenance including financial resources (grants and assets), to central government except in seven Municipal Councils, namely, Nairobi, Mombasa, Thika, Eldoret, Kisumu, Nakuru, and Kitale. The main objective was to provide equal level of these services to all the people of Kenya. Unfortunately this action weakened local authorities in terms of sharing resources with central government. However some councils were left with some staff members but without sufficient resources to meet their expenditures, a situation which had negative impact on service delivery. This state of affairs was aggravated by the subsequent Transfer of Graduated Personal Tax to central government

in 1974 and the accompanying abolition of general grants to local authorities.

In 1978, the Local Government Regulations of 1965 were upgraded to the Local Government Act (Cap. 265 of the Laws of Kenya). Since then, local authorities have not only been subject to the provisions of the statute but their numbers increased substantially with the effect that there are presently 175 local authorities within the country. Cap. 265 has to-date remained the main law governing local authorities in Kenya.

The Public Service Commission (Local Authorities Officers Regulations 1984) (Amendment Act) came into effect in 1984. Prior to enactment of the above Act of Parliament, local authority officers were administered under the Local Government Commission in the Ministry of Local Government with representatives from local authorities and the local workers' union. The commission acted as an agent for hiring senior officers for local authorities. The personnel administration functions were in the hands of the individual local authorities. This arrangement gave room for a lot of disharmony and instability in the local authorities with officers being hired or fired at the whims of councilors. However, the new law was meant to bring professionalism in the hiring and administration of local authorities' officers by placing all employees of councils under direct administra-

tion of Public Service Commission. At the same time the law delegated the administration of officers in the lower cadres (scale 10-19) to Local Authorities. This in effect denied civic leaders and councillors cause to transfer or remove officers from office on account of failure to comply with their demands.

Incidentally this new law did not resolve the problems in councils. This is because, first, the councils were still responsible for paying the salaries of all their officers. Secondly, the day to day administration of all officers was under the councils. Thirdly, the Ministry of Local Government transferred officers in and out of councils without consultation, and fourthly, the disciplinary procedure for local authority officers was lengthy and agonising..

Local Authorities Services Charge Act (LASC) was introduced in 1988. This law authorised councils to collect tax from personal and corporate persons resident in their areas of jurisdiction. The income derived from this source was meant to provide funds for capital expenditure as most councils could not raise money for capital development from financial institutions as they were technically bankrupt. The use of the funds was subject to specific approval by the Minister for Local Government. However there was no significant change at the

local authority level as the revenue yield was about Kshs 1 billion and much of the money was used to finance recurrent expenditure. As of the time, local authorities had a tendency of neglecting collection of other local revenue resources when they received funds from central government in form of grants, GPT compensation, as well as revenue from agricultural cess, in particular from coffee and tea, as there was little or no effort in collecting such revenues. Nevertheless, this source of revenue was abolished when parliament repealed the enabling law. Most local authorities continued to live in debt and to deliver poor services.

As a result of the foregoing operational constraints, the government appointed a Commission of Inquiry on Local Authorities in Kenya in 1995. This commission prepared a report on LAs in Kenya, entitled, "A Strategy for Local Government Reform in Kenya". This report led to the establishment of the Kenya Local Government Reform Programme under which subsequent changes in local authorities were effected.

The LATF Act of 1998 law was enacted to provide a framework for sharing 5% of the personal income tax from central government. Prior to LATF, LAs were funded through a service charge that was levied on employees

and business entities operating within their area of jurisdiction. With the introduction of LATF, the money available to local authorities under LATF arrangement was meant to supplement local authorities' revenues, to pay outstanding debts and provide expanded services to the local people. However, the disbursement of the funds to local authorities was subject to councils meeting certain established performance conditions, one of which was the development of a Local Authority Service Delivery Action Plan (LASDAP). The only problem with LATF is that it remains a source of income that is "not ring-fenced" (enshrined in the country's constitution) and can be abolished by government by repealing the enabling law by a simple majority in Parliament.

Further development in local government in Kenya has been the privatisation of municipal services as an option in addressing institutional ineffectiveness, low productivity and unsuitable financial position. This has seen privatisation and or semi-privatisation of such services as water and sewerage as well as cleansing services.

3.3 Mandates of Local Authorities

The main role of local authorities is to plan and

protect the well being of its residents through the delivery of services defined in the Local Government Act and other statutes. These roles can be broken down into the following components: collection of revenue and the mobilisation of resources, management and allocation of those resources, delivery of services such as waste management and grading of rural access roads. Again it needs to be noted that the powers of local authorities can be classified as either permissive or mandatory and this is dependent on the discretion of the Minister for Local Government. Permissive powers are powers to carry out certain tasks or activities subject to the approval of the Minister for Local Government. On the other hand, the mandatory powers are duties that are expressly defined by the statute. For instance, part 10 of the Local Government Act defines mandatory powers to include the prohibition of the sale and movement of livestock with the object of preventing theft, and the prohibition of the wasteful destruction of trees.

Moreover, under the Local Government Act, local authorities have permissive and mandatory functions. The mandatory functions are those that the local authorities must do under the law. Most of these are vested in municipal and town councils. The municipalities must provide primary education, roads and public

health services. Town councils must provide roads and public health facilities. All local authorities must bury destitute persons who die in their areas, and whose bodies remain unclaimed from the local hospital mortuaries.

The permissive functions can be divided into two, namely functions that the local authorities may exercise at their own instance and others that a local authority may perform subject to the approval of the Minister for the time being in charge of local government or subject to the compliance with other laws.

There are however other permissive powers which local authorities may invoke if they have the organisational ability and financial capacity to do so. These include recruitment of staff, formulation of by-laws, and levying of fees and charges, among others. However, if the Minister so directs, any of these permissive functions may become mandatory to the particular local authority so directed.

The functions undertaken by local authorities encompass a broad array of activities. The main ones include establishing and providing for markets, sanitary inspection and refuse disposal; control of vermin; control of slaughter houses, slaughter slabs, public conveniences; provision for burial grounds and crematoria;

registration of births, deaths and marriages; provision of community and local recreation centres, parks, gardens and public spaces, and grazing grounds; licensing supervision and regulation of business premises; licensing, regulation and control of the sale of liquor; licensing and regulation of bicycles, hand carts and other types of vehicles; control of trades, occupations, business premises and hawking; food handling; guarantee of loans; fire services and fire brigade; public transport; control of offensive and noxious industries; rehabilitation of beggars, and street children and families; public housing, rental and other forms infrastructure, including ferries and bridges; naming of streets; street lighting; provision of social welfare services, basic environmental sanitation, and other aspects of preventive health; provision of maternity centres, dispensaries, clinics, health centres and ambulance services; roads and drains, excluding highways; local inland water ways not designated for international waterways; water supply; community development facilities; agricultural and veterinary extension services; construction, maintenance and equipment of nursery and primary schools; town planning, development and control, and enforcement of by-laws, and afforestation.

Local Authorities also play an important role in governance and bringing services and govern-

ment closer to the people. The Ninth National Development Plan (2002–2008), the Poverty Reduction Strategy Paper (PRSP), the Kenya Vision 2030 and the Millennium Development Goals, all recognise that local authorities are increasingly becoming important channels for local economic development and growth. As such, they are envisioned as engines of economic growth and development as they provide infrastructural and other services necessary for attracting and sustaining investment at the local level.

The local authorities operate under the Local Government Act Cap. 265 of the Laws of Kenya which lays out their legal powers, responsibilities and institutional structure. It gives powers and responsibility to the local authorities to provide public services and to co-ordinate affairs of a particular locality under the guidance of the Ministry of Local Government (MOLG). The Act is the principal law that creates and regulates the Local Government system in Kenya. Presently, there are 175 local authorities, comprising of 1 City Council, 45 Municipalities, 62 Town Councils and 67 County Councils, all providing delegated and independent local level functions in terms of service provision. Incidentally, just like in the pre-independence days, the Local Government System is a form of the Public Administration that addresses lo-

cal problems and needs in different localities of the country through an elected Council (MOLG, 2001). The council is the policy making body in the local authority while the officers of the council headed by the Town or County Clerk comprise of the executive arm of the council.

In an effort to improve governance and service delivery by local authorities in Kenya, a variety of local government reforms have been introduced over the years. However, the main initiatives through which reforms have been effected include the Kenya Municipal Reform Programme, the Third Urban Development Programme, the Small Towns Development Programme, the Rural Poverty Reduction and Local Government Support Programme, and local authorities financial management systems. Nevertheless the reforms in LAs while experiencing some measure of success, have also witnessed some drawbacks. Indeed, despite these reform initiatives, the Kenya National Audit Office (KENAO) in most cases has continued to qualify LAs accounts. The Ministry of Local Government, other public and private institutions and the general public have expressed dissatisfaction with the LAs financial management. The Ministry has also reiterated its concern in many public fora over poor financial management in LAs. Much concern has also been aired in many quarters through mass

media over the deteriorating state of overall financial management practices in local authorities in the country. There have been complaints and discontentment from the public, civil lobby groups, and other agencies over the low level of efficiency, sufficiency and sustainability of the financial management practices in many local authorities.

3.4 Some Challenges Faced by Local Authorities

In spite of this unique placement, local authorities are evidently failing to competently meet public expectations. According to the Transparency International-Kenya (2005), water supply, health services and garbage collection are the services to which citizens attach the highest priority. Unfortunately, these are the same service areas in which the performance of local authorities was rated the worst. There is a myriad of other challenges, the most prominent being the following:

Weak institutional and legal frameworks. The Local Government Act Cap. 265 is the main piece of legislation that establishes and regulates the activities of the Local Authorities. No major overhaul of it has ever been carried out since 1963 when it was enacted as “the Local Government Regulations of 1963” to ensure

that the Act remains relevant to the needs of the communities of particular Local Authorities. The system of local government and devolution of responsibilities to communities is not anchored either in the current or proposed Constitution (the draft Constitution lists counties as the new LAs). Nevertheless, the MoLG has recently developed an LG Sector Reform strategy, which is now guiding the MoLG in its LG Sector Reform.

Overlaps in oversight and management of local authorities. An analysis of the reporting and oversight mechanisms to which local authorities are subjected reveals that there are multiple lines of reporting and accountability. For instance, there appears to be a parallel in management of local government where the provincial administration reports directly to the Office of the President, while local authorities on the other hand report to the Minister for Local Government. Within this set up, local authorities are in some instances expected to comply with provincial administration requirements in the formulation of their budgets. This arrangement necessarily makes it difficult for personnel, service users and taxpayers to demand accountability from a single institution. In practice, this management overlap causes confusion and enables local authorities and the other institutions to escape accountability.

Further, the chief officers are employed by the public service commission, supervised, disciplined and transferred by MoLG but are answerable to and paid their salaries by local authorities. This lack of unity of command makes the officers less accountable rendering them less effective in service delivery.

Political interference. Performance of the local authorities is affected by the lack of autonomy from the Minister for Local Government. The prescribed manner of enlisting councillors and personnel is prone to abuse. Since the Local Government Act (Cap. 265) allows for the appointment of councillors by the Minister, often times such councillors are reluctant to submit to the authority of the managers in the local authorities. In situations where the councillors are elected, experiences of political party influence also arise. This difficulty is often reflected in councils in which the political divisions are so sharp that councillors are permanently pre-occupied with gaining immediate political advantage over their opponents. This infighting affects the service delivery to the residents of the local authority. In some cases, personnel are hired without the consideration of their ability to perform the tasks at hand.

Poor capacity and decision making. Lack of internal capacity drives LAs to seek technical

support from line ministries in tender preparation and evaluation and in project supervision. Whereas, for instance, the new procurement law provides for usage of procurement agents who have been prequalified by the Public Procurement and Oversight Authority in instances where the procuring entity lacks the skills, the current practice is injurious to LAs' interests in cases of professional negligence because they have no recourse for remedy. The LAs also do not own the whole process. The personnel in the line ministries are not in a position or are unwilling to build capacity in LAs which perpetuates this overdependence. Such an arrangement whether free or paid for is not conducive to building sustainable capacity in LAs.

Councillors do not always formulate strategies or make decisions that improve the ability of the local authority to deliver services to the residents of the areas for which they are responsible. This has been attributed to the lack of capacity, interest, incentive and motivation. Additionally, decisions are sometimes made informally or casually so that it is very difficult for citizens to have a clear understanding of the standing procedures of service delivery.

Poor Leadership. Leaders achieve results through other people. As vision holders they are supposed to effectively communicate

the vision throughout the organisation. Once there is a shared vision, there is commonality of purpose and the organisation's energies and resources are directed towards the realisation of the set goals. LAs are lacking in focused leadership. Although a majority of them have mission and visions pinned on the notice boards or the clerks' offices, they have not been communicated effectively to or internalised by all the employees. Some chief executives (CEO) cannot explain the status of the simple projects being implemented and this leaves one wondering how they manage their institutions. There is a positive correlation between the CEO's project leadership and the quality of works and progress. The same was reflected in the general management of council affairs. Another observation is that some CEOs are not up to the task of leading public organisations given their technical skills. Such leaders fail to inspire and to act as role models of their followers. Whereas a few of these officers, could be reformed through intensive training, others appear impervious to new ideas and are likely to be a major handicap to change. Needless to say, such a leader often lacks the capacity to be a good mentor of junior staff

Competition from the Constituency Development Fund. There is the parallel development system initiated by the Central Government

under the Constituency Development Fund (CDF). The CDF is controlled by Members of Parliament and their operations are not subject to the planning processes directly under the local authorities. In the process, this has led to a lack of coordinated planning, and often duplication of effort, and thus adversely affecting service delivery by local authorities.

4 CONCLUSIONS

It is evident from the foregoing discussion that local authorities are uniquely and strategically placed to act as a link between local and central government, between resources and needs, and between the governed and the governors. It is also a fact that local authorities are important institutions for governance and services delivery at local levels. They are in close contact with the communities and with the dynamics at the local levels. Moreover, they provide an opportunity for people to exercise their democratic rights of choosing local leaders every five years. It is out of the recognition of this crucial function that local authorities have been an enduring phenomenon in governance, and indeed continue to be an area of great interest even as the country seeks a new governance dispensation under the proposed constitution.

While the Local Government Act Cap. 265 is the main law which administers local authori-

ties, its administration has to a large extent led to local authorities losing the capacity to effectively discharge their mandate as decisions at local authority level are subject to approval by the Minister for Local Government. However, as indicated by the long history of reforms, administrative changes as well as policy reviews, it appears that Kenya is yet to get the best arrangement of local government where local authorities can effectively discharge their mandates to the citizens.

The introduction of the Local Authorities Transfer Fund (LATF) in 1998 which involves the sharing of 5% of the National Income tax appears to have given a new lease of life to local authorities as they presently have some resources available to them to help them discharge their mandates. LATF however appears to be in competition with the CDF which is administered at the constituency level. The central question however is what unit of decentralisation should be charged with devolved funds so that this competition is eliminated and efficiency is attained in service delivery. The prevailing opinion amongst local authority practitioners is that local authorities are better placed to provide this institutional arrangement. In that process there is need to define local authorities mandates and specify their sources of revenue. The ongoing constitution of Kenya

review process offers such an opportunity to address all the outstanding issues with regard to local governance, as for instance, it has set out that 15% percent of national income will be used by devolved units.

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Local Authorities Institutional, Legal and Policy Reforms

D. M. Muia, J. Waithaka, S. Lapper and A.A. Hongo

1 INTRODUCTION

The increasingly emerging trend towards decentralisation of government systems as a way of enhancing service delivery to local communities as well as a response to forces for democratisation has thrust local governments into the forefront of intense debate. As central government reforms so as to be more in touch with the realities at the local level, the key question in Eastern Africa and Kenya in particular remains that of the role of local authorities in the development process at the grassroots. There is concern that as central government decentralises, two parallel systems of government might co-exist at the local level. This duality is however the paradox of local governance everywhere whereby local governments co-exist with some structures of central government. The critical concern is the extent to which the reform processes are undertaken such that the central government deals with macro or national issues while local authorities are strengthened to discharge their responsibilities.

The local authorities system is an integral part of Government. The local authorities are mandated under the Local Government Act to provide basic services to the residents who live in their areas of jurisdiction. They provide for a democratic process where local electorates elect representatives to take care of their interest in the council. Indeed Mboga (2009) argues that local authorities provide platforms where community members exercise their democratic rights by electing their representatives who in turn coordinate the provision of the local services. To that extent they are governance institutions whose mandate is central to the welfare of residents of a local authority.

The discussion on reforms in the local government sector needs to be cast within the broad discourse of decentralisation of governance. By and large local government is an aspect of decentralisation. This is more so within the devolution typology of decentralisation. Devolution refers to the transfer of responsibility, decision-making, resources and revenue generation power to a local level unit of public authority that is autonomous and to an extent independent from the devolving authority. Local authorities in Kenya have often struggled to cut out some independent identity from central government. This is best captured through Smoke's (2003) three fundamental dimensions

of devolution which include: fiscal devolution whereby there is transfer of responsibility and resources; institutional devolution, which entails setting up administrative mechanisms and supporting rules and regulations; and, political devolution whereby there is power to share resources and accountability mechanisms, including accountability to the people. The reforms in the local government in Kenya have to a large extent sought to focus on these three aspects of governance. The extent to which this has succeeded is an issue addressed in this paper.

It is also critical to note that local authorities also collect revenue from the residents in the form of property rates, user fees and charges, and business permits among other levies. The concern however is that to the extent that they generate resources to facilitate execution of their mandate, they should be accountable to the residents. However, what is most important is that, these local authorities be properly constituted and guided by an appropriate policy and legal framework. Over the years, there has been concern about the extent to which they are able to execute their mandate. The government together with other stakeholders has been involved in a process of reforming the local government system with a view to enhancing their effectiveness and ca-

capacity to execute their mandate. It is therefore important to explore the experiences, lessons and challenges faced in the course of reforms to improve service delivery by local authorities in the country.

2 OBJECTIVES, POLICY CONCERNS AND METHODOLOGY

The main objective of this chapter is to identify the institutional, legal and policy reforms in local government and how these affect service delivery by the local authorities. The chapter highlights weaknesses in these areas and how they can be addressed through specific reforms. It is critical to note that a functional policy framework is fundamental for the improvement of the functioning of local authorities. Moreover, a sound legal and policy framework enables citizens to demand accountability from local authorities and equally exploit the spaces created by the legal and policy framework to participate in the governance of their local authorities. It is in light of this that the information in this chapter could be said to be useful to policy makers at the Local Government Reform Programme.

The chapter is based on a desk study of the frameworks governing urban service provision. It also draws on reflective experiences of

practitioners in local government in the country some of whom have had long-term tenures implementing institutional and legal reforms in local governments

3 FINDINGS

3.1 Origins of LA Reforms

With the attainment of independence in 1963, Kenya inherited a dual administrative structure consisting of local authorities (LAs) and de-concentrated administrative units collectively known as the provincial administration. This dual structure remains the framework for local governance and decentralised service delivery, together with additional decentralised funding flows and decentralised regional and local agencies.

The first regional development initiative in Kenya covered six administrative divisions under the Special Rural Development Programme (SRDP) in 1967. However, because of its sectoral focus, the SRDP could not adequately achieve its goal of promoting rural development. Moreover, the government at that time also sought to strengthen the local government system alongside the general move towards decentralised governance in the country. As part of this process, Sessional Paper No, 12 of 1967 was developed and consequently the government

accepted to revitalise LAs with reliable sources of revenue including grants.

LAs were initially responsible for the provision of a wide range of services including primary health care, primary education, water supply and roads. However lack of resources and limited institutional capacity led to poor performance and in 1969 health and education responsibilities were taken from County Councils and primary and secondary roads were removed soon afterwards. This was done under the Transfer of Functions Act, 1969 whereby major services including primary schools, health services, road maintenance and their attendant financial resources were transferred to central government, except in seven municipal councils, namely; Nairobi, Mombasa, Thika, Eldoret, Kisumu, Nakuru, and Kitale. The resultant effect was a further weakening of local authorities. The net effect also was that during the 1970s and 1980s local government stagnated with central Ministries taking the leading role in the delivery of services through the deconcentrated offices. This situation was further compounded in 1974 when the Graduated Personal Tax was transferred to central government and at the same time general grants by central government to local authorities were abolished.

In light of the dwindling revenue sources of

LAs something needed to be done. The government opted to appoint a task-force led by a Mr Stanley Nyagah. The report of the task force, produced in 1974 recommended a package of far-reaching financial reforms but cautioned that such reforms would not succeed unless issues of structure, functions and powers of LAs were addressed and aligned with those of the Central Government. There is no evidence that any of the recommendations were implemented.

The Omamo Commission of Inquiry of 1995 examined the key features and operations of the LAs and recommended the strengthening of LAs through:

- Promoting a participatory approach to local government
- Enhancing local government's capacity, both in terms of human resources and functional streamlining
- Promoting a collaborative and effective Central-Local Government linkage

Again, there is no evidence that these recommendations were implemented. However, it led to the review of the Local Government Act and the establishment of the (Kenya Local Government Reform Programme (KLGRP) in 1996. The mandate of KLGRP is to coordinate the

initiation and implementation of reforms in the local government sector. In the process, KLGRP also develops and disseminates policies, systems and procedures relating to local government.

From an institutional perspective, KLGRP operates as a department of MoLG and is staffed by civil servants and led by a programme co-ordinator who reports directly to the Permanent Secretary. Besides public funding and technical support, KLGRP has continued to receive external technical assistance over the years. For instance, initially this technical assistance came through the World Bank (from 1998 to 2004) but later from the Department for International Development (DfID, UK) from 2004 to 2006, and currently from the European Union under the Rural Poverty Reduction and Local Government Support Programme, 2006 to 2010.

As part of execution of its reform agenda, KLGRP has been seeking to address, among other things, issues relating to poor governance and low capacity to deliver services, inadequate revenue mobilisation by local authorities, dependency of local authorities on central government, weak financial management, and weaknesses in partnerships and stakeholder development, and in decentralisation policy and strategic and physical planning. While

some aspects of these initiatives are ongoing some achievements have been made on some fronts. For instance as discussed elsewhere in this chapter, resourcing of local authorities has been improved with introduction of initiatives such as single business permits, Local Authority Transfer Fund, use of financial management information systems and development of improved governance and financial management procedures and guidelines.

As part of buttressing the financial base of local authorities to improve their service delivery, the government established a service charge that was levied on all employees and organisations including business entities. Administration of this service charge was problematic as it was deemed as an unjustified tax given the low levels of service delivery by LAs. This levy was dropped and the government in 1998 established the Local Authorities Transfer Fund (LATF) and the Local Authorities Service Delivery Action Plans (LASDAP). LATF became operational in 1999 under the LATF Act No. 8 of 1998. Under this Act 5% of national income tax is allocated to local authorities. These monies are provided as budget support and are spent as per the local budget priorities as identified through the LASDAP process which entails consultations with communities.

The government has also been involved in a process of decentralisation of central government functions. In the process, local authorities co-exist with decentralised government departments and as a result this has also meant availability of more resources at the local level. The above is especially true in the case of county councils which cover administrative districts and thus serve more or less the same population. The City Council of Nairobi serves the same people served by the administrative Nairobi province. This could be said to constitute a parallel decentralisation process. Various reforms have been adopted that support varied aspects of administrative decentralisation. This parallel system of decentralisation involves central government ministries, state corporations, and regional development agencies in deconcentrated or delegated activities. Further to this, there has been a significant movement in recent years to the channelling of local service delivery resources to the constituencies. Of significance is the constituency development fund which has also supported, especially, infrastructure development within most local authority areas of jurisdiction and thus augmenting service delivery.

Devolution has been clearly articulated as a policy objective in the Economic Recovery Strategy for Wealth and Employment Creation

(2004)¹ and the Kenya Vision 2030² (2007). In the Kenya Vision 2030, local authorities have been identified as key deliverers of the identified programmes. Consensus on the nature of the desired devolved system has not however been reached, though it is anticipated that the current Constitutional Review Process will provide a clear direction in this area.

Chapter 6.2 of Vision 2030 on Decentralisation of the Medium Term Plan identifies the following programmes and projects for implementation in 2008–2012:

- Development of a decentralisation policy
- Development of a decentralisation strategic framework
- Reforms of local authorities including a refinement of the Local Government Act and all laws, which reinforce central management functions over those strategically suited to LAs.
- Capacity building in local authori-

ties: A comprehensive training needs assessment will be carried out for Local Authorities with a view to developing a national programme for the training of local authorities' staff.

- Information, Education and Communication.

These key strategies provide a clear recognition of the need for strengthened local authorities as key deliverers of the Kenya Vision 2030. It is from this recognition in national policy that the Local Government Reform Programme draws its authority and the framework within which its strategies have been developed, including the Local Government Sector Reform Strategy of 2009, which applies the objectives and strategies of the Kenya Vision 2030 to the Local Government Sector.

It is however critical to note that the Local Government Act Cap. 265 is under review and a bill to that effect is before the National Assembly as The Local Government (Amendment) Bill,

¹ERS (2003) was a policy framework, entitled an 'Economic Recovery Strategy for Wealth and Employment Creation'. The strategy was adopted by the government to spur growth and economic recovery following a period of low economic performance in the late 1990s and early 2000

²The Kenya Vision 2030 is the strategic choice taken by the government to Marshall resources guided by a long term vision so as to transform the country into a middle income nation by 2030

2009. The proposed amendments, if the bill is passed, will see local authorities energised as there are proposed reforms therein such as having mayors become the executive heads of local authorities. It also proposes that the mayor and chairmen of councils be directly elected into office and thus become accountable to the citizens. Equally, the revised harmonised draft constitution of Kenya has provisions that are likely to dramatically affect local governments. There are proposals to establish county governments and the operationalisation of these will possibly change the landscape of local government. Thus local government reforms are on-going and indeed local authorities are at a point where there is so much happening that are likely to affect The Local Government (Amendment) Bill, 2009.

3.2 Specific Local Government Reforms

The specific areas in which local government reforms have been concentrated are:

- Policy development and implementation
- Improved financial management
- Good governance and enhanced service delivery
- Institutional reforms and performance improvement

These reform areas can be seen to closely mirror the priority programmes in the Medium Term Plans (MTP) but have all been included in the Local Government Reform Programme since 2000, but generally, have been there in some form, since its inception.

Policy Development and Implementation. The aim of reform in this area is to develop and implement a policy framework for an effective devolved system of local government.

Improved Financial Management. The purpose of this reform is to devise operating financial management systems consistent with international best practice, and with Government regulations and procedures, so that effective management of devolved funds can be achieved.

Table 3.1: Actions and achievements in the development of policies

Action	Achievements
Preparation of Local Government Sector Reform Strategy(LGSRS) (2009)	A LGSRS completed, validated and is being disseminated. An action programme for its dissemination is under preparation, which will provide the basis for a sector-wide approach to local government reform.
Design and Implementation of Local Authority Transfer Fund. (2000)	Fiscal transfer mechanism that introduced fiscal decentralisation to Local Government. It is now firmly institutionalised and has been reviewed and updated over the years, most substantially through the introduction of the Higher Performance Account in 2010 to enhance results based performance. A Strategic Plan for the LATF Advisory Committee is currently being implemented.
Reform of Licensing systems (2001)	The introduction of the Single Business Permit in 2001 was a strategic measure to rationalize LA revenue structures but also to improve the local business environment. This has been followed up by the review of its effectiveness and the introduction of the Doing Business Indicators Programme at Local Government level, which has resulted in greater awareness of the need to facilitate the private sector in LAs.
Preparation of decentralisation strategy and input into constitutional reform 2009.	Decentralisation policy development has been largely overshadowed by the development of Kenya Vision 2030 and the Constitutional Review Process. The reform strategy has been to provide major policy input into these processes resulting in section 6.2 of the MTP on decentralisation and the adoption of devolution as a basic tenet of all drafts of the new constitution.
Review of the Local Government Act (2009)	The Local Government Act has been reviewed and a bill submitted to Parliament. This bill will enact fundamental changes in the LG system including those over the election of mayors and rules for the creation of municipalities, towns and cities. The latter will set the stage for rationalisation of the number of LAs to create credible and effective units.

Table 3.2: Actions and in financial management

Action	Achievements
Introduction of LAIFOMS (2000)	Local Authority Integrated Financial management System (LAIFOMS) has been developed on a modular basis since 2000. The current integrated system has been practically developed and deployed since 2006. It now provides a complete system that is being phased into all local authorities and is currently being implemented in 80 LAs. The system enforces compliance with laid down procedures and regulations. It provides specific revenue administration and collection applications as well as general ledger and reporting functions to facilitate the speedy and accurate production of statutory and management reports.
Enforcement of LATF Conditionalities(1999)	In order to qualify for the receipt of LATF LAs must meet certain conditions. These are currently based on meeting financial requirements including the preparation of budgets and annual accounts on time. This has resulted in all LAs now meeting these deadlines. The introduction of the Higher Performance Account in 2010 will strengthen the effect of these conditions by introducing results-based criteria.
Introduction of revised financial reporting system (2008)	A new template for LA statutory accounts has been introduced and used by all LAs in the preparation of their FY 2007/08 and 2008/09 statutory accounts. This template is consistent with International Public Sector Accounting Standards and provides LAs with a clearly defined and appropriate system. In addition to this revised financial regulations have been prepared, and a manual for Treasurers introduced.
Introduction of Revenue Enhancement Plans (1999)	Revenue enhancement plans were introduced during the introduction of LATF in 1999. These are required to be prepared by all LAs and have resulted in the LA revenues showing year on year increases for the last three years, despite the increasing percentage of LA revenues coming from the LATF.

Good Governance and Enhanced Service Delivery. The reason for reform in this area is to provide quality services equitably to citizens in response to their expressed priorities through mechanisms that meet best quality standards, accountability and transparency.

Table 3.3: Actions and achievements in governance reforms

Action	Achievements
Introduction of LASDAP (2001)	The Local Authority Service Delivery Action Plan (LASDAP) was introduced in 2001 as the participatory process for the annual identification and monitoring of capital projects in LAs. It has been implemented in all LAs, providing for the first time a sector-wide approach to citizen participation. The guidelines for the LASDAP have been reviewed in the light of experience and a revised version issued in 2009.
Citizen participation in budget process (2007)	A Local Government Budget Day was introduced in 2007 at which all LAs are required to convene a public meeting each year at which the coming year’s budget is read, and performance over the past year is reviewed. These interactive meetings have raised significantly the level of accountability of the councillors and officers. Stakeholder forums are also regularly convened at which local interest groups are consulted on LA activities and partnerships in the delivery of services arranged. All local authorities prepare Service Charters which set out their service commitments.
Development of service delivery tools (2009)	A set of guidelines have been prepared to support LAs in the planning and delivery of services. These include manuals on planning, project cycle management and Community participation, as well as the development and operation of LA services including markets, bus parks, solid waste management, street lighting and others.
Internal Audit and Inspection tools 2008	All local authorities have internal audit departments, but few have received specific training on internal audit. An Internal Audit Manual has been prepared and disseminated, and audit committees formed in each LA. Guidance for Inspectors has also been prepared and training provided so that a standard approach to this function is now in place with training materials for the induction of new officers.

Action	Achievements
Preparation of a Gender Strategy 2009	A gender strategy for Local Government has been developed to apply the National Gender Policy to the Local Government sector. This is now being introduced to pilot local authorities with a view to mainstreaming gender into all LA activities.
Strategic Plans (from 2006)	All LAs are now preparing strategic plans to guide their annual planning and budgeting processes.

Institutional Reforms and Performance Improvement. The purpose of the institutional reforms is to provide LA with institutional structures, capacities and procedures to sup-

port the delivery of their mandated services within the required standards of governance and financial management.

Table 3.4: Actions and achievements in institutional reforms

Action	Achievements
Introduction of Results Based Management (from 2006)	<p>After initial piloting by KLGRP, the Results Based Management approach initiated under the wider Public Sector Reform has been introduced in all LAs by MoLG.</p> <p>This has resulted in the introduction in LAs of Performance Appraisal Systems, Performance Contracting and Service Charters. The Rapid Results Approach has been introduced in LAs and significant results have been achieved in areas as diverse as revenue collection and mortuary operations through its application.</p>
Scheme of Service for LAs (2010)	The Schemes of Service for LA staff are being revised to bring them up to date and to meet LA needs. LA staff now have clear career progression structures and requirements to qualify for positions.
Development of a Performance Audit system (2010)	<p>performance audit system has been prepared that identifies service delivery results based indicators for LAs within a framework for the identification of LA specific indicators, and the collection and audit of results.</p> <p>The system, which will feed into the national monitoring and evaluation system, being piloted in 2010 before wider roll out to LAs.</p>

3.3 Challenges Encountered

In the course of designing and implementing reforms in local government, a variety of challenges have been faced. While some have been addressed, others are in the process of being addressed. Yet others will need further engagement with stakeholders so that lasting solutions can be found. Nevertheless, the following are some of the challenges that were encountered during the LG Reform process.

Lack of clarity over LA mandates. The lack of an overarching policy in respect of devolution has resulted in various line Ministries providing local level services following separate decentralisation that by-pass or duplicate those of local authorities. Under these circumstances, the citizenry is understandably unclear as to the mandates of LAs, often blaming them for the non-delivery of services for which they are no longer responsible.

The lack of an overarching policy has also resulted in the creation of agencies and committees (e.g., Water and Roads Agencies, Constituency Development Committees) to carry out functions that were previously the responsibilities of LAs. These entities duplicate the roles of the LAs and represent the recentralisation of functions rather than devolution. Under a devolved

system it is more appropriate to strengthen the existing legitimate local institutions.

Resource insufficiency. LAs have since independence suffered from decreasing levels of human and financial resources as revenue sources continuously dwindled. Employment procedures were allowed to be disregarded, resulting in bloated or unbalanced institutional structures with large numbers of unqualified staff and shortages at the technical and professional levels. This resulted in highly centralised regulation of employment. However, since the introduction of LATF, increasing financial resources have been available to LAs and many are recruiting technical staff, but conditions of service remain unattractive.

Resistance to Change. There is a high level of resistance to change, either through fear of change itself or through entrenched interests in the maintenance of the status quo. These vested interests characterize both the junior and senior staff.

Conflicting guidelines. The LAs receive competing guidance from various Ministries, departments and programmes. Line Ministries, and the Ministry of Finance direct instructions to LAs without reference to MoLG, often in conflict with existing guidelines and procedures. For in-

stance, development partner programmes are not well co-ordinated, and programmes are piloting approaches that are not fully owned by the Ministry of Local Government (MoLG).

Resource shortages in MoLG. The resource levels of LAs declined over the years, in line with similar declines at the ministry MoLG level, making it impossible for local authorities to carry out structured programmes. The authorities were forced into situations of ‘fire fighting and instruction issuing’ with no powers to implement development projects.

Inadequate awareness about LA responsibilities. The level of awareness amongst councillors about their role, duties and powers under the law remains low. Similarly the citizenry’s knowledge of LATE, LASDAP and their civic duties and rights are also inadequate.

4. CONCLUSIONS AND RECOMMENDATIONS

The following are the conclusions and recommendations emerging from this chapter.

POLICY DEVELOPMENT. Kenya has taken the opportunity to use the on-going Constitutional Review Process as a means of developing a devolution policy framework. This approach, while more tortuous and at the risk of political

derailment, should provide a clear framework that is legally binding to everyone concerned. The alternative of having a policy prior to constitutional change means that the policy can be changed or ignored because it lacks the backing of the existing constitution. The constitutional review exercise is therefore of great importance to the local governments, as it presents an opportunity of making sustainable governance changes at local levels.

ROLE OF MOLG. In order for the reform process to be successful, MoLG must be strengthened in order to allow it carry out its role as a regulator and facilitator of LAs. To this end, the institutional structure of MoLG should be redefined and adequate resources allocated to MoLG to enable it play this role. The restructuring of MoLG would include decentralisation of all departments to the regional or provincial level so that support to local levels can be effectively provided. Further, the role of MoLG in LA matters must be clearly defined and instructions to LAs must be sent through MoLG.

HARMONISATION OF REFORM. All reform initiatives should be harmonised within one detailed work programme, prepared by MoLG, which will constitute a sector-wide approach to the implementation of the LGSRS and into which all development partner programmes

will be subsumed. Local Area Programmes should be discouraged and the funding pooled into a basket fund or applied to specific activities within the programmes as agreed with KLGRP.

CAPACITY BUILDING. A key element in the ongoing reform programme relates to national capacity building programmes within local authorities. The size of these programmes requires development partner support and it seems likely that the pooling of donor resources is required to satisfy existing needs. Capacity building should move from supply driven to demand driven programmes so that the central Ministry can confine itself to curricula development and coordination of providers, and the raising of funds.

RATIONALISATION OF LAS. Presently, there are 175 local authorities many of them too small and unviable. The reform and devolution processes will not achieve their desired objectives where the advances made by some LAs are discredited by the failures of unviable LAs which do not have the resource base to deliver services. The rationalisation of the number of LAs is regarded as a priority by MoLG and envisaged within the current draft Constitution.

PERFORMANCE MONITORING. All perfor-

mance monitoring systems must be results-orientated and targeted at high standards and processes of service delivery. The main lesson learned is that sanctions such as those provided through the LATF can drive significant performance improvement. Further, performance contracts and incentives must be similarly linked to service delivery.

AWARENESS RAISING. The design of future reform activities within the LAs must include significant funding for the raising of awareness of roles and responsibilities among various stakeholders not only among councillors but also within citizens and business enterprises.

From the foregoing, several conclusions can be drawn about the legal, institutional and policy reforms in Kenyan local authorities. Local government is a key component of public administration. The local authorities in Kenya have undergone many reforms in quick successions, which is an indication of the interest that the central government and development partners have in ensuring that effective administrative units exist at local levels to provide essential services to the population. The Kenya Local Government Reform Programme (KLGSP) was established 1996 to ensure that local governments function in ways that are responsive to the needs of the general population. The KL-

GRP has succeeded in ushering in reforms that to a large extent changed the legal, policy and institutional framework in ways that have improved service delivery by local authorities.

The local authorities are potentially well placed to serve as engines of social and economic growth while offering opportunities for democratic governance. The challenge the Local authorities are facing is that they need to be adequately restructured and to be given a policy and legal framework that is commensurate with their mandate, reforms which to date have been slow to happen. The local authorities also need to be proactive and constantly engage with stakeholders when fulfilling their mandates. The fact that they have demonstrated capacity to develop strategic plans is evidence that they are awakening to their challenges.

Local authorities in Kenya continue to face challenges which can be addressed through further policy and legal reforms. It is hoped that the anticipated new constitutional dispensation, will provide a framework that will make it possible for local authorities to be rationally constituted and adequately funded so that they can effectively fulfil their mandates.

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Organisation of Local Government in Kenya

T. Barasa

1 BACKGROUND

The governments in Kenya, namely, central and local cannot be clearly delineated, as there is general and specific overlap between their functions and responsibilities. Three overlapping sub-systems describe local government structure in Kenya. These are the provincial administration including districts, the local authorities and the constituencies. The Provincial Administration (PA) existed prior to independence. The main functions of PAs were maintenance of order and control, coordination and mobilisation of the public for development. The local government in Kenya is governed by the Local Government Act Cap. 265 of the Laws of Kenya (Republic of Kenya, 2007). The Act creates three categories of local authorities, namely, the municipal councils; the county councils; and the town councils. This Act excludes Provincial Administration and constituencies, which are governed by different Acts. Local governance thus refers to three categories of local authorities as highlighted above.

This chapter adopts a broad definition of local governance that includes both provincial administration and constituencies. Local governance is thus defined as the formulation and execution of collective action at the local level (Shah, 2006). This includes the direct and indirect roles of formal institutions of local government hierarchies, as well as the roles of informal norms, networks, community organisations, and neighbourhood associations in pursuing collective action by defining the framework for citizen-citizen and citizen-state interactions, collective decision making, and delivery of local public services.

According to this definition, local governance

includes the diverse objectives of vibrant, living, working and environmentally preserved self-governing communities. It also presents the main characteristics of good local governance, namely, provision of a range of local services; preservation of life and liberty of local residents; creation of space for democratic participation and civic dialogue; supporting market-led environmentally sustainable local development; and facilitating outcomes that enrich the quality of life of local residents. Analytical recognition of this broad definition of local governance is critical to developing a framework for local governance that is responsive, responsible and accountable.

1.1 Objective

The overall objective of this chapter is to examine the organisation of local government in Kenya. Specific objectives are to assess the provincial administration, local authority sub-system and constituency sub-system; to highlight the sub-systems, centres of power, functions of these sub-systems and their interaction with citizens including their challenges.

1.2 Theoretical Framework

A couple of theories provide a strong rationale for decentralised decision making and a strong role for local governments on the grounds of efficiency, accountability, manageability and autonomy. Stingler's (1957) principles suggest that decision-making should occur at the lowest level of government consistent with the goal of a locative efficiency. Olson's (1969) principle of fiscal equivalency holds that if a political jurisdiction and area overlap, the free-rider problem is overcome and the marginal benefit equals the marginal cost of production, thereby ensuring optimal provision of public services. Oates (1972) principle states that the jurisdiction that determines the level of provision of each public good should include precisely the set of individuals who consume the good. This principle supports a large number of

overlapping jurisdictions. Decentralisation theory advanced by Oates states that each public service should be provided by the jurisdiction having control over the minimum geographic area that would internalise benefits and costs of such provision. Subsidiary principle evolved from the social teaching of the Roman Catholic Church first proposed by Pope Leo XIII in 1891 states that taxing, spending and regulatory functions should be exercised by lower levels of government unless a convincing case can be made for assigning them to higher levels of government.

Despite the above principles advanced by theorists and adopted by governments including the Government of Kenya, provision of service delivery is inconsistent with preferences for citizens. Instead, corruption, waste and inefficiencies thrive in public governance. Hierarchical controls are ineffective resulting into little accountability due to underpowered citizenry that can hold the government accountable.

Three basic principles have been advanced by Andrews and Shah (2005) to overcome the above problems, namely, the principles of responsive, responsible and accountable governance. The three principles are the basis for what has come to be known as "citizen-centred governance". They emphasise reforms

that strengthen the role of citizens as the principals and create incentives for government agents to comply with their mandates. Applying these principles, the chapter examines the organisation of local government in Kenya while seeking to answer the questions, how does this organisation (provincial administration, the district, local authorities and the constituency) facilitate responsive, responsible and accountable governance? What initiative has been there so far to facilitate citizen-centred governance in Kenya?

1.3 Data and Analysis

This chapter relies on secondary sources of data namely, the constitution of Kenya, policy statements by government, government reports and sessional papers and relevant literature on this subject. Data were collected from desk reviews and synthesised using document and content analysis.

2 PROVINCIAL ADMINISTRATION

The Provincial Administration controls all the major organs associated with security, such as the police, and intelligence and since the colonial era it has been used to control political opposition and it retains a poor image for its human rights record. There are 8 Provinces in the country, and its leaders, headed by

the Provincial Commissioner, are Presidential appointees. There are no elected bodies and mechanisms for popular participation at the Provincial level. Below the Province, the Central Government system works through two parallel and overlapping lines of command, the District, which is headed by a District Commissioner, and the Line Ministries, which have their own deconcentrated sector Ministry field offices (JICA 2008, 11).

The Provincial Administration (PA) existed prior to independence. The main functions of PAs were control, coordination and mobilisation of the public for development. The Provincial Administrators have acted in an executive capacity as agents of the governor or the president. The provincial administration has been and continues to be a dominant institution that provides essential services to both rural and urban inhabitants in the country. Getzel (1970) observed that the PA was considerably expanded during the colonial period to help quell the African rebellion. Kuria (1973) and Hyden (1970) observed that there was expansion in the post-independence period to help contain the growing political opposition to the First (1963-1978) and Second Republic (1979-2002). The PAs involvement in law and order functions both during the colonial and post-independence periods badly tainted its image

(Tostensen, 1987). This bad image, abuses of human rights by some officers and the absence of such administrations in devolved systems of government led the Constitution of Kenya Review Commission's (CKRC) Bomas Draft and the Wako Draft to recommend and endorse the scrapping of the provincial administration. However, the fate of the PA is still unknown as the NARC Government and the current Grand Coalition Government continue to use and sustain it.

The PA, the armed forces, the police force, special programmes, state corporations and internal security all fall under the Office of the President (OP). The structure of the PA is directly proportionate to the size and number of administrative areas that range from villages, sub-locations, locations, divisions, districts, provinces to the headquarters in the Office of the President and parallels that of other government Ministries (Chitere, 2005). Currently there are 8 provinces in Kenya each headed by a Provincial Commissioner (PC); 259 districts each headed by a District Commissioner (DC); and divisions each headed by a Divisional Officer (DO), locations each headed by a Chief, sub-locations each headed by a Sub-chief and villages each headed by a Village Headman.

The DCs, chiefs and village headmen and women command a lot of influence and seat

in most of the public committees within their territories. For instance, they sit in local education committees and local development committees, among others. This privilege enables them to influence decisions at the local level without much difficulty.

Apparently, the first decentralisation efforts that were initiated during the Second Republic in the name of the District Focus for Rural Development (DFRD) and the renewed efforts, have established a strong institutional base at the district level and weak regional and lower levels. Each district has a District Commissioner (DC) as head of the district, coordinator of all technical Ministries and development activities, a planning section headed by the District Development Officer (DDO), personnel and accounts sections within the PA, the district treasury and a tendering system. The same arrangement with minimum modifications exists at the provincial and lower levels. It is unfortunate that the PA is the core of this institutional base and yet with the exception of chiefs whose positions are established by the Chief's Act, the rest of the PA is neither provided for by the constitution nor established by an Act of Parliament and its operations parallel or duplicate those of local authorities and the police.

Decentralisation initiatives at the district level

are beginning to show positive change in the districts and in local communities. These efforts include the Poverty Alleviation Fund established in 2000/1, the Roads Maintenance Fuel Levy established in 2000/1. However, main challenges constraining realisation of more benefits include weak accountability systems, inadequate funds and political interference especially, from the local Members of Parliament.

3 CONSTITUENCIES

The second sub-system is the constituency which is the electoral area from which MPs are elected. The constituency has become very important in recent years, with a number of funding mechanisms being allocated to the constituency as a unit of development. This started with the Constituency HIV/AIDS Fund and the Constituency School Bursary Fund in the early 2000s, but the most significant by far is the Constituency Development Fund (CDF) which is a non-earmarked fund that is made available for development projects at the constituency level. It was established in the Financial Year 2003/04 and consists of a fairly substantial percentage (2.5%) of the national budget. In many ways, the CDF has proved very popular with local populations, as this mechanism has been far more efficient in getting the resources out to the public.

In Kenya, constituencies are units of communities' representation at the National Assembly. Currently, there are 210 constituencies in Kenya and each represented in the National Assembly by an elected local Member of Parliament. In Kenya constituencies are also emerging as units of development hence some of the ongoing decentralisation efforts have targeted constituencies as units of decentralisation.

The Government now sends funds directly to the constituencies for development and service delivery purposes. Examples of these funds are the Constituency Development Fund (CDF) established in 2003/4; Constituency HIV/AIDS Fund established in 2001/2, Constituency Schools Bursary Fund established in 2003 (Mapesa and Kibua, 2006). Management committees were also established to manage the funds both at the national and local levels. The management committees at both levels are very well constituted as committee members are drawn from both the government and civil society including the local communities and the religious organisations.

The funds have made some positive impact in the sense that some communities have witnessed delivery of services, which used to be beyond their reach namely, children from poor families getting financial support to continue with their studies (Oyugi, Riechi and Anupi,

2008), communities getting clean water, community members infected and affected by HIV/AIDS getting support, among others.

The main challenges the funds are facing include inadequate accountability mechanisms; funds wastage; inadequate funds; limited participation of other stakeholders, namely, businessmen and women, the Faith Based Organisations (FBOs), Community Based Organisations (CBOs), Non Governmental Organisations and political interference especially by the local Members of Parliament, chiefs and councillors.

The Member of Parliament commands enormous powers at the constituency level. His/her influence is felt in all sectors of the economy including the social sector, and agricultural and industrial sectors, among others.

The administration of the CDF is comparatively more participatory and due to the high level of attention it has received, public oversight of the use of funds has been much better. The draw-back of the CDF, however, is that it is very much seen as the Members of Parliament's (MP's) fund, which obviously politicises the use of the money. The signal sent is very much that this is money that is brought to the constituency by the MP, as opposed to its being owned by the community. The management of the CDF

is provided by a Constituency Development Committee chaired by the MP for the constituency. This duplicates and arguably undermines the role that is supposed to be played by the elected councils and the LA administration. Recently, Parliament passed a motion to triple the allocation to the CDF, by adjusting the allocation to amount to 7.5% of government revenue (JICA 2008, 14). It is all but certain that this will further politicise the use of development funds at the local level, and further weaken the already marginal role of the elected councils in the Local Authorities.

4 LOCAL AUTHORITIES

The third sub-system is the Local Authorities (LAs). This is the local government proper, and consists of elected councils and the local executives. The councils are divided into county councils, which are predominantly rural areas, town councils, municipalities and the Nairobi City Council. There are a total of 175 LAs in the country. Most of the LAs and Districts share common boundaries, but not always. The law making organ at the council level is the full council, which consists of elected and nominated councillors. The administration and executive includes the office of the clerk, a treasury and line departments for public services and utilities, such as health, education, water, roads and agriculture. The

delivery of these services, however, is the responsibility of the line ministries, and not of the local authorities, as in the neighbouring Uganda. Additionally, the local authorities need the approval from the Ministry of Local Government on any major decisions, such as budgets and by-laws. They also depend on the central government for most of their budget, as they do not have any tax levying powers, as such, beyond market levies and other charges for use of local authority services. The most important source of central government funding for the LAs is the Local Authority Transfer Fund (LATF), which is a non-earmarked fund³. Although the intention is for the LATF to be used to strengthen service delivery, the majority of the funds are spent on administration and LAs do not make a significant contribution to service delivery (JICA 2008, 14).

The local authorities in Kenya are governed by the Local Government Act Cap. 265 of the Laws of Kenya. The Act creates three categories of local authorities namely: the municipal councils; the county councils; and the town councils. Members to the councils are elected during the

general election and a few are nominated after the election. There are currently 175 Local Authorities (LAs) in Kenya including Nairobi City Council. Recent reforms have seen the creation of a metropolitan ministry in charge of Nairobi. The three categories are briefly described below.

4.1 County Councils

County councils are local authorities that cover the rural countryside and they reside within the district administrative boundaries. Their main functions are to provide regulatory services, planning business and provision of services such as rural access roads, rural markets, and co-ordination of development through representation in the various district organs. The county councils also provide support to the needy especially through education bursary scheme. The most important service provided by the county councils is opening up and maintaining local access roads, which form about three quarters of roads in the county.

4.2 Town Councils

Town councils are small local authorities with a few physical structures and low populations.

³For more details on the LATF, see <http://www.kippra.org/local.asp>.

Town councils can be elevated to the status of municipals councils if their physical structures are improved and the population size increased. Town councils have less urban coverage, inferior infrastructures; and less civil and administrative facilities.

4.3 Municipal Councils

Municipal councils are urban local authorities that are bigger than town councils. Most municipal councils in Kenya have better infrastructure compared to town councils.

Most municipals councils evolved from townships; having started as urban centres during the colonial period serving as administrative and commercial centres along the way.

4.4 The Structure of Local Authorities

Power of the Minister for Local Government:

The Local Government Act provides immense powers to the Minister for Local Government to the extent that he has to approve virtually all matters resolved by local authorities.

Box 1: An interview with a municipal councillor in Voi

The Municipal Council of Voi has 6 elected Councillors, 1 nominated Councillor, 1 Public Officer and 54 employees. Of the 54 employees, 6 are appointed by the Public Service Commission of Kenya (<http://www.publicservice.go.ke/>). The Council is divided into 6 electoral wards. The basic decision-making authority is the full council meetings, after previous discussion in the different committees. Some decisions, e.g. regarding by-laws, budgeting and fiscal planning – have to be forwarded to the central government for final approval. The Municipal Council of Voi makes a resolution which is then presented to the relevant Ministry (e.g. Ministry of Local Government). We do not have a high degree of autonomy – most of what we do is regulated by the central government.

The inhabitants are free to come and ask questions, although not many do this. The municipality publishes the annual budget every year. In addition, according to the law, people can buy printed copies of the minutes of meetings (not many people do that – the mayor attributed this to a high level of illiteracy).

Local authorities in Kenya have a distinct structure provided for under the Local Government Act merging civil and administrative functions. The civil function is vested in the elected and nominated councillors. The law provides that those nominated as councillors do not exceed one third of the total. Municipal councils are headed by mayors while county and town councils are headed by council Chairmen.

Administrative functions are performed by qualified technocrats under the leadership of the town clerk in municipalities and town councils and county clerks in county councils. Their mandates are provided for under the Local Government Act.

Other key officials working in the local authorities include the treasurers, engineers, public health officers, among others. The number of departments in local authorities varies according to the size of the local authority. All local authorities have at least the Clerk's Department, Treasury department, works department, and environmental department. In small local authorities, social services departments are merged with the Clerk's department.

Majority of the LAs have not quite clearly understood the current form of decentralisation being implemented in the country. They are

faced with challenges such as inadequate capacity to implement reforms; transparency and accountability issues; and political interference by local Members of Parliament. It would be good to identify LAs that have demonstrated commitment to reforms and have a record of accomplishment of success stories. These LAs could qualify for extra allocation from LATF especially in the areas of community's participation in decision-making process, sharing of information relating to projects, financial management system and monitoring and evaluation.

4.5 The Committees and Full Councils Meetings

The Local Authorities work through committees consisting members of the councils. Committees deliberate issues affecting the councils in search of solutions. The procedures for conducting debates in the councils are provided for in the Act to ensure consistency and uniformity among all councils. Resolutions made in the committees are tabled before a full council meeting which is the highest organ in the council under the Chairmanship of the Mayor or Council Chairman. The resolutions once adopted at the full council meeting become a policy at the Local Authority level. However, the policies have to be approved by the Minis-

ter for Local Government. The clerks play very vital roles in the councils including convening meetings and coordinating councils meetings and implementation of policy.

By-Laws: The supervisory and regulatory role of the council is performed through the application of by-laws. The by-laws are rules and provisions enacted by local authorities to govern the activities of the residents. They are mainly prohibitions of acts or omissions that may injure the order and smooth running of socio-economic activities, health, environment and conduct of business.

4.6 Citizens' Interaction with LAs

In 1999/2000, the Government of Kenya established the Local Authority Transfer Fund (LATF) to enable local authorities improve local service delivery, improve financial management accountability systems and reduce local authorities' outstanding debts. Consequently, the Government also established Local Authorities Service Delivery Action Plan (LASDAP). Evaluation of LATF has shown that LAs are struggling to meet LATF objectives and that the expected results have not been achieved yet (Republic of Kenya 2008 (1)). The LASDAP is the only official framework available for local communities to interact with the LAs. The LASDAP is a

three-year rolling programme of activities and projects that sets out a local authority's priorities for improving provision of local facilities and services (Oyugi and Kibua, 2006). This framework is meant to provide different kinds of information to the local communities to enable them participate effectively in the decision-making process at the LAs level. However, recent studies and evaluations have shown that there is very little information availed to the communities hence constraining their participation in decision-making process (National Taxpayers Association, 2009). In addition, the councillors dominate the decision-making process and hence limiting the participation of the communities (Republic of Kenya, 2009 (1)). The public image of the LAs has therefore been negative. The councillors are perceived to be corrupt, ineffective, unqualified and opportunists who only enrich themselves at the expense of the communities they purport to serve.

The services provided by the LAs include creation and maintenance of roads, municipal markets, garbage collection among others. A quick tour around most of the LAs in the country will show that service delivered by the LAs is poor, uncoordinated, and inadequate. Most Kenyan towns have littered streets, open sewers, roads with potholes, among others.

4.7 Major Challenges Facing LAs

The combined performance of the Provincial Administration, the Local Authorities and the Constituencies is weak. The overlapping and duplicating functions add confusion and complicate most efforts of public participation and oversight. The best functioning mechanism, the CDF, is also arguably the most damaging to the sustained strengthening of local democracy and state legitimacy in the long term. Much of the slack in service provision at the local level is picked up by CSOs, who are major recipients of donor funds for service delivery at the lo-

cal level. Despite the complexity of the local government system, the Local government in Kenya suffers from a number of common weaknesses. It is under-resourced and dominated by a strong executive, notably the Office of the President. Line Ministries retain control over their areas of influence at the local level. Local authorities are also dominated by the strong influence, both formal and informal of national politicians over local decision-making processes, including the use of development funds and the management and allocation of natural resources such as land.

Box 2: Expectations and Financial Constraints

“People have high expectations, but due to financial constraints we cannot meet them. We get our revenues from hotels (Voi municipality owns some hotels), ground rate from the markets (there are two big markets in Voi) and road toll (matatus pay Ksh.90 each every day). We don’t collect tax – the central Government does this and then redistributes funds to the local authorities.”

Ensuring security: “There is not a high crime rate in Voi, only sometimes. It is important to ensure a high level of security, to attract investors”

4.8 Influence of Stakeholders on LAs

The influence of stakeholders on local authorities, namely, trade unions, farmers, business organisations, CSOs, CBOs, among others are insignificant, as the councillors tend to monopolise the decision-making role in the LAs (Republic of Kenya, 2009 (3)). Many stakeholders are also not interested in getting involved in LA activities as they have a negative perception of the councillors. The few that are interested are restricted by the councillors. The councillors do not see the need for community participation. They fear that their corrupt behaviour will be exposed to the public when communities participate in the entire LASDAP process.

National politicians: The Minister for Local Government can exert much influence to the LAs operations as provided for in the Local Government's Act.

Local Politicians: Local politicians do interfere with the activities of the local authorities and to large extent; they overrule decisions that are not in their favour.

Associations of vendors and small scale business traders: These groups have some influence, as they demand value for their money paid to the LAs through fees and licenses.

Nevertheless, they have to mobilise and get the support of other traders. In Kenya's major cities, it is a common phenomenon to see city 'askaris' (police) in running battles with vendors or traders.

5 DONOR SUPPORT

Few donors work through the Local Authorities, and many of them cite the complexity of the local government service delivery as a reason why they hesitate to try and engage with local government in a more systematic manner. The multiplicity of actors, the politicisation of the use of the steadily increasing share of government funding through the CDF and the lack of an easily recognisable arena and focal point for local democracy and participation all work to erode the legitimacy of the local government. Perhaps there is no direct support of the LAs programs and activities by other donors except the European Union (EU) which is directly supporting LAs through the Rural Poverty Reduction and Local Government Support Programme (RPRLGSP). The programme focuses on improving local authority's information and financial management systems, transparency and accountability in the LAs, improving participation of the local communities in the LASDAP process and building the capacity of local communities to monitor and evaluate the LA projects (Republic of Kenya, 2008 (2)).

Other donors that support work related to LAs include DfID, CIDA, SIDA and GTZ. These four supported National Taxpayers Association to conduct Citizen's Local Authority Transfer Fund Report Card. The aim of the research was to sensitize citizens, elected officials and civil society organisations on the management of devolved funds and the provision of district services. The results were devastating to the local community citing wastage and mismanagement of funds.

There is, however, a limit to the influence that donors can have on making this happen. Decentralisation is an intensely political issue, and one which will be decided by Kenyans themselves. This does not mean that the donors should not engage in the political discussion. Also, if the donors are to tap into the demand for change from below, they will need to engage with what democratic structures there are at the local level, which is the primary arena for interaction between citizens and the state. By addressing the interface between the population and the state at the local level, there may be opportunities to support constructive processes of re-establishing legitimacy of the state and to support the 'organic' growth of democratic and administrative systems from bottom-up.

Such an approach would not be limited to tech-

nical support in the form of traditional local government reform programmes, but would also include consideration of existing and potential linkages with local authorities in other programmes of support to non-state actors, such as CSOs with links to the local community (CBOs or others), farmers associations, professional associations and the media. Support of political parties also has obvious local government dimensions, especially if their build-up at the constituency level is included.

Engagement with the state-society interface at the local level would also benefit from a gender perspective that would take into account the particular obstacles and opportunities faced by the majority of Kenyan women, i.e., not only by the women in the Nairobi elite. This type of approach would be an important counter-weight to support to central government institutions but also to national civil society, whose representatives are often members of the same elite as the political leadership. Although as mentioned above support to improve the relations between the state and the people should recognise that the relationship is mutual and also should be considered in a larger context. Consequently, any such support should consider intended or unintended effects at the central level.

6 CHANGES THAT MAY AFFECT THE LOCAL GOVERNMENT SYSTEM

The Proposed Constitution of Kenya devolves government into ‘new county’ governments consisting of a county assembly and a county executive. This proposed constitution thus clearly spells out two units of devolution, namely, parliament and the county. The constituency on the other hand is organised in a very simple way and does not have different types of personnel working in various departments representing ministries at central level. The management committees established to manage the funds are also not composed of many members. One most unfortunate reality is that constituencies are heavily controlled by the area Member of Parliament and that the community to large extent is afraid of the area Member of Parliament. The fear ends during the election period.

7 CONCLUSION

This chapter has examined the organisation of local government in Kenya. It has focused on assessing the provincial administration, local authority sub-system and constituency sub-system; to highlight the sub-systems, centres of power, functions of these sub-systems and their interaction with citizens including their

challenges. The chapter has observed that the Kenya’s local government system is very complex. It has three partially overlapping sub-systems. The dominant sub-system, in terms of power and influence, is the Provincial Administration. Local authorities in Kenya have a distinct structure provided for under the Local Government Act merging civil and administrative functions. The civil function is vested in the elected and nominated councillors. The law provides that those nominated as councillors do not exceed one third of the total.

The chapter has observed that the local government in Kenya suffers from a number of common weaknesses. It is under-resourced and dominated by a strong executive, notably the Office of the President. Line ministries retain control over their areas of influence at the local level. Local authorities are dominated by the strong influence, both formal and informal of national politicians over local decision-making processes, including the use of development funds and the management and allocation of natural resources such as land. The Proposed New Constitution of Kenya which devolves government to new county governments consisting of a county assembly and a county executive is likely to bring positive reforms in the local government.

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PART 2

REFORM PRINCIPLES, PROCESSES, PROGRAMMES AND OUTCOMES

Project Management for Service Delivery: What Works?

W. Eising, P.S. Adolwa, J. Mativo, J.K. Kiarie, M. Anyango

1 INTRODUCTION

The Ministry of Local Government has been implementing reforms through Kenya Local Government Reform Programme (KLGRP) since 1996. The introduction of the KLGRP arose out of the concerns that were being raised on the poor provision of services in the local authorities (LAs). During the nineties the quality of service delivered by local authorities started declining sharply with the abolition of Personal Graduated Tax and the transfer of other local taxes to central government. In subsequent years, several attempts were made to shore up the lost revenue base culminating in the introduction of Local Authorities Service Charge in LAs in 1998. This effort also came a cropper, in particular, its collection and administration. Bloated staff recruited through patronage in nearly all councils countrywide only served to exacerbate the problem since most of the local authority revenues were used to finance personal emoluments at the expense of service delivery.

The original objective of the reform efforts was therefore to improve efficiency and accountability in the operations of local authorities. The reforms have since then focused on improving several aspects of local authority management. These include service delivery, financial management, participatory planning and local governance, revenue mobilisation, monitoring and evaluation, institutional reform, fiscal and overall decentralisation.

Some of the outputs of the reform programme include the introduction of Single Business Permits (SBP), improved budgeting and financial management in Local Authorities, increased

budgetary support through the Local Authorities Transfer Fund (LATF) and the Local Authority Service Delivery Action Plan (LASDAP), a development programme planning approach and investment plan, which legally binds local authorities to facilitate stakeholder participation in decision-making with respect to community planning and project management.

Over time, the Government of Kenya has established rules, regulations and laws to support reforms in LAs. These include the LATF Act (1998), SBP regulations, budget preparation guidelines and the LASDAP guidelines.

The introduction of the Local Authority Service

Delivery Action Plan (LASDAP) in 2002 provided the catalyst required for local authorities to engage communities and other stakeholders in matters pertaining to planning and development, including involving communities in project management for the very first time in the history of local government in Kenya. Hitherto, projects and programmes had been routinely implemented at the local level without any reference whatsoever to the local communities and stakeholders, with devastating consequences for service quality. Time had come for a shift in paradigm as far as managing local change and development were concerned.

This chapter examines the role of programme and project cycle management (PCM) in the transformation of local authorities into administrative units that provide valued social services to citizens. The chapter positions the emergence of PCM as a management best practice and goes further to expound on practical lessons emerging from the Ministry's EU-funded Rural Poverty Reduction and Local Government Support Programme (RPRLGSP). The investment in PCM and in participation of citizens in project design and implementation can deepen accountability in operations of LA. The PCM mainstreaming in LAs will potentially address one of the main challenges facing these

authorities, namely, lack of a systematic and formalised approach to project conception, design, and effective implementation.

2 RESEARCH PROBLEM, OBJECTIVES AND METHODOLOGY

Incomplete or irrelevant projects, commonly referred to as 'white elephants', have been some of the most glaring symptoms of undelivered services in local authorities in the country. For nearly one decade, massive efforts have been expended towards the implementation of priority projects selected through a stakeholder process aptly named, local authorities service delivery action plans (LASDAPs). Although upwards of Ksh. 35.5 billion have been spent on projects through the disbursement of LATF funds to Local Authorities in the past 10 years, the evidence of the service that delivered with this expenditure is glaringly lacking. Project completion rates in LAs are dismal and an enormous amount of taxpayers' money has been wasted.

Many reasons have been advanced for the failure of LASDAP projects in local authorities. Some of the most commonly cited factors include corruption, lack of goodwill for LASDAP, lack of capacity in terms of skills and competencies and weak institutional structures in Lo-

cal authorities; delay in the disbursement of LATF; inadequate procurement systems; and bad governance (MoLG 2008). A weak commitment to implement policies combined with poor service delivery characterises many Local Authorities, undermining their ability to successfully complete projects that can positively impact the lives of poor people within their jurisdictions.

In view of these challenges, the Rural Poverty Reduction and Local Government Support Programme has since 2006 been helping the Ministry of Local Government (ODPM&MoLG) in building the capacity of selected local authorities in the areas of project cycle management (PCM) and community participation (CP) with the objective of improving their performance. Customised capacity building programmes were used means for teaching implementation of capital projects by local authorities and by the EU Programme's Poverty Reduction Fund (PRF). The focus of the customised capacity building strategy was to enhance institutional capacity of LAs to identify and implement projects that are appropriate and responsive to the needs of the poor. The purpose of this chapter is to document and analyse the experiences gained in the application of this innovative strategy.

On the basis of a comparative study of project management approaches, the chapter describes the critical components of what can be considered an efficient and effective project management approach and how this approach may be implemented countrywide to improve service delivery at local levels.

The hypothesis advanced in the chapter is that proper application of project management practices, PCM and CP enhances the quantity and quality of service delivery at local levels thereby improving the quality of life of citizen. Proper management practices improve lives by reducing poverty, corruption and by improving governance and transparency in project design, implementation.

The bulk of information that was used to write this chapter was provided by field officers engaged in various LA projects and activities throughout the country. The chapter also benefited from filed observations made by the research team and from the data captured in monthly and quarterly reports about status of projects undertaken by local authorities.

Desk review of literature was carried out with the object of establishing the extent to which project management practices in Kenyan local authorities have been documented. Docu-

ments, reports and theses were reviewed as part of the desk research. Internet searches were conducted to complement the information obtained from non-electronic sources. Workshops were held during which brainstorming sessions took place to valid data and determine the structure, scope of the chapter.

3 PROJECT MANAGEMENT AND PRACTICES IN LOCAL AUTHORITIES

3.1 Defining Project Cycle Management

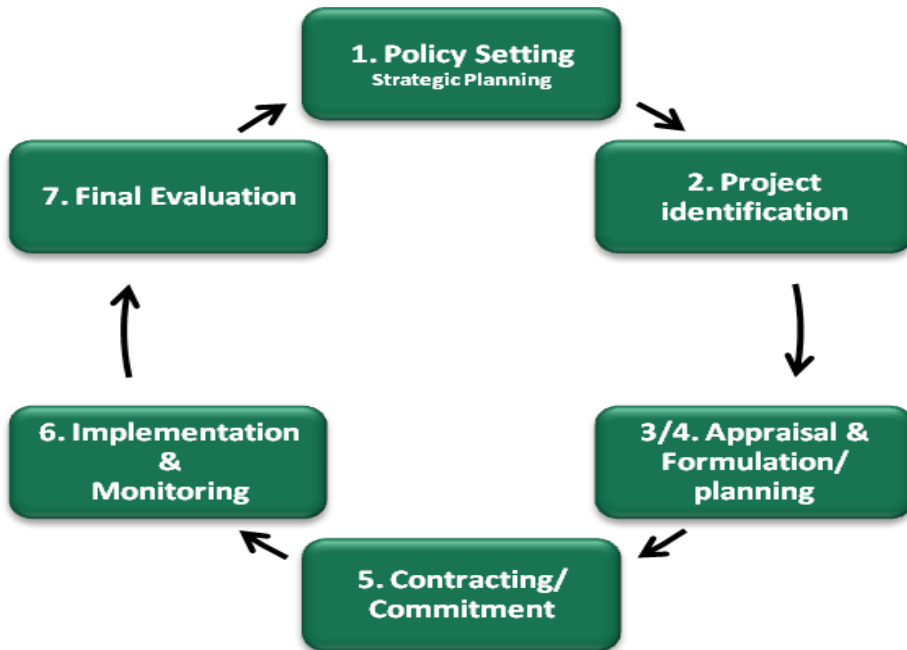
PCM is defined as the application of knowledge, skills, tools and techniques to project activities, to meet specific scope, time, cost and quality goals of projects (Project Management Institute, 2008).

PCM is programmed through a project cycle and this cycle is a logical flow of various proj-

ect stages or project components broken down into a logical sequence of activities. This phase or stage by stage approach stimulates people to share the same perceptions, speak the same language and use the same tools and formats to design and implement a project. Typically, the project cycle comprises seven standard project stages, phases or activities, arranged in a logical sequence to accomplish a project’s goals or objectives, and include:

- Stage 1 Policy setting and strategic planning
- Stage 2 Project Identification
- Stage 3 Appraisal, prioritisation and selection
- Stage 4 Formulation and planning
- Stage 5 Contracting and commitment
- Stage 6 Implementation, monitoring and midterm evaluation
- Stage 7 Final evaluation

Figure 5.1: The 7 stages in the Project Life Cycle



Source: Adapted from PMBOK, by Project Management Institute (PMI) (2008).

Project Cycle Management implies the management of projects. It is therefore necessary to define what a project is. PMBOK (2007) defines a project as 'temporary endeavours undertaken to create unique products, services or results'. The MoLG (2009b) in its Service Delivery Tools defines a project as 'work that is temporary and produces a unique product or service.'

3.2 Evolving Practice in Project Cycle Management

Projects and project management are as old as humankind. From the Biblical times of Noah and the Ark, the Great Pyramids of Giza, in 2550 B.C., and the majestic Great Wall of China (1550 BC to 1046 BC), the term project has continued to conjures up images of complex management practices leading up to these architectural masterpieces. More recently, the

Manhattan Project⁵ built the atomic bomb (1941-1946), and embodied unique project management practices through a series of well orchestrated research and operational planning (New World Encyclopedia, 2009).

In the twentieth century, project management gained prominence as a body of knowledge in the management sciences, and notable interventions to professionalise the practice emerged. Weaver (2008) lists the following such practices:

- The ‘Gantt Chart’ (or bar chart) developed in 1919 by Henry L. Gantt;
- Flow-Line scheduling in the 1930s, which among other things, was used to schedule the construction of the Empire State Building in record time;
- The LOB (Line of Balance) technique developed by the Good year Company in the early 1940s and adopted by the U.S. Navy in the early 1950s for the programming and control of both repetitive and non-repetitive projects;
- Milestone Charts in the 1940s.

Following the emergence of PCM as a critical management discipline, the European Commission (2004) adopted the PCM in 1992, as an integral framework for development assistance and furthered its use by developing a PCM Manual now referred to as the “2004 PCM Guidelines”.

3.3 Project Management in an International Context: The Case of IDP in South Africa

South Africa has considerable experience in programme and project planning and management. This country has adopted the Integrated Development Planning (IDP) approach that serves as the basis for aligning policy, planning and budgeting processes across all spheres, including in Local Government. The IDP concept is South Africa’s response to the need for more participatory integrated planning at local and regional levels.

IDPs are intended to be holistic multi-sectoral plans that guide the future development of the locality or region, giving direction to both the

⁵The Manhattan Project employed more than 130,000 people and cost nearly \$2 billion USD (\$24 billion USD in 2008 based on the consumer price index).

municipality and other spheres of government operating in the area. These plans are designed to include a vision, situational analysis, long-term development strategies, a spatial development framework as well as expenditure priorities and projects for implementation of a five-year period, key performance Indicators, and the institutional framework (Todes 2006). An IDP and its process is designed to (1) respond to the priority needs of the municipality and its residents; (2) focus the limited resources available on key priorities; (3) be strategic, as it has to be based on informed choices to generate solutions which will have the most impact within the budget available; (4) focus on implementation, as it must be specific enough to inform the municipal budget, plans of the departments within the municipality and other government agencies, and influence decisions on land use management; (5) plan in an integrated way for all development in the municipal area, not just for the municipality itself. As such it should be a unifying document for all agencies working in the area as a way to promote coordination and avoid duplication.

The IDP has had mixed results. Although it helps focus municipalities in terms of documenting their intentions, in many cases the IDP processes have not been very participatory because their focus is on generating a man-

agement tool for the municipality and not to enhance accountability or participation. Other challenges of the practice include unsatisfactory implementation of projects; plans that are often underpinned by weak empirical analysis; superficial coordination with other sectors; weak interconnections of the strategic components of the IDP; weak links between budgeting and planning; sustainability principles are not widely reflected in IDPs and environmental aspects are usually weakly developed (Sowman 2002).

Nevertheless, South Africa's IDP concept, fine-tuned over its first 10 years of application, has proved to be a useful management vehicle, integrating long-term development planning and shorter-term implementation planning across the different spheres of government. It is developed in a participatory manner together with a budget and institutional structure. Despite the shortcomings in its implementation, South Africa has seen major benefits from the IDP. The IDP concept has developed into an approach worth attention from other countries that are serious in improving planning and development.

3.4 Project Management in Kenya

Public projects are implemented by various line

Ministries of government and by state corporations. Implementation of government projects is managed by the Ministry of Public Works from the national level right down to the local level, excluding the LAs. Although budgets are disbursed through individual ministries, the Ministry of Works is legally mandated to manage all public construction projects on behalf of the government with the participation of the client ministries, from the design stage to the handover stage. On the other hand, the state corporations are allowed to procure external private consultancy services to implement a whole range of specialised projects within their mandates.

The Ministry of Public Works in discharging its project management mandates on behalf the government comes across many constraints. Insufficient budgetary allocation by the Treasury is one of the most debilitating of the factors in delayed implementation of public projects. Another issue relates to lengthy and protracted procurement procedures. These have tended to stretch project lives beyond planned activities with cost overruns occasioned by inflation. In many instances, supplementary budgets have been required to complete the projects. The Department of Urban Development (UDD) in the Ministry of Local Government backstops project management in the LA sector. It is man-

dated with building the capacities of municipal and county councils and also with assisting them to implement large scale capital projects beyond their capacities in much the same way the Ministry of Public Works does for line government ministries. However, there seems to be a gap between mandate and execution. The frequency of project failure at the UDD has raised questions as to the preparedness and efficiency of this department. The failure of projects in the LA sector has been blamed in part on the non-effectiveness and unwillingness of the UDD to discharge its mandate as originally designed.

At the lowest level, project management is undertaken at municipal and county council levels. These councils are mandated under the Local Government Act Cap. 265 of the Laws of Kenya to perform service delivery functions to local populations. Many of these mandates are delegated from line Ministries. Projects required to deliver on these mandates are now undertaken by these local authorities in the context of the Local Authorities Service Delivery Action Plans.

One *peculiar* way of implementing public projects in Kenya is via the Constituency Development Fund (CDF). Unlike most public sector projects that are managed through the

executive arm of the government, the CDF is managed by members of the legislature, and implemented by their Constituency Development Committees (CDCs), who usually call in assistance from the district offices. It is an interesting governance approach that allows them to be both legislative implementing agents. Projects implemented under the CDF encounter many challenges⁶ (Constituency Development Fund 2009), mainly related to the direct supervision of public officers by members of parliament, a model quite contrary to the separation of powers that entails modern democratic governance. Amongst the difficulties associated with managing projects this way is the dilemma of answering to two centres of power. Public servants from the district offices involved in the planning, design and implementation of these CDF projects have reported finding themselves unable to practice with the highest principles and standards required in project management. The manipulative nature of some politicians sometimes forces officers to make decisions that are at total variance with good principles and practices of

project management. Compared to the well-designed public sector systems, CDF enjoys less strict regulations in terms of planning, procurement, audits and compliance with PCM. A second major weakness of the CDF approach is its weak system of planning. Where LAs have strategic plans and LASDAPs, CDF has a much less developed planning system, with no links to the LA planning system. As a result, many CDF projects are supply-driven, often duplicate others already in existence, leading to below-par impact on service delivery.

3.5 Public Sector Procurement

Procurement is a pertinent process in project cycle management because, a large amount of goods and services are procured towards construction of various projects and to support service delivery functions. The contracting process has been isolated as an avenue for corruption and malpractices both in the public and private sectors.

According to a recent report by the Organisation for Economic Cooperation and Develop-

⁶Low capacity of CDC in planning, selection, prioritization of projects and lack of guidance on minimum qualification of the CDC members who are appointed by area MP are some of the challenges facing implementation of the CDF according to the CDF website (www.cdf.or.ke).

ment (OECD 2009), a major risk of corruption in the procurement process comes from “a lack of transparency, limited access to information and lack of accountability and control at each stage of the procurement process”. Thus, a transparent procurement legal and institutional framework is necessary both as a deterrent to corruption, but also to sanction against malpractices.

The Government of Kenya has set up the Public Financial Management Reform Programme (PFMR), managed by the Public Financial Management Reform Secretariat in the Ministry of Finance. One of the key pillars of the PFMR is procurement with the objective to promote transparent and accountable procedures in this area within the public sector. As part of this reform effort and through the Public Procurement and Disposal Act 2005, the Directorate of Public Procurement and Public Procurement Oversight Authority (PPOA) have been set up to implement procurement reforms. The new legal and policy framework has continued to reform procurement practices in central and local governments.

Despite these well-designed procurement reforms and regulations, malpractices associated with procurement in the public sector are rampant. Some of the most notable malpractices

include:

- Unjustified needs and priorities
- Cost overestimations
- Manipulation of technical specifications to favour certain bidders
- Poor adherence to tender and bid procedures
- Collusion between bidders and LA officials
- Lack of objective criteria to evaluate bids
- Conflict of interest (some bidding agencies are owned by councillors or staff)
- Poor monitoring of the procurement and contracting process

The Ministry of Local Government, through KLGRP, has introduced an internal audit manual for LAs that is a crucial strategy towards streamlining procurement functions, among other objectives. However, there are other ways and means to strengthen the procurement function in LAs.

One of the ways of reducing corruption in public procurements is what is considered as a ‘red flag indicators’ system, which helps to identify corruption by focusing on weaknesses embedded in the procurement system that can be

easily identified (OECD, 2007). The indicators are designed to capture malpractices in each of the procurement phases and thus, create a foolproof system of monitoring the procurement functions.

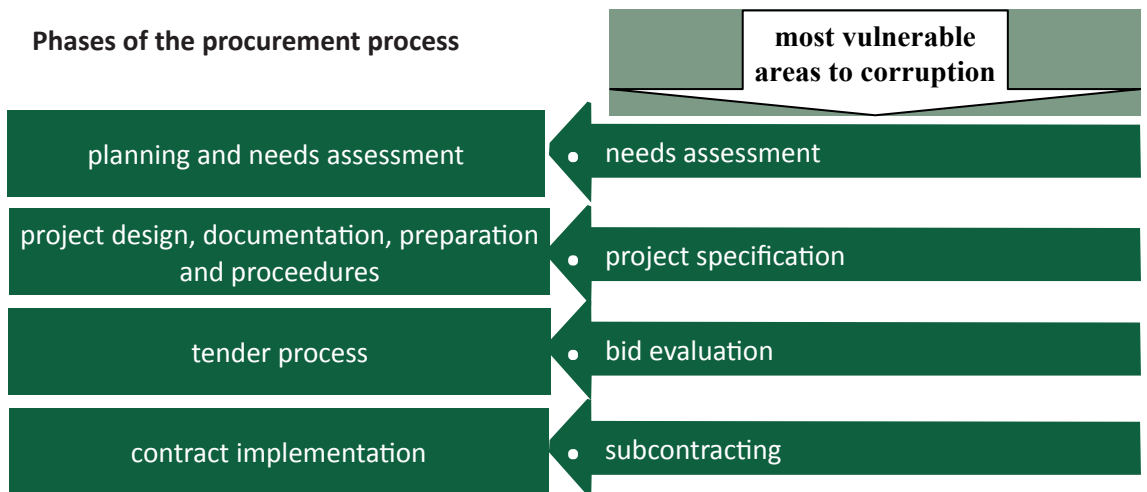
Another strategy is to isolate malpractices associated with procurement stages. This allows the design of a sanctions policy that addresses malpractices that are likely to occur in the procurement phase, after which the public sector devises the ‘red flag indicator’ system based on the procurement cycle.

These innovations are required in the public sector in general and in LAs in particular, and the wider public sector reform program should

invest in such tools and systems to deter and sanction procurement in local authorities.

Finally, wonderfully designed systems will not work (in other words, will be ignored by both officials and politicians) if the application of these systems is not thoroughly being monitored and malpractice is not being discouraged. While Kenya’s National Audit Office (KENAO) is doing a commendable audit job, their lack of resources (financial, human, systems) results in delayed and inadequate monitoring of the public sector. If Central Government is keen about fighting these malpractices at central and local levels, it should implement a more comprehensive system

Figure 5.2: Phases of public procurement process and areas vulnerable to corruption



Source: adapted from OECD Bribery in Public Procurement; Methods, Actors and Counter-Measures OECD Publishing (OECD 2007)

of monitoring and allocate the necessary resources to them. Without these resources, the system will never work, and huge amounts of public funds will continue to be wasted on a daily basis.

3.6 Private Sector

For purposes of this chapter, project management in the private sector is relevant to the extent that the private sector interacts with LAs and public agencies in the procurement of goods, works and services.

The legal framework governing procurement in the private sector is the Supplies Practitioners Management Act 2007. The Act seeks to professionalise procurement practice in the country. However, procurement in the private sector is largely managed through self-regulation. Kenya Institute of Supplies Management (KISM) (2008) reports that at least 500 private sector enterprises (SMEs) provide goods and services at provincial, district and local authority levels, and transact a volume estimated at Ksh. 35 billion worth of goods, services and works annually.

The policy effort for the private sector should be directed towards effective procurement systems, sanctions and redress mechanisms in the public sector, and these will deter and

detect corruption in all procurement transactions involving both public and private sectors.

4 PROJECT MANAGEMENT IN LOCAL GOVERNMENT

This section describes, for each phase in the project management cycle, the common practice in management of projects in Kenya's Local Government sector. This section should be read in conjunction with the chapters on community participation, and monitoring and evaluation.

4.1 Strategic Planning

Strategic Planning is an organisation's process of defining its strategy, or direction, and making decisions on allocation of resources in pursuit of this same strategy. These resources include capital and people. Various techniques can be used in Strategic Planning, including SWOT⁷ and PEST⁸ analyses.

Strategic planning is the formal consideration of an organisation's future course of action. Strategic planning deals with at least one of three key questions:

- What do we do?
- For whom?

- How do we excel?

Strategic plans should ideally constitute the ultimate policy statement of a Local authority. They should provide the basis for a programmatic approach to structured service delivery.

In recent times, the strategic plan has been made mandatory for the disbursement of LATF funds and also for the purpose of performance contracting in LAs countrywide. The Programme's intensive work with LAs

over the past 4 years has revealed that LA officials have laboured to accomplish the task of preparing strategic plans with little commitment to the spirit and real purpose of strategic planning. *Strategic plans prepared by LAs continue to be rather empty documents prepared by "cut and paste" consultants for adoption by municipal officials and rubber stamping by the councillors.* An RSDA review of these plans in 31 local authorities clearly revealed the lack of customisation and own-

⁷SWOT Analysis is short for Strengths, Weakness, Opportunities and Threats. According to the Wikipedia website, SWOT analysis is "a strategic planning method used to evaluate the Strengths, Weaknesses, Opportunities, and Threats involved in a project or in a business venture. It involves specifying the objective of the [...] project and identifying the internal and external factors that are favourable and unfavourable to achieve that objective. The technique is credited to Albert Humphrey in the 1960s and 1970s.

A SWOT analysis must first start with defining a desired end state or objective.

- Strengths: attributes of a project that are helpful to achieving the objective(s);
- Weaknesses: attributes of the project that are harmful to achieving the objective(s);
- Opportunities: external conditions that are helpful to achieving the objective(s);
- Threats: external conditions which could do damage to the objective(s).

Identification of SWOTs is essential because subsequent steps in the process of planning for achievement of the selected objective may be derived from the SWOTs.

⁸PEST analyses is a shorthand for Political, Economic, Social and Technological analysis. According to Wikipedia, PEST "describes a framework of macro-environmental factors used in the environmental scanning component of strategic management. Some analysts added Legal and rearranged the mnemonic to SLEPT; inserting Environmental factors expanded it to PESTEL or PESTLE, which is popular in the UK. The model has recently been further extended to STEEPLE and STEEPLED, adding education and demographic factors. It is a part of the external analysis when conducting a strategic analysis or doing market research, and gives an overview of the different macro-environmental factors that the company has to take into consideration. It is a useful strategic tool for understanding market growth or decline, business position, potential and direction for operations.

ership. It is clear that the documents have routinely been prepared to comply with the requirements of the law and also to meet the conditions for accessing LATF.

There are many explanations for this, the principal one being the lack of prior experience in strategic planning and a dearth in the supply of professionals skilled in the art of strategic planning at the local level. As a consequence, there is very little ownership of strategic plans in LAs (due to the peripheral role played by both the executive and the civic wing in their crafting) and strategic plans are rarely used for planning (identifying, prioritising) capital investment in service delivery captured in LAs' annual LASDAP.

Stakeholder consultations provide the link between strategic planning and project identification and formulation. It is a critical stage in the strategic planning process. There is indeed a cyclic relationship between the strategic planning process and LASDAP, the former providing the policy framework and the latter in turn providing inputs into the review of policy.

It is observed here that regular stakeholder consultation required for the purpose of crafting the strategic plan is not an institutionalised practice in Kenya's LAs. LASDAP consultations

provide the ideal opportunity for new ideas from a wide range of stakeholders to be incorporated into the annual review of the strategic plan.

4.2 Monitoring the Strategic Plan

A strategic plan is only worthwhile if it is implemented. LASDAP is the principal vehicle for rolling out the project side of the strategic plan. Only those projects should be prioritised in LASDAP that support to the goals set in the strategic plan. A regular review of progress is desirable to ascertain the extent to which the strategic plan is being implemented.

RSDAs have observed that LAs have not been seen to be monitoring the strategic plan at all. On the contrary, LAs have been quick to abandon both the strategic plan and LASDAP priorities in preference to the jostling of civic leaders for non-priority projects completely defeating the purpose of the strategic plan. This situation has resulted in extreme *apathy and cynicism on the part of communities and stakeholders* – especially the citizens - who no longer take LA consultations seriously and routinely stay away from them.

4.3 Project Identification, Appraisal, Formulation and Planning

The Local Authority Service Delivery Action Plan (LASDAP) is an annual investment plan for the LA, developed through a participatory planning process involving various stakeholder groups and citizens resident within a local authority. The stakeholders include self-help groups, business organisations, residents associations (including those in informal settlements), religious groups, educational and health institutions, professional organisations, NGOs and individual residents. Although LAs facilitate the process, the final product is owned by all the stakeholders and communities involved (MoLG 2009).

The LASDAP process is based on resources defined in a resource envelope that forms part of the budget in all local authorities. The resource envelope may be adjusted to include other resources which are formally committed by communities and partner organisations during the consultation process.

The Local Authorities Transfer Fund (LATF), established in 1999, involves a transfer of 5% (in FY2009-2010) of national income tax to local authorities to supplement the financing of services and facilities as mandated to them in

the Local Government Act (Cap. 265). The purpose of the LATF is to enable LAs to improve and extend service delivery to citizens, to improve financial management and debt resolution. Preparation of a LASDAP is one of the five criteria of the LATF Performance Component as contained in Legal Notice 142 dated 10th September 1999. To address this, all LAs are required to develop with the help of stakeholders a LASDAP, setting out the priorities for improving delivery of local services (MoLG 2009).

The projects identified through a stakeholder process are then subjected to a technical evaluation committee of the LA to test for feasibility in terms of planning and technical standards. The LASDAP guidelines provide for the co-optation of technical skills from line Ministries and departments of the mainstream civil service, provided the LA does not have these capacities in-house.

Notwithstanding, these arrangements in the Guidelines, most LAs continue to implement the regulations inadequately, with a poor (often absent) participatory approach, technical committees ignoring the demands from citizens, sometimes with the undue influence of civic leaders. The main result of this mismanagement is the selection and allocation of taxpayers' money to projects that are the priority

of the officials and politicians in power rather than addressing the needs of the citizens (MoLG 2008). Inadequate technical backstopping (support, monitoring of project management, including LASDAP) by the Ministry in general and its Urban Development Department in particular does not help either.

4.4 Contracting Commitment

The process of procuring construction services in LASDAP entails several critical steps as currently practised in LAs. The LASDAP guidelines expressly provide for these steps. Contracting commitments include, inter alia, the preparation of technical drawings (architectural and engineering), tender documents, advertising, and evaluation of bids and selection of contractors.

As mentioned in the public sector procurement section above, there are many flaws in this critical process in LAs. Preparation of technical drawings and tender documents in LAs for the purpose of LASDAP often does not meet the standard. In many cases design and preparation of technical drawings are not given a professional touch. In some extreme instances, construction services are procured without any drawings whatsoever. There are also cases where construction services are procured using wrong drawings and technical specifications

that do not relate to the contracted site. Putting together the bills of quantities is seldom thoroughly done: often not based on the drawings and the site conditions resulting in missing items, wrong quantities and poor description of works. Engineers' cost projections for the project are sometimes grossly underestimated with serious implications for the overall project financial administration.

The bidding process is replete with political interference, as confirmed by the RPRLGSP field workers (RSDAs) during their field work with local authorities. Councillors have been known to attempt to award contracts to non-deserving relatives and friends leading to the abandonment of many projects midstream. Critical contracting requirements such as bid bonds are routinely ignored at the behest of LA officials pursuing vested interests. Thus in the overall, project administration is lacking, particularly the critical checks required at the contracting commitment stage leading to many inconsistencies.

Community contracting, although a much touted idea, has yet to gain acceptance in the LG sector. The only form of community contracting that seems to work is sub-contracting aspects of the contract that do not require skills such as supplying water, sand and similar materials.

4.5 Implementation

The implementation phase of LASDAP in LAs begins with the conclusion of a procurement plan. The general practise observed in many local authorities is that this phase tends to be the beginning of the end for the participation of other stakeholders. Even at the LA level itself, other non-technical actors find themselves routinely excluded from the decision-making process. There is established a common trend that once the site has been handed over to the contractors, not much participation is allowed, and all this is by design. In effect, the intended watchdog role of the community and other stakeholders is often undermined. Although safeguards such as performance bonds are provided for in the contract documents, these are seldom enforced during the project implementation phase.

Supervision is mostly inadequate, and is occasioned by lack of professional and technical expertise. This is further compounded by financial constraints, poor equipment and non-availability of transport and logistics. There is no routine testing of materials for performance as a standard requirement for adherence to specifications.

It is at the stage of implementation that service delivery projects suffer further setbacks.

Contractors have been known to try to increase their profit margins by executing sub-standard work. This is sometimes done with the connivance of technical officers and civic leaders. Many officers who have insisted on a professional approach have rued their decision and have encountered hostility and negative branding, threats and even outright removal of project management.

Councillors are among the most constraining factors in the process of project implementation. They have been reported to threaten contractors with termination as a means of exacting bribes from them. Councillors have also been known to insist that contractors employ their supporters notwithstanding their lack of appropriate qualifications needed to perform the tasks at hand.

Site organisation and management is often very poor and few mechanisms exist to deal with this issue in LAs. Municipal officials in charge of projects hardly insist on this aspect with the consequence that sites are insecure and unsafe and do not meet many public health requirements. Workplans although mandatory in all projects are not always available and displayed making it difficult to monitor progress.

Financial administration during implementa-

tion is an enormous challenge to most LAs. Serious bottlenecks are routinely experienced between the disbursement function of the Treasury and the technical team supervising projects. Certificates are delayed inordinately without proper justification. Certificates that are prepared on the basis of incorrect bills of quantities or unmeasured works lead to false payments and frequent disagreements between Treasury and the technical team. Moreover, certificates are falsified to allow for payments which are not due.

Adequate project reporting is rarely done in many of councils making it difficult for any meaningful monitoring and evaluation to take place. Project history does not exist in many projects to allow for proper succession and auditing of activities. When officers are transferred, little remains in terms of institutional memory to assist incoming officials on their new jobs.

Projects implemented by UDD are not subjected to the participatory LASDAP process and quite often do not involve co-ordination with the local authorities for whom they are being carried out.

4.6 Monitoring and Evaluation

Monitoring and evaluation (M&E) are rare ac-

tivities at the Local Authorities. Often, no arrangements are in place at the local authority level to track progress in the many projects they implement since the introduction of the LASDAP approach to service delivery. Although the LASDAP guidelines for 2005 recognise the importance of M&E and the role of stakeholders, particularly communities in M&E, little of this has been demonstrated in the field. Top-down monitoring is conducted periodically by officials from the Ministry of Local Government. Their objectives tend to emphasise the more financial audit aspects rather than tracking progress against planned activities in a clearly defined project cycle.

The monitoring and evaluation function is not well coordinated at the ministerial level, and between the Ministry and the local authorities. The Central Planning Unit does not co-ordinate with the Urban Development Department and with the KLGRP. On the other hand, the three bodies do not co-operate with local authorities in the co-ordination of LASDAP, including its monitoring and evaluation. The effectiveness of the M&E efforts has been further hampered by budgetary constraints at the Ministerial level.

One of the critical components of a project evaluation is the Value for Money audit (VfM).

Such VfM audit incorporates the assessment of the output, outcome and socio-economic impact of the projects, and includes a technical audit on cost-effectiveness. Unfortunately, this is a concept completely unknown in the Kenyan LA service delivery practice. In the absence of such audit, the LAs and other implementing agents get away with “double funding”, in which they claim to have spent their project funds on project components that are actually funded by other funds!

Other issues related to the non-performance of M&E include lack of institutional capacity, mainly technical and financial in LAs, lack of political goodwill, and the emphasis on financial aspects as opposed to a whole range of relevant M&E project attributes.

As a consequence of the weak monitoring and evaluation regime currently obtaining in the LA sector, there has been massive project failures both in the local authorities implementing LAS-DAP projects, in the Urban Development Department, and also CDF. The evidence is in the huge number of stalled and incomplete service delivery projects that dot the local authority landscape nationwide.

5 PROJECT MANAGEMENT IN RURAL POVERTY REDUCTION AND LOCAL GOVERNMENT SUPPORT PROGRAMME

In describing good practice in project management in local government, this chapter bases itself mainly on the lessons learned in project management in the RPRLGSP. The focus is on two major components of this programme: the *poverty reduction fund* (PRF) from which funding for capital expenditure was granted to selected local authorities to strengthen service delivery; and, the Programme’s *capacity building component* that focused on providing support and training to selected LAs to improve project management, community participation and financial management. The high success rate of the PRF projects in the LA supported by the RPRLGSP indicates that the project management and monitoring approach followed was a good one and worth learning lessons from.

5.1 PRF Success Rate

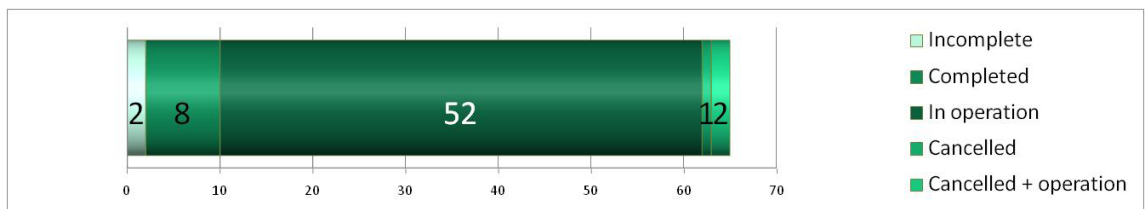
By the end of the programme, of the 65 projects funded under the PRF, 97% had their construction completed and 91% had started operation – including two projects for which the PRF funds were cancelled due to poor performance during the PRF contract period – and by

the end of 2010 all of the currently completed projects will likely be in operation.

Figure 5.3: Success rate of PRF

Success rates in PRF	per end 2009
PRF funding cancelled	6%
Construction not completed	2%
Construction completed	95%
Project in operation	88%

Note that columns do not sum up to 100% since some projects appear in more than 1 status category (e.g. PRF funds cancelled but project still completed and now even in operation, the case of e.g. Kericho). The numbers in the graph below indicate the number of PRF projects, out of 65, per category.



Furthermore, the PRF has achieved very low levels of mismanagement of funds. From a thorough technical audit, it was found that only 7% of claimed costs were considered ineligible for technical reasons, mainly contractor-inflated prices. The financial audit of the projects further reduced the amount of taxpayers' money wasted through poor management. Application of the PRF management approach in Kenya's service delivery would lead to increased levels of service delivered to its citizens and reduce wastage of funds.

In terms of results and impact on service delivery and improvement of local government performance in accountability of PRF, the intervention is equally impressive. Briefly, the outputs of the intervention may be summarised as follows: 41 water tanks, 11 boreholes, 5 dams, 11 km of piping, 60 kiosks; 29 classrooms benefiting 4000 new students; 3 health centres and 7 dispensaries serving 5600 patients; 86 kms of road, 1 bus park, 5 kms of street lights, 1 tourism centre, a refuse truck and improved refuse collection, together serving 250,000 citizens; and over 5000 traders in 24 new markets, with an average of Ksh.75,000 per month extra revenue for the LA.

The high success rate of the PRF projects oc-

curred despite a poor start of the PRF, including inadequate preparation and selection of projects. This success is a result of many factors, including the continuous and intensive technical support by the programme team (RS-DAs, PMU team, auditors) to the responsible LAs, as well as intensive project monitoring and evaluation.

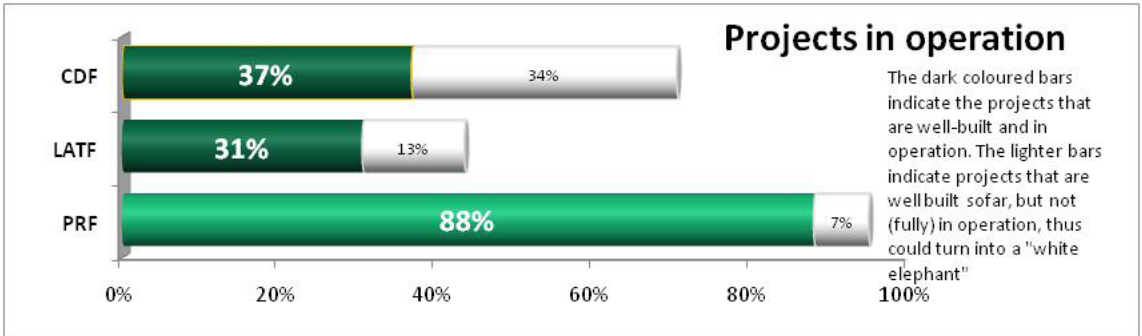
The PR stands out in comparison with other funds for capital projects in Kenya.

How are the above mentioned PRF results in comparison with other funds for capital projects? For this comparison we selected a few of the present funds in Kenya, presented in Figure 5.4.

The main modality for transferring of taxpayers' money to LAs is the Local Authorities Transfer Fund (LATF). In the Financial Year 2008-9, an amount of approximately Ksh.9 billion was transferred to the 175 LAs. Approximately 40% of this fund is available for LAs for service delivery projects, identified in their Local Authorities Service Delivery Action Plans (LASDAP).

Falling back on secondary information sources, in absence of reliable up-to-date information from the central government on the success of the Local Authorities Transfer Fund (LATF), the National Taxpayers Association (NTA) reported in 2009 on a LATF projects completion rate es-

Figure 5.4: High success rate in PRF compared to regular government service delivery funding programmes.



estimated at around 45% and an operation rate of 31%¹ (National Taxpayers Association (NTA) 2009). This percentage means that between 50 and 70% of the budget for LATF capital projects (approximately Ksh.4 billion per annum), an amount of more than Ksh. 2 billion of public taxpayers’ money per annum, could be considered wasted, since it was not used for proper service delivery.

Another Government fund for service delivery is the Constituency Development Fund (CDF). In the Financial Year 2008-9, an amount of approximately Ksh.18 billion was made available to the constituencies for investment in service delivery projects. According to the NTA (2009), the success rate of CDF was 37%. This means that 63% of the CDF funds in the study year

was not properly used for service delivery. This percentage means that in the FY2006-07 an amount of close to Ksh.10 billion has been wasted.

This comparison shows the absolute and relative success of the PRF programme. It seems that the programme did the right thing.

5.2 Why Did the PRF Approach Succeed?

The significantly higher than usual success rates are to a large extent a result of four critical factors (the 4S approach to successful project management, consisting of systems, support, supervision, and sanctions).

- The programme assisted in applying (and developing where necessary)

the right systems and policies, including, law, procedures, institutions, manuals, guidelines, templates;

- The programme provided intensive and quality support, capacity building and training to the implementing agencies (LAs) in applying the policies and guidelines.
- The programme conducted thorough supervision and monitoring of the performance of the implementing agencies (LAs): checking whether the systems were applied appropriately;
- The programme applied a set of sanctions or penalties for the implementing agencies when despite all the systems, support and monitoring the LAs failed to adhere to the basic principles of proper project management or failed

to use public money in the most effective way.

Each of these factors is discussed below.

5.2.1 Systems

In the implementation of the service delivery project, the LAs are guided by an extensive set of manuals, and guidelines that have been developed by the Government and by public procurement and disposal Act, LASDAP. In addition, the Programme provided the LAs with a comprehensive set of simple template documents for progress reporting, PCM timelines and financial reporting. These systems have helped the participating LAs in improving PRF project implementation, procurement, reporting and financial management.

⁹Of the 242 projects in 8 LAs (funded by LAs in FY 2006/7) studied by the National Taxpayers Association (2009) in 2008/9, 42 (29%) were considered “ghost” projects, being projects that had not yet commenced (of which 2 were identified as abandoned). The report did not appear to attempt to identify what happened to the funds that were allocated in the LAs’ budgets to these projects. Of the remaining 200 projects 74 (31% of total) were well built and in operation. Another 33 (14%) projects were well built but not yet – or not yet fully - in operation (as they were being constructed in phases). The balance, 89 projects (39% of total), were poorly built and with no Value for Money in terms of benefits to citizens.

NTA uses different categories than PRF, not directly linkable to the PRF categories. NTA category A, “Well Built, complete projects”, nicely corresponds with the PRF “In operation” category, but the PRF “construction completed” category does not have a perfect match, though NTA’s “Well built, incomplete” is close and is therefore used for this exercise.

5.2.2 Support

It was recognised very early in the programme that a successful LA intervention could only be achieved through a properly designed support system. The RPRLGSP therefore put in place a fully fledged intensive support function for LAs as the implementing agency in all pilot LAs across the country. The support was designed in terms of 11 field officers (Rural Service Delivery Advisors – RSDAs) distributed in clusters equivalent to provincial level field offices based at the PLGO offices in six provinces.

The RSDAs provided assistance to the LAs in the entire range of activities that essential in project cycle management, namely, planning, and project Identification, design, implementation; financial Management and community participation. The main tool employed in supporting LAs was the *on-the-job direct support* to staff in implementing the PRF projects and in rolling out capacity building at LAs. The RSDAs maintained a tight schedule during the implementation of PRF projects. Monthly workplans were prepared for project inspection visits in various locations within pre-determined areas of project jurisdiction. These site visits were used to assess individual project progress and to provide a feedback to the Project Monitoring Unit based in Nairobi. The visits were to encourage

continuous community participation in the implementation of the projects and to ensure that there was transparency and accountability in the overall management of the projects.

The supervision assistance offered significantly contributed to the improved quality of the project’s technical, administrative and budgetary implementation. In addition to the direct one-on-one support, the LAs benefited from the many workshops the RSDAs held on various project management subject areas for intensive capacity building of the selected LA staff. During the workshops, participants from different LAs were encouraged to share both their bad and good experiences in project management. *Peer learning* increasingly became one of the major objectives for holding the workshops.

Other workshops topics included Leadership (sensitising LA leaders on latest developments in the LA sector and to appreciate the roles they play in the management of the affairs of LAs and in particular, project management, strategic planning and financial management) and LASDAP workshops (sensitising and training LA staff on recent changes in the LASDAP process). RSDAs were instrumental in these workshops together with Ministry of Local Government staff from KLGRP.

5.2.3 Supervision and Monitoring

Besides their role in the support to LAs, the RSDAs were instrumental in the supervision and monitoring of the performance of LAs in the PRF programme as well. Their frequent project visits, not just in the office but visits in the field, with visual inspection, proved to be an important information source for the Project Monitoring Unit and a critical success factor in the PRF programme. For many LAs it was the first time in recent history that their service delivery performance was critically inspected. LAs could not get away with just making up success stories on projects.

A concept first introduced in the PRF programme was the technical Value for Money (VfM). The Value for Money Audit is one of the techniques applied by the RPRLGSP in the implementation of PRF projects in selected local authorities all over the country in its support programme.

The purpose of the technical VfM audit was to conduct an assessment of the project proposal, functionality of project design, project implementation and management and ensure optimal utilisation of the funds. In line with good practice, it was important to check whether the local authorities had set up satisfactory arrangements to promote 'best price', 'best meth-

odology' and 'best output'. Also important was to check whether projects were completed on time and within budget while maintaining standards. The VfM audit focused on evaluating the proposal stage, design and preparation of tender documents stage, tendering and evaluation stage, construction stage and finally, the closure stage. The data collected included site measurements so as to confirm the actual work done. The actually work done was valued based on the contractor's unit rates. For supply/labour-only contract, the work done was valued against reasonable competitive rates.

The primary reason for this was to maximise impact and minimise waste of funds, by identifying claims for monies paid by the local authorities to contractors for works either undone or done to a lower specification, and monies paid to suppliers but quantity of items supplied not commensurate with actual work done. A negligible number of councils kept accurate construction data and site measurement records.

Besides the poor tradition of paying for work not done, poor or inadequate preparation of designs, drawings and bill of quantities, led to additional sources for unsatisfactory project management and project output. Most of the various weaknesses noted during the VfM audit exercise were due to lack of experienced

and skilled personnel.

Most of the engineers and works officers in the local authorities had never undergone a proper training internship programme since joining the work force after completing their studies. This resulted in the continuous circle of ‘bad practice’.

The councils are generally at different levels when it comes to setting up satisfactory arrangements to promote basic good project management practices. Doing things at best price and the right way were not always the governing criteria when it came to implementing projects.

Projects rarely got completed within the construction contract period. Less than 10% of the projects were tested to confirm that the materials and works conformed to the quality of works as described in the specification. The scope of works in some local authority was at times poorly defined thus making it difficult to know and track the expected output.

Based on the findings of the VfM audit, the average recommended deduction for the first PRF projects was 11% (ranging from nil to 49%). The average recommended deduction for PRF2 projects was 7%.

5.2.4 Sanctions

The programme applied a set of *sanctions*, penalising the implementing agencies when despite all the systems, support and monitoring the LAs failed to adhere to the basic principles of proper project management and failed to use public money in the most effective way. In case of poor service delivery and poor project management (including late completion of the construction), penalties included proportional deductions of the grant, in several cases resulting in recovery of (part of the) project funding.

5.3 Capacity Building in Project Cycle Management

Recognizing the important role of PCM in enhancing LA governance and service delivery, RPRLGSP initiated an intensive capacity building programme targeting 31 LAs. These LAs were selected as pilots for mainstreaming PCM in their operations. This mainstreaming was supported by the RSDAs who applied coaching, mentoring and training, to secure the introduction of PCM in LA project operations. A customised PCM manual with key knowledge and tools was developed and used as a reference guide for this process, and this manual has now been endorsed by KLGSP as part of the service delivery tools. Some of the demonstra-

tive impacts of introducing PCM in LAs is cited below and advises the need for securing PCM as a critical function in LA service delivery.

5.3.1 PCM and Goal-Orientation in Service Delivery

A variety of Participatory Rural Appraisals (PRA) were conducted in selected LAs, providing a framework for problem analysis to enable the LASDAP to be more focused on identified needs of communities, as opposed to a more ad-hoc and superficial needs analysis that has been evident in LASDAP processes. The importance of this emerging PRA practice must be appreciated, in line with the prevailing practice of project implementation in LAs, which is fraught with challenges; a lot of emphasis is given to political expediency, where councillors have continued to demand fragmentation of the resource basket to cater for unique ward 'interests', at the expense of a more holistic development agenda for the LA. This practice has impinged on the ability of LAs to deliver a strategic vision for their locales and has ended up disenfranchising citizens and stakeholder groups, who consider LAs developmental impacts as marginal. The application of PCM proved to have immediate dividends in the LAs' project management practice, firstly, through securing clear project goals which address

problem contexts, and secondly, firm project planning and execution leading to operational projects that address social development objectives that the projects sought to address in the first place.

5.3.2 Good Governance

The pilot results suggest that PCM has injected a more robust monitoring process in the pilot LAs, with clear articulation of project planning, implementation and monitoring structures. The formation of project committees has found its way in the revised LASDAP guidelines developed by the KLGRP, and when enforced, these project committees will enhance independent oversight in project management. Further, the project cycle is now embedded in the LASDAP implementation flow chart, published in the revised LASDAP Guidelines (MoLG, 2009b). The role and link between M&E and governance is now more evident.

5.3.3 Long Term Planning

PCM improves long-term strategic planning because the 'policy setting' stage includes strategic review of long-term goals and objectives. An intensive strategic planning coaching and training programme was conducted, initiating a review of the planning process in LAs that has hitherto been disjointed. This strategic view of

planning integrated the LA strategic plan, the annual LASDAP plans and ensures a more coordinated development plan for the locality.

A successful methodology to LA capacity building process has therefore been demonstrated through this pilot process, and this follows the 4S approach discussed in the next chapter.

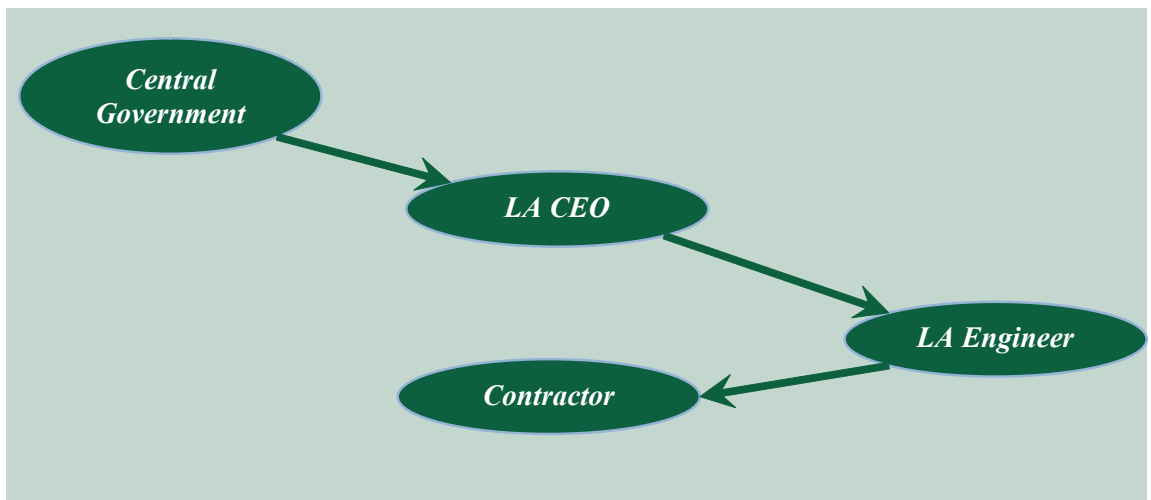
6 KEY LESSONS LEARNED

The following are the key lessons learned from the implementation of the RPRLGSP programme in Kenya.

1. EFFECTIVE IMPLEMENTATION OF A “4S” SYSTEM AT ALL LEVELS OF GOVERNANCE (from Central Government to LAs, from LA CEO to his/her technical staff, and from the engineer to the contractor) is crucial to successful programme and project implementation.

It is recommended that the Ministry of Local Government implement a full-fledged integrated model of good management systems to support the local authorities in matters related to finance, project management, and community participation. A system of rewards and sanctions should be an integral component of

Figure 5.6: The 4S approach applied to project management



the integrated management system.

2. THE RIGHT SYSTEMS ARE CRUCIAL ELEMENTS FOR MANAGING PROJECTS SUCCESSFULLY.

These systems include policies and guidelines for procurement and manuals for project implementation. The RPRLGSP in its capacity building activities in the select local authorities emphasised these critical aspects of project management cycle and achieved excellent results. A system of weak and unsupportive administrative systems in local authorities coupled with uncoordinated policies does not augur well for project management. In such a system, projects are not treated as vehicles for service delivery, but as instruments for promoting career interests of councillors.

Under poor management systems civic leaders would tend to distort the original purpose of LASDAP, seeing the programme as a contest for equal distribution of resources at the ward level, diluting the amount of resources required to successfully complete projects in timely fashion. The selection of new priorities every year undermines the objective of service delivery. Projects prioritised in previous years have tended to be too many and fragmented, grossly underfunded and not demand-driven. Many projects are now “white elephants” dotting the countryside. Councillors have been mistakenly

known to argue that policies and legal frameworks are designed to govern the operations of officers and are not binding to politicians.

3. All levels of government suffer from both politicians (MPs, Councillors) and officials with vested interests obstructing officials from implementing professional project management systems. Governance at the LA level as currently practised does not help professionalism to take root. Strong rules and regulations and monitoring of implementation of these will help to minimise negative influences exerted by politicians on officials.

4. Presently, STRATEGIC PLANS DO NOT REPRESENT THE COLLECTIVE VISION OF THE ELECTED LEADERS AND THEIR VARIOUS STAKEHOLDERS. Civic leaders consider process oriented activities such as strategic planning as a waste of time. They prefer instead, tangible goods and services for which they can take credit. POLITICAL AND CIVIC LEADERS HAVE YET TO APPRECIATE THE ROLE OF STRATEGIC PLANNING IN THE SERVICE DELIVERY AND GOVERNANCE OF LOCAL AUTHORITIES. Stakeholder consultations provide the link between strategic planning and project identification and formulation. It is a critical stage in the strategic planning process. There is indeed a cyclic relationship between the strategic planning process and LASDAP, the former providing the

policy framework and the latter in turn providing inputs into the review of policy. Many principal stakeholders, especially in the private sector are routinely excluded from the consultations and have no opportunity to appropriately influence the strategic plans. One of the most successful governance improvement components in Kenya's LA reform programme, LASDAP, is not yet the key development tool it could become. The current practice of poor participation in project management is hindering LASDAP from achieving its full potential. The recently upgraded version of the LASDAP Guidelines is a major step forward, but while it encourages the yearly plan to link to the strategic plan, no hard incentives and sanctions are built into it and proper monitoring systems have yet to be established.

5. Kenya should adopt a fully integrated development planning approach that is similar to and learns from the Integrated Development Plan (IDP) approach in South Africa. That means one process and resulting document that integrates both strategic planning and yearly investment planning (the latter being Kenya's LASDAP), covering all sectors in the LA, and developed through a professionally run transparent participatory process, with adequate monitoring and sanctions systems in place.

The LA Strategic Plan should talk to Regional Strategic Plan and to National Strategic Plan (Kenya Vision 2030).

In order to improve the coordination between the different funding streams (LATF, CDF, the Ministry's development vote managed by UDD), there needs to be one single process at local level for planning and project prioritisation. Since the LASDAP is operational at local level, we propose that *all service delivery funds allocate their funds to projects prioritised in the LASDAP*. This would be a first important step in redesigning these programmes in order to improve their performance in delivering services to the *wananchi* (ordinary citizens), and should over time be followed by improved monitoring and sanction systems, with as a final step, the merging of all the funds into one local development fund that caters for the needs of all its citizens. Citizen conception of (the citizen's rights and duties in) LASDAP and local government is still not positive, often for a good reason. However, things are changing in service delivery and LA performance improvement and the introduction of the revised LASDAP Guidelines would be a perfect occasion to *launch a much-needed comprehensive citizen rights awareness and LASDAP public awareness campaign*. LAs and LASDAP are here to stay and all stakeholders, both on the side of the implementing agent

and of the citizens, need to use this occasion to improve effectiveness of service delivery systems in terms of achieving development goals.

For professionally integrated project management, LAs should establish an adequate PCM institutional structure with a dedicated multi-disciplinary LA *Project Management Unit* (in the Kenyan case this will be an upgrade of the LA's LASDAP Unit).

6. A second component contributing to successful (**versus poor**) service delivery is intensive quality support (in combination with independent monitoring and the incentives of rewards and threat of sanctions). The PRF success (with its field officers, the RSDAs¹⁰, as its key success factor) has indicated the urgent need for a full-fledged intensive good quality support to the implementing agency, in this case the LAs, in applying the policies and guidelines. This support should be in the field of project management (all stages of the project management cycle: strategic planning, project identification, design, implementation), financial management, community involvement, etc. Such support is needed to assist the well-intentioned officials in implementing the systems, and will provide the bad-intended officials and politicians with information that could serve as an eye-opener to them¹¹ and

teaching them the more transparent and quality approach.

This support needs to be in the form of *individual in-the-field* "let-us-take-you-by-the-hand" support, as well as the more common training workshops for staff – both technical and senior management – but also for councillors, who in the end play a role in service delivery that is no less than that of the LA officials. The LA training and capacity building requires the following players to be in place and properly equipped:

- *Provincial Local Government Office (PLGO)* teams, who already possess the mandate and duty to provide technical support to LAs in a wide spectrum of support fields, instead of its current narrow focus on financial management support and monitoring, a focus that was a result of an astonishing lack of resources, a proof that Central Government has not taken the role of PLGOs seriously¹². In order to perform their role adequately, also and especially in the light of their expanded role in the LA Performance Audit, a PLGO team needs to incorporate expert officials from fields of financial management, project management, social work or community development, and engineering. Furthermore, they need adequate resources in terms of trans-

port and allowances to allow for frequent trips to their LAs, a mode of operation very similar to the way the RSDAs in the RPRLG-SP programme operated successfully;

- *Central Government support through relevant seminars and workshops* related to new laws, procedures and guidelines (e.g. LASDAP and LAIFOMS seminars and councillor Induction workshops);
- *A Local Government training facility* with specific curriculum relevant to the sector;

7. Generally, executive support for strategic planning is wanting in most LAs. The available support is a mere token to ensure compliance with policy requirements for performance contracting and disbursement of LAF. Most CEOs would be hard-pressed to defend the strategic plan. The majority do not participate in its preparation or even implementation at all. There is no capacity in most LAs to prepare such plans and the process is entirely new to the sector. It is therefore highly doubtful that the strategic plan is seen as an instrument for Project Management in most LAs.

8. Although the process of selection of projects is designed to allow for stakeholder participation, it has been routinely manipulated by both civic leaders and technical officers

alike who have substituted the official projects and replaced them with their preferred projects, without community support. This has led to apathy and loss of interest by communities. Quite often, the projects selected for implementation do not conform to the provisions of the strategic plan nor are they those prioritised by stakeholders through the LASDAP process.

9. Technical capacity for project design in many LAs is weak and needs to be strengthened. Many councils have at the apex of their engineering departments only a works officer with no support staff or equipment. Very few of the selected PRF LAs had professionals (architects, engineers, planners, sociologists, surveyors) working for them. The general conduct of civic leaders and poor working conditions, corruption and nepotism has made it difficult for many LAs to attract and retain professionals. As a consequence, it is difficult to come across very highly executed professional work in LAs. Low-calibre staff are often causing poor project design that is associated with project failure in LAs

Project contracting is rarely taken as a serious assignment with strict timelines. It is a public secret that contractors, most of whom do not meet strict requirements of procurement, not rarely owe their contracts to civic leaders and

chief officers with the quality of resulting work often being appallingly low. In many instances, there is no contractual obligation on the part of the contractor to complete the assignment at all. The composition of project teams is a complicated and highly politicised affair with people jostling for positions with the hope of sharing in the potential benefits likely to accrue.

10. As part of the larger strive for good governance and accountability and improved service delivery to Kenya's citizens, a comprehensive system of adequate supervision and monitoring of the performance of the implementing agency (LA) needs to be put in place. This system needs to check whether the rules and regulations are applied appropriately and ensure compliance with time frames and technical specifications, among others. As a result of this inadequate performance monitoring, service delivery at local level is substandard.

- A full-fledged integrated model of good systems can boost the success rate of the capital projects significantly. This implies a "saving", or better "RESCUE", of a significant amount of tax payers' money that will then go into **IMPROVING SERVICE DELIVERY**, resulting in significant reduction of poverty. The relevant recommendations in

this area include:

- Bottom-up interventions. Citizen's role in monitoring needs to be strengthened. Monitoring of LAs' performance in service delivery is both *bottom-up* and *top-down*. In striving for good governance in local authorities, the role of the citizens in monitoring their direct service delivery implementing agent, the LA, is critical. As main beneficiaries of service delivery they are the ones that should check the agent's performance, in order to ensure the highest possible service delivery at the lowest possible costs. It is recommended that Central Government (MoLG) initiates a citizen awareness campaign on rights and duties of citizens in local governance, monitoring and accountability.
- Top-down interventions. Performance M&E of LAs at central level need to be strengthened. Central Government's monitoring of LAs is inadequate. While auditing of financial management in LAs is reasonably well done through KENAO's financial audits, most other indicators of LA performance in service delivery are not well or not at all monitored and audited.
- Monitoring of LA performance needs to be extended from merely financial man-

agement to a full-spectrum performance assessment, based on outcomes instead of the current focus on outputs. Value for Money (VfM) is a new concept in Government. It focuses on outcomes and impact of service delivery. The construction of a school is not as important as the improvement of access to education. Ultimately, the increased education levels in the communities is the goal, and objective, and exactly this higher development objective should be assessed and monitored. One of the ways to measure VfM is through a *cost benefit analysis*, which assesses the benefits in terms of contribution to achieving development goals, relative to the costs of achieving these benefits. This assessment should consider the *opportunity cost* of a project, a concept that helps identify what benefits would accrue when investment is made in something else. The true value of the project should only be ascertained by carrying out a complete and independent technical audit, assessing the real construction costs versus the costs claimed by the contractor. That this is an important exercise in reducing mismanagement has been proven in the PRF programme, in which the independent engineer identified more than 11% of the claimed project

expenses to be irregular, and that is in a project implementation environment in which the LAs were under strict support and monitoring by the programme's field officers during project implementation. It is therefore very likely that in the normal LA practices, in LA projects not funded by international donors, this percentage will even be much higher. The 11% wastage rate of LATF's Ksh. 4 billion project funds per annum translates into Ksh. 440 million incorrectly claimed and thus wasted.

- Intensive monitoring and sanctions pay off and need to be made routine part of project management. The comparison of success rates of different approaches (the LASDAP/LATF approach of low-intensity monitoring/few sanctions versus the PRF approach of high intensity monitoring and serious sanctions) shows that intensive support and monitoring result in significant higher success rates in service delivery. The more than Ksh. 2 billion of LATF funds currently wasted in service delivery per annum would be turned into good use if redirected to a full-fledged support and monitoring system for LAs that would need to include, but not be limited to:
 - Size or number of staff. Project staff

should be sufficient to cover all 175 LAs and allow for frequent visits to the projects under construction. A ratio of 1 officer per 6 LAs, allowing for a 2 day visit to each LA every month, is a good start.

- Qualifications of staff. Systems support and monitoring requires a team of people with diverse and well-proven skills and experience, including, but not necessarily limited to, technical engineering and architecture, project management, community development, and financial management.
- Mandate. The legal obligation of LA is to support and inspect LAs and their LAS-DAP projects, with the right to independently inspect any project and project

books in their jurisdiction.

- Institutionalisation: The support system should be well positioned in the structure of the Ministry, possibly within the PLGO offices under DLAI, as part of the PLGO team and covered in the expanded mandate of the PLGO offices. Also required to receive an interesting package, and be intensively monitored themselves, to minimise risk of becoming compromised (bribed) and maximise the chances to remain objective/clean.

A proper system of technical support and supervision and monitoring in the field together **with an adequate sanctions (and rewards) system pays off**, even in a cost/budget-neutral way!

¹⁰In the PRF case, the support mainly came from the RSDAs, assisted by the PMU, to the LAs. This support included:

- the on-site supervision and monitoring of the PRF projects;
- the promotion and facilitation of community participation where applicable to the PRF projects;
- the appropriate book-keeping and recording of all transactions related to the projects;
- the adequate reporting (quarterly and/or final report and accounts) by the LAs;

¹¹In the implementation of the PRF, the team came across several senior LA officials and politicians who in the beginning of our support were fanatically opposed to any community participation and “doing it the new way”, but after seeing the new way, saw the benefits of the new approach in terms of quality of service delivery and benefits to and ownership by the citizens, turning them into big supporters.

¹²In contrast to the present situation, in the eighties and nineties of the previous century, Central Government (MoLG) considered the PLGO role important and the PLGO offices were well resourced and equipped. In the last ten years or so, Central Government dramatically reduced the role of the PLGOs, seemingly in its effort to keep or increase its own central power in violation of agreed devolution principles.

11. A good attempt to improve the monitoring of LA performance is the LA performance and Indicators manuals, recently prepared by KLGRP. This annual performance review model addresses most of the weaknesses in project management in LAs and includes the extended support and monitoring role of the PLGO. We recommend that MoLG *endorses and fully implements* this monitoring system, and continues to learn lessons and fine-tune performance monitoring, as part of its efforts to improve performance of LAs in service delivery, and to fight abuse and wastage of LAF. A similar approach should be applied to other public funds (including CDF) in a fight for improved service delivery on all governance levels.

12. A last component of improving LA performance, and something that is seriously lacking in the current local government practices, is the application of efficient sanctions and rewards, penalising the implementing agencies that despite all the systems, support and monitoring have not adhered to the basic principles of proper project management and fail to use public money in the most effective way. Penalties could include the recovery of project funding, reduction of future funding (e.g. LAF) and negative publicity in the newspapers.

No councillors have been punished for omissions or even commissions in the course of con-

ducting LA business and this has encouraged a culture of impunity. It is common knowledge that for instance many acts of mis-procurement of services are a result of direct interference of civic leaders in the procurement process from which they are by law excluded. Meanwhile, officers are routinely punished for mistakes made by civic leaders, particularly in LASDAP implementation, through suspensions, surcharges and punitive transfers. Some of the sanctions meted out to officers are mere cosmetic slaps on their wrists. A few recommendations are in order in this area.

- We recommend that MoLG implement a proper sanctions and rewards system, through implementing the LA Performance Audit system, recently developed by KLGRP, and linking it to the performance contracting and the LAF. Such a sanction and rewards system will help in reducing the infamous impunity that currently continues to lead to poor project management practices and poor service delivery.
- The recently implemented LAF Higher Performance Fund is a very encouraging improvement, but over time needs to be extended to assessing more than the current six indicators and with stronger incentives than the current 5% of LAF.

7 SUMMARY

The MoLG and LAs have gone a long way in improving their performance in service delivery. This improvement process is still on-going. The adoption and subsequent implementation of project management methodology and the “4S” approach will bring the performance improvement process to its next phase. This means the further improvement of project management systems (laws, regulations, guidelines), the strengthening of the support and monitoring system with a boosted capacity at PLGOs, and an incentive-based sanctions and rewards system. Such intervention will be a good attempt to reduce the huge amounts of taxpayers’ money currently not properly used for service delivery to *wananchi*. A similar support, monitoring, and sanctions model should be applied by the Government in CDF and other government funds, for the same reasons.

In the introductory part of this chapter it was hypothesised that application of project management practices and methods, including PCM, improves service delivery in LAs, increasing the quality of life of citizens and reducing poverty. It does this partly by reducing corruption and improving governance and transparency. The experience with RPRLGSP has shown that *indeed applying project management principles*

will assist LAs in improving their service delivery, governance and transparency and reduce mismanagement of funds, with beneficiaries of this efficiency outcome being wananchi.

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Financial Management in Local Authorities

J. Nguri, T. Nyariki, G. Kioko wa Luka, J. Too, J. Ngugi, J. Ndungu

1 INTRODUCTION

Local authorities in Kenya, like any other public entities, are required to remain accountable to the public and other service users through the application of well established and proper accounting and reporting systems. During the colonial era, the British Government introduced a standardized format of accounting and financial reporting that was adopted by all councils then. This system was referred to as 'British Municipal Accounting System'. With the advent of independence, and reshaping of local authorities through the Local Government Regulations of 1963, the system was entirely adopted by all local authorities. The Local Government Regulations of 1963 were replaced with the enactment of the Local Government Act Cap. 265 in 1977 which came to effect in 1978. The Act recognised the British Municipal Accounting System as the only legally standardised and generally acceptable format of accounting and financial reporting to be adopted by all local authorities.

Between 1977 and 1998 the predominant reporting application was the British Municipal accounting system. The emphasis was that chief finance officers were to be members of a recognised professional body of accountants. This was met by its own challenges as the few qualified officers in the local authorities were attracted into central government service where there were many challenging opportunities with the result that many senior officers left the local authorities and joined the expanding commercial sector where the government was also interested in rapid Africanisation.

This move left many local authorities without properly qualified accounting officers with relevant experience. As a result, the govern-

ment and Kenya Institute of Administration (KIA) mounted several crash programmes for the training of executive and middle level officers but as soon such people were trained they never stayed for long in the local authorities. They left local authorities for the private sector because of better terms of service and also partly because of frustrations and insecurity of tenure prevailing in local government service. The other challenge which was evident was due to the reporting details under the British Municipal accounting system which were too involving and difficult in many aspects. The government saw a need to review this accounting system purposely to make it simple in its preparation and application. In 1996 therefore, the government through the MoLG contracted

an accounting firm to simplify the accounting and financial reporting for local authorities. The firm came with its recommendation and new accounting system titled “the Simplified Accounting System (SAS)” that local authorities were required to adopt. However though a few LAs adopted the SAS, its application was never enforced because it was not approved by the Minister of Local Government as required under the Local Government Act Cap. 265.

Despite the failure by the Minister to approve the SAS, some local authorities continued using the SAS for their financial reporting while others used the BMA system. The consequences of this were that the Controller and Auditor General always qualified the accounts for those LAs which used SAS as it had not been the approved. In the ensuing confusion, some of the LAs use a hybrid system of financial reporting which combined the SAS and the BMA systems, obviously adding more problems to the already existing ones.

To address these challenges the MoLG through Kenya Local Government Reform Programme (KLGRP) contracted a consulting firm in 2007 to review the existing reporting systems, harmonise them, and come up with an acceptable and uniform system of financial reporting which also conformed to International Public Sector

Accounting Standards (IPSAS). The result was the development of a new accounting and financial reporting template which was finally approved by the Minister for local government in accordance with the law. Consequently, the MoLG has officially issued “Statutory Financial Reporting Template For Local Authorities Kenya Gazette Notice No 6218 of 11/07/2008” which has provided a uniform way of preparing and reporting financial operations of all councils.

It is also important to understand that the genesis of the financial reporting problems were not just as a result of confusion and complicated accounting systems. During the pre-independence era the Commissioner for Local Government was in charge of matters of Local Government Finance and Administration (AL-GAK, 2006). The services undertaken by the Commissioner of Local Government included assisting the LAs write their books of accounts among others. The assistance went on until 1970 during the transfer of functions where the responsibility was taken over by the Controller and Auditor General (C&AG)¹³. The issue which came to the fore is that no capacity building was done to the LAs for them to be able to take up the financial management effectively. This was further aggravated by the fact that the few qualified officers were also attracted to the other government ministries

and departments including the private sector where jobs were more lucrative.

According to ALGAK, 2006 when the transfer of functions was assumed no emphasis was laid on building the capacity of local authorities, and the role of the Ministry was reduced to that of a capricious supervisory and regulatory body. The capacity within the ministry to even undertake this role effectively was not there. This was further aggravated by the government's multiple creation of LAs during the last two decades. Again inadequate training opportunities in Government Training Institutions in terms of Local Government accounting courses deepened the problem.

2 RESEARCH OBJECTIVES, POLICY CONCERNS AND METHODOLOGY

It is against this background that the Rural Poverty reduction and Local Government Support Programme (RPRLGSP) was implemented, with the Financial Management Information System (FMIS) as one of the capacity building components. The overall objective of the RPRLGSP was to ensure optimal utilisation of the Poverty

Reduction Fund; enhance the capacity for the MoLG staff and the LAs in the areas of financial management, governance, participatory planning and service delivery; and provide support in policy development in rural poverty reduction and local economic development through improved local governance.

The overall objective of this chapter is to examine FMIS capacity building in the LAs undertaken during the last three years and any other experience that would inform on improving the local government financial management systems. The specific objectives are to analyse the lessons learned on the financial management in LAs through the capacity building during this period and also through the implementation of the PRF projects; document the findings arising from these lessons learned; and based on best practices come up with recommendations on how overall financial management in LAs could be improved and managed.

Evidence from the baseline survey report undertaken by the programme shows that the financial records and subsequent financial statements maintained and produced by the local authorities have failed to meet the gener-

¹³It is not clear whether the transfer of functions also meant that the C&AG be responsible for the writing of the books besides the role of auditing the accounts.

ally acceptable accounting standards (MOLG, 2008). The Kenya National Audit office (KENAO) audit reports for most of the LAs have been a disclaimer of opinion while a few have received qualified opinion (KENAO, various years).

As indicated above the baseline study undertaken by RPRLGSP in 2008 based on a sample of 31 local authorities (LAs) revealed that the LAs in Kenya maintain basic accounting records which are incomplete with no proper books of accounts like the cashbooks, debtors and creditors ledgers. Indeed, the experience is that none of the LAs maintained the general ledger which is a prerequisite of any organisation's accounting systems. Though it was evident that most of the LAs prepare some quarterly management reports for submission to the Ministry Head Office, the figures are often extracted from incomplete records (hence they are hardly reliable). Annual financial reports though prepared by every December to meet the statutory requirement for submission to the Kenya National Audit Office (KENAO), are also prepared from incomplete records, hence the cause for *disclaimer and qualified opinions* normally issued by KENAO in all their audits for LAs in Kenya.

The baseline study also revealed that while a few of the LAs are able to produce their annual

financial reports, most of them still rely on contracted firms of "accountants". The baseline study in the review of these financial statements prepared by the contracted "accountants" noted that most of these firms have either no adequate capacity and/ or the records received from the councils are unreliable and these private firms end up doing what may be referred to as *creative accounting*.

Furthermore most of the councils have been hived from other councils with no clear sharing of the assets. This makes it almost impossible for most of the local authorities to maintain reliable fixed assets records. There has been no dedicated effort from the MoLG to resolve this problem which presents a major financial management challenge for the affected LAs. The only effort which has been made towards resolving this problem was through a study commissioned by KLGRP through RPRLGSP, but was called off before it started due to lack of funds (KLGRP, 2009).

Intuitively all the LAs produce annual budgets as a national requirement and submit them in April for them to access the LATF funds. However past evidence shows that almost all the LAs lack capacity to prepare responsible budgets. In particular the LAs used to overstate their revenues so as to support higher expenditures

than they could finance. This particular factor and the inability for the LAS to prepare responsible budgets forced the Ministry to intervene and since 2004 it has been issuing budget circulars with revenue ceilings to avoid over budgeting. It is however important to note that the process of budgeting in the LAs is given much importance such that if the same was given to the accounting and management of funds, LAs would perhaps be having more reliable financial records than they have today.

Recently a new financial reporting template was approved by the Minister which is compliant with the International Public Sector Accounting Standards (IPSAS). The Template has been rolled out to all LAs and they are required to prepare their financial reports for the year 2008/09 using the template. This calls for the LAs to maintain proper books of accounts and they stop the cash accounting which has been the mode of operations for most of them. Unfortunately most of these LAs have no staff with relevant accounting experience to understand and maintain proper books of accounts. Most of the junior staff in the Treasurers' department have limited training. Furthermore most of the training given to the senior staff is mostly undertaken in hotels with no follow-up to know if they train their staff in their councils. Interviews undertaken during the baseline

study indicated that most of the senior staff trained do not share their acquired knowledge with their juniors and hence the effect of most of the applied training given to LA staff is quite ineffective.

The Ministry has also been trying to computerise the LAs using its internally developed program on Local Authorities Integrated Financial Operations and Management Systems (LAIFOMS). The system has been under development since 1998 and so far has been rolled out in about 68 LAs. The system was initially designed as an operational system whereby the billing, cashiering and payments operations have been running for some time. Recently the General Ledger and the Cashbook systems have been rolled out but have not been fully tested to ensure that they work though the LAs where LAIFOMS has been installed are required to use these new financial systems. RSDAs experience during their capacity building (CB) in those LAs where LAIFOMS has been installed shows that where the cashbooks have been operationalised there are reported errors which have made it impossible for these councils to prepare proper bank reconciliations (RSDAs final reports, 2010). Evidence from the field as can be referred from the RSDAs final reports, 2010, indicate that none of these LAIFOMS councils have started operating the general ledger. In-

deed none of the LAIFOMS councils, among the 8 councils which managed to produce their financial accounts used the LAIFOMS Financial Management Modules to do so. Those who stuck to the LAIFOMS system like Kirinyaga County Council are still lagging behind in reconciling their cashbooks and it is not clear when they are likely to post the other relevant books of accounts including the General Ledger.

The question which policy makers in the Ministry need to answer therefore is this: is the system of LAIFOMS rollout to the LAs most optimal? Has the development work on LAIFOMS especially the Financial Management Module been adequately done to serve the requirements of the financial management of the LAs? The training method which has been undertaken through the FMIS CB has had high impact as evidenced by the results from the 31 LAs. This has been due to the system adopted for the training of the council Treasurers' staff which has not only trained the previously untrained staff who happen to be the most important in the whole process of accounting and financial records maintenance, but also the intensive on-job-training.

Over the years most local authorities have experienced inadequate staffing levels more especially in the treasury department which lack

sufficiently trained, skilled and competent officers (MOLG, 2008). The few available officers in many instances were found to have been entrusted with other important but not their core activities including; revenue enhancement programmes, procurement process, local authorities service delivery action plan, consultation, meetings, preparing and filing monthly and quarterly reports for the purpose of accessing LATF, attending performance contracting meetings, seminars/ workshops organized by MOLG, MOF ALGAK and other sector ministries and institutions.

The staffing in LAs is done at two levels; job groups 1 to 9 are recruited through the Public Service Commission while job groups 10 to 20 are by the LAs. There are however no clear guidelines and policies issued or developed by the MoLG to assist the local authorities on the aspect of staffing. In the absence of such clear policy direction, many local authorities are over-staffed on the lower cadre and understaffed in the upper cadre. This lack of policy has over time opened the *Pandora's box* that Local authorities are avenues of employment rather than being agencies of service delivery for local economic development.

Additionally, the MoLG does not have a clear policy on staff development, recruitment and

transfers. Although all LAs are required to budget 2% of their total annual revenue for training, this is rarely implemented and in most cases not strategically applied. The baseline report and interviews with LAs indicated that most of this budget goes towards the many seminars and conferences attended by the senior council officials rather than hard training and capacity building for functional staff.

Other issues revealed during the baseline survey and during the actual implementation of FMIS CB are that all the councils did not have proper and clear organisational charts for the treasurer's departments. Furthermore, there were no job descriptions except letters of appointments for various individual staff members with no clear line of duty and responsibilities. Where duties were allocated this was done in an ad hoc manner, and most officers did not know what they were supposed to do on a daily basis and had to wait for instructions and directions from their seniors. This situation is of course worsened by the lack of recruitment policy which has allowed for over-staffing.

These are the policy concerns which are addressed throughout this chapter as they relate to the financial management in LAs. The lessons learned are based on practical evidence from the field which is compared with interna-

tional best practice to develop a practical case which should assist the Ministry develop adequate policies and procedures to permanently resolve these problem.

The methodology used to get the lessons learned on the Financial Management Information Systems being operated in the local authorities is based on the sample of 31 LAs included in the CB component of the RPRLGSP. The 31 LAs were selected from the list of 63 LAs benefiting from the PRF. The selection included all the 24 LAs which at the time were part of the KLGRP LAIFOMS programme and the balance of 7 being those which demonstrated sufficient capacity to benefit from the FMIS and Community Participatory Planning support by the TA, and probability to show positive results.

The FMIS CB implemented in the 31 LAs was undertaken through two key processes: a formal training of all accounting staff in the participating LAs and an informal capacity building where rigorous on job training was undertaken through a combination of the RSDAs and Finance Officers in the PLGOs offices trained as trainers. This was preceded by a baseline survey conducted by a combination of the STEs and the TA to PMU in charge of the FMIS CB, to establish gaps so as to tailor the training to the needs of these LAs (RPRLGSP baseline re-

port 2008; RPRLGSP FMIS Review, 2008). Other measures undertaken as preparation for the implementation of the FMIS CB and to guard its sustainability in the future were training of trainers in the RSDAs and the Finance Officers in the PLGOs offices, and training of the MoLG DLAI staff who have a direct responsibility of dealing with LAs.

The lessons learned have been gathered through the implementation of the FMIS CB over the last two years based on the experiences of the RSDAs and the TA to PMU team during the implementation of the programme and best practices. The rest of this chapter discusses the lessons learned, followed by recommendations and conclusions.

3 LEGAL FRAMEWORK AND ACCOUNTING STANDARDS

3.1 Introduction

Financial management and accounting for local authorities in Kenya are governed and regulated through various pieces of legislation. These include the Local Government Act, Chapter 265, Financial Regulations issued under Section 271 of Cap. 265, the Public Procurement and Disposal Act 2005, the Public Audit Act 2003, and the Public Finance Management Act 2004.

Other financial management and accounting maintenance regulations are the standards issued by the professional bodies. These include the International Public Sector Accounting Standards (IPSAS) and to a lesser extent the International Accounting Standards.

3.1.1 Legal Framework

The Local Government Act Cap. 265 extensively provides for the financial management and accounting for the LAs (Laws of Kenya, Cap. 265, 1998). Part XV deals with Financial Provisions whereby Sections 212 to 214 deals with budgeting requirements; and Sections 215 to 221 deals with the various funds to be maintained by the LAs. Part XVII deals with Accounts and Audits. Sections 227 to 230 deals with matters related to the preparation of the final accounts (abstract of accounts); section 231 to 242 deals with inspection of the finances by the inspectors under the MoLG. However the Act does not deal with the audit of the Local Authority financial statements by the Kenya National Audit Office (KENAO).

As mentioned elsewhere in this chapter, the mandate for KENAO to audit LAs was transferred in 1968, when the Controller and Auditor General took over the mandate of auditing the accounts of local authorities. Prior to 1968, the accounts for local authorities were audited

by the Ministry of Local Government. However it is interesting to note that these powers have not been incorporated in the Act as the case would be. However these powers are provided for in the Audit Act Part IV, Sections 21 to 28.

Section 228 of Cap. 265 stipulate that every LA shall cause proper books of accounts to be maintained and true and regular records kept. In the same section subsection 5 states that the Minister will prescribe the rules and systems in which the LAs will maintain and publish their accounts. However the Act does not provide any sanctions or rewards in case a council maintains or fails to maintain the accounts as provided for in this section. This omission is still there in the currently published bill which is being presented to Parliament for amendment of the Local Government Act.

Besides the provisions in the act the MoLG has under Section 271 mandate to issue Financial Regulations which according to some schools of thought have been used by the Ministry of Local Government to exercise absolute control over local authorities (based on various interviews). On a more sober note the purpose of the Regulations is to provide the principles and procedures through which those working in local authorities should administer the funds entrusted to them in a manner that is

standardised across the spectrum of Local Authorities, and ensure that all funds due are collected, applied according to budgetary provision and properly recorded and reported on (Ministry of Local Government, 2007).

The first model Financial Regulation was issued by the MoLG in 1968 to be adopted by local authorities as a means of regulating financial management and control. The document was circulated to LAs for comments. Many local authorities submitted their acceptance of the model financial regulations while others suggested certain amendments to be effected. The Ministry did not respond nor were the Regulations ever gazetted. A second set of Regulations were issued in 1984 with no regard to the previous one. Again despite adoption by most of the LAs they too were not gazetted.

Consequently therefore the intended use of the document remains far from being achieved. The Ministry of Local Government through its decentralized administrative offices never even bothered to bring out the document to the attention of the local authorities. It was observed that many local authorities are not even aware of the existence of the Financial Regulations currently purported to be in force. In 2007, the Ministry developed another set of Financial Regulations involving several actors and rel-

evant stakeholders. These have since received the Ministry's approval and have been submitted to the Attorney General's Office for perusal and subsequent gazettelement.

3.1.2 Accounting Standards

All institutions in Kenya are required to be compliant with the international accounting standards. In Kenya the institution responsible for ensuring the compliance with the international accounting standards is the Institute of Certified Public Accountants of Kenya (ICPAK). ICPAK is a member of the International Federation of Accountants (IFAC) which is the World body responsible for publication and issuance of the standards. There are two sets of accounting standards, the International Accounting Standards (IAS) and the International Public Sector Accounting Standards (IPAS). IAS mainly deals with the private sector accounting reporting standards while the IPAS are mainly for the public sector reporting requirements.

Currently there are 26 IPSAS issued by the International Public Sector Accounting Standards Board (IPSASB), which is an independent standard-setting body within the International Federation of Accountants (IFAC). The objective of the IPSASB is to serve the public interest by developing high quality accounting standards for use by public sector entities around the

world in the preparation of general purpose financial statements (IFAC, January 2007). The standards are expected to enhance the quality and transparency of public sector financial reporting and strengthen public confidence in public sector financial management.

According to IFAC, January 2007 publication, the IPSASs are designed to apply to the general purpose financial statements of all public sector entities. IFAC defines the public sector entities to include national governments, regional governments (for example, state, provincial, territorial), local governments (for example, city, town) and their component entities (for example, departments, agencies, boards, commissions), unless otherwise stated. IFAC specifies that the Standards do not apply to Government Business Enterprises. Government Business Enterprises apply International Financial Reporting Standards (IFRSs) which are issued by the International Accounting Standards Board (IASB). Therefore, a parastatal or an enterprise like a water company operated and owned by a local authority would require having its financial reporting under IFRS.

4 LESSONS LEARNED

4.1 Maintenance of the Accounting Records

Local authorities, like other public entities, are required to remain accountable to the public and other service users through the application of well established and proper accounting and reporting systems. While various systems of reporting have been adopted in the past it is now official that all LAs have to publish their financial reports in accordance with the new financial reporting template which is compliant to IPSAS. Hence it is imperative that LAs would have to maintain books of accounts and other financial records which would facilitate them meet the requirements of IPSAS.

While the new financial reporting template came into force towards the end of the RPRLG-SP, it is unlikely that the local authorities in Kenya will be able to comply with the requirements as their books of accounts are in deplorable condition (poor state of maintenance). Evidence from the local authorities in the capacity building programme shows that the accounting records and other financial records are lacking, not properly maintained and/or

not updated. Cashbooks maintained are not the conventional ones which would instantly give you accurate and up-to-date cash balances, but instead they were maintaining separate receipts and payments listings which one would have to combine to get accurate cash positions. The LAs are required to prepare daily, monthly and quarterly abstracts of cash receipts and payments. Unfortunately this is not the case as what is considered daily abstract is often prepared months after the actual transaction occurred¹⁴. The bank reconciliations as a result have always been done many months or years in arrears.

During the baseline survey it was observed that nearly all local authorities under reference do not maintain ledgers including the creditors, debtors and other ledgers. Most local authorities do not maintain assets register, and that they show balance sheet figures based on historical information carried forward over the years. In many instances, these figure had no relationship with the actual assets owned by the local authorities or their values. Furthermore it was evident from the baseline study that most local authorities do not maintain journal books and General Ledger. In most cas-

¹⁴Evidence from the 31 LAs included in the FMIS CB undertaken by the programme.

es the LAs maintained incomplete subsidiary ledgers on debtors mainly on plots and properties owned by the inhabitants within their areas of jurisdictions.

The FMIS CB undertaken through the RPRLGSP programme achieved a lot towards building the capacity of the treasurers' departments in the sample LAs. The analytical cashbooks were introduced for each bank account and monthly bank reconciliations were separately prepared. This improved accounting standards in those local authorities tremendously, with all those LAs within the sample implementing the analytical cashbooks able to update all their cashbooks and bank reconciliations to the current position. Interestingly those LAs which failed to embrace the change in maintaining analytical cashbooks, and opted to continue the old methods have not been able to reconcile their bank accounts in time (various RPRLGSP quarterly reports, 2009).

Besides the maintenance of the cashbooks, most of the CB councils are able to maintain other primary books of records which are well supported. The subsidiary books of records which are now well maintained in these councils include the various debtors, creditors, stores, and assets ledgers. The councils also adopted an accrual accounting system and recognized debtors/income as they fall due. The

result was that most of these sample LAs were able to maintain all their books of accounts including the subsidiary ledgers and the general ledgers. A number of them have been able to produce the final accounts which are well supported with full audit trail (various RPRLGSP reports, 2009).

4.2 Budgeting and Budgetary Controls

Although local authorities have certain powers under the Local Government Act to manage their affairs, they are subject to the controls and supervision of the Ministry of Local Government. The controls include the approval of the estimates of income and expenditure. The Local Government Act requires all local authorities to prepare their annual, revised and or supplementary estimates and submit them to the Minister for Local Government for subsequent ministerial approval. The law provides a basis for the budget process and highlights vital issues to be considered during the development of these budgets by the respective local authorities. All local authorities are required by the Act to prepare and produce a standard set of budget under the guidance of the Ministry of Local Government. Hence on annual basis the MoLG issues budget circulars to guide local authorities in their budget development pro-

cesses.

In 1985 the MoLG developed and issued Budget Preparation Guidelines which recommended participatory budgeting approach (MoLG Budget Guidelines, 1985). All departments and sections within an LA were to be involved in the budget development process meant to ensure participatory approach. The baseline survey indicated that most of the councils still undertake the budgeting process in the old ways where the process is undertaken either by the accountant or the treasurer and then the final budgets are presented to the Finance Committees meetings for approval.

Besides, the Local Government Act, the Local Authorities Transfer Fund Act (LATF Act) also stipulates certain requirements in the budget that should be included for the accessibility of Local Authority Transfer Fund. The ministry requires that the local authorities' budgets shall be prepared based on the established revenue and expenditure ceilings. The circular requires the local authorities to base their budgets on an average of the past three years' performance. This requirement may not be realistic because the three year period average of the actual collection of revenue may not be achieved because of unreliable records. The ceilings were introduced to avoid over budgeting by the

councils which was the case most of the times. Despite these guidelines and the ceilings with poor book keeping and lack of proper financial records, most of the LAs prepare budgets mainly to satisfy the legal requirements and hence the budgeting process being treated as a ritual rather than as a planning exercise.

During the implementation of the RPRLGSP, it was noted that some local authorities did not make sufficient budgetary provisions for the implementation of capital programmes and other operational costs such as the provision under the co-funding arrangement on capital programmes. These LAs had their budgets for the implementation of their projects overshooting the original budget, which resulted in either scaling down the projects or sought for internal supplementary funding.

Traditionally budgeting for revenues has been largely unrealistic as the actual collections have been far at variance with the estimated figures. The revenue registers are not maintained leading to failure to trace all the potential revenue debtors. These budgets are never followed as tools of financial management. The expenditure budget provisions are alarmingly exceeded leading to under budgeting resulting to huge deficits. Consequently, the budgets serve no purpose as the ultimate underlying objects

are never attained. These unrealistic budgeting practices could however be rectified if appropriate capacity building is undertaken. Those LAs under the capacity building programme have emulated the budget process as a tool of management. At least they now have some reliable accounting records which would facilitate them develop realistic figures based on the budgetary ceilings issued by the Ministry.

Budgetary controls have been a myth as observed during the baseline study. While the requirements are that the LAs have to use and maintain vote books which indicate the budget for each category of expenditure, these were found not to be the case. In almost all the councils vote books are not used for control of expenditure, rather they are maintained for compliance with regulations. Furthermore none of the councils maintains management accounts indicating the monthly or period comparison of the actual against the budgets. While this is a very important tool of financial management, even the capacity building process could not deal with it during the period as the need to first rectify the financial and accounting records was considered more important. The encouraging factor was that the progress made in the CB with more time would have been able to achieve high results including the appropriate budgeting and budgetary control systems.

4.3 Revenue Management

The main purpose of establishing local authorities is for them to provide services for the benefit of the local community in response to the needs of that community. To fulfil this core mandate, the local authorities are supposed to raise sufficient funds to finance the provision of these services. Most local authorities derive their revenues mainly from land based revenues, regulatory revenues (SBP), income-based taxes such as service revenues and other user charges levied for a service or for use of a facility and inter-fiscal transfers such as Local Authorities Transfer Fund, and Road Maintenance Levy Fund.

In order for local authorities to remain financially viable, they need to fully tap revenue from existing sources, and ensure that all revenues are accounted for and applied in a manner which facilitates economic development. Most local authorities have no reliable system of identifying and quantifying how much revenue can be realized from each revenue source. Besides the fiscal transfers they have not conducted revenue potential studies/feasibility studies. Further, they do not maintain updated records on the existing sources of revenue.

The collection of local authorities' revenue especially the local revenues is often hampered

by many constrains which include; shortage of competent and reliable revenue collectors, weak monitoring mechanisms, weak enforcement and control systems, lack of integrity on the part of collectors, conflict of interests compounded with failure by the government and some parastatals to have adequate budgetary provisions to pay for such services as mainly contribution in lieu of rates and the property rates respectively.

It was observed that most of these local authorities had common sources of revenue namely, Single Business Permit (SBP), Property Rents and Rates, Contribution in Lieu of Rates (CILOR), cess, various user charges of councils' facilities such as houses, bus parks, markets among others. Other revenue sources include the Central Government Transfers such as the Local Authorities Transfer Fund (LATF), Road Maintenance Levy Fund (RMLF), and grants from development partners like the Poverty Reduction Fund (PRF).

There is a general trend of central government transfers mainly LATF comprising a significant percentage of total revenues available to councils i.e. locally generated revenues and trans-

fers (rising from 30% in 2003/2004 to 41% in 2007/2008), (LATF Annual report, 2007/2008). As such there is no incentive for councils to maximize exploitation/generation of local revenues as most of them find the central government transfers an easy source of revenue where they are not required to put a lot of effort¹⁵. At least the LATF conditionalities do not contain any reward and sanctions to punish or reward councils on the basis of their performance.

Revenue collections and management by the councils also have had major challenges to the LAs. The Financial Regulations require that councils bank all revenues collections intact and make all payments by cheque through banks besides maintaining an imprest system to meet small day-to-day expenses. According to the baseline survey report and experiences during the implementation of the programme, it was noted that most of the councils especially county councils with expansive areas of operation may take a week or even two before revenues collected in the field are banked. While the officers responsible for the collections of such revenues use what are referred to as accountable documents, it is very hard to

¹⁵Councils need only to meet the various LATF conditions to qualify for funds which are not for now very demanding.

guarantee that there is no loss of revenues. For those councils included in the CB programme, methods to ensure daily banking practices were devised which included sending the funds to the council headquarters using the new money transfer facilities like M-Pesa. Unfortunately by the close of the programme the new cash management practices had not been assessed to confirm its ability to control and manage the council cash collections.

All of the councils maintain an imprest system which is either operated from the bank or uses the cash collected from the field before it is banked. One major challenge which was evident is the amount of unaccounted imprest from both staff and councillors. In some councils, these figures run into millions and the reconciliations of these figures will definitely have problems as in some councils the amounts appear in the names of the staff while the actual beneficiaries are the councillors. Indeed none of the councils surveyed was practicing a petty cash systems where an imprest was maintained based on an authorized float, reimbursable in accordance with good practices. These issues were addressed during the FMIS CB and some councils started the petty cash system which by the end of the programme had made a great improvement in the management of cash. In addition the issues of imprests were handled

and streamlined with the councils in the programme expected to start the good practices for management accounting of funds by the staff and the councillors.

4.4 Management of Human Resources in Treasury Department

The baseline survey showed that the LAs have inadequate staffing levels, especially in the treasurers' department, where it was noted that they lack sufficient training, skills and competence in financial and accounting management. Out of the 31 LAs included in the FMIS CB, only about 10% of the staff in the Treasurers Departments had the relevant accounting qualifications and only about 20% to 30% had some level of qualifications in the profession (CPA). Unfortunately it is not a requirement that one should have the required profession to be promoted into a higher level within the Treasurers Departments. Hence in most of the LAs the Treasurers don't have adequate financial management skills and in a lot of cases they have no professional qualification at all.

Evidently and even based on various interviews with the relevant Ministry officials, there are no clear criteria developed by the MoLG in assisting the local authorities on the aspect of staffing in areas of staff development, recruitment

and transfers of local authorities' officers. In the absence of such clear policy direction, many local authorities are over-staffed on the lower cadre and under staffed in the upper cadre. Local authorities being political organisations are construed as avenues of employment rather than being agencies of service delivery for local economic development. Although the local authorities' annual circulars that are issued by the Ministry of Local Government, require all LAs to utilize 2% of their total annual revenue on training, this is rarely implemented and in most cases not strategically applied.

The staffing problems in LAs are not issues of recent past. The problems can be traced way back to when the country got its independence. As stated elsewhere in this paper, during this time, many of the qualified and experienced staff of the local authorities were attracted into government service where there were many challenging opportunities with the many senior officers leaving the local authorities and joining the expanding commercial sector where the government was also interested in rapid Africanisation¹⁶. This brain drain left many local authorities without proper qualifications and relevant experience. All the trained

officers left the councils due other challenges such as suspension/interdiction/sacking of officers who disagreed to offer councillors favours in such areas as award of council contracts, hiring and promotion of staff, allocation of land and approving cash advances. MoLG was supposed to arbitrate for such officers, but in most cases the politicians had an upper hand over the officers.

Besides lack of adequately trained and skilled staff, the Treasurers' Departments lacked functional organisation systems which would provide adequate accountability of the staff. None of the councils maintained job descriptions except letters of appointments. Duties are normally allocated in an ad hoc manner, and most officers did not know what they were supposed to do on a daily basis and had to wait for instructions and directions from their seniors. Therefore this confusion resulted in LAs having backlog of work, despite having some officers overburdened.

An important milestone achieved through the CB by the Rural Service Delivery Advisors was the formulation of the organisational charts in the 31 LAs, development of job descriptions

¹⁶Herbert Werlin makes this point in his book *Governing an African City*

and allocation of duties in a more defined manner. This helped those LAs which adopted the changes to work with some sense of direction and commitment. However, despite the effort the programme has made, the full implementation of the institutional structures in the Treasurers' Departments is still far from being achieved mainly due to misdirection of effort to areas which have minimal impact to the financial management of the LAs. This is so because the other areas attract more rewards besides the wrong emphasis given by the Ministry¹⁷.

4.5 Sharing of Assets and Liabilities

Financial management is the art of ensuring that an organisation maintains proper and accurate records of assets and liabilities. Indeed if an organisation cannot account for its assets and liabilities its going concern basis become hazy and impracticable. Evidence in the field shows that most LAs are operating on assets which legally do not belong to them and hence one cannot determine the state of affairs in terms of assets of these councils. This is a problem which has been contributed to by lack of policy direction from MoLG as would have

been expected.

The Local Government Act, Cap. 265 empowers the Minister for Local Government to create or dissolve any local authority based on the circumstances that the Minister finds suitable for such ministerial action to be undertaken. In the event that local authorities are either dissolved or created, the new local authorities that emerge thereof should have the assets and liabilities belonging to old local authorities shared. Over the years, many local authorities have been created though not dissolved and the assets and liabilities have not been shared either. The key issue is that the Ministry has never issued a policy or enabled these local authorities to share the assets and liabilities emanating from such actions.

These are policy issues which require attention of the Ministry of Local Government to enable the local authorities maintain proper and accurate books of accounts. During the implementation of this programme some of the LAs initiated the exercise of identifying assets under their areas of jurisdiction, and assigning values where information is available. However an exercise started by KLGRP which was expected to

¹⁷It is important to note that failure to produce the budgets which are only a small part of the financial management and other none core reports to MoLG, attracts penalties, while failure to produce and maintain proper books of accounts have no sanctions.

assist the LAs to fast-track this process was cut short early 2009 after the funding from the European Union was terminated on the expiry of the financing agreement.

4.6 Financial Viability of Local Authorities

Currently Kenya has a record 175 local authorities created in the last 20 years mainly on the basis of political expediency. This has resulted in the creation of very many and tiny local authorities which are not only unviable but have no sustainable resource base. Additionally even for those which could be viable the thin spread of financial resources have been a hindrance for them to meet the demand of the local residents.

The creation of many LAs in the country only assisted in aggravating a situation which was already bad. The 1969 Transfer of Functions Act also witnessed the removal of Graduated Personal Tax (GPT) in 1973, which was replaced with specific grants to cover particular services up to 1985 when even these were discontinued. The abolition of the GPT and the grant system impacted negatively on the financial base of local authorities. Between 1964 and 1969 prior to the abolition of GPT, the total recurrent and capital expenditure of local authorities ac-

counted for about 25% of central government recurrent and development expenditures.

In 1989, the government introduced the service charge which was levied on both business enterprises, and employees in both the formal and informal sectors. The management of the service charge brought with it more challenges as most of the LAs could not be able to collect the revenue due to high administration costs involved. To address the problems the government appointed the Omamo Commission (named after the late Odongo Omamo), which recommended that a more elastic financial source for local authorities be identified if they were to remain strong agents of local service delivery for the promotion of local economic growth.

Consequently, LATF was established through an Act of Parliament (the LATF Act, 1998) which provided that 5% of Central Government Revenues through taxation be allocated to local authorities as replacement of the services charge and enhancement of their revenue base. To date the LATF has grown over the years from Kshs 1 billion in 1999/2000 when it was introduced to over Kshs 9 billion by 2008/2009.

The challenge to the Ministry is that many local authorities rely almost entirely on LATF to meet

their staff costs, as they are unable to meet any other service delivery responsibilities. As indicated above most of the LAs created in the last 20 years were purely for political expediency and hence in most cases they have not even tried to exploit the potential revenue sources since service delivery is not a priority and LATF is able to meet the required staff and councillors' allowances. This is notwithstanding the fact that most of the local financial sources for many local authorities are inelastic while the demand for local services expands at an alarming rate without the corresponding supply of resources. All the same it is a fact that the LATF revenue to LAs has to a great extent removed developmental revenue to fund none productive activities of the councils.

The last two governments have realized this problem which emanates from the many local authorities created in the country. In both the *Daily Nation* and *Standard* newspapers of 11th December 2009, the cabinet acknowledged the concerns raised by the Minister for Local Government that many of the local authorities are not viable and they should be merged with others. Towards this, the Minister for Local Government has already published a bill for amendment of the Local Government Act Cap. 265 (Local Government Act Amendment Bill, 2009), which among other amendments,

the bill seeks to reduce the number of local authorities from the current 175 since it has been found out that only 40% of them are viable. The Minister has further reiterated his commitment and concerns that many local authorities are not viable and that there is an urgent need for them to be merged with others to create some synergy in the provision of local services, hence the proposed amendment.

4.7 Local Authorities Integrated Financial Operations and Management System (LAIFOMS)

LAIFOMS has now been implemented in about 83 councils across the country. Out of them 31 LAs the programme sampled for capacity building 24 LAs were in various stages of implementation of LAIFOMS. From the initial period, a systematic approach was used in designing and developing LAIFOMS. The development was however in phases. The system has been fully developed and the components integrated into one complete system.

LAIFOMS development started some 11 years ago, originally not as LAIFOMS, but as specific module developments to sort out operational problems which were being faced by the LAs at the time. The first such modules consisted of the budgeting, expenditure, property rates,

personnel management, billing and customer service, cashiering (receipting) and single business permit. All these were initially developed on Microsoft Access data base. These modules were implemented in about 8 councils on a pilot bases where they operated until they were updated based on the improved development of LAIFOMS.

The enhanced development of LAIFOMS started in 2006 through the European Union financing through the Kenya Local Government Reform Programme (KLGRP). To facilitate the development of the programme as an integrated financial management system the new development team needed to change the development platform from the Microsoft Access Data base to SQL data base platform. The system has been developed further to include the development of financial management modules covering the general ledger and cashbook. Other modules under consideration but not yet developed include the asset management and inventory management systems.

As part of the review of the development of LAIFOMS and its implementation in the LAs, the team looked at what are good practices in development and rolling out a software package. In particular the team looked at tenets of an Optimal Integrated Financial Management

and Information Systems (IFMIS) which LAIFOMS is supposed to be. The following are the tenets of an IFMIS:

- Accounting Systems based on the GAAP are implemented and operational
- Financial and operational controls in place are documented and practiced
- Budgetary systems in operation are optimal in terms of informativeness & inclusiveness; matching principle; adequate in coverage of the operational and capital needs of the LA; and that the budgets are controllable and monitorable.
- Procurement system meets adequate controls, efficiency and effectiveness

Therefore to ensure that the integrated FMIS meet the above standards, the environment for its development should have the following good practices:

Centrally established standards and guidelines for internal controls; accounting systems including financial statements and reports; internal audit systems geared towards enhancement, prevention, detection and direction; and that there are adequate systems to enforce these standards.

The development is systematic starting from a core module (General Ledger) where all the other operational modules are integrated to. The integration takes into account the different users requirements and budgetary provisions, and its features include:

- An effective implementation capacity (staffing, training, IT systems and other equipment, etc).
- Clear and transparent lines of accountability and responsibility which incorporate comprehensive and transparent rules and procedures for financial and performance reporting.
- An effective internal audit function to ensure compliance
- Availability of an effective and efficient systems maintenance and support team.

While the implementation of LAIFOMS has achieved a great deal towards certain financial operational issues, there are a number of challenges being experienced as detailed below mainly attributable to the overall development and implementation strategy. Based on the evidence gathered from the baseline study and experience during the implementation of CB in the 31 LAs the LAIFOMS challenges can be clas-

sified into three: capacity issues; technical; and maintenance and support.

During piloting phase the hardware and software were provided but this led LAs to never owning up the system. It was therefore decided later that local authorities purchase all the required hardware and be provided with software for the purpose of creating some sense of ownership. Besides, local authorities are required to ensure that system operator is in place who will assist in the operationalisation of the system once installed.

The technical challenges in development and implementation of LAIFOMS are mainly related to the environmental factors under which LAIFOMS has been developed. The three environmental problems inherent with the LAIFOMS include internal controls; financial and operational integration; and overall systems development environments. The system lacks adequate budgetary control systems. The system allows raising of LPO/LSO and making commitments. It also allows for vouchers without LPO/LSO where only an invoice is required.

As part of the control devices, the system does not allow over expenditure. All commitments and other unutilised funds by the end of the financial year i.e. 30th June are cancelled and

provided for re-budgeting during the following financial year. Any vouchers raised but unpaid form part of the creditors. The recently developed Financial Reporting Template, 2008 has now been incorporated into the system. This enhances the management of internal controls of finances.

The local authorities where the system has been installed and operational have discretion for their own security to have pre-printed SBP. Some are serially numbered while others are not.

The concept of one stop shop in most cases is not embraced by many local authorities under the system. The concept required reorganisation of Local authorities which was found difficult with the current existing administrative structure/institutional establishment.

Reports are produced in real time which ranges from management to operational. The report users may access for the required report at any time.

The system has flexibility on data and maintenance as the updates are on the application itself and therefore, all the historical data are available even after the updates are applied.

4.8 Internal Audit Structure

One of the key findings during the baseline study undertaken at the beginning of this programme is that the Internal Audit in LAs was part of or was a section in the treasurer's department. The Internal Auditors were preoccupied with pre-inspection of payment vouchers and other operational issues with very little core audit functions. This made them part of the system and as such there was nobody in the LAs to provide the vital role of checks and balances. Through the programme recommendations and the MoLG through RPRLGSP (technical assistance to the KLGRP) developed an Internal Audit Manual for use by Internal Auditors. In addition besides the countrywide induction of the internal auditors by KLGRP the FMIS CB team conducted a detailed training programme for all the internal auditors in the sample LAs.

Based on these interventions, the Ministry of Local Government issued a circular No.8/2000 requiring all the local authorities to institutionalize an independent internal audit sections reporting to a standing Audit Committee effectively removing the internal auditor from the authority and direction of the treasurers. The MoLG went further to assist the LAs in capacitating the new audit departments and recruit-

ed finance graduates with accounting bias who were posted to the various councils to head the new audit. The new units were supposed to come out with work plans of how they planned to carry out audit work of the councils. The circular directed that the units will be presenting periodic reports of their audit findings to the Audit Committees which will discuss them and come out with appropriate recommendations of how identified issues would be resolved.

Though the instructions by the Ministry were very clear on the establishment of these new independent departments, most of them have not fully taken off because they have taken time to de-link themselves from their former functions of examining payment vouchers. Some treasurers do not want to let go because they have no confidence in other staff in their department to carry out the examination of vouchers. Other treasurers are not keen to provide support for these new units to take off as they perceive them as a threat to their control.

4.9 Role of the Ministry of Local Government

The mandate of the Ministry of Local Government, Directorate of Local Authorities Inspectorate (DLAI) is that of supervision, guidance and control of local authorities as per Local

Government Act Cap. 265 and Presidential Circular on Organisation of Government. This study however reveals that DLAI concentrates more on supervision and inspection with minimal or no effort at all towards capacity building. It is therefore a fact that the MoLG and its field staff including the Provincial Local Government Officers (PLGOs) have concentrated their efforts on processing financial approvals, routine and Extra-ordinary Inspections and very little on guidance. This portrays a negative image of the MoLG to local authorities who view the Ministry as a brute that is always eager to discipline and reprimand the officials of the LAs. It is therefore evident that when senior Ministry officials visit an LA, in most cases all systems stop to ensure that the officer is happy when he/she leaves the LA.

During the period the programme focused on the DLAI's guidance role to the LAs. Given that DLAI has not performed this role as would be expected the capacity building support team developed the training and capacity building with the aim of improving the DLAI and PLGO officers' capacity on LAs support. Various training sessions were undertaken by the programme for Training of Trainers who included the PLGO officers inducted to be part of the FMIS CB team for on-the-job training of the LA staff. The programme management

unit also developed a user-friendly trainers/users manual for the capacity building support exercise to be used by DLAI and other support team which the Ministry may appoint towards improving the financial management of the LAs. The training and the manuals were part of the “Institutional Capacity” building and at the same time provided ownership within the MoLG (DLAI and PLGOs), of their vital role of support to LAs on a continuous basis.

It is imperative that the Ministry capacity building initiatives have gradually received support under various donor supported programmes like World Bank, United States International Development (USAID), GTZ Small Towns Development Project (STDP) & Urban Water and Sanitation Management (UWASAM), Green Towns, Women In Development (WIND) and the current Kenya Local Government Reform Programme (KLGRP) with support from, the World Bank, DFID & the EU. However most of these CB supports have been through formal training, workshops, and seminars and to some extent on- the-job training and support. The last mode of delivery through workshops and on-job training by RPRLGSP has been more effective as it involves one-to-one on-job support, besides involving the Ministry of Local Government staff as it is more sustainable after donor support exit.

As mentioned above the PLGO offices which are located in all provincial headquarters play a key role in support to the LAs. Other arm of the government which play a key role in financial management of LAs is the Office of the Controller and Auditor General, the Kenya National Audit Office (KENAO). These are more detailed in the sections below.

4.9.1 PLGO Support

The Provincial Local Government Office is very instrumental to the support of the LAs and to their effort in improving their financial management. The PLGO office is indeed the extension of the DLAI at the provincial and district level. Unfortunately as indicated above the PLGOs have operated mainly from an inspectorate point of view rather than playing the support role to the LAs. The baseline study performed by the Programme’s FMIS team found that the main reason why the PLGOs cannot perform as would be expected is lack of capacity both in form of personnel and budget. It was therefore noted in the baseline survey report that the PLGO and the entire team at the provincial local government office are key to the sustainability of the capacity building programme during and after the exit of the donor support.

While the programme recognized this important role played by the PLGO office and trained

some 11 officers as TOTs, the officers were not able to accompany the RSDAs fully during the capacity building exercise in the LAs due to inadequacy of financial resources. The programme found that the allocations from the Ministry are not sufficient to enable them to undertake the capacity building exercise and at the same time perform their other routine assignments of inspection. Notwithstanding the financial resources, the PLGO and his officers are ever engaged with other duties assigned by the Ministry of Local Government and other sector ministries. Such duties include: attending seminars/ workshops/ meetings for performance contracting, Rapid Result Initiatives, inspections both routine and extra-ordinary. With all these involvements there is little or no time available for them to get engaged in capacity building programme. Furthermore and perhaps very important, LAs support has been neglected at the Ministry and Provincial levels.

Recent development based on the effort made by the programme both at KLGRP and PMU levels indicates positive results towards reforming and more specifically providing the roles and responsibilities of the PLGO offices. In this new initiative the terms of reference for the PLGO office have been prepared and are now awaiting the Ministerial approval and circulation. The proposed terms indicate a need

to improve the capacity of PLGOs and also fully incorporate their long time neglected role of support to the LAs.

4.9.2 Kenya National Audit Office

From the year 1968, the Controller and Auditor General took over the mandate of auditing the accounts of local authorities. Prior to 1968, the accounts for local authorities were audited by the Ministry of Local Government. The Controller and Auditor General's reports have expressed concern over the huge arrears of local authorities' accounts. This has been attributed to shortage of qualified and skilled staff in local authorities.

The local authorities over the years have not been maintaining proper financial records and therefore they have not prepared financial statements which meet generally acceptable accounting standards. The Kenya National Audit Office has more often than not qualified the financial accounts of most local authorities over the years.

Most items in the final accounts that relate to balance sheets such as assets, debtors, and creditors have not been providing supportive explanations. While undertaking the capacity building exercise, extracting information for the purpose of building up proper records of

accounts was found to be indeed very challenging as well as constraining. However, painstakingly the officers in accounts with the support of Rural Service Delivery Advisors managed to have opened and maintained proper and reliable records of accounts in those local authorities under the capacity building programme. This effort and the records prepared have been appreciated by the Kenya National Audit Office as a positive step towards the preparation and maintenance of proper financial records by local authorities.

The Local Government Act mandates the Controller and Auditor General (CAG) to audit the financial records of local authorities on an annual basis. In the absence of complete records of accounts, this statutory arrangement becomes an exercise in futility. This is the cause behind most local authorities' final accounts being annually qualified by the Controller and Auditor office. With the proper and the required books of accounts in place, the trend of qualifying reports will definitely reverse.

The local authorities have not been committed in ensuring that the audit management reports are attended to appropriately. The CAG has from time to time issued disclaimer of opinion on the abstracts of accounts because they have a lot of omissions and hence unreliable. Section

230 of Local Government Act Cap. 265 requires local authorities to avail their final accounts to the public but this has rarely been done.

5 CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

To improve the LAs FMIS there are key issues which require to be addressed as has been eluded to in this chapter. The following list presents the key issues which the Ministry need to address.

Lack of harmonisation in programmes. Programmes are not properly managed as most council staff are engaged elsewhere and have little time to spend on council operations. The Ministry of Local Government, other sector ministries and institutions should have their programmes that involve local authorities harmonized and strategically planned to avoid disruptions of other arranged and equally important council operations.

Weak monitoring. Regular and effective monitoring and evaluation are a pre-requisite for the success and sustainability of the capacity building programme. Upon monitoring, certain gaps are identified and corrective interventions applied immediately without further delay.

The Provincial Local Government Officer and his staff play a critical role in ensuring that the operations of local authorities and their investment portfolio are properly managed. The PLGOs and their staff need to be empowered with the necessary resources both financial and equipment in order to be able to assist the local authorities in their effort to embrace any reform initiative.

Situational analysis. Reform initiatives are normally introduced to address certain gaps or rather to cause some improvement in operations and or institutions. However, before any meaningful intervention is introduced, it's prudent that a critical situational analysis is conducted to determine the gaps that exist and the kind of interventions that are required. This is the kind of approach the capacity building programme took with positive results being observed by the local authorities involved in the programme. Such an approach needs to be embraced by all reform institutions.

Treasurer's pivotal role. The Treasurer plays a key role in ensuring that any financial reform agenda introduced in local authorities either succeeds or fails. The Treasurer should be encouraged to embrace the reform initiatives introduced in local authorities which aim at improving the financial management of local

authorities.

Lack of organogram. Treasurers departments had no organisational charts and job descriptions. Officers were deployed haphazardly and not properly coordinated based on competencies and functionalities.

Competency and skills. Most officers in the treasury department did not possess the adequately pre-requisite skills and relevant competencies to discharge their mandated duties that involve the writing of books of accounts and other financial records. The few skilled people are often overworked.

Lack of policy. The local authorities did not have a properly formulated policy direction in relation to staff development, recruitment, transfers and succession management. Matters pertaining to these issues are haphazardly implemented and managed.

Incomplete financial records. The local authorities never maintained proper books of accounts and financial records. It was not even known that some records are supposed to be kept and maintained. Some of these records are maintained based on cash instead of accruals basis as required.

Uniform accounting system. Local authorities

have been applying three different systems of accounting. These include the old British system of accounting, Simplified accounting system and hybrid accounting system

Support from the centre. Support from the Ministry of Local Government at central and provincial level has not been adequate. The implementation of the capacity building and LAIFOMS has suffered this problem because of the small number of staff, and lack of effective empowerment available to provide the required support.

Information technology. The information technology at the level of the local authorities is low and the same local authorities heavily rely on support from the central government especially when implementing LAIFOMS. Secondly the development and implementation of LAIFOMS need to be re-evaluated.

Reliance on fiscal transfers. Almost all local authorities are increasingly overlying on the central government transfers especially on Local Authorities Transfer Fund, Road Maintenance Levy Fund for financing their operational and developmental expenditures. Most of these local authorities have LATF accounting for more than 90% of their total local revenue. By implication, these local authorities are likely to

close down in the event LATF comes to stoppage. Most of the local revenues are not buoyant and elastic while the central government revenues are elastic and buoyant.

Cash management practices. Rotating and checking revenue collectors and enforcement officers as part of the revenue control measures need to be instituted in all local authorities. Similarly, effective record keeping of all revenues collected and accounted for and their subsequent application should be in place. It would be perhaps appropriate for local authorities to institute a better pay and bonus systems for more productive work and penalty for under collection. In this way, there is need to set targets to be achieved by the revenue collectors. If the set targets are surpassed then the officers concerned are rewarded appropriately. Other reward systems need to be developed by the individual local authorities to motivate their staff in their operational areas. Such reward areas include issuance of letters of appreciation for improved performance, bonus payment, promotion to the next grade, salary increment, officers to be taken on tours among others. All these measures will definitely lead to better and improved performance in local authorities.

5.2 Recommendations

Incentives and sanctions. A few officers are hard-working and do their best to adhere to rules and regulations in the management of their local authorities' operations. Promotions should target such officers and demotions and dismissals may be used to punish officers found to be mismanaging local authorities or who do not perform as opposed to mere transfers.

Empowerment of PLGO Offices. Most PLGO officers have one finance officer responsible for well over twenty local authorities in large provinces. The Ministry should as a matter of extreme urgency consider recruiting at least one finance officer for every four to six local authorities. Further these offices should be empowered with other resources such as skilled subordinate staff, serviceable vehicles and adequate finances to be able to manage local authorities in their respective regions.

Transformation of PLGO Office. The PLGO office is staffed with officers who see their function as supervisory and doing inspectorate work. This mentality should be eliminated by posting trained advisors working with the LAs rather than prefects who sometimes use their positions to condone and become part of the cover-up cartels in the LAs. Moreover, the PLGO and his team should be re-orientated

from that of an audit and inspection team to be more of trainers and guardians in order to steer the local authorities in the reform agenda. Indeed, this should be a policy objective for that office.

Coordination of training. There are just too many trainers for LAs which lack coordination hence losing focus and creating confusion and a waste of time and resources. One department should plan and invite staff for training and all programs should prepare their training schedules for the year giving details of content, objective and timing of training programs.

Rationalisation of staff. Highly qualified staff are posted to small LAs while large ones lack staff. The Ministry should consider matching workload with qualification, experience and salary scales.

Accounting officers. The Ministry does not act like it has any coherent objective criteria in the management of the most important resource at its disposal- staff. Officers are arbitrarily transferred sometimes at the behest of politicians without verifying the facts; most cases involve Clerks and no due consideration for on-going programs is taken into account

Workshops. Some donor funded programs have a habit of wooing council staff with allow-

ances in order to attract high attendance rates irrespective of the benefits and relevance of the course content to individual officers. This has the effect of officers skipping relevant and useful training programmes that may benefit them individually and the council in general, simply because no allowances are paid for attending such training workshops. If programmes are residential and all expenses taken care of, there should be no token allowances payable.

Management of seminars/workshops. Local authorities staff are sometimes spending well over 50% of their time in Nairobi, Mombasa, Malindi and other big holiday towns drawing huge allowances attending all sorts of seminars to the detriment of proper management of their councils. The relevance, efficacy and usefulness of these seminars need to be evaluated. Indeed one wonders when or whether these officers do their work and if they do how well do they do it.

Treasurer's position. The staffing of the key position of Treasurer of a local authority needs to be occupied by a University graduate with relevant accounting skills and/or qualified accountants if the expected results are to be attained by the local authorities. This is important if the intended reforms will work in local authorities.

Qualification. The qualification for middle level accounting staff designated accountant in all scales should be the responsibility of the PSC in order to reflect the true meaning of accountant and should therefore be transferable across local authorities.

LAIFOMS. LAIFOMS is a great way forward towards the improvement of financial management of LAs. However it has reached a stage in its development whereby it needs proper evaluation to ensure that fundamental issues on its development and implementation are addressed to avoid clogging the system at the time of its rollout to all the LAs. The LAIFOMS has the potential of being a package to provide total solutions in financial management in the local government sector not only in Kenya but also in East Africa and other part of Africa. Indeed, it is unique package which would attract consumers from different parts of the world.

For successful implementation of LAIFOMS, the following capacity issues should always be taken into consideration:

- o Availability of basic computer operational and maintenance personnel as Systems Administrator. A number of LAs had problems in operating the system because they had to rely on KL-GRP for full systems support.

- o Adequate pre-installation training as the current training offered by KLGRP before installation is inadequate.
- o Adequate training of the senior council officials like the Treasurers who are key in support of the system.
- o Systems security measure properly evaluated before installation to minimize the councils' loss of sensitive data.
- o Key to the operation of most of the modules in the LAs is how quickly they could transfer their manual data into the system and hence it should have been a requirement that the LAs provide enough budgets for such operations.
- o A computerized financial management system for LAs should allow for selection of modules to be implemented in a council, depending on need and budget.

The ministry support to the local authorities be enhanced. The Ministry of Local Government has to do much more in the strengthening of the management of the local authorities for improved service delivery to the residents. For the MoLG to succeed in this it requires increased number of skilled personnel in all the

areas of financial management. It has to avail facilitation in terms of allowances and transport and others such as computers etc. All these will enhance the capacity of the Ministry to enforce the regulations/policy and monitor the performance of the LAS.

Formulation and enforcement of policies. The Ministry of Local Government should come up with a very clear policies on capacity building rewards, and sanctions, standard accounting systems, schemes of service, financial regulations etc. This will guide the councils' performance and lead to improved service delivery.

Inclusion of local government law in its consumption. The law governing local authorities of Kenya should be entrenched in the constitution to avoid the current situation where the Minister for Local Government and other interested parties keep changing the law to suit their interest. This was experienced when local authorities lost the grants for education, roads and other services in early 1980's and subsequent half-hearted measures aimed at improving financial status of the councils e.g. services charge and the current LATF. This will also stop all other anomalies like haphazard creation of numerous unviable councils.

Inadequate funding. Most of the local authori-

ties experience financial difficulties due to lack of adequate revenue base and poor revenue collection strategies. The MOLG can assist in addressing the problem by stopping further splitting of the LAs and merging the many unavailable local authorities. It should also ensure that the LAs come up with strong revenue collection strategies.

Haphazard or unplanned transfers of the senior local authority staff. The MOLG should come up with systematic and planned deployment/transfers in the local authorities in order to curb the current disruptive and haphazard transfers which have resulted in poor service delivery.

Rewards and sanctions based on performance. The LAs should come up with a clear policy on rewards and sanctions guided by the MOLG. The LAs that perform well should be rewarded by giving them more government transfers/grants (in the form of LATF, grants etc) and the poor performers are denied the funds. The LAs staff should also be subjected to sanctions and rewards based on the individual performance. Bonuses, salary increments and promotions should be used as recognition of good performance while the poor performers should be subjected to withholding of salary increments and demotions and in extreme cases dismissal

this will stop the rampant impunity in the LAs.

Accounting Systems. The MOLG should ensure that the recently developed and approved accounting system is used by all the LAs. This calls for more vigilance on the part of the Ministry officials in monitoring the adherence of the LAs to the system.

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Local Authorities Performance: Lessons Learned for M&E and Reporting of Projects

J. W. Kiarie, W. Eising, R. Mundara, and A. Muricho

1 INTRODUCTION

This chapter examines the utility of M&E systems in enhancing LA accountability. The chapter advances a number of useful lessons to be applied in the design of policies and practices that govern Local Authority accountability. These good practices in accountability management have largely been ineffective in promoting better service delivery in LAs, and as a result, LAs have continued to suffer chronic failure to provide creditable public services to citizens.

The chapter discusses (i) the role of M&E in good performance management, (ii) the need for requisite human resource capacity as an intrinsic part of good performance management, and (iii) the need to deepen social accountability approaches that have emerged in various countries, including Kenya, as promising accountability strategies. This overview is premised on the broader topic of 'Performance Management' whose focus is the measurement of results of programmes, projects or activities.

2 PROBLEM STATEMENT AND METHODOLOGY

Local Authorities have been rated poorly in service delivery for citizens. A number of reports have indicted them for this poor performance and a number of LAs have been adversely associated with corruption. A number of reports cited below offer a good insight into the challenges and corrupt dealings within the LG sector.

Architectural Association of Kenya. '65% of Kenya's urban buildings are substandard and un-

approved'. Media sources reporting on dealings in the property development sector suggest that unscrupulous developers collude with LAs to get quick approval of building plans, leading to massive numbers of buildings that flout the building code. *"quacks in the construction sector outnumber the professionals by a factor of 3"*- (Sunday Nation 21 Feb 2010 p. 27).

Special Audit Report of the Controller and Auditor General on the Purchase of Land for a Cemetery by the City Council of Nairobi (February 2010). This special audit report concludes that an irregular procurement process by the

Nairobi City Council sanctioned the poor manner in which the procurement process for the proposed cemetery land. This resulted in the Government not obtaining any meaningful value for money against the expenditure of Ksh. 290 million for the acquisition of unworthy cemetery land. This land has since been declared untenable for cemetery development and further expenditure has to be incurred to purchase new land.

The report recommends ‘appropriate measures should be taken by the Office of the Deputy Prime Minister and Ministry of Local Government and the City Council of Nairobi to recover the over-payment of Ksh. 259 million from the concerned parties. Further, disciplinary action should be considered and taken against officers who administered the procurement and perpetuated the over-payment.’ .A. S. M. Gatumu, Controller and Auditor General, Nairobi

12 February 2010)

Kenya Anti-Corruption Commission Annual Report 2005-2006 (excerpts)

The Anti-Corruption Commission has been handling a number of corruption cases in local authorities. The table below shows an example of corruption cases investigated by KACC for 2005-2006.

This analysis and similar reports extracted from the KACC annual reports reveal that LAs are often in the list of institutions probed by KACC for corruption cases.

Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land (the “Ndung’u Report on Land in Kenya). According to this well publicized public inquiry report, the sale of land to well connected individuals has created loss of public amenities like public toi-

Table 7.1 - Analysis of Recovery of Embezzled Public Funds

Institution from which funds were stolen/ embezzled	Amount embezzled (Ksh million)	Amounts so far recovered (Ksh million)	Amount frozen (Ksh million)	Balance (Ksh million)
City Council of Nairobi	9.5	1.5	Nil	8.0
Local Authority Transfer Fund	38.3	2.3	8.0	27.9

Source: Kenya Anti-Corruption Commission Annual Report 2005-2006

lets, public land and reduced the availability of land for social development. In one instance, hundreds of government houses were illegally allocated to prominent people in Kisumu during the Moi years, some of them owned by the Council (Saturday Nation, 18 December, 2004, p.5): In another incident, the allocation of Ngong forest to well connected individuals, is estimated to have cost the public Kshs. 920 million worth of prime land including 8.8 ha set aside for the expansion of Langata Women's Prison. According to KNCHR reports, this money would have helped to create 18,345 low cost housing units for over 91,000 people in Kibera (which borders the forest). (Cited in Unjust enrichment, the making of land grabbing millionaires, Kenya National Commission on Human Rights, Kenya Land Alliance, 2006)

Action Aid Kenya: Public Policy Monitoring of Devolved Funds 2006 social audit conducted for LATF funded projects within the Mombasa Municipal Council revealed a number of weaknesses (i) members of the public were not aware of LATF (ii) councillors decided on resources on an ad hoc basis (iii) there was fear of double funding of projects by LATF and CDF (iv) there was no clear targeting of projects towards the poor and the excluded. (*Action Aid 2006*).

Office of the Prime Minister, Performance Contracting Department, Report on the performance of public agencies for the financial year 2008/2009. Out of the 175 Local Authorities that were evaluated, eleven (11), representing 6 per cent, achieved the "Very Good" grade. A total of 147 Local Authorities, representing 84 per cent, achieved the "Good" grade. Seven (7) Local Authorities, representing 4 per cent, and 10 Local Authorities, representing 6 per cent, achieved the "Fair" and "Poor" grades respectively.

From the foregoing, it cannot be gainsaid that performance in local authorities is wanting.

The rest of the chapter discusses these challenges in the broader context of the performance management framework guiding the public sector in Kenya, and more specifically, the prevailing M&E practices in LAs and lessons that can be learned to enhance accountability and service delivery.

Section 3 examines public sector accountability strategy in general and more specifically, M&E practice in LAs, noting the deficiencies thereof, and making recommendations on how to institutionalise and improve M&E practice.

Section 7 illustrates the main human resource challenges facing LAs in their quest to improve

performance, offering lessons learnt and recommendations.

Section 8 presents the fundamentals of social accountability and 2 case studies. (i) Participatory budgeting approach in Brazil and the lessons for Kenya. (ii) Case study on social audit approaches, case of Malindi Municipal Council.

This chapter is based on the experience of RPRLGSP programme team and Rural Service Delivery Advisers (RSDAs), based on the findings from the programme's capacity building activities undertaken in LAs. Further information is gathered from a comprehensive desk study of research on good practices in M&E, performance management in local government and relevant government of Kenya reports on LA performance.

3 PERFORMANCE MANAGEMENT AND MONITORING & EVALUATION PRACTICES IN LOCAL AUTHORITIES

Any development intervention must be able to answer four fundamental performance questions illustrated in figure 1. (i) What results did we want to achieve (ii) did we achieve them (iii) how can we prove that they have been achieved? (iv) What do these results tell us?

In the public sector context, performance management is a term that is used to describe policies and procedures that are put in place to ensure that resources employed by public agencies deliver value to citizens, who are not only taxpayers, but service users of various public goods and services. A performance system is therefore put in place to focus on results that "provide real and beneficial social outcomes to the public, their ultimate customers. Social outcomes are defined as changes or benefits in public service, such as improvements in learning, public safety or health, that affect the social and economic situation of citizens."

Performance management is therefore a management approach that seeks to deliver the highest level of performance ensuring that resources deliver (i) value for money (ii) create positive social outcomes (iii) are used in an accountable manner (iv) ensures coherence between strategic objectives and operational plans, and (v) enhance good decision-making based on reliable data and information. Performance management can therefore be summarized as 'managing for results'.

4 LINK BETWEEN PERFORMANCE MANAGEMENT AND M&E

The link between performance management and M&E systems is that M&E systems are put

in place to define results and track them over time, and use supplied information to guide decision-making. M&E answers a number of fundamental questions illustrated in figure 7.1.

Figure 7.1 outlines four fundamental performance questions that should guide results oriented performance management systems. These questions touch on objectives, results, data and lessons learned.

These questions can only be answered when an effective M&E system has been put in place.

Results-based M&E is therefore a system that seeks to define and achieve the highest level of results that have an impact on the lives of citizens. Kusek et al. (2004, pp 12) define M&E as: "Results-based monitoring is a continuous process of collecting and analysing information to compare how well a project, program, or policy is being implemented against expected results."

A World Bank publication 2004, 'Monitoring and Evaluation, Some Tools, Methods and Approaches', uses the following definition: "Monitoring and evaluation systems (M&E) are at

Figure 7.5 - Key M&E questions



the centre of sound governance arrangements. They are necessary for the achievement of evidence-based policy-making, budget decisions, management, and accountability.” M&E provides unique information about programmes, policies, and projects; it can identify what works and when, and what does not and the reason why”

These statements establish the link between M&E and performance. Monitoring and evaluation (M&E) is now accepted in the development sphere as a crucial component of any development activity. M&E provides data and information on various development programmes and projects and acts as a learning tool for demonstrating results. Because development aims to maintain or improve positive results, M&E has become an indispensable framework for defining, tracking and using results of programme

interventions.

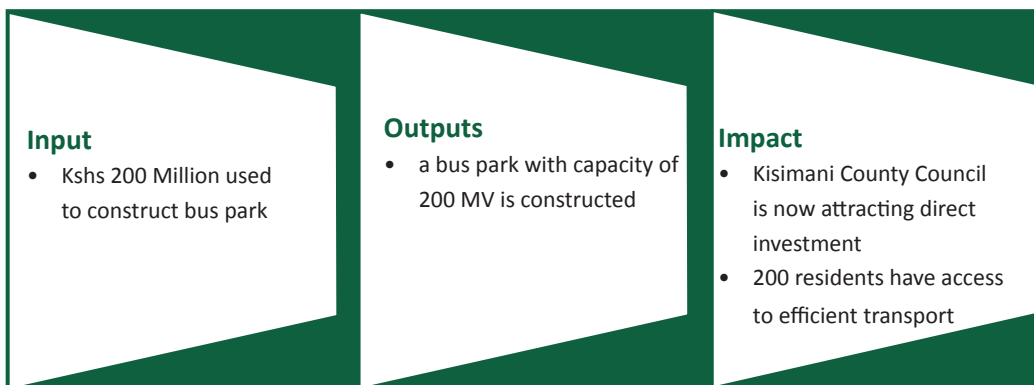
The essential elements of an M&E process are captured in Figure 7.2. The process involves the commitment of inputs to produce outputs that lead to impact.

Without such a framework, it is difficult to measure results at various levels and there will be lingering questions in the minds of the citizens and other stakeholders regarding use of resources and service delivery met.

M&E supplies quality information to support performance management without which, key users and stakeholders cannot measure performance and make sound decisions. Monitoring and evaluation is therefore an intrinsic part of performance management. M&E consists of the following parts:

- o **Performance indicators.** Measures of

Figure 7.6 - M&E results framework



inputs, outputs, outcomes and impact. Indicators are used to set performance targets and they are the basis for quantitative and qualitative data.

- o **Data sources.** These are important information instruments upon which to document results and provide evidence on performance.
- o **Rapid appraisal.** these are feedback surveys to define the satisfaction of beneficiaries and other stakeholder views. LAs use customer satisfaction surveys as a rapid appraisal instrument.
- o **Formal evaluation.** this measure the performance (efficiency and effectiveness) of a project or programme and whether or not it met the development objective.

Some of the typical evaluations are the annual LATF reviews and performance contracting reports that begin to suggest how effectively LAs use public resources to deliver services.

Figure 7.7 illustrates the integrated nature of M&E systems and how they lead to accountability and improved service delivery.

5 NATIONAL PERFORMANCE AND MONITORING & EVALUATION FRAMEWORK

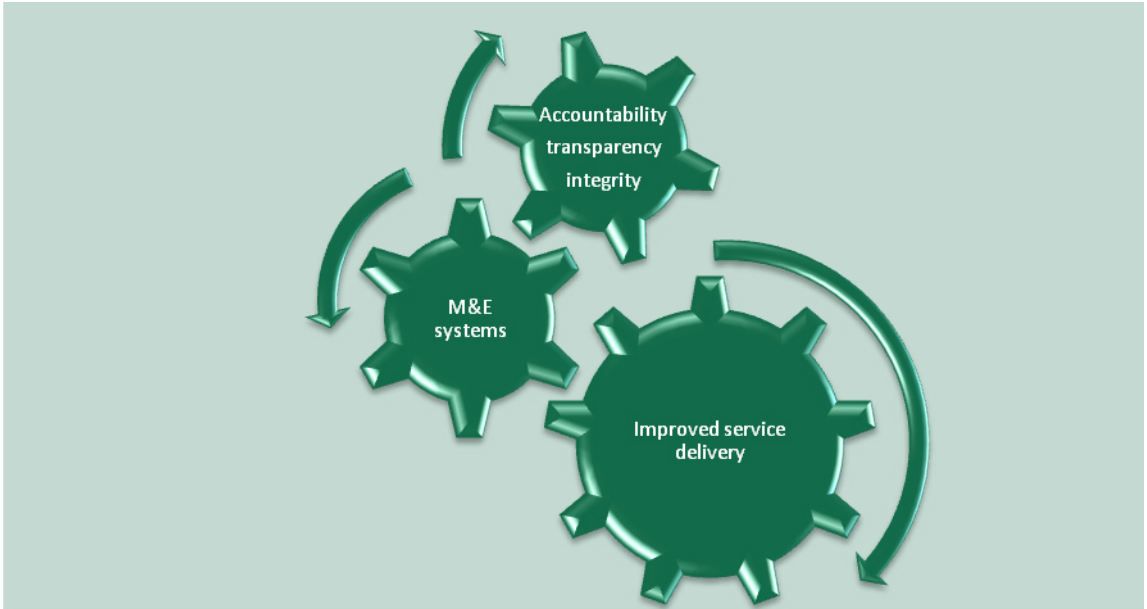
The benefits of M&E as part of strengthened public accountability are evident from the foregoing. Results based M&E has been presented as an intrinsic part of performance management, and this approach has gained prominence in the Kenyan public sector. A national accountability framework has therefore been established in Kenya's public sector to which LAs are enlisted.

"The introduction of Performance Contracts as the national management accountability framework in Kenya was premised on the need to build the country's competitive advantage around the performance of the Public Service. The system redefined public sector 'performance' to mean focusing on outputs and outcomes, not on inputs, processes, or preoccupation with activities." (*Rt. Hon. Raila Amolo Odinga, E.G.H., M.P. Prime Minister, Republic of Kenya. "Report on Evaluation of the Performance of Public agencies for the financial year 2008/2009" March, 2010*).

The LA performance framework consists of the following strategies:

- **Performance management tools** such

Figure 7.7 - Link between M&E systems, accountability and improved service delivery



as performance contracts, rapid results initiatives and customer satisfaction surveys.

- **Social accountability tools that have** been developed by the Kenya Local Government Reform Program, KLGRP, including LASDAP guidelines, LATF regulations, internal financial reforms, audit systems, LAIFOMS, among others.

The following table describes a number of performance frameworks put in place to reform public sector performance and accountability. These are performance contracting, strategic planning, Local Government reforms and other public sector reforms and how they are currently applied in LAs.

Table 7.2: National performance framework and link with LAs

Performance Framework	Current practice
Performance contracts	Introduced in 2003, the performance contracting process covers 440 public institutions, including Ministries, State Corporations and all 175 Local Authorities. In its 4th phase, performance contracting process has not been without challenges that are enumerated in section 3 of this paper. However, the PC process has institutionalized performance management in the public sector, and a new culture of results-based management has taken effect in public institutions, with a more positive impact on service delivery. To roll out the strategy, the Government established the Performance Contracts Steering Committee (PCSC) in August, 2003. The Committee was gazette on 8th April, 2005. The PCSC is responsible for the overall administration and co-ordination of Performance Contracts in the public service.
Strategic Planning	Has been adopted as a planning strategy in public institutions, and the development of a strategic plan linked to national development goals (Kenya Vision 2030), is a key evaluation parameter in the Performance contract.
Local Government Reforms	KLGRP was established to drive policy and institutional reforms aimed at improving local authority (LA) financial management, service delivery and local governance. KLGRP collaborates with other ministries to implement reform initiatives such as the 2Local Authority Transfer Fund (LATF), the Local Authorities Service Delivery Action Plan (LASDAP), the Single Business Permit, and the Local Authorities Integrated Financial Operations and Management System (LAIFOMS).
Establishment of anti-corruption strategies laws, and institutions	The NARC administration created a new Ministry, the Ministry of Justice, National Cohesion and Constitutional Affairs to spearhead governance, Anti-Corruption Strategies, Integrity and Ethics. Some of the strategic initiatives include the establishment of Semi Autonomous Government Agencies (SAGAS) such as the Kenya National Commission on Human Rights, Kenya Anti-Corruption Commission, Public and the Complaints Standing Committee. A public officers ethics act is also in place. KACC has been involved in various probes touching on corruption in LAs.

Performance Framework	Current practice
Procurement reforms	<p>The PPDA established the Public Procurement Oversight Authority (PPOA), and the Board of the Authority was appointed in September 2007. The legal framework defines clearly the responsibilities of the PPOA, which include: to ensure that procurement procedures are complied with; to monitor the public procurement system and recommend improvements; to assist in the implementation and operation of the procurement system, and to initiate public procurement policy and amendments to the PPDA.</p> <p>There is a religious legal framework that is not matched by good procurement practice. LAs use simplistic tendering and contracting rules that often lead to infringement of PPOA regulations and at worst, are laced with corruption and conflicts of interest.</p>

6 MONITORING & EVALUATION, ISSUES AND CHALLENGES

Despite the favourable policy and regulatory framework put in place to guide performance management, LAs have faced a number of challenges. These challenges are highlighted in this section in order to influence policy-making towards a more effective performance. The challenge of poorly performing LAs is recognised at the highest policy levels as cited by Kenya’s Deputy Prime Minister and Minister for Local Government. “We must bite the bullet and fold some of the local authorities which have failed to meet their obligations. It is a politically explosive issue and even as you resist there is no option. Some surgery will have to come through the Boundaries Review Commission because local authorities also fall there”

(MoLG 2010). He also said Cap. 265 would be reviewed to improve management of the local authorities, but the following challenges will be faced in the reform process.

6.1 Poor Performance

Some of the challenges cited by LA themselves, and observed through desk research, indicate that the PC process, and other subsystems, though very useful, has yet to optimise performance in LAs. The performance contracting process measures ‘doing things right’ as opposed to ‘doing the right things’. This is supported by widely held views and evidence that the impact of LA projects and their service delivery outcomes are uncertain. Most LA projects are not completed on time and many are stalled ‘white elephants’.

Factors limiting its success include the lack of higher impact results to measure service delivery. As such, no system measures outcomes of services and processes on the lives of citizens. This greatly hampers subsequent service delivery because all LAs need to do is to score on process indicators. Processes are just one facet of performance; indicating efficiency. More results oriented indicators are not captured in various performance instruments and this makes LAs accountable to non-strategic results omitting the real results of outcomes and impacts of service delivery to local communities.

Table 7.3 looks at various performance subsystems that drive accountability and good governance in the local authorities. The table outlines each subsystem and what it measures in terms of inputs, outputs, quality control and effectiveness. The gaps are marked with a letter x to show that a particular variable is not measured.

Table 7.4 shows a number of LATF indicators used to measure annual LATF performance. All of these indicators are financial indicators and therefore do not demonstrate public service delivery.

Notably, the recently introduced LATF Higher Performance Account (HPA) and its indicators

are now measuring the rate of project completion, amongst other things, which is a major improvement of current LATF indicators and a promising first step in the right direction. It is recommended that this HPA approach be developed into a comprehensive M&E system by including more of, and eventually all, the outcome indicators that are listed in the comprehensive LA Performance Audit manual (MoLG 2010) that was recently developed by KLGRP with support from the RPRLGSP team.

A more comprehensive M&E system for LAs with outcome indicators, supported by independent oversight and verification is proposed.

6.2 Lack of Formally Established LA M&E or Performance Contracting Units and Specialist Knowledge to Oversee Results on a Continuous Basis

Very few LAs have well established performance contracting units; neither do they run formal M&E systems. The usual practice is to set up ad hoc monitoring teams to provide data to relevant parties on demand basis. This interferes with a systematic way of conducting performance and as a result, LAs remain unfocused on results with consequences such as

Table 7.3- Indicators of M&E subsystems

	Input Indicators	Output/ Workload Indicators	Outcomes Effectiveness	Quality Control Timeliness	Efficiency Cost Effectiveness
Definition	Amount of resources used to produce units	Units produced	Public Purpose achieved/ community Condition Changed	Process indicators	Ratio of quantity produced to cost of production
Performance contracts		Dynamic qualitative factors	X	Service delivery charters Dynamic qualitative factors	Project implementation features
LATF	LATF budgets	LASDAP resource envelope	Special LASDAP LATF impact reports	Disbursement criteria	Financial ratios
External Audits	X	X	X	Audit deadlines Accounting principles	Financial ratios
Procurement	X	X	X	Procurement	Deviation standards
LAI inspections	X	X	X	Legal/ operational compliance Governance issues	LATF ratios Project implementation Features

stalled projects, malpractices and fragmented planning. Most LA officers that interacted with RPRLGSP teams cited wide discontent on the complexity and lack of credibility of the ranking system, citing concerns such as (i) the performance contract ad hoc teams that verify LA annual performance contracts and MoLG

appraisal teams, do not conduct any physical verifications of reported results. (ii) LAs decry that the performance contracting system is complex and self evaluation made by LAs leads to credibility gaps within the system generally, and makes the results contentious (iii) Lack of sanctions for poor performers and (iv) de-link-

Table 7.4 –Local Authority Transfer, LATF indicators

Ratio	Description
LATF Personnel Ratio	Total Planned Personnel Expenditures compared to Total Expenditures
LATF Capital Ratio	Expenditures compared to Planned Capital Expenditures
Total Actual Capital Civic Ratio	Total Actual Civic Expenditures compared to Total Recurrent Expenditures
Local Revenue Performance Ratio	Total Local Revenues compared to Planned Local Revenues
Recurrent Expenditure Performance Ratio	Total Actual Local Recurrent Expenditures compared to Planned Recurrent Expenditures
Capital Expenditure Performance Ratio	Total Planned Capital Projects compared to LATF
Debt Resolution Performance Ratio	Total Actual Resolution Payments compared to Planned Resolution Payments

age between PC system and other LA subsystems, e.g. procurement, LATF and LASDAP.

A comprehensive capacity building strategy on performance management is urgent, and so is a policy process that integrates all performance sub systems to avoid parallelism.

6.3 Parallel Systems and Poor Vertical Integration Between Subsystems

Poor vertical integration is evidenced by the lack of annual reports from most LG departments such as DLAI, UDD and KLGRP, and often, centralised information on the Kenya LG

sector is not adequately collated and documented. With exception of LATF and PC annual reports, other MoLG departments do not issue progress reports and this makes it very difficult to get reliable data on LA performance.

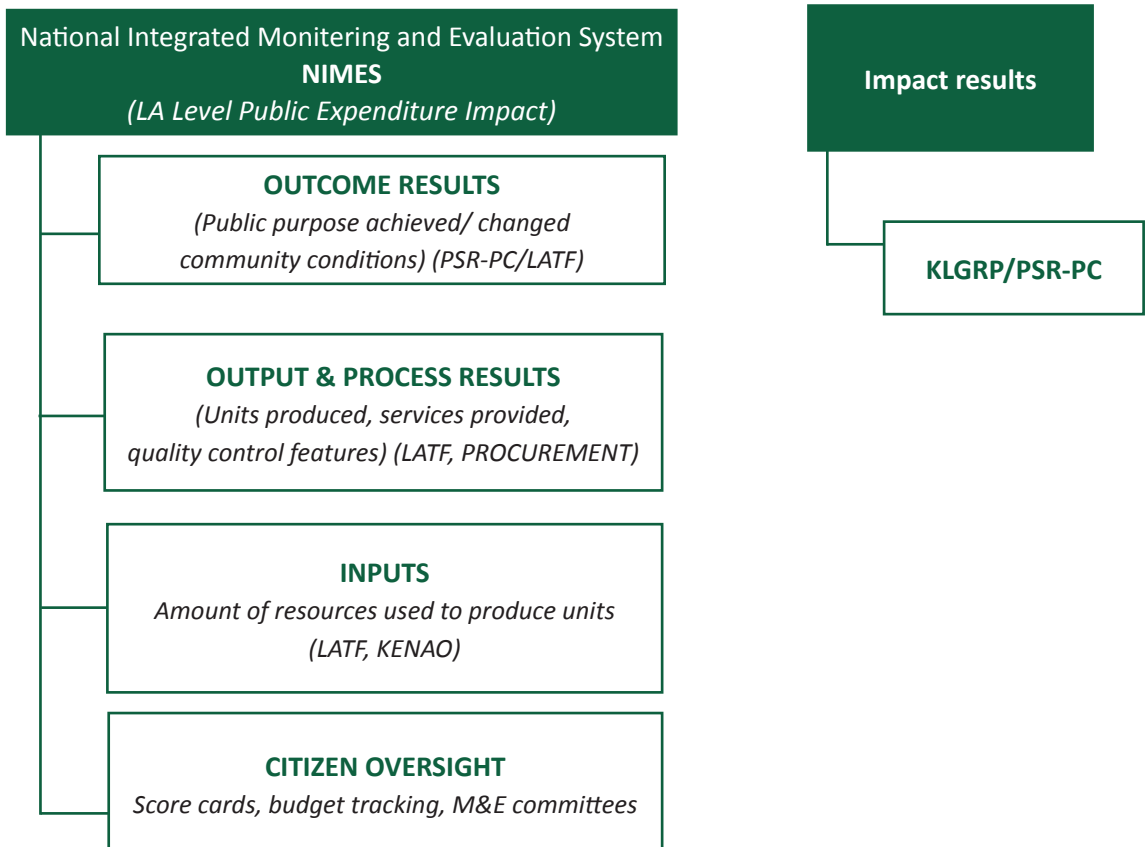
The lack of reporting instruments and sharing of information across departments creates a lot of duplicated activities and the lack of systematic documentation means a loss of institutional memory. It is recommended that a new M&E framework be established that is both unified, coordinated and highly result oriented. While appreciating that varied M&E subsystems will serve different purposes, ultimately, the most important function of M&E is to sig-

nal performance for corrective reasons and to justify public service delivery. This justification is the ‘why’ or ‘big picture’ of LA performance. The lack of coordination between various LA subsystems from procurement, internal audits, budgeting etc, translates into various reports and disjointed views held by stakeholders. This fragmented subsystems hinder effective policy formulation, and undermines an effective sanctions and reward strategy.

It is crucial that role players running these sub-systems come together and create the structural links that will produce a coordinated M&E system that appreciates their competencies, experiences and objectives. One of the outputs of such a system should be a common database of indicators that forms the basis for data collection and centralized reporting.

Figure 7.8 suggests a more unified M&E sys-

Figure 7.8 - Suggested links between various performance subsystems



tem that links all performance subsystems to ensure a coordinated approach to LA performance.

Table 7.5 is an overview of strengths, weaknesses, opportunities and strengths of various M&E systems, to provide insights on the improvements that should be considered in each system.

Table 7.5: Performance measures of subsystems

Performance subsystem	Types of Reports	Strengths	Weaknesses	Opportunities	Threats
NIMES Monitoring and Evaluations Directorate, MED, Ministry of State for Planning National Development and Vision 2030	Monthly, quarterly and Annual progress reports for the Medium Term Plan, MTEP	NIMES has a master plan to operationalise M&E demand and supply mechanisms under “institutional arrangements for coordination and reporting”	indicator development , data management & transmission structures between LAs to Ministries to NIMES not well established	Create partnership under MED, coordination arrangements: i.e. ways of inte-grating LA/sub-system M&E to MED technical oversight committees, and M&E Directorate	MoLG fails to provide much needed leadership to champion M&E capacity development in LAs Aligning MTEP demand to supply due to weak downstream M&E systems Failure to create formal links to the MED M&E sub-structures
Local Authority	Quarterly PC reports Quarterly LATF reports Special project reports to donors (e.g. PRF reports)	LA generated and so ability to transmit data in a timely	Not based on formal M&E systems Limited independent Verification	Need to invest in M&E systems and can secure resources through LATF/ Own revenues	Lack of interest and political will to increased transparency

Performance subsystem	Types of Reports	Strengths	Weaknesses	Opportunities	Threats
Performance Contracting Public sector Reform and Performance Contracts Steering Committee	Progress reports from LAs and consolidated Annual report	Performance contracts as accountability instruments have been cascaded and operationalised by LAs	Process of “self reporting” by LAs undermines the credibility of the system-(limited verification mechanisms). Data structures to collect, report and share M&E information are mostly non-existent in LAs	Since PC is still nascent and in ‘pilot mode’, can start a process of evaluating its successes, address weaknesses & seek a niche focus especially on outcome/ impact levels	Failure to provide qualitative data and over-emphasis on lower level service delivery outputs & process indicators ¹⁸ No sanctions or rewards introduced Lack of specialisation/ niche focus in the performance ‘minefield’ by filling in the gaps such as social impact indicators
Local Authority Inspections (Ministry of Local Government Department of Local Authorities Inspectorate DLAI)	Special and Extra-ordinary Inspections: Special Feedback reports for legal, policy and governance compliance	Institutionalized monitoring through the LG Act and in strategic plans of MoLG	The need to strengthen and revamp Inspectorate Unit recognized under MoLG strategic plans	DLAI inspection templates can be introduced in the PC process because they are comprehensive and can be the backbone of qualitative feedback	Negative perception and Image gaps between LAs and MoLG ¹⁹ No sanctions or rewards aligned to inspections Unclear track record & utility of LA inspections (infrequent, 1 Inspection every 2 years & unspecified usage of reports

Performance subsystem	Types of Reports	Strengths	Weaknesses	Opportunities	Threats
Local Authority Transfer Fund, LATF (Ministry of Finance and Ministry of Local Government KLRG acts as LATF secretariat)	Compliance Reports by LAs (various compliance plans and financial reports and annual plan, LASDAP Consolidated Annual LATF Report	LATF has regularized most of LA financial procedures and administrative compliances LATF is linked to a participatory budget and planning mechanism – LASDAP LATF reports do not capture outcomes and results of services	LATF performance conditions are quantitative and do not measure the outcome level results (may change with introduction of High Performance Account) Monitoring is based on desk reviews; lack of M&E system linked to field inspections	New 'Higher Access conditions underway' to reward improved financial performance, project completion and participatory planning procedures	Current Indicators create a structural disconnect between LATF investments and public service impact White elephants/failed projects, erode the credibility of LATF Most LA strategic plans are in operational and not linked to LATF thus Poor alignment between resource envelope viz strategic KRAs
External Audit (Kenya National Audit office, KENAO)	Financial Audits of the Ministry of Local Government and Accounts for all Local Authorities	Abstracts of accounts are now presented by LAs Annual audits submitted to MoLG, MoF, Parliament	Enforcement mechanisms are weak, subject to reviews by MOLG, MoF and Parliament	Create strategic links with LATF so that clean audit reports are a precondition for LATF. Current harmonized financial reporting templates is good entry point for stronger collaboration	No sanctions and rewards Serves routine purposes unless linked to a system of sanctions and integrated to PC process And LATF

Performance subsystem	Types of Reports	Strengths	Weaknesses	Opportunities	Threats
Public Procurement Oversight Authority (PPOA), Public Procurement Advisory Board (PPAB) and Public Procurement	Special procurement reviews	Streamline all public procurement	Supply driven and rigid procurement regulations without corresponding capacity roll out to LAs	Procurement reviews apply comprehensive ‘deviation’ indicators to be used in the PC review process, and hence strengthen the procurement indicators thereof	Very streamlined process but real value is lost because the prescribed practices are not matched by corresponding LA institutional capacity

6.4 Poor Sanctions and Rewards

Except for LATF Higher Performance Account (HPA), LA performance gets no reward or sanction. Those that are rated ‘very poor’ in the Performance contract do not face any sanctions and those that fare well are not rewarded. LAs mired in corruption are also not sanctioned, and many cases with anticorruption institutions go cold. The procurement authority Appeals Board relies on voluntary appeals and has not institutionalized pro-active monitoring of ethical standards or field level procurement audits. Further, established standards for ethical performance such as the ‘Public Officers Ethics Act’ and codes of conduct for public officers have not been used effectively to deter or

sanction individuals. However, the PPOA links with the Kenya Anti-corruption Commission will lend support to a sanctions system, but this needs to be linked to a more systematic process of gathering and analyzing information on the procurement activities.

7 HUMAN RESOURCE ISSUES AND CHALLENGES

The Public Service Commission of Kenya (PSC) is an independent constitutional body established in 1954 for staff deployment and undertakes human resource management (HRM) policy reform.

The Public Service Commission’s is charged with recruitment and human resource devel-

¹⁸The Minister for Planning has expressly noted this issue in their first Medium Term Plan ‘currently, the service delivery system is largely process driven-rather than results based.

¹⁹Negative indicator statements of evaluation in the Inspectors Manual are symbolic perhaps, of this relationship.

opment in the public service. According to PSC (PSC website - www.psc.go.ke), its core functions among others are:

- Recruitment for the public service and local authorities,
- Promotion and acting appointments of public officers,
- Disciplinary control in the public service and local authorities

Despite the enormous opportunity for PSCK to promote accountability and integrity in LAs, they (PSCK) have been indicted by LAs themselves and other observers, for failure to deploy adequate numbers of well trained professionals, lack of training and failure to promote meritocracy, professionalism and ethics in LAs, and removal of public officers. This is evident, constant transfers of chief officers, incessant wrangling between chief officers and LA management and lack of competitive terms of service.

Despite the challenges, the PSCK is conscious of its strategic role.

“There is now no doubt about the strategic role Human Resource can play in organisations and it is now generally accepted that the more strategic the approach to human resource management (HRM), the greater the contribution

of HRM to organisational performance. This is because HRM powerfully impacts on the policies, practices and systems that influence employees’ behaviour, attitude and performance (Gloet and Berrell, 2003). Yet, there is more rhetoric than reality about the exact role HRM is being allowed to play. (Florence N, Director, Recruitment & Selection, Public Service Commission of Kenya)

It is against this backdrop that accountability management must also be examined, and various challenges emerge.

1. Accountability management in LAs is undermined by a deficient HRM framework that does not enforce integrity, professionalism, well trained and motivated workforce.

A lack of clear human resource HR development policy means that professionals have shied away from making LAs their employer of choice.

Some of the observed HRM malpractices observed by RSDAs in LAs are as follows:

- Recruitment is not always on merit. Some staff are recruited by politicians without requisite qualifications and they are then allied to their ‘masters’.

Such staffs are not recruited on merit and therefore undermine accountability and are not eager to improve their skills and ways of doing things. For most rural LAs, the HR complement comprises a clerk and treasurer as the senior officers with a huge number of junior staff ranging from clerical officers, labourers and guards. The latter are recruited using political discretion and are a huge drain on the budget with little productive outputs. It has been very difficult to rationalize the wage bill because of this political situation leaving LAs with the option of giving such staff duties they are not qualified to perform.

- Often, staff do not have skills to cope with initiated reforms and thus do not have capacity to enforce requirements such as participatory planning and community partnerships;
- The Town Clerk and substantive management posts are filled by the Public Service Commission; as the chief executive and administrative officer, the clerk heads the executive arm and is responsible for coordinating all the activities of the local authority. It is his/her responsibility together with the treasurer to oversee the

budget, revenues and expenditures and ensure that legal provisions and administrative instructions from the central government are adhered to. However, the challenges associated with constant transfers of clerks and chief officers have landed on deaf ears and these transfers continue to undermine morale and incentives to achieve high standards of service.

- Due to low pay, LA officers are often demoralized and this affects timely delivery of services. In the absence of performance targets, the culture of staff missing work or leaving office for long hours to attend to personal matters needs to be overcome.

2. A competitive schemes of service as an incentive for sustainable performance management has not been put in place

The current scheme of service is not favourable to the local authority staff. To try and bridge the glaring salary and job group disparities, the Ministry of Local Government was requested to upgrade some cadre of staff as a short-term measure to boost performance. Unfortunately, staff at salary scale 11 to 20 who had not upgraded their academic qualifications but had served on the job for a long time felt that they

were being victimized. They lodged complaints to the PSC which administered ad hoc audits and in essence, this was seen as a delaying tactic. This has unfortunately created new problems of attitude to work and staffs feel that they have no job security.

3. Low compliance to code of conduct

Although there are printed copies of the code of ethics, the document is kept by the Clerk and is not externalized to the rest of the staff. There is no process of induction during which time such an important document would be shared with staff. The performance appraisal and reviews with a view to improving on staff performance is not yet in place. The Central Government has introduced the format used by Government Ministries where there is a harmony between jobs and skills. This is not the case for local authorities. A systematic approach that reviews the skills gaps based on desired outputs and one that ensures that skills match the job and then clear reporting and setting performance targets is long overdue.

4. Human Resource Management is politicised

Due to the political nature of staff recruitment and retention, there are instances of glaring mismatches in placements. Where the Clerk

is in lower scale and is less qualified than the Treasurer, he cannot effectively enforce discipline on the treasurer. The unclear HR policies contribute to this unfortunate state of affairs.

Many LAs depend on external consultants to boost capacity, which is expensive and not sustainable. There is a culture where Clerks opt to hire consultants for the smallest tasks. This is not only unsustainable but more detrimental in the long run as it robs the institution of the opportunity to own and drive processes such as strategic planning and institutional development.

8 SOCIAL ACCOUNTABILITY STRATEGIES AND CHALLENGES

8.1 Conceptual Framework on Social Accountability

This section reviews challenges in LASDAP as a social accountability strategy while suggesting other means of strengthening accountability through “social accountability” approaches like participatory budgeting. The paper will adopt the World Bank definition of social accountability defined as “an approach towards building accountability that relies on civic engagement, i.e. in which it is ordinary citizens and/or civil society organisations who participate directly

or indirectly in exacting accountability” (World Bank, 2004:1).

A number of strategies and instruments have been developing to promote social accountability including those detailed in the following table.

Table 7.6 shows typical approaches used worldwide to promote social accountability and how each approach is defined.

The World Bank defines the role of social accountability as to empower citizens to play an effective role in governance, to enhance trans-

parency and accountability and to increase development effectiveness. Some approaches advance citizen participation in monitoring the use of public resources, while others promote access to information and proactive engagement between the state and citizens (Sirker 2006).

These approaches have various benefits and offer lessons for improved governance and service delivery. In Kenya, LASDAP has been designed as a social accountability strategy which has made remarkable changes to the level of citizen participation.

Table 7.6: Typical social accountability approaches

Social accountability approaches	Definitions	Impact of approaches
Participatory budgeting	How public resources are allocated,	increasing transparency and oversight
Public expenditure tracking,	Seeing where the money goes	
Citizen monitoring of public service delivery, Citizen score cards, Community score cards, Citizen advisory boards	How the output/service is performing	Grievance redress
Lobbying and advocacy campaigns	Voice and feedback	Transparency, access to information, participatory policy making

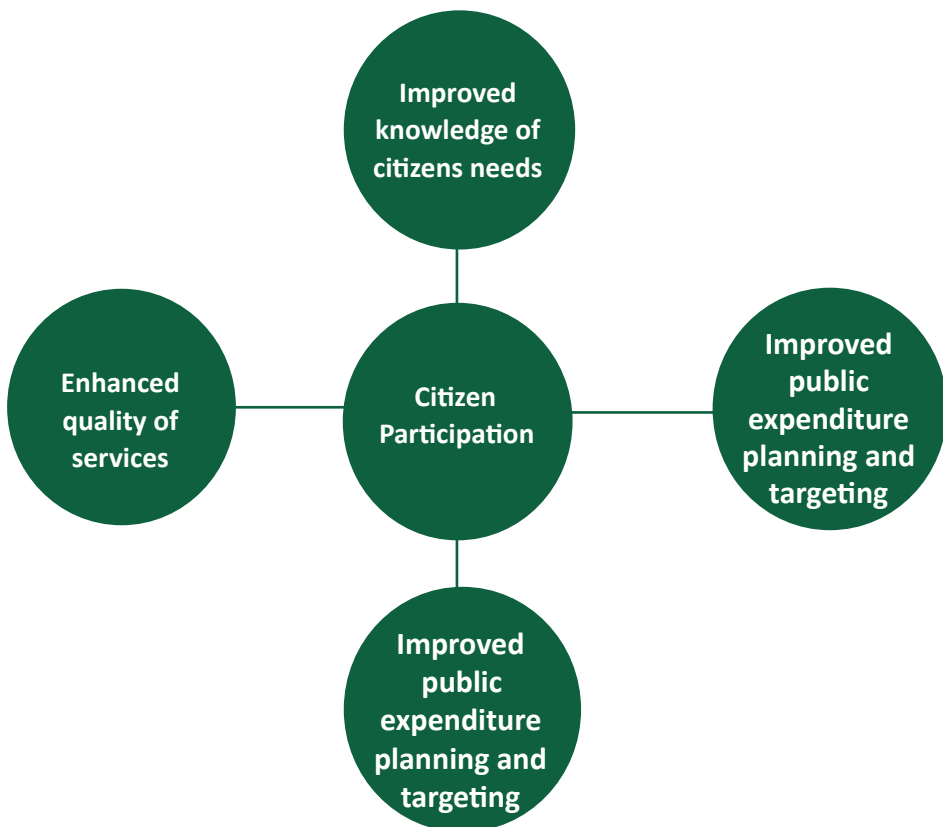
Adapted from “Scaling up Social Accountability in World bank Operations, Agarwal, Hertzberg and Diachok, World Bank 2009

Social accountability strategies have gained prominence in the development sphere and are now considered a vital part of performance management. Effective M&E systems embed community and stakeholder feedback as inherent parts thereof. Figure 7.9 illustrates the benefits derived from increased citizen participation.

8.2 Challenges to Local Authority Transfer Fund, LASDAP and Social Accountability Approaches In LAs

The programme team has identified the following challenges to LASDAP and social accountability approaches in LAs:

Figure 7.9 - Virtuous Cycle and benefits of citizen participation



Source: adapted from "The Role of Civic Engagement and Social Accountability in the Governance Equation, Social development Notes, No. 75, March 2003) (Environmentally and Socially Sustainable Development Network of the World Bank).

1. Citizen participation is weak in practice

The Local Authority Service Delivery Action Plan, LASDAP, is a participatory process where citizens get a chance to share their priorities for development planning with LAs. LASDAP is well institutionalised through the LA budgeting cycle and also through the project cycle. (The project cycle is elaborated in the Ministry's Service Delivery Tools Manual 2 'Project Cycle Management').

However, this noble plan is hampered by lack of effective citizen engagement because LAs are not sufficiently motivated to allow citizens to participate in council affairs. Outside the usual annual LASDAP community consultations or annual budget days, citizen participation is minimal.

However, with the introduction of new LASDAP guidelines 2009, spaces for participation of citizens have been immensely improved and the entire project management cycle has spaces in which citizens can engage²⁰. LASDAP therefore lays the framework through which social accountability in Kenya has taken root and should be encouraged to flourish. The only drawback to the LASDAP process is more focus on iden-

tification of projects with little or no emphasis on the budgetary process, and often most of the 'prioritized' projects are dropped because of funding limitations.

2. Limited participation cycle

Although the new LASDAP guidelines have expanded the participation cycle to be throughout the year, this rarely happens in practice. Further, the consultation process is largely driven by LA officials during a limited one month allocated to LASDAP community consultation meetings, (before LASDAP submission deadlines). External stakeholders like CSOs and CBOs are largely excluded in these consultations and citizens are requested to hurriedly prioritize capital projects, often times without prior reporting on previous LASDAPs, and with limited guidance on how to prioritize projects leading to a shopping list of projects that is not feasible. This practice leads to fragmented projects.

However, the new LASDAP guidelines issued in 2009 provide an annual cycle that extends community participation throughout the year, (see flowchart, Figure 7.6). The new guidelines have also enriched citizen spaces like annual

²⁰See revised LASDAP guidelines 2009

budget day, ward budget days, PRA exercises throughout the year²¹, LASDAP monitoring group and project committees. These reforms must be constantly evaluated and enriched, so that citizens can play an effective role in hold-

ing their LA officials to account and answer to better services and improved quality of life.

Figure 7.10 is the new LASDAP community participation cycle contained in the "Revised LASDAP Guidelines 2009", developed by the Kenya Local Government Reform programme.

Figure 7.10 - New LASDAP cycle provided in new LASDAP guidelines



What is new in the New LASDAP Guidelines 2009?

- o Continuous cycle of community consultations, leading to annual list of priorities in November
- o Linkage of strategic plan vision to annual planning
- o Formation of project committees at ward level
- o Active stakeholder forums
- o Ward budget days.

3. Local Authorities do not have technical capacity to promote citizen engagement

A review carried out by Adrienne Shall (2007. p. 217) highlighted the lack of capacity of councillors, municipal officials and citizens as the most serious impediment to civic participation in planning and budgetary processes. The re-

²¹Service Delivery Tool 4 Community participation Manual' has a variety of Participatory Rural Appraisal tools to guide LASDAP planning

view further states that “citizens are often not aware of their right to participate, and they lack the understanding and awareness of policy-making and budgetary processes, their low level of literacy hampering participation. This is because citizens with very low levels of education tend to participate less, because they lack access to information and do not understand municipal procedures. As a result, the budget making process involves mainly the elite”.

Additionally, the language used in discussing policy and budgets is often technical and introduces unfamiliar concepts. The discussion is therefore beyond the comprehension of both councillors and the people they represent. This means that the councillors and the residents are often excluded from participating in the policy and budgetary decision-making processes.

This study mirrors the issues surrounding civic participation in Kenya. To involve citizens and other stakeholders in open forums and to enlist their support, a high level of transparency and documentation of procedures, results and strategies is a must; but some local authorities lack even the capacity to prepare the necessary books of accounts and enforce financial discipline. The central government institutions lack the capacity to effectively and on time, fol-

low up on audit recommendations and hence many LA financial reports remain under wraps. Some councillors lack the capacity to inform their constituents of council budgetary activities and often undermine citizen participation. A clear public information strategy that includes key documentation and reporting is a necessary part of enhancing social accountability and transparency in LA service delivery.

4. High cost of participation

Most LA officers, especially those in the social services departments, complain that the LAS-DAP calendar of activities is not well financed. Administrators are most of the time concerned with the strain that participation places on the decision-making process and the costs involved including effective advertising, intensive publicity campaigns and stakeholder processes. This makes the administrators very reluctant to allocate money for direct participation processes.

As a result, community consultations are not comprehensive, leading to doubtful priorities and ineffective engagement. This means that M&E is compromised and accountability is undermined. The cost of financing well-run LAS-DAP must also include the cost of facilitating project monitoring committees, stakeholder forums and other monitoring structures and

systems established to monitor and evaluate. LAs can also reap benefits from collaboration with civil society groups with social accountability projects such as Action Aid thereby le-

veraging their costs of participation. Some of the participation costs as analyzed in table 7.7, and are derived from Moynihan (2003).

Table 7.7- Participation costs

Decision outcome costs	Administrative self-interest costs	Direct Administrative costs	Decision process costs
<ul style="list-style-type: none"> • Decisions will be less timely • Citizens may lack budgetary expertise • Participation unsuited to dealing with complex & technical issues • Public involvement can deter innovation and new policies • Public may emphasize short-sighted goals • Decision may be more inequitable due to low diversity • Public will not make tradeoffs, raise overall spending 	<ul style="list-style-type: none"> • Loss of decision agenda, a source of power and prestige for the administrator. • Loss of influence over policies that shape tasks for administrator. • Reduced program stability, regularity and routine of decisions. 	<ul style="list-style-type: none"> • Actual and opportunity cost of time and effort in coordinating participation. • Costs of informing citizens about participation opportunities. • Costs of educating citizens on issues. • Costs of dealing with conflicts arising from 	<ul style="list-style-type: none"> • Participation creates excessive administrative delays, slowing decisions and implementation. • Reduces the ability to reach consensus and decision closure.

Source: Moynihan D, 20

Box 7.3 - Lessons from Brazil that can be replicated in LA programmes.

The United Nations Habitat 11 Conference held in Istanbul 1996, recognised Porto Alegre's participatory budgeting as one of the 42 best practices in urban governance. Goldfrank 2006 "Lessons from Latin American Experience in Participatory Budgeting"

Participatory budgeting was initiated the municipality of Porto Alegre, the capital of Brazil's southernmost state, Rio Grande do Sul, in 1989, to expand and strengthen democracy (Abers 2000; Cabannes n.d.; Wampler 2004; Wampler and Avritzer 2005). By 1990, participatory budgeting was implemented in 12 Brazilian cities. The genesis of participatory budgeting in Brazil was a response to sectarian politics that were rampant in Brazil at that time. Poor democratic practices led to clientelism, patronage and social. The situation in Brazil in the 80's mirrors the same challenge facing Kenya today. Participatory budgeting has transformed Brazilian planning and development strategy to one that is highly transparent and participatory process. This positive transformation has important lessons for Kenya's local governance.

Participatory budgeting in Brazil was introduced to give a voice to the marginalized and

poor neighbourhoods by giving them a larger share of the public spending. During its introduction, a Worker's party had won elections only to be surprised that they had inherited a bankrupt municipality of Port Alegre. The new administration in a desperate urge to meet its financial obligations amidst financial constraints, decided to provide citizens with a direct role in its budgeting process. Trialling led to the origin of participatory budgeting.

In the early years of its implementation, less than 1000 citizens participated. However by 1992, the number had drastically increased to almost 8,000 persons. The performance of the new administration was so remarkable that they were re-elected in 1992. Consequently, participatory budgeting became institutionalized into the municipality systems and processes and participation increased to more than 20,000 persons annually. By the year 2005, participatory budgeting had expanded to more than 300 municipalities worldwide. (Cabannes n.d; Avritzer 2002; Baiocchi 2001; Wampler and Avritzer 2004).

From the Brazilian experience, Wampler (2007) developed basic rules of the game in community participation to guide a local government that is seeking to inject a more robust and accountable planning, budgeting and execution processes. Briefly, the lessons from the Brazilian experience are as follows.

1. The municipality, *county, town or city council should be divided into wards/regions to facilitate meetings and distribution of resources.* The LASDAP process has already embraced this reform issue through ensuring that all LASDAP consultations are held at the ward level. The advantage of wards is that they improve efficiency, accountability and decentralisation. However, where a ward is too large, the Ministry of Local Government should devise mechanisms of dividing the ward further for purposes of enriching the participation of all citizens in the budgetary process.
2. *Meetings sponsored by the local authority are held throughout the year with an aim of giving the community an opportunity to participate in the different budgeting and policy-making cycles.* The frequency of the meetings should be determined based on the time and money available for the exercise. The revised LASDAP guidelines call for more community participation and all year round community engagement in the entire project cycle. The MOLG should be wary of the fact that, unless checked, mobilisation to attend the meetings can be an end to itself. Participation ceases to be participation and becomes “rubber-stamping” when so much effort is put to mobilize people to vote for specific policy proposals or secure resources. In addition, political will to implement participatory budgeting is a key element for its success. This is because in participatory budgeting, the participants are dependent on the local government for information and facilitation.
3. *A “quality of life index” is created by the Ministry of Local Government through a participatory and all inclusive process so as to serve as the basis for the distribution of resources. Wards with dense population, high poverty rates and less infrastructure and local authority services should receive a higher proportion than the wealthy wards. Once the “quality of life index” has been approved, the local authorities should be required to develop formulae that will guarantee*

the equitable distribution of the council resources through a participatory and all-inclusive process. This is a very important component which is lacking in the revised LASDAP guidelines. The local authorities have been expressly informed through the guidelines that they will not divide the money equally amongst the ward but no formula on how they should divide the money has been prescribed. This has made it so hard for the clerks to enforce this provision at the risk of being targeted by the civic leaders. As a consequence, in the last LASDAP, many types of council still divided the money equally amongst the wards. The formula for dividing the money should always take into account that poor neighbourhoods are most of the time not uniformly distributed and there is always the risk that small populations of the poor amidst the rich could be left out of this formula.

4. *Consequently, the public meetings to deliberate and negotiate over the resources are held at the various wards/regions.* This can be equated to the LASDAP consultative meetings even though it is a more enriched process since the community not only identifies the needs and the projects but it goes further to

develop a budget for the projects and define the various projects in detail.

5. *A municipal-wide committee is elected – all wards elect two representatives to this council which oversees participatory budgeting and makes final budget recommendations.* The committee meets regularly with the local authority to monitor progress. This committee can be equated to the LASDAP ward committee. The MoLG should ensure that the ward committee is not dominated by the same community leaders every year, as opposed to the citizens, through putting a limit to the term someone can be elected to represent the ward.
6. *A “bus caravan of priorities” is conducted, in which elected representatives to the council visit all pre-approved project sites before the final vote.* This visit can be equated to the LASDAP technical meetings and visits. However, the richness of LASDAP is that it does not confine itself to civic leaders. The LASDAP technical team comprises of technical persons from the council and other relevant government departments. However, the MoLG should consider enhancing the presence of civic leaders in the tech-

nical team so as to evaluate not only the technical viability of the projects but also the social viability of projects.

7. *Elected representatives vote on all final projects.* This process is equated to the LASDAP consensus meeting where two ward representatives attend so as to vote on the projects that will be funded for that financial year. Objective criteria of voting for projects should be developed and the voters' capacity should be developed so that when they are at the voting table they ensure that their decision is based on an objective evaluation rather than passion.
8. *After the final approval of the annual budget by the municipal/county/town or city wide committee, the Mayor sends it to the Council to be approved.* This process is also still in line with the LASDAP process since after the consensus meeting the final document is submitted to the Council for approval or disapproval of the document.
9. *A yearly report is published detailing implementation of the approved projects.* This provision is in line with the yearly reports to the MoLG and the performance

contracting secretariat.

10. *Regional or neighbourhood committees are established to monitor the design and implementation of projects.* This provision has been catered for under the revised LASDAP guidelines which provide for the formation of project committees during ward budget days.

9 RECOMMENDATIONS

This chapter has laid the ground for enhancing effective performance management strategy to govern both policy and practice in the LG sector. Based on the findings reported in this chapter, the following recommendations are made.

1. **Create** a comprehensive **performance strategy** that includes both **bottom-up** (social accountability approaches that are citizen-led) and **top-down** approaches (conformance and compliance to rules and regulations).
2. **Develop a comprehensive human resource strategy** that considers remuneration, security of tenure, skills, transfers and capacity development of LA staff.
3. De-politicize the planning and implemen-

tation process by ensuring an **integrated approach to development planning** that is not ward-based, but linked to sectoral priorities in the LA area of jurisdiction.

4. Institutionalize M&E practice by putting in place **M&E units** and deploying competent M&E officers to constantly review, document and share performance with stakeholders.
5. **Revise the performance contracting system to be more outcomes and impact focused**, and integrates lateral performance systems to avoid duplicated data gathering.
6. Harmonise and **link performance reports from each performance sub-system** to avoid duplicative efforts and wastage of resources on similar audits.
7. Develop and implement a **sanctions and reward strategy** that is linked to annual performance contracts, and linked to the LATF High Performance Account. This should be guided by clear processes, procedures and chains of accountability to ensure that that the right results and people are sanctioned/rewarded.
8. Develop and implement a **knowledge**

management strategy to ensure strategic reports are available to guide policy development for the sector.

10 LESSONS LEARNED

The following lessons were learned during the RPRLGSP programme's work with the Ministry of Local Government and Local Authorities in Kenya.

1. **Failing to offer a responsive HRM strategy that embeds practices and policies that enforce ethics, integrity and professionalism will continue to hamper LA performance.**

Performance management and interlinked M&E systems must integrate indicators that touch on ethics and integrity. Most of the public funds lost are as a result of lack of ethics in procurement and other malpractices. The enforcement of the Public Officers Ethics Act to entrench good governance should be urgently considered as a sanction strategy for LAs. MoLG should relook at the HRM function in LAs and in so doing, promote an institutional framework and culture that is more ethically driven and that is performance and merit based. Strong monitoring units with diverse oversight teams of stakeholders consisting of local citizens, PLGOs and council staff should be insti-

tutionalised as a routine project management practice, and to support the Performance contracting process.

2. Poor HR planning practices and low calibre staff hamper effective performance management in LAs

Professional HR planning requires that an institution has the right staff to do the job. HR planning capacity in LAs needs to be re-looked at with a view to ensuring that there is alignment between the job requirements and the qualifications of the holder. Mostly, LAs conduct an annual skills training plan which is often not funded nor linked to holistic capacity assessment of gaps. In most LAs, the HR department/personnel section is headed by clerical officers who are not trained in HR management.

Many LAs cite the lack of response from MoLG and PSC to address their staff requirements and as a result, many vacant positions remain unfilled for lengthy periods of time. This is because the HR planning function is vested with third parties; i.e. staff policy, procedures and placements are vested on PSC and MoLG, who lack the capacity/will to facilitate and enable capacity building in LAs. These challenges make HR planning and execution a continued challenge for LAs as their autonomy is further

constrained by this legal and operational environment.

3. Well trained Monitoring & Evaluation professionals are a prerequisite to good performance management

The lack of M&E systems is responsible, to a large extent, for LA failure to deliver services effectively. This is because the internal and external pressure for accountability is weak, a fact that is acknowledged and reiterated by the Deputy Prime Minister and Minister for Local Government;

“The lack of a performance management system both in the Ministry and Local Authorities has hampered performance monitoring and implementation of corrective measures to deliver progressive improvement in service delivery. The Ministry will implement a performance management approach that is consistent with results-based management both at the Ministry and in Local Authorities. (*Office of the Deputy Prime Minister and Ministry of Local Government, Strategic Plan, 2004-2009*).

The consequence of this is that; (i) a formal M&E system consisting of policies, structures, and M&E specialized staff, has not been established. As a result, ad-hoc teams travel around the country periodically to gather information

on LA performance. Such an informal system of monitoring is not only open to abuse, but defies the good practice that underpins accountability management whereby a well established M&E system should provide data and information to account for results.

The MoLG should embark on an effort to establish, train and continuously develop M&E officers and M&E units in LAs.

4. A weak results strategy hinders a results-based approach to service delivery

The performance contracting system and other subsystems offer generic process indicators to capture LA results.

A revision of the PC criterion should accommodate higher level results; KLGRP has developed a set of indicators across the whole result chain, from inputs, outputs, processes and outcomes. This should be integrated in the PC system.

5. Poorly integrated Monitoring & Evaluation systems create a silo-effect in the performance management strategy and weaken accountability

The lack of integrated M&E systems is a weak link in performance management systems in LAs and at policy levels. Table 4 has detailed

the diversity of these systems, and the challenges thereof. Supplying data across subsystems is one of the ways in which M&E can serve a strategic role in engendering performance and also highlighting policy areas that require reform.

Further, LA systems are not linked to the national M&E system, NIMES, and it is plausible that LAs data is therefore not captured at this level, undermining local level perspectives in the national planning process.

Further the singular planning is not harmonised through a sector investment plan for the area. This requires a coordinated planning approach that allows all sector stakeholders to jointly plan priorities in a given sector to avoid duplication and untenable projects. LASDAP planning should consider moving towards an integrated development plan which is a more holistic planning process.

The space for citizen participation must exist not only in policy, but LAs must also devise ways to implement the LASDAP policy of participation.

6. Monitoring & Evaluation system must be linked to LA operational systems like procurement and the project cycle

Besides low/or nonexistent M&E in LAs, operational management in LAs remains disjointed from the overall performance strategy. Often, LAs fulfil their performance contracts without a plan of action based on planned improvements to their management systems. This translates into ‘business as usual’ where key project cycle processes go unchanged from year to year. One critical area requiring improvements in the procurement phase that has a high potential for corruption, inefficient allocation of resources, poor cost estimations and contracting failures, all resulting to project failure. (Ref paper 5 on good procurement practices).

Since there are no process indicators linked to the procurement process, procurement planning and execution is haphazard and is not systematic, leading to non-compliance to good procurement practice.

Process indicators on procurement with selected indicators would address this challenge. Further, the procurement system is not linked to the budgetary process and therefore, a high percentage of projects are underfunded and not completed because of poor cost estimations. Financial reforms should encapsulate a broad spectrum of processes that are tied to the project cycle to ensure that adverse practices in one process do not lead to a multiplier

effect in the whole project cycle.

7. Accountability and good performance is prohibited by weak rewards and sanctions system

A good M&E system is a pre-requisite for a sustainable sanctions and reward strategy (S&R) without which, it is difficult to determine “for what” and “whom” to hold accountable. The element of “taking action” based on “adjudged performance”, is the link between M&E - Sanctions and Rewards. Individuals or organisations, collectively, get sanctioned or rewarded for their acts of commission/omission. This will require that LA organisational structures devolve not only responsibility but accountability for officers charged with failure to perform on service delivery functions; (*see the 4S strategies proposed in paper 5*). A case in point is the tragedies that have continued to plague building construction that have been approved by LAs. Who should be sanctioned when a building collapses? These questions will remain unanswered unless a functional sanctions system is put in place.

An effective performance management system must therefore address the issue of rewarding people for good performance and dealing with penalizing underperformance. The ulti-

mate sanction of LA officers has been transfers, which is neither in the interest of the affected LAs nor in good public faith.

Design of M&E systems linked to sanctions and rewards can create what is classically known as the ‘chicken and egg’ dilemma; what comes first, the sanction or the laws to support them? It has been observed however that laws can create the demand for good M&E systems upon which to build sanctions and rewards and conversely, sanctioning in practice can induce the development of supportive laws and regulations. The most important issue though, is that good M&E systems must be developed in order to provide credible information for the Sanctions and Rewards Strategy; otherwise, the strategy can be abandoned for lack

of credibility. An amendment to the LG Act is a significant opportunity that should be used to entrench sanctions and rewards.

NTA recommended that MPs and local authorities should trace and account for the missing funds, ensure the completion of all incomplete projects and make available to the public records on projects funded by the CDF and LATF. The following table presents some ideas on possible sanctions that should be entrenched in the M&E system.

Table 7.8 is an example of potential sanctions and rewards that can be applied in LA performance management.

Table 7.8 - Sanctions and Rewards

SANCTIONS	REWARDS
<ul style="list-style-type: none"> • Penalize clerks for low quality reports • Highlight adverse information on individuals and LAs in special bulletins • Publicize external audit reports • Publicize performance reports to civil society and citizen associations • High level Sermons (before Minister, PS) on low ranked LAs • Withhold funding for non compliance • High profile court cases for errant officials/councillors 	<ul style="list-style-type: none"> • Provide additional funding to top performing LAs • Increase salaries for high performers • Pay cash bonuses for good M&E practice, innovations, good procurement reports • Publicize top performers and use them as role models • Publish list of shame to low performance

8. Poor investments and vertical linkages in Monitoring & Evaluation leads to ineffective and incredulous performance

Although the performance contracting system has been successful in many ways such as introduction of a new performance culture, results orientation and better service delivery, there is a lot more to be done to match the aspirations of the public reform ethos guiding this system which is ‘Results for Kenyans’.

Most LAs have not initiated viable M&E systems to support PC and do not have qualified people to run M&E systems. There is therefore a continuing gap in quality service delivery in LAs because they do not have a vibrant M&E system to generate data for policy and management decision making. The human resource capacity in LAs is also wanting as detailed in section 3, and this continues to hamper a substantive

M&E function. Data from RPRLGSP pilot projects suggests that more than 90% of LAs did not have a functional filing system; they had no project files and no dedicated officer on M&E. These poor investments in human and technical capacity for M&E should be reviewed and a capacity building programme on M&E established.

9. Suggested guidelines to introduce participatory budgeting practices in MOLG and Local Authorities

The Brazil case in the previous section shows the potential of participatory budgeting in strengthening community participation and ownership. Implementation of this participatory budgeting approach in Kenya should follow guidelines contained in table 7.9. This is an illustration of effective mainstreaming of citizen participation from lessons learned in the Brazil participatory budgeting process.

Table 7.9 - Guidelines for implementation of the participatory budgeting model in Kenya

MOLG	Local Authority	Community
<ul style="list-style-type: none"> • Develop clear guidelines on participatory budgeting. • Clearly define the ward boundaries. • Prepare Quality of Life Index • Determine and distribute financial information regarding LATF and other sources of local government financial information. • Hold capacity building meetings to develop local authority capacity in participatory budgeting. • Provide technical support to the local authorities on participatory budgeting. 	<ul style="list-style-type: none"> • Communicate the ward boundaries to the community. • Prepare a formula for distributing the resources equitably amongst the wards. • Prepare financial information to be communicated to the various wards. • Hold capacity building meetings to develop community capacity in participatory budgeting. • Mobilize citizens. • Facilitate the discussion on local authority priorities with the community. • Facilitate the discussion on the needs of the specific ward. • Discuss projects that address those needs. • Facilitate the process of preselecting projects. • Draft initial cost estimates for proposed projects. • Distribute information and arrange a “bus caravan of priorities” in each ward. • Facilitate and Monitor the LASDAP process. • Oversee the approval by the Council. • Facilitate the working together of technical staff with the ward and project committees. • Draft technical plans. • Integrate government agencies into participatory planning and budgeting. 	<ul style="list-style-type: none"> • Analyze financial information. • Attend and actively participate in preliminary discussions on available resources. • Discuss the needs of the specific ward. • Discuss projects that address those needs. • Preselect projects. • Debate on proposed policies and projects. • Visit proposed projects. • Vote on policies and projects proposed. • Elect ward and project committee representatives. • Approve technical plans. • Monitor project implementation. • Attend the budget day and ward budget day.

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Community Participation in Local Authorities in Kenya

D. M. Muia, M. Wambua, E. Alividza, R. Mundara

1 INTRODUCTION

Increasingly, community participation has become a sought after goal in public administration and governance. Within the ambit of local government it has become an imperative that people become part and parcel of the all processes. What however needs to be understood is the concept of participation so that community participation becomes clear and conceptually assumes its rightful place in local governance. Arnstein (1969) argues that that citizen participation is a categorical term for citizen power. Her position is that through participation there is redistribution of power that enables the have-not citizens, who are often excluded from the political and economic processes, to be deliberately included in future community decision making and control processes, simply in governance. It is however important that while it is expected that a community participates in a process, such a community needs to be clearly identified as well as the role they are to play determined.

From a sociological perspective, the notion of community refers to a group of people united by at least one common characteristic. Some of these characteristics may include geography, shared interests, values, experiences, culture or traditions. Nevertheless the term community could be applied in two distinct ways. It could mean a group of people residing within a certain geographical location and being people who have common ties. It could also mean a group of people who share common interests but do not necessarily reside within a given geographical space. Such people constitute a community of shared interest. Moreover, according to Thompson et al. (1990), communities may be viewed as systems composed of

individual members and sectors that have a variety of distinct characteristics and interrelationships. Most importantly, these sectors are peopled by groups of individuals who represent specialized functions, activities, or interests within a community system. Each sector operates within specific boundaries to meet the needs of its members and those the sector is designed to benefit. It is in this light that local authorities may be viewed.

From the foregoing, in the case of local governments, given that there is a geographically bounded area, then it can be expected that all those people residing within that area are the community of that local authority. On the other

hand, local governments provide services some of which are consumed by people from beyond the boundaries of those local authorities. Such people should be seen as also having a stake in that local authority. It is as such necessary for a local authority to ensure that the interests of all stakeholders within its jurisdiction are taken care of, whether they reside there or only have interests there. There is need for the promotion of community participation as a way of promoting and taking care of these interests.

Community participation is a concept that by and large calls for a process whereby according to CARE (2001) community members, leaders, and/or groups participate in one or more phases of an activity or project. Such participation may involve contribution of ideas, priorities, resources, time or decision-making, implementation, and evaluation. In the ultimate, the primary aim is to ensure that through participation, communities' several ends are met. These include ownership, the ability to express themselves, to learn, and ultimately to be empowered through the transfer of skills, abilities, and knowledge. Further, community participation is "a major method for improving the quality of the physical environment, enhancing services, preventing crime, and improving social conditions" (Chavis et al., 1990, 56). It is important to add that participation is both a process as

well as an end (Muia 1991). As an end, the community as they participate in any process should gain the capacity to control those processes that impact on them.

It is however emerging that community participation as an imperative should also be anchored on the considerations of the stakeholders. Literature indicates that people will only participate in processes that are beneficial to them. Butterfoss et al., (1993) postulates that "participants will invest their energy in an organisation only if the expected benefits outweigh the costs that are entailed". Some of the benefits may include networking opportunities, access to information and resources, personal recognition, skill enhancement, and a sense of contribution and helpfulness in solving community problems. On the other hand, the costs may include contribution of time required, skills or resources or just the context. Thus a balance needs to be made so that any effort towards community participation in local governance has a clear net benefit for participants.

Further, community participation can also be adopted as a governance strategy. In this case community participation is viewed against the framework of decentralisation of government structures be they central or local government.

Rondinelli and Nellis (1986) define decentralisation as the transfer or delegation of legal or political authority to plan, make decisions and manage public functions from central government and its agencies to subordinate units of government, semi-autonomous public corporations, area-wide or regional development authorities, functional authorities, local government or non-governmental organisations. Decentralisation can take various broad forms. In this paper concern is to a large extent limited to two, namely, deconcentration and devolution. Deconcentration refers to transfer of administrative authority from the centre to the field. The centre, however, maintains policy and operational control. The other form is devolution. Devolution is basically a political arrangement whereby power – political, administrative and fiscal, is distributed to semi-autonomous territorial or sub-national units. Devolution, unlike de-concentration, entails transfer of both political and administrative decision making powers and authority to sub-national entities. They are not directly accountable to central government although they have to work within statutes and rules set by it. To that extent, it empowers local level units and their constituents to participate in the creation of their present and future (Muia 2005). A measure of autonomy is accorded to the devolved governance units.

2 RESEARCH OBJECTIVES, POLICY CONCERNS AND DATA

This paper seeks to examine the extent to which stakeholders' participation has been inbuilt in local governance, and with what outcomes, challenges, lessons learnt and opportunities for enhancing participation in (local authorities) LAs in Kenya. This paper also examines the role played by the RPRLGSP in enhancing community participation in local governance and some of the lessons that can be drawn.

Attainment of community participation has been one of the critical aims of local government reforms and indeed governance and development in Kenya. Since 1983 the government has been pursuing a participatory development framework with communities being seen as important stakeholders in development and governance. The reforms in the local government system have called for people's participation in all local government processes including in the project cycle management. This paper therefore examines how community participation has informed the local government reforms process as well as the outcomes, challenges and opportunities for further development of local authorities. In the ultimate, the paper documents the lessons learnt out of community participation in the local govern-

ment reform process and project cycle management with a view to informing policy and practice in local governance in Kenya.

This chapter reviews available literature on community participation in Kenya's local governance system. So as to be able to draw out the lessons learnt from the adoption and practice of community participation in local governance, data reviewed was content and thematically analyzed. Some aspects of the data were generated from reflections by the authors based on their long experience in the local governance sector in Kenya and most notably their participation in RPRLGSP.

3 FINDINGS AND DISCUSSION

3.1 Participation in Local Authorities

The term participation is a broad one that has been used in a number of different ways by development agencies and government bodies. It has been used by people of different ideological positions who give it different meanings. It has been used to mean (1) sensitizing people to make them more responsive to development programmes and to encourage local initiatives and self-help; (2) involving people as much as possible actively in the decision-making process with regards to their development;

(3) organizing group action to give to hitherto excluded disadvantaged people control over resources, access to services and/or bargaining power; (4) promoting the involvement of people in the planning and implementation of development efforts as well as in the sharing of their benefits; and (5) in more general, descriptive terms; "the involvement of a significant number of persons in situations or actions which enhance their well-being, for example, their income, security or self-esteem" (Uphoff: 1979).

Participation can also be seen in terms of dimensions. According to Cohen and Uphoff (1980) the dimensions of participation concern the kinds of participation taking place, the sets of individuals who are involved in participatory processes and the features of how the process is occurring.

In recent times participation has come to be viewed as having a fundamental link to human rights. According to VeneKlasen et al. (2004), human rights are not limited to civil and political rights but encompass economic, social and cultural rights too. Human Rights approaches as in participatory approaches are premised on the responsibilities, duties and obligations of governments to uphold rights and the roles of citizens to claim rights as entitlements. While

in conventional approaches to development it is only outcomes that matter, in human rights as in participatory approaches the process is as important as the outcome. While in conventional approaches to development deprivation is defined in the language of basic needs and/or incomes below a defined level, in human rights and participatory approaches deprivation is viewed as encompassing absence of some basic capability to function and lacking opportunity to achieve a minimally accepted level of functioning. Hence participation may be viewed as a key manifestation of human rights at practice levels. It is an unending dynamic. Through participatory processes, such as dialogue and consensus-building, rights are constantly being re-defined and made real, and through the exercise of rights, participation is continually being expanded and legitimized (ibid).

In Kenya, the 1980's, and to a large extent the 1990's, can be described as the decades of participation. International, government and non-governmental agencies realized more and more that the main reason of many unsuccessful development projects was (and still is) the lack of active, effective and lasting participation of the intended beneficiaries. Consequently, several agencies started to promote the involvement and participation of people, in particular disad-

vantaged women and men, in development.

In the late 1990's the Ministry of Local Government began implementing reforms in the management of local authorities. The Kenya Local Government Reform Programme was created to move this process forward. The objective of the reform effort was to improve efficiency and accountability in the operations of local authorities. In particular, the reforms were focused on improving several aspects of local authority management including; service delivery, financial management (including budgeting), participatory planning and local governance, revenue mobilisation, monitoring and evaluation, institutional reform, fiscal and overall decentralisation.

It is also important to point out that community participation is an important aspect of the Kenya Vision 2030. This is in view of the fact that devolution is identified as one of the critical cornerstones of the social and economic pillars. It is anticipated that policy-making, public resource management and revenue sharing and especially as devolved funds become key drivers of development communities will need to be actively engaged so that there is better targeting of resources. Within the local government sector, community participation will be attained through the deepening of the LASDAP

process. LASDAP is one of the prerequisites to disbursement of LATF, the devolved fund directly under the control of local government.

3.2 LASDAP as the Frame Work for Participation in Local Governments

A key tool developed in improving participatory planning, governance and service delivery was the Local Authority Service Delivery Action Plan (LASDAP) which was introduced in 2001 through Ministerial Circular MoLG No. 11/2001 of 19th July 2001. The LASDAP process arose as a requirement under the Local Authorities Transfer Fund (LATF) which was established in 1999. LATF is a transfer of 5 percent of national income tax to local authorities to supplement the financing of services and facilities which LAs are required to provide under the Local Government Act (Cap. 265). The purpose of the LATF is to enable LAs to improve and extend service delivery to citizens, to improve financial management and debt resolution. Preparation of a LASDAP is one of the five criteria of the LATF Performance Component as contained in Legal Notice 142 dated 10th September 1999. To address this, all LAs are required to develop a LASDAP, setting out the priorities for improving local services.

LASDAPs are needed for the following purposes:

- To assist local authorities in planning and prioritising the use of LA resources
- To encourage local authorities to spend resources on service delivery to citizens
- To encourage local authorities to meet the needs of the poor
- To enable stakeholder groups and local citizens to participate in service delivery choices
- To help build local accountability and transparency in usage of resources
- To create a harmonious relationship between citizens and the respective LAs to enhance service delivery

The LASDAP process is based on resources defined in the resource envelope and included in the local authority budget. The LASDAP resource envelope can be adjusted to include other resources which are formally committed by communities and partner organisations during the consultation process. Further, according to the 2009 guidelines, the LASDAP should have a poverty focus in line with the Kenya Vision 2030 socio-economic development pillar and other relevant laws and policies such as the Children's Act (Cap. 586), with priority areas in health, education, infrastructure and

upgrading of informal settlements.

Ideally the LASDAP process is a cycle running throughout the year. The table below captures the key phases of the LASDAP process as provided for in the July 2005 guidelines:

Guidelines to assist Local Authorities in implementation were issued in July 2005, drawing on experiences in the field. LASDAP was meant to assist Local Authorities to identify local priorities, encourage the development of capital plans that meet community needs

Table 8.1: LASDAP Annual Cycle

LASDAP Phase		LASDAP Activities
Phase 1: Date:	LASDAP Preparation. January to October	Councillors prepare for the entire process, up-date the list of civil society participants and disseminate information in relation to LASDAP and the resource envelope for that year.
Phase 2: Date:	Consultative Meeting. Beginning November	Citizens and civil society organisations participate in a consultative Meeting for each ward in order to prioritize service needs and make a list of activities or projects.
Phase 3: Date:	Consensus Meeting. Mid November	Councillors, technical officers and representatives of citizens for each ward of the city participate in a Consensus Meeting to aggregate projects prioritized at the ward level and reach an agreement on which projects and activities will be implemented using the available resources.
Phase 4: Date:	Project Authorisation. End November	The Full Council meets to discuss all relevant LASDAP forms filled and submitted by councillors. Once projects are approved, councillors have the responsibility to inform all the relevant stakeholders.
Phase 5: Date:	Implementation. December to July next year	Implementation is done by public tendering of projects process. The projects have to start once contracts are made by the councils
Phase 6: Date:	M&E January to January	Continuous monitoring by councillors and citizens.

Source: GoK, 2005

and facilitate accountability for their completion through community participation. It was envisaged that this would lead to and indeed there was evidence that it led to pro-poor decisions that made better use of resources and reflected local needs. The process was designed by the Ministry of Local Government as the framework for a participatory project cycle and for constructive engagement with citizens on matters of development. Based on the process, the rules of engagement with citizens were dramatically shifted from a top down approach to a more bottom up and participatory approach that took into consideration downward accountability. The application of these guidelines was also meant to augment government efforts in the implementation of the Economic Recovery Strategy (the forerunner of the Kenya Vision 2030), with particular focus on meeting the needs of the poor and marginalized by enhancing citizen participation and local accountability. It created an entry point for Local Authorities to constructively engage with their citizens on matters of development and strengthen their capacity to deliver services. Since then, Kenya's local authorities have been identifying and prioritizing their local development needs on an annual basis, through this participatory process.

In July 2007, however, it was felt that the time

was appropriate for a review of the impact of LASDAP. LASDAP guidelines were thus revised in 2009. These revised guidelines build on the experience of the LAs, MoLG, and the communities in the implementation of LASDAP in order to support the LAs in improving the LASDAP process on the basis of lessons learnt. Information on LASDAP should be shared widely within the LAs and with other organisations such as NGOs, private sector, line Ministries and citizens. Increased information sharing will improve the LASDAP process as well as improve relationships between the LA and other organisations involved. Most important was that the intention is not to replace existing good practices in local authorities but to provide a framework within which local needs, capacities and environments can be best addressed.

While this progressive shift has been hailed as successful in development circles, it often tended to be superficial, assumed or gave scanty regard to the diverse nature of citizens and did not give due regard to equity considerations. The quality of consultations, the rules of engagement and the implementation of the identified needs, fell short of expectations and while some Local Authorities made remarkable progress in the application of Local Authority Service Delivery Action Plans and in addressing the identified needs, the net effect was

that access to services did not improve in most Local Authorities. It was apparent and imperative that more could be done to deepen the LASDAP process in particular and improve the participatory process in general. Incidentally, the above is presently feasible in light of the fact that there is now in place a revised LASDAP manual that has been approved by government and has been subsequently disseminated to LAs. This is even more crucial given that most of the lessons learnt in the course of the implementation of the RPRLGSP have found their way in this new LASDAP thus improving the process. There is thus not only the need to enhance implementation of the LASDAP process but also to monitor how the process is being undertaken, including the use of the LASDAP manual.

While the foregoing has been a useful entry point for participation in local authorities, some more critical actions are required to make such participation real and useful. For instance, there is an urgent need for harmonisation of local authority plans with district plans not only because they serve the same residents and community but also to secure support from the technical line Ministries/departments in the districts. The local authority tendency for lone ranger development has had a negative impact on the development projects

that have been implemented. Many of these projects have tended not to fall within the district planning framework and thereby creating tensions with the line technical Ministries and as a consequence many are not in use.

Local authorities while having strategic planning as one of their performance indicators tend to ignore the very document and the broader policy instruments in the planning and implementation of their projects. The performance indicator for Local Authorities needs to move beyond the mere production of a document to how this document has been adhered to by the institution.

There is a need for a deepened and enhanced consultation and information sharing process in the budgeting, implementation and monitoring and evaluation aspects of local authority development projects. The process of community participation (participation as an end) is just as important as the output of the process (participation as a means) and the mere collection of priorities from residents and communities once a year to fulfil the requirements of receiving LATF cannot be considered as progressive and positive. The relationship between participation and power is now widely recognized. According to Guijt and Shah (1998:1), the assumption is that participatory approaches

empower local people with the skills and confidence to analyze their situation, reach consensus, make decisions and take action, so as to improve their circumstances. Based on the analysis of Cohen and Uphoff (1980), Nelson and Wright (2000) as well as Guijt and Shah (1998) participation comes closest to empowerment if it moves beyond merely involving local communities in planning, implementation and monitoring thereby being a means to achieve efficiency, and encompass the aspect of different categories of poor people being able to make choices and real decisions as well as control their self determination.

The accountability structures of most local authorities are clearly wanting. It is one thing to ask residents and communities to identify their priorities and a completely different matter to account for decisions made and resources utilized in a manner that is satisfactory to them. There is a general lack of transparency over decisions and use of resources. While it is mostly blamed on the nature of Cap. 265, in actual reality it is a failure of the management and local authorities to understand their mandate. This scenario has led to unhealthy relationships and profound mistrust between council officials, civic leaders and residents/communities. For participation and accountability to work effectively, it would require local authority man-

agement to advance and increase the sharing of information about resource availability and service delivery and enhance and commit to effective leadership, particularly good working relationships between all stakeholders, namely, officials, civic leaders, business community leaders as well as residents associations. In a nutshell all parties with an interest in a local authority need to be brought on board as decision making is done about utilisation of resources for service delivery.

3.3 Outcomes of Community Participation

Community participation in local governance process through especially the LASDAP process has led to the attainment of various outcomes. One immediate one is community awareness. As a result of NGO, partners, capacity building interventions in community participation, communities and residents have become more informed leading to proper prioritisation and implementation of their needs.

Increasingly there are more communities and residents consulting and engaging local authorities and government institutions on service delivery issues and other issues affecting them. This has generally improved the poor image of public institutions and in the particular case of

LAs increased revenue collection.

There is a mushrooming of organised CBOs, lobby groups, activists and public watchdogs monitoring the use of public funds and therefore challenging the structures and systems of local authorities. Based on this public pressure, LAs can no longer afford to ignore issues of public concern.

As a result of community participation, the government has been forced to review and develop policy guidelines to support LAs in managing citizens such as public private partnerships (PPPs).

3.4 Challenges Faced in Ensuring Community Participation

In very broad terms, some of the challenges and obstacles to meaningful community participation processes are; inadequate capacity and insufficient resources, as well as political unwillingness/ignorance on the part of the people in power to listen to the citizens. The capacity challenge is reinforced by a weak institutional structure that continues to give the centre decision making power regarding the budgets of local councils. Consequently, councils remain weak institutions with little economic, political and ideological power. They are limited in their autonomy, authority, legitimacy and manage-

ment capacity (Pieterse 2000:55). The ongoing constitutional review process needs to address the issues that will support the embedding of participation to the lowest levels of government. While the Proposed Constitution has clear devolved principles and frameworks for local governance through county governments, the system of local governance in urban areas will be subject to legislation. The broad principle is one of accountable structures subject to the will of the people through their participation. For instance, Article 184 (c) calls for legislation to be done to provide for participation by residents in the governance of urban areas and cities while Article 196 (b) provides that county assemblies shall facilitate public participation and involvement in their business. However, the central government will continue to render support to local authorities so as to enable them discharge their service delivery mandate – thus raising a question with regard to the extent of their autonomy.

More specific challenges are the following:

Community participation potentially provides a good platform for social accountability. This accountability can be most effective when it keeps government officials on their toes. Although community participation is in the process of being legislated in Kenya, it is much more difficult to achieve sustained par-

ticipation. There is a tendency for participatory pro-accountability mechanisms to only involve a small group of “well behaved” NGOs, middle class professionals, and centrist politicians (World Bank 2005:22). This was indeed observed in the course of the implementation of the RPRLGSP. Civic leaders who are more interested in their own agenda than that of the community very often pick their close allies and a clique of professionals who will not question their actions. The result has been very misplaced projects and a disgruntled electorate.

Political legal and administrative systems and organisations are often considered a barrier to participation. In Kenya we have very weak audit and administrative support systems. Whereas the legal and administrative framework allows for inclusion of communities in the planning process through consultations such as LASDAP and other public meetings, in practice many councils are still pursuing blueprint approaches. They will ‘obey’ the instructions in the guidelines, but will revert to the conventional ways of processing information gathered and which they implement without further reference to the public. They are constrained by the burden of precedent and by insufficient capacity for developing alternatives. Whenever communities request for information on the cost of projects, progress reports,

there is tendency to ignore them until the next time when consulting them will become necessary. Since the process has yet to mature to the point where feedback and continuity become necessary requirements, councils are getting away with the ability to initiate new processes each year without having to refer to the previous year’s performance. The current structure of most local authorities presents itself in a very bureaucratic form – rules driven and insufficiently concerned with actual outputs and impacts.

NGOs are often not visible in local governance process - It is paradoxical that NGOs that are often known to undertake activities which focus more on policy influence, advocacy and governance alongside welfare and capacity building of small CBOs are not visible in the local government sector. It is a fact that CBOs can be a useful rallying point for community participation. Yet and unfortunately, while there are too many NGOs in especially rural areas their capacity is fairly weak when it comes to issues relating to the urban areas. Local (civil society organisations) CSOs tend to be young and institutionally fragile as well as opportunistic in nature. They have adopted the attitude of waiting to receive assistance from the Government. This inevitably weakens their ability to negotiate for quality services. The structures

that have potential to negotiate and keep government on its toes are market welfare and water management committees.

Limited capacity to drive the community participation agenda in local government - The performance contracts, financial reforms and engendering the process, other demands from the centre often lead to a narrow decision-making process that is devoid of inclusion of other territorial actors. It is a fact that the new paradigm in community participation in local governance is to include the users and other stakeholders through the phases of the project cycle management. One challenge that needs to be dealt with is the inability of the technical staff to take the participating community members systematically through the various stages. The experience has been that councils adopt a “fire fighting” approach that meets the requirements of the central government. Accountability to the communities is not considered important, leading to mistrust of the council and eventually apathy about attending council meetings. On their part, representatives of the community who are ready to share resources, indigenous knowledge and experi-

ence get frustrated mid-stream, abandoning the entire process. If councils are to address the demands of quality service delivery, they cannot afford to lose out on this social capital²². An aspect of social capital that is relevant to the point here is in its contribution to the quality of democratic cultures, especially to the accountability of governments. When the councils disempower the stakeholders by not providing the necessary feedback, they are undermining a very important democratic process.

Under-developed democratic devolved systems – It is a fact that community participation is at the heart of a decentralized and democratic system of government. The Kenya government has held numerous debates on the type of decentralized policy it should adopt. This debate is ongoing and what prevails in the intervening period is a form of administrative de-concentration. In this case, the government devolves offices, staff and certain functions to decentralized offices without devolution of financial resources and taxation powers. With the proposed Constitution, there is possibility of more political, administrative and fiscal power being devolved to the counties that will

²²A working definition of social capital refers to the norms, trust, reciprocity networks that facilitate mutually beneficial cooperation in a community; [.....] an important asset [.....] that reduces vulnerability and increases opportunities; Moser, C. 1996

assume local level governance.

Over the years, the government has tended to pursue more efficient administrative arrangements to support service delivery in various sectors. In the process, it has supported local authorities' budgets and decision making process. In turn, local authorities are increasingly becoming dependent on central government transfers in the form of Local Authority Transfer Fund (LATF), thus losing their independence. It might be argued that this is good for development but unfortunately it undermines local authorities' independence and governance. It also denies local communities of an opportunity to support their local service delivery systems. Again such transfer payments are not anchored on any firm constitutional provision and can be withdrawn at the whims of Parliament. This gives lack of legitimacy on the part of the state and its local instruments to local citizens. In the ultimate, it becomes difficult to activate and mobilize communities to take political and developmental processes seriously.

Weak CSOs - The institutional weaknesses of the local authorities are often exacerbated by relatively weak community based organisations, which are incapable of exerting substantive democratic pressure on local authorities to perform.

Very low priority is given to Community Participation vis-à-vis other council business. The councils look at participation in terms of seasons not a continuous process which adds value to the wellbeing of the council. Thus, councils treat the season of LASDAP as another "fire fighting" exercise where they are responding to demands and deadlines from the Ministry. How can we introduce incentives for the LAs to carry out the elaborate synthesis of issues as outlined in the revised guidelines? This work requires dedicated time by LASDAP officers whose capacity the government must address as much as it is addressing financial management capacity. Training of engineers in community participation to make them responsive to social engineering issues and giving fresh orientation to the social welfare departments is a strong recommendation.

The information feedback system from the LA to the community is still very weak, specifically the link between what the council implemented in the past year and what was not possible due to planning issues or financial resources. In a good consultation process, the council prepares a formal brief of what was done for the ward in the past year. This should be given at the beginning of the consultation. It will also contribute to the trust building between the LA and the community. The insistence on having

a small project for each and every ward each year results in fragmentation and incomplete projects. This has continued to discourage serious participation. Most actors over time have assumed that they know what the people need, and have ignored them in determining and providing for their needs. This has resulted to apathy and sometimes resistance to the desired changes meant for their benefit. In some cases, no opportunities exist for the people to participate in their local affairs despite expression of such desire.

Lack of a visible community voice in the decentralisation policy - The government has decentralized service delivery in various sectors. However the people have very little contribution in the formation of some of the governance institutions. The boards are mostly appointed by some powers at the centre of the Ministry, and all the people can do is to raise complaints if the institutions are not performing, but they cannot make changes. It is even ironical that in some institutions where the people have complete mandate to appoint boards and management, the procedures for removal/taking corrective actions are cumbersome.

Lack of a viable mechanism for holding elected leaders to account - As mentioned earlier the people/electorate have recourse to take action

on errant leaders only once in 5 years during elections. By the time they do so they will have gone through undue suffering and probable waste of resources including time. A mechanism needs to be put in place to effectively hold leaders and management to account.

3.5 Lessons Learned

From the foregoing, a variety of lessons can be drawn from the process of community participation in local governance. Some very positive outcomes and as such lessons can be drawn from people's participation in their governance at the local level. Participation in local authorities is realised through the LASDAP guidelines that require formation of community committees that liaise closely with the technical committees of the council. Some of the positive outcome of the community participation process arising from these committees is the increasing dialogue opportunities between the staff of local authorities and those residents who have persistently followed up on school and water projects. Where the community has a felt need that is pursued following laid down structures such as the Board of Governors or a water management committee, there has been a high rate of project completion and utilisation. A case in point was the construction of fish bandas in Nyanza province with the ac-

tive input of beach management units (see text box).

Another positive lesson of the participatory process is the potential to link various development initiatives; in this case those by the CDF and LATF. Both funds target the same jurisdictions and community. In cases where the stakeholders consult each other, they have eliminated the problem of double funding and duplication of effort. For better results and harmonisation, the coordinating role of the District Development Officer must be re-assessed and given fresh impetus.

Although civic leaders are often criticized of not interacting with the electorate except when

they need votes, the participation process through LASDAP has created an opportunity for the two to discuss development projects. There is of course the question of how much civic leaders have taken advantage of this window of opportunity to spearhead community participation. Nevertheless, in some wards, the community has challenged the councillor to represent their needs more efficiently by providing appropriate feedback within a reasonable time period. The pressure has resulted in councillors developing interest on clear monitoring and evaluation sessions with the technical staff. This clearly demonstrates that increasingly, the communities are becoming ready to hold the elected officers accountable

Case of fish Bandas in Nyanza

Residents have realized good returns as they have begun using fish bandas and markets in a small fishing village in Luanda K’Otieno Beach in Kisumu. The project entailed technical assistance from EU field staff under the Rural Poverty Reduction and Local Government Support Programme. The project had a component of active participation of the local community through their representatives in the beach management unit. The project was identified after poor handling of fish and its products became an issue along Lake Victoria beaches. Evidence by the Beach Management Unit, indicates that the project success has attracted several fish processing firms from Kisumu and Nairobi in the process earning good returns for the local fishermen. It has also improved on fish handling by the locals. Previously, the market was filthy and would always face closure from the public health officers, whenever there was a cholera outbreak in the district.

Source: RPRLGSP

and to have positive results that work for all in the community.

Without far reaching reforms that encourage local accountability, community participation will remain rhetoric. Space for local level participation needs to be broadened by establishing strong democratic institutions that are accountable to the electorate. With the growing pressure to involve people in their own development solutions, and growth in civil society activism, councils are now in the inescapable route of having to become more responsive to the 'real' needs and work collaboratively with the citizens (Pieterse, 2000).

The community participation process has led to a realisation of the need to become more decisive on the system of government. The MoLG through a participative process had some time back in early 2000 come up with a draft local government bill which provided more room for participative governance, but this was shelved when the constitutional review process started. While this debate needs to be concluded as part of the constitution review process, there has been some move with regard to review of Cap. 265. For instance in the revised Cap. 265, mayors and chairmen of councils will be directly elected by the residents, a move that gives the residents a measure of control over

the leadership and management of their local authorities.

3.6 Key Actions for Exploiting Opportunities for Community Participation

On the other hand there have been lessons learnt whereby some action needs to be taken so as to enhance governance as well as service delivery in a participatory and democratic manner. Based on the reflections and experiences of actors who served in the poverty reduction programme, some key actions need to be taken. Some of these include, but are not limited to:

Firstly, local authorities appear to treat the season of LASDAP as another fire fighting exercise where they are responding to demands and deadlines from the Ministry. The question however is one of how to introduce incentives for the LAs to carry out the elaborate synthesis of issues raised through LASDAP and effectively address them while also carrying along the participatory spirit. One option is to realize that such work requires dedicated time by LASDAP Officers whose capacity must be enhanced so that they can be effective in working with communities.

Secondly, the information feedback system

needs to be enhanced so that there should be learning from what has been (or not) accomplished over a year. This is critical as a trust building initiative between the LA and the community.

Thirdly, planning in this country has for a long time been top-down and the trend has not been reversed; planning should be bottom-up. The earlier version has resulted in supply driven policy formulation, development which has led to resentment and wastage of scarce resources and conflicts. The bottom up approach in strategic planning is yielding some positive results but it is not yet perfect. There is still room for further involvement of the people, so as to get ownership of various interventions.

Fourthly, capacity building is needed so that the LA staff conducting participatory exercises in the community will get training on how to conduct the consultative sessions. Basically reform has to be accompanied by requisite capacity development. In any case, generation of more and more documents based on participation without accompanying individual and institutional support will fail to meet the reform agenda in local authorities. The key lesson in this regard is that the core, in this case, the Ministry of Local Government, needs to reform in structure, systems and attitude. It

cannot be expected that local authorities will embrace reform if it is business as usual in the mother Ministry. The Ministry is viewed by local authorities as ineffective, a hindrance and part of the problem. Delays are experienced in budget approvals and inspections seem to be regarded as rent-seeking opportunities. Moreover, the Ministry seems unwilling or unable to take decisive action against local authority transgressions where council officials and civic leaders act corruptly.

Fifthly, most local authority decision making in Kenya suffers from a poor accountability framework. This is because they often do not involve the public and most budgetary and expenditure information is not available to the public and in ways that they can easily understand. Indeed in many cases big business interests appear to have more influence than normal citizens, given the fact that more revenue is collected from these. Consequently there is a growing need and realisation of the need for greater downward accountability of civic leaders and officials to citizens. Upward accountability in Kenya's Local authorities also remains ineffective due to the limited ability of the Ministry of Local Government to monitor the activities of Local authorities or take adequate action.

Lastly, there is always a great risk of exclusion

of marginal groups and especially the poor. It is a fact that normally decentralisation does not as a matter of fact always lead to the inclusion of the poor. This will only happen if there is on the one hand an effective process of especially countering of local elite interests from the government, and on the other hand a strong action by the media or civil society organisations representing poor and marginalized people.

3.7 Promoting Community Participation in Local Authorities

It is a fact that local authorities are institutions that have a reach to the lowest levels (grass-roots) of governance. They therefore have a potential to impact deeper on local governance than the central government structures. Hence even the Draft Constitution of Kenya acknowledges that a system of devolution would need to encompass counties as the lowest level of devolution. This is an opportunity that local authorities have to promote community participation and citizen engagement as a public good and value as constitution review process unfolds.

Local Authorities have a variety of stakeholders that can enable them to reach more residents and communities and deepen their engagement with these. Structures and insti-

tutions that already exist must be exploited fully rather than viewed as competitors or unfriendly. These include Village Development Committees, Community Based Organisations etc. These civil society organisations can play a role in building trust and accountability with citizens.

Although the LASDAP process is improving, there is still room to make the consultations more exciting and sustainable for both council staff and the community members. The issue here is how local authorities can be made truly strong local institutions for governance and democracy. For instance, budgetary reforms that increase availability of resources not just to implement projects but also to facilitate community participation must be planned for. This is an investment aimed at strengthening communities to enable them to pursue coherent agenda with the government. This includes focusing on those informal governance systems that function in-between different institutions; a case in point is the service providers in the water reform arrangements. A lot of serious work went into formation of relevant community structures which have paid dividends by way of efficiency in managing public projects. One approach that has succeeded is the creation of area development committees to spearhead the LASDAP process as demonstrat-

ed by the case of Eldoret as presented in the text box below.

Leaders recognise area development committees

The Eldoret Municipal Council has demonstrated that involving community members in project implementation yields great results. Through the area development committees it created in every ward, the council provided a platform for the members of Kapyimet to actively help in planning, decision-making, designing and fully participate in the now successful Kahaoya Market Project.

Despite some challenges, including conflict of interest, and undefined roles, the end result was a change in the culture at the council in regard to how projects were identified and implemented. In terms of the process, the community and the council staff had been trained on the best practices while identifying viable projects and how to properly manage them. Efforts were made to always stick to the Local Authority's Service Delivery Action Plan (LASDAP).

According to the Town Clerk, many projects were also identified and implemented by the council without involving any member of the targeted committees but the results were pathetic. Many such projects stalled and millions of shillings were wasted. The communities had no information about various development activities, which were ongoing in their areas and showed no interest either in their implementation.

But with the involvement of area development committees the local communities are now actively monitoring, helping to identify problems and suggesting possible solutions to effectively deliver a project. When the market was under construction, residents of Kapyimet ward where the project now stands were hired to provide labour and also locally available building materials to the project.

This approach not only provided the locals with job opportunities but also made them realize that they were part and parcel of the market project and needed to own it. All the actors have learnt that every stakeholder had a role to play during the implementation process.

Source: RPRLGSP

An opportunity also exists by way of the review of the current legislation to compel change in the interest of the rural development committees and a vibrant CSO sector. This will pave way for real ownership of assets and processes by the community.

The role of the media also needs to be appreciated. This may call for the use of the mainstream media to publicize the consultative processes and some of the impacts of the collaborative efforts. The media plays a key role in enhancing awareness of the public about key milestones in the consultation processes and this will promote and maintain the ongoing interest. External pressure from media especially local radio (as already happens in Uganda) and civil society organisations have been known to facilitate not only a deeper consultative process but also accountability of service delivery actions. If dialogue that started during the LASDAP consultative processes is sustained it will assist in reducing the culture of ad hoc engagement and will yield long lasting positive impacts.

Local authorities also need to have a clear and effective communication strategy. This calls for the designing and embracing of the role of reliable and agreed upon communication and information processes. Ways need to be designed and institutionalized on what informa-

tion to externalize to wider citizenry of the outcomes of consultations and also have quarterly or half yearly stakeholder meetings to address concerns.

Strategic Planning in a number of local authorities has been undertaken in a process where both the council staff and decision-makers debate issues and come to a consensus. The presence of strategic plans is extremely important as it provides a shared vision and strategy for investment decisions. Training and empowerment of the community representative committees; giving the committees some dignity by involving them to give an overview of issues during Budget Days and other meetings; finding a meaningful link between the strategic plans, performance contracts and the budget cycle. The recently introduced Budget Day meetings for local authorities present a good move which can be improved to make it more participative and not an information sharing forum.

Use of the participatory rural appraisal (PRA) tools to gather information and together with serious reporting and feedback systems, accountability structures will begin to take form. Some of the tools that could be used include problem ranking, resources mapping, wealth ranking and stakeholder and institution map-

ping to generate baseline data to facilitate project planning. It is also suggested that LAs could include a section on monitoring of “actual participation” by the community. Some of the things to monitor could include: gender dynamics, locational or ward level representation, increase in number of participation especially the new players, quality of issues being raised and addressed and declining number of complaints received and addressed by the council.

As the country moves towards organized stakeholder forums, community level budget days and participatory monitoring and evaluation frameworks, it will be essential to form umbrella representative committees at the ward or district levels provided for in the LASDAP guidelines. Such an organized umbrella body will draw membership from a wide range of stakeholders as a strategy for improving and institutionalizing participation. Since this body is voluntary, it will rely heavily on the interest and commitment of individual organisations and has to ensure that it continues to add value to the input made by its member organisations (Taylor and Gitau, 2003). This view is supported by the Community Asset Management proponents who argue that community participation needs to be sustained over time. The interest is affected when a project is de-

layed causing people to lose enthusiasm; other priorities arise and unexpected problems that take up a community’s time and energy; not getting all the necessary parties to participate making others feel that they are contributing more than they should; worst of all; if no success is realized and people feel that participation is no longer worth their effort, (Max Lock Centre, 2005: 57).

Where care has been taken to involve communities and residents in a genuine and non tokenistic manner as exemplified in some local authorities in Uganda (Devas and Lewa, 2002), there is empirical evidence that the increase in resources has allowed local governments to deliver and invest in improved infrastructure and services for the poor. The participatory decision making and upward accountability (local government to central government) has also improved. However, the local choice as to spending remains limited, participation is still difficult for marginal groups, and there are widespread concerns about corruption.

In Kenya, civil society and progressive local authorities have started working together, and LATF funding is enabling local authorities to make real choices about service improvements and local infrastructure. Most Kenyan Local authorities, however, have serious financial prob-

lems because of poor and nonexistent revenue collection and unrealistic revenue projections. As a consequence, when budgeted resources are not realised and therefore projects are not implemented, citizens tend to lose confidence in the participatory process. This needs to be safeguarded.

4 CONCLUSIONS

From the foregoing, it is apparent that community participation has been embraced in local governance in Kenya. Efforts have been made to mainstream community participation in especially the LASDAP process. There have been positive outcomes realised as a result of this initiative. Communities are more aware of the happenings in their local authorities and local authorities undertakings are benefiting from community input. However, a lot more can be done. More action needs to be taken to boldly entrench community participation in local governance. This will require action at legislative as well as operational levels. The ongoing constitution review process is one opportunity for entrenching community participation as a key strategy in local governance in Kenya.

A further opportunity that needs to be exploited so as to entrench community participation in local governance is the strategic planning initiative that is hoped to become the norm

in the public sector. Communities as primary stakeholders in local authorities will have their interests fully catered for through the strategic plans. However, as is apparent in the foregoing discussion in this paper, this has to be accompanied by a process of capacity building not just for members of the community but also local authorities' staff. Equally, caution needs to be taken to ensure that the strategic planning communities do not see such transfer payments by central government as an avenue for them to avoid shouldering their due share of responsibility to mobilise and commit local resources to develop and manage local service delivery systems.

Literature on community participation indicates that participation must be beneficial to stakeholders. Mattessich and Monsey (1992) hold that people participate when they feel a sense of community, see their involvement and the issues as relevant and worth their time, and view the process and organisational climate of participation as open and supportive of their right to have a voice in the process. Local authorities must as such make it beneficial for Kenyans to participate in their affairs.

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PART 3

LESSONS LEARNED AND RECOMMENDATIONS

Summary of Lessons and Recommendations

T. Barasa and W. Eising

INTRODUCTION

This chapter summarises the book under two sections. Section 1 contains material from Part 1 (Chapters 2-4), which provides a background to local government in Kenya and highlights major reform agenda for local government. Section 2 comprises policy messages from Part 2 of the book (Chapters 5-8). The importance of this section of the book is in the lessons learned during the LA reform process in Kenya that might be of relevance for other low-income countries. In the ensuing summaries and recommendations, key texts from some of the chapters may be repeated to reduce the risk of readers overlooking the research findings contained in the texts.

SECTION 1: THE LOCAL AUTHORITIES AND REFORM AGENDA

The evolution of Local Authorities. Local Authorities are the platforms where community members exercise their democratic rights by electing their representatives who in turn coordinate the provision of the local services. In Kenya, the present system of local government was introduced during the colonial era. Since then there has been a succession of adjustments in the way local authorities are organized and function. The Local Government Act Cap. 265 is the main law which administers local authorities. However, the proposed constitution, if approved, will change the structure and operations of the local authorities.

Institutional, legal and policy reforms. The

Kenya local government reform programme (KLGRP) started in 1996. The KLGRP develops and disseminates policies, systems and procedures relating to operations of local government. The specific aspects in which local government reforms have been undertaken include areas such as policy development and implementation, financial management, governance and service delivery. The main reforms implemented in these areas include Local Authority Transfer Fund (2000), Reform of Licensing systems (2001), Local Authority Information management system (2000), Local Authority Service Delivery Action Plans (2001), and Citizen participation in budget process (2007).

Organisation of local government. A striking aspect of the Kenya's local government system is its complexity. There are three partially overlapping structures of local government, name-

ly, the Provincial Administration, which is run from the Office of the President; the constituency, a political unit which has become very important in recent years, with a number of funding mechanisms being assigned to it; the local authorities, which have distinct structure provided for under the Local Government Act. The local government is currently under-resourced and dominated by the Office of the President. Line ministries retain control over their areas of influence at the local level. The local authorities are dominated by the strong influences from politicians which adversely affect their decision-making processes in critical areas such as the use of development funds and the management and allocation of natural resources.

SECTION 2: REFORM PROGRAMMES, OUTCOMES AND RECOMMENDATIONS

The Rural Poverty Reduction and Local Government Support Programme (RPRLGSP) has strengthened local authorities in areas of project implementation, financial management, and mechanisms for community participation. The following observations apply as brief descriptions of basic problems in LA that necessitated the reforms implemented.

Although the performance of the Local Government in service delivery has improved, much remains to be done. Despite large disbursements of taxpayers money to Local Authorities in the past 10 years, there is little evidence of quality service provision on the ground, and project completion rates in LAs are dismal. Many reasons have been advanced for service delivery failures in local authorities. Some of the most commonly cited factors include corruption, lack of capacity and weak institutional structures, especially in areas of procurement and governance systems. The absence of a strong policy approach and programmed service delivery that seems to characterise many Local Authorities undermines their ability to successfully complete development projects.

The lessons learned and the associated recommendations, all arising from an effective implementation of structural and management reforms, particularly the Rural Poverty Reduction and Local Government Support Programme, range from those relating to project management, financial accountability, the monitoring and evaluation and to community participation issues.

In the area of *project management*, the main lesson is that project cycle management (PCM) has the potential to transform the vision of local authorities about development processes

and enhance their capacity to offer valued public services to citizens. The PCM is at the frontier of the best management practices. It is highly recommended as a tool for improving service delivery at all levels of government, but particularly at local levels, where service delivery can have significant impact on lives of the poor people. The other key lessons and recommendations are:

- A.** Improvement of performance by any development actor, and in particular the LAs, is best done by an integrated set of interventions that include (I) the right systems and policies, including law, procedures, institutions, manuals, guidelines, templates; (II) intensive and quality support, capacity building and training to the implementing agency/actor (LA) in the field of project management, financial management, community involvement; (III) supervision and monitoring of the performance of the implementing agency (checking whether the systems are applied appropriately); and finally (IV) an efficient sanctions and rewards system, penalising the implementing agencies that do not adhere to the basic principles of good governance and fail to use public money in the most effective way. The above systems are the **4S** for improving performance and are shown in Figure 9.1
- B.** Strategic planning in most LAs is weak, with no ownership by citizens or the LAs, and is not used as a planning tool. Without a strategic plan the annual plans are unlikely to support the long term goals of local authorities. There is need to take planning seriously within the Ministry of Local Government.
- C.** The different development actors and their funding streams (in particular LATF and CDF) should coordinate more and should use one single process at local level for planning and project prioritisation, and the LASDAP process is the best available at this moment.
- D.** The first line of support to and monitoring of LAs should be the Provincial Local Government Officers, who need to be fully equipped for this critical task.
- E.** As the main beneficiaries of service delivery the citizens should play their role in checking the LA's performance to ensure the highest possible service delivery at the lowest possible costs. This is the bottom-up monitoring approach versus the more common top-down approach by Central Government. It is urged that a citizen awareness campaign be conducted on rights and duties of citizens in local governance and accountability in general, and their role in monitoring in

Figure 9.1 The 4S approach to successful project management



particular.

F. Monitoring of LA performance needs to be extended from merely financial management to a full-spectrum performance assessment, based on outcomes rather than on outputs, and in accordance with the value for money (VfM) concept. For example, while the construction of a school is a necessary condition for learning, it is not sufficient. What is of critical importance is

the improvement in access to education, and ultimately, higher levels of education in communities is the goal and objective, and exactly this higher development objective should be assessed and monitored.

G. Monitoring should also include technical audit, assessing the real construction costs versus the costs claimed by the contractor. The programme has taught that enormous amounts of service delivery funds are wast-

ed (likely to be double-digit percentages, or billions of shillings every year) mainly through payment of inflated bills from contractors.

- H. A last component of improving LA performance, and something that is seriously lacking in the current local government practices, is the application of efficient sanctions and rewards, penalising the implementing agencies for poor performance and rewarding them for excellent performance.
- I. A proper system of technical support and supervision and monitoring in the field together with an adequate sanctions (and rewards) system pays off, even in a cost/budget-neutral way!

In the area of *financial management in local Government*, the main lesson is that overall financial management in LAs can be improved by addressing the issues or taking seriously the recommendations indicated below.

- A. *Inadequate financial management practices in many LAs.* Treasurers departments often have no organisational charts and job descriptions. Officers are deployed haphazardly and not properly coordinated based on competencies and functionalities. Most officers in the treasury

department do not possess adequate or relevant accounting skills and competencies to discharge their mandated duties. As a result, many local authorities do not maintain proper books of accounts and financial records.

- B. *Introducing computerised accounting systems* in those LAs with poor financial management, including poor financial records, will not really help improve their financial management. LAIFOMS is a great way forward towards the improvement of financial management of LAs. However it has reached a stage in its development whereby it needs proper evaluation to ensure that fundamental issues on its development and implementation are addressed to avoid clogging the system at its greatest time of its rollout to all the LAs. The LAIFOMS has the potential of being a package to provide total solutions in the financial management in the local government sector not only in Kenya but also in East Africa and other part of Africa. Indeed it could be unequal package which would attract consumers from all parts of the world. While such a computerised system will help guide the treasury Departments in financial management, the quality of the reporting first of all depends on

the quality (reliability, etc) of the financial data that feeds the system. If no proper financial system is in place and no qualified financial staff is available to operate such a system, computerising the accounting system is likely not to fully have its expected positive effects. Therefore there is an urgent need for proper HR management, with appointing qualified senior financial staff, and providing a systematic approach to regular training in financial management and in LAIFOMS.

- C. The *treasurer* plays a key role in ensuring that any financial reform agenda introduced in local authorities either succeeds or fails. The treasurer should be encouraged to embrace the reform initiatives introduced in local authorities which aim in improving the financial management of local authorities.

In the area of *monitoring and evaluation of performance*, the main conclusion is that the international good practices in accountability management have largely been ignored or applied ineffectively in promoting better service delivery in LAs, and as a result, LAs have continued to suffer chronic failure to provide credible public services to citizens. The book contains a number of useful lessons from the RPRLGSP

that can be applied in the design of policies and practices to promote accountability in Local Authorities.

- A. M&E for LAs is on three levels: the LA monitoring and assessing of its own performance; the ministry monitoring of the LAs; and the citizens monitoring of their LA's performance. The latter is poorly developed, almost non-existent, in the Kenyan system. There is therefore a need for a *comprehensive performance/M&E strategy* that includes both *bottom-up* (social accountability approaches that are citizen-led); *LA-internal* (LAs monitoring themselves); and *top-down* approaches (conformance and compliance to rules and regulations of the Ministry).
- B. Failing to offer a responsive HRM strategy that enforces *ethics, integrity* and *professionalism* will continue to hamper LA performance. Since most of the public funds lost are as a result of lack of ethics in procurement and other malpractices, performance management and interlinked M&E systems must integrate indicators that touch on ethics and integrity. The enforcement of the Public Officers Ethics Act to entrench good governance should be urgently considered as a sanction strategy

for LAs.

- C. The lack of M&E systems is responsible, to a large extent, for LA failure to deliver services effectively. This is because the internal and external pressure for accountability is weak. Furthermore, M&E should extend its focus from output indicators to include outcome indicators (for instance poverty reduction) and process indicators, particularly in procurement. Lastly, effective M&E requires effective people. Poor HR planning practices and low calibre staff hamper effective performance management in LAs.
- D. A good performance management/M&E system is “toothless” without an adequately linked system of *sanctions and rewards*. And to further strengthen the mutual relationship between transacting parties, a good M&E system is a pre-requisite for a sustainable sanctions and reward strategy. An effective performance management system must therefore reward institutions and their people for outstanding results and penalise those not meeting expectations.

In the area of *community participation* in planning and implementation of development in

the LAs, the conclusion is that community participation has increasingly become a sought after goal in public administration and governance. The book shows that stakeholders’ participation has been inbuilt in local governance, and opportunities for enhancing participation in LAs in Kenya exist.

Community participation potentially provides a good platform for social accountability. This accountability can be most effective when it keeps government officials on their toes. Community participation in local governance process through especially the LASDAP process has led to the attainment of various outcomes. One immediate one is community awareness. As a result of NGO, partners, capacity building interventions in community participation, communities and residents have become more informed leading to improved prioritisation and implementation of their needs. A comprehensive *citizen rights and duties awareness campaign* would help further strengthen citizens’ awareness of the role they are entitled to play and have the duty to play in local governance (accountability) and in improving service delivery (planning and monitoring).

- A. In very broad terms, some of the challenges and obstacles to meaningful community participation processes are inadequate ca-

capacity and insufficient resources, as well as political unwillingness on the part of the people in power to listen to the citizens. *Political legal and administrative systems and organisations are often considered a barrier to participation.* Whereas the legal and administrative framework allows for inclusion of communities in the planning process, in practice many councils are still pursuing blueprint approaches. They will 'obey' the instructions in the guidelines, but will revert to the conventional ways of processing information, implementing guidelines without further reference to the public.

- B. Community participation requires *dedicated and skilled LASDAP officers*. Training of engineers in community participation to make them responsive to social engineering issues and giving fresh orientation to the social welfare departments is a strong recommendation.
- C. Possibilities for improved participation are numerous and varied. The recently introduced *Budget Day* meetings for local authorities present a good move which can be improved to make it more participative and not an information sharing forum. Use of the *participatory rural appraisal (PRA)*

tools to gather information and together with serious reporting and feedback systems, accountability structures will begin to take form. Communities as primary stakeholders in local authorities should be participating in drawing up strategic plans that cater for their needs. *These processes require capacity building not just for members of the community but also for local authorities' staff.*

- D. In Kenya, civil society and progressive local authorities have started working together. Most local authorities, however, have serious financial problems because of poor and nonexistent revenue collection and unrealistic revenue projections. As a consequence, when budgeted resources are not realised and therefore projects are not implemented, *citizens tend to lose confidence in the participatory process.* This process needs to be safeguarded, by realistic budgeting and adequate information sharing with the communities.

In the area of *human resource management*, the conclusion is that there is insufficient skills and capacity among LA staff, and among other players, involved in crucial areas of their operations and there are strong adverse effects of these insufficiencies on performance of LAs.

These human resource glitches are important for the success of service delivery and thus for the success in providing citizens with a conducive environment for economic and social growth. These issues deserve their own deliberation. In this section we summarise these human resource management issues and suggest ways to turn them around.

One of the main reasons for below-par service delivery is the *insufficient skills* in LAs. Most LAs in Kenya claim that they have not enough officials or better not enough employees with the right skills and expertise to properly do the job the LAs are supposed to do.

Professional HR planning requires the right staff to do the HR job. HR planning capacity in LAs needs to be re-looked at with a view to ensuring that there is alignment between the job requirements and the qualifications of the holder. Presently, LAs conduct an annual skills training plan which is often not funded nor linked to holistic capacity assessment of gaps. In most LAs, the HR department is headed by clerical officers who are not trained in HR management. Furthermore, a lack of response from MoLG and PSC to address their staff requirements leaves many vacant positions unfilled for lengthy periods of time. An incentive system of promotions, and demotions (or dismiss-

als), should target good, and poor performing officers, respectively.

Another obstacle to a consistent management in LAs is the practice of *frequent LA senior staff transfer* (clerk or treasurer). These transfers have a negative impact on institutional knowledge, and hamper performance review and sanctions since a new clerk will not take the blame for poor performance by a predecessor. And transfers should never be used to punish officers found to be mismanaging local authorities or who do not perform; instead the above-mentioned system of promotion, demotion and dismissal will be much more effective in dealing with underperforming cases.

The MoLG, through the HRM function in LAs, is encouraged to promote an institutional framework and culture that is more *ethically driven* and that is performance and merit based. Performance management and interlinked M&E systems must integrate indicators that touch on ethics and integrity. The enforcement of the Public Officers Ethics Act to entrench good governance should be urgently considered as a sanction strategy for LAs.

Key players in the support and monitoring of LAs are the *Provincial Local Government Offices*, but these crucial teams suffer from lack of

skills and experience as well. Most PLGO teams consist of two to three officials while trying to do the impossible job of assisting more than thirty LAs (in the case of the Rift Valley even 44 LAs!). If the Government is keen on getting LAs improving their performance and PLGOs assisting them in this, PLGO teams need to consist of expert officials in at least the field of financial management, project management, social or community development, and engineering. Furthermore, they need adequate resources in terms of transport and allowances to allow for frequent trips to their LAs, a mode of operation very similar to the way the RSDAs in the RPRLGSP programme operated successfully.

In conclusion, the Ministry of Local Government and Local Authorities have gone a long way in improving performance in running their internal businesses (the Ministry and the LAs) and in delivering services to ordinary citizens. This improvement process is not yet complete. Much still has to be done in the fields of project management, financial management, monitoring and evaluation, and more generally in the areas of accountability, transparency, and professionalism.

This book provides some very interesting and specific insights into the Kenyan local government sector. The empirical character of the re-

search reported in the book gives the volume additional weight as a policy document. The local government sector will be far much better than it currently is, if the recommendations contained in this book were to be implemented. Such implementation would be a giant step towards improving service delivery throughout the country for the benefit of *wananchi*.

“Local governments or local authorities are universal phenomena of public administration and governance structures throughout the world. As devolved units of service delivery to the populace, local authorities are potentially effective vehicles for empowering communities, and for enabling central governments achieve national goals. However, in order for local governments to successfully play such a dual role, they need to be properly managed, accountable, financially viable, and to promote participation, transparency and inclusiveness in service delivery. Importantly, fulfilment of this dual role requires local governments to be responsive to the needs of vulnerable populations in their jurisdictions.

This book documents innovative reform initiatives that were implemented in Kenya to turn local authorities to effective service providers to the poor. The reform principles, processes, programmes and outcomes are detailed in the book. Lessons from reform experiences are summarised in the last chapter of the book in the hope that they might be of relevance to local authorities in developing countries. The local government reform programme in Kenya, supported by the European Union, is practical example of what can be done to avert massive wastage of taxpayers’ money, and channel it instead, to investments in service delivery and management systems that benefit ordinary citizens”.

Prof. Germano Mwabu, Economist at University of Nairobi

“This is a well thought-out idea given the governance problems we hear and read about within the Local Authorities especially in Kenya. It is a very noble and timely task that must be completed. Apart from the targeted groups, the book will be quite useful to my students of Public Sector Economics. Moreover, it will open up research activities in this area. I would like to thank the team very sincerely for a good idea”.

Dr. Nelson Wawire, Economist at Kenyatta University



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