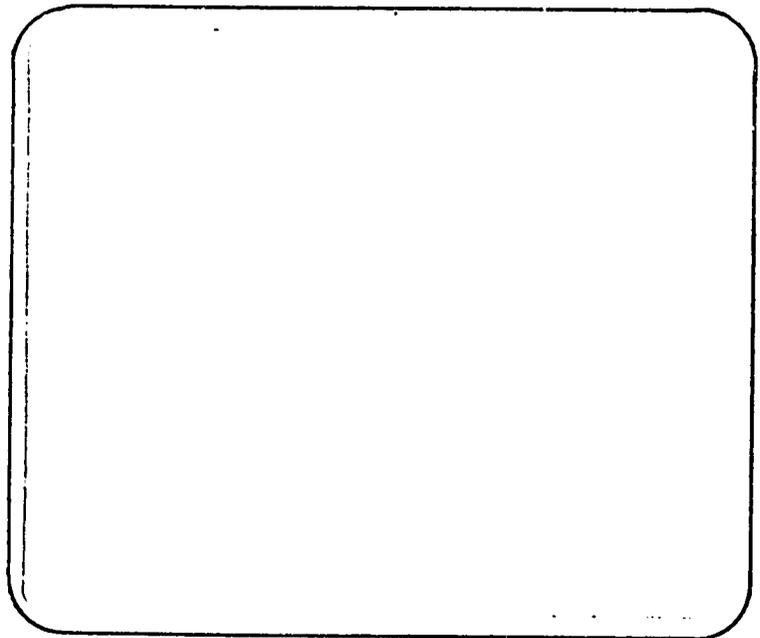


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# RESOURCE MANAGEMENT FOR RURAL DEVELOPMENT PROJECT



**LOCAL GOVERNMENT FINANCE IN  
KENYA: REFORM TO DATE AND  
AN AGENDA FOR THE FUTURE**

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This paper considers issues related to the strengthening of local government, which is a major stated goal of the Government of Kenya's rural-urban balance strategy and recent Government policy documents. After a brief review of the history of local government in independent Kenya, the current system is outlined and a review and analysis of its major problem areas is presented. Reform efforts to date are briefly reviewed, and an agenda for additional efforts is suggested.

#### A Brief History of Local Government in Kenya

Decentralization has been a controversial political issue in Kenya since colonial days, when there were separate forms of local government for natives and settlers. The Kenya African National Union (KANU), which has dominated Kenyan politics for decades, has historically been in favor of strong central government. Kenya's original Majimbo Constitution provided for strong regional government, but KANU, under the leadership of the country's first president, Jomo Kenyatta, was successful in a controversial bid to reform the constitution and eliminate regional government. Local governments were left with substantial responsibilities, but there were strong interests that wanted to limit or eliminate their broad powers.<sup>1</sup>

Population and demand for certain public services, particularly education, were growing rapidly throughout the 1960s. Local authorities in some areas were faced with serious financial and managerial problems as demand on their limited

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<sup>1</sup>For a review of the history of local government in Kenya, see Oyugi (1983) and Akivaga, et. al. (1985).

capacity continued to increase. As the situation intensified, there was a widely held perception that something needed to be done about the worsening condition of local authorities.

In 1966, a Local Government Commission was set up by President Kenyatta under W.S. Hardacre to look into the types of reforms that would be necessary to make the local government system in Kenya more viable. The Commission called for sweeping reforms and a general strengthening of Kenya's local authorities. In response to the Commission's report, the Government issued Sessional Paper No. 12 of 1967, which accepted most of the recommendations of the Commission about revitalizing local authorities. The Sessional Paper also indicated the Government's commitment to provide the local authorities with both reliable revenue sources and central government grants.

After much debate on the subject, the Parliament passed the Transfer of Functions Act in 1969. Instead of revitalizing local authorities, this legislation provided for the transfer of several major services, including primary education, health services, and roads, from the local authorities to the central government as of January 1, 1970, except in seven of the largest municipalities. During the 1960s, local governments accounted for almost one-fifth of all public-sector spending in Kenya. After the transfer of these functions to the central government, the importance of most local authorities declined suddenly and dramatically. For example, aggregate county council expenditures fell by 85 percent from 1969 to 1970.<sup>2</sup>

The 1969 act also transferred the Graduated Personal Tax (GPT), a local payroll levy, to the central government, and abolished general grant revenues to the local authorities. The GPT had been the principal source of revenue for all

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<sup>2</sup>Oyugi (1983), p. 134.

local authorities. When it was suddenly transferred to the central government along with significant service responsibilities, most local authorities were left in a greatly weakened position. The local authority system itself was left intact, but many of the councils were left with little to do and few productive sources of revenue. Local authorities in Kenya have never regained their former importance.<sup>3</sup>

The stated intent was that this transfer of functions and revenue sources from the local authorities to the central government would be temporary. There was to be a complete reorganization, restructuring, and strengthening of local authorities, and service responsibilities and revenue sources were then to be returned to them. This has never happened.

During the 1970s, the need to strengthen local authorities was regularly highlighted by National Development Plans, various special commission reports, and an International Monetary Fund report commissioned by the Government of Kenya.<sup>4</sup> Little has been done to implement any of the major recommendations proposed by these documents for strengthening local government in Kenya. More

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<sup>3</sup>The major municipalities were least affected by the Transfer of Functions Act. The GFT transfer was accomplished gradually for the large municipal councils, and they retained their major service functions. When the transfer of GFT was completed in 1974, it was replaced with a compensating grant that was also gradually reduced over time. The compensating grant was finally abolished in 1978, but the Government introduced various grants to subsidize the large municipal councils for certain costs incurred in the provision of primary education and health care. All of these grants, except grants for teachers salaries, were abolished in fiscal year 1984/85, placing an additional financial burden on the largest municipalities. No other financial assistance for recurrent expenditure is given to Kenyan local authorities by the central government except limited grants to needy councils.

<sup>4</sup> See, for example: The Report of the Public Service Structure and Remuneration Commission, 1970-71; The Report of the Nyaga Committee, 1973; Bahl and Mant (1976); Report of the Civil Service Review Committee, 1979-80; Report and Recommendations of the Working Party on Government Expenditures, 1982; and, Sessional Paper No. 1 of 1986: Economic Management for Renewed Growth.

recent policy documents on local government and related reform efforts will be discussed later in this paper.

### The Case For Strengthening Local Government in Kenya

In recent years, there has been a pronounced interest in developing or reviving local government in less-developed countries. This interest has come from the governments of developing countries, academics, and international development organizations. Economic and demographic changes have triggered persuasive arguments to support the case for local government in many developing countries, and Kenya is no exception.<sup>5</sup>

In spite of Kenya's economic successes, there were elements of its centralized development policies followed during the first two decades of independence that failed to produce the expected results. For example, it became clear that certain trade policies, such as import substitution, were beginning to impede rather than stimulate efficiency and growth. There was generally slower economic growth than there had been a decade earlier, but population growth, the

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<sup>5</sup>The new focus on a greater fiscal role for local government has been advanced greatly by major international development agencies, such as the World Bank and the International Monetary Fund. In conjunction with their emphasis on structural adjustment, these institutions have conducted a variety of research on strengthening local government and have implemented a number of programs requiring their participation. Local government has also received a boost from revised aid guidelines and policies of a number of major bilateral aid agencies. In the wake of the economic problems of the 1970s and 1980s, conservative movements and governments have become more influential and moved into power in many industrialized countries. One result has been that the bilateral aid agencies have tried to redefine the types of projects that they will support with grants and loans. There is less emphasis on financing central government programs because of a bias against central planning and control, and more emphasis on the market and decentralized institution-building that supports the growth of the private sector. Such policies will often be administered through decentralized agencies of the central government and local authorities. The additional burdens on local authorities have led to calls for strengthening them.

size of the labor force, and public service demands were increasing at a rapid rate. Because of its economic and population problems, Kenya began to generate significant government budget deficits, which have often been financed by external borrowing. Over time, debt service payments began using up higher percentages of government resources, and the vicious cycle of borrowing and overspending escalated.

The implication of these developments, as outlined in Sessional Paper No.1 of 1986, is that the Government of Kenya cannot continue to expand at its rapid historical rate and must try to focus on functions that are clearly in the legitimate realm of the public sector. Better management of government responsibilities is essential, and public investments must be more productive, and, to as great an extent as possible, self-financing. The situation also suggests that the central government should be able to reduce its role in managing certain legitimate public-sector development policies and programs and rely more on local governments, which are underutilized and have tremendous untapped revenue potential. In Kenya, local authorities are the only semi-autonomous decentralized institutions with adequate administrative capacity and legal or constitutional powers for raising public revenue and providing public services.

The economic and demographic realities that have triggered a renewed interest in decentralization in Kenya have also led to a greater awareness of the strong case that can be made for defining a more substantial role for local government. The more prominent role of local government in developed countries suggests that local authorities may have an important role to play in the management of development. In a World Bank report on strengthening local government, it has been suggested that an effective public sector in a modern

developing country "depends on the ability of the central government to harness the resources of lower levels of government."<sup>6</sup>

Local authorities may sometimes be in a position to provide certain kinds of important services that it is not practical or possible for the private sector to provide efficiently due to scarce local resources, institutional limitations, scale factors, or externalities. For example, the private sector in Kenya has often historically failed to provide facilities for local producers to market their goods. Thus, market facilities have become an important public service in many local authorities, and they also frequently generate substantial surplus revenues which can be used to provide other services.

Although the Government of Kenya has made various policy decisions over time suggesting its acceptance of the assumption that centralized service provision is more efficient than local service provision, there is little evidence to support this. In fact, economists would argue that, for many services, just the opposite is true. In the absence of economies of scale, externalities, or uniform demand for a service over a large area, it is more efficient to assign service provision to decentralized levels of government.<sup>7</sup> Decentralization allows for better government adaptation to dissimilar circumstances and varying preferences for public services across local areas.

Local governments may be considered the institutional overseers of the urban population centers in which many productive and service activities are based. These centers provide the input-output linkages for rural production and are the concentration points for marketing activities, transport, and communications. Given limited central government resources and the remote

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<sup>6</sup>Cochrane (1983).

<sup>7</sup>See Oates (1972).

location of some areas, the effectiveness of local authorities in providing infrastructure and an atmosphere conducive to economic activity can have an important influence on the success of the local economy and its potential for future development.<sup>8</sup>

The role of local authorities in the local economy also means that they can play an important role in supporting and/or implementing national development policies. Local authorities, for example, can have a significant impact on population policies and settlement patterns in that effective local development and management can play a role in helping to create jobs locally, thereby curtailing the excessive growth of population and economic pressure in the primary urban centers.<sup>9</sup> The process of continuing urbanization in smaller local authorities creates new wealth through increases in economic activity, income, and land values, drawing still more people and employment to these areas. This is an important premise underlying Kenya's Rural Trade and Production Centre Programme.<sup>10</sup>

More intensive development of smaller local areas may have the potential for longer-term equity gains. Some development strategies have focused on decentralizing the public sector, slowing the growth of large urban areas, and regionalizing development.<sup>11</sup> Proponents of egalitarian development have stressed the greater equity inherent in decentralized development and the growth-

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<sup>8</sup>For example, see Rondinelli (1982); Little (1984); and, Belsky and Karaska (1984).

<sup>9</sup>See Evans (1986).

<sup>10</sup>See Gaile (1986).

<sup>11</sup>See Mera (1972); Richardson (1977); Kelley and Williamson (1982); Cheema and Rondinelli (1983); and, Rondinelli (1984).

stimulating effects of redistribution.<sup>12</sup> A number of analysts have suggested that the weakness of local institutions in developing countries severely constrains both economic growth and improvements in equity.<sup>13</sup> Other things being equal, the redistribution attributable to decentralized development has the potential to generate an increase in income and further economic growth through the increased multiplier effects that result from higher marginal propensities to consume among lower-income people.

Some analysts might argue that the most important reason for strengthening local authorities is that they are the institutions that are closest to the people at a grassroots level. Although the District Development Committees help to get local input at the district level in Kenya, they have only a few representatives who are actually elected by the local people. Local government has great potential to increase the level of local participation in the development process and, by definition, to increase the degree of self-government. Because local authorities are often staffed by local people familiar with local conditions, they have a greater potential than does the central government to respond effectively to many local needs.

Even though a strong case can be made to strengthen local government in Kenya, the importance of some degree of central government coordination of local government development activities must be acknowledged. Decentralization can go too far and lead to the development of local authorities who work against the best interests of the country as a whole. Local authorities should be responsive to national needs and be willing to explain and support national policies in their jurisdictions. Of course, local authorities have their own development

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<sup>12</sup>See Chenery (1974); Cline (1975); Mellor (1976); and, N.L. Hicks (1979).

<sup>13</sup>See Uphoff and Esman (1974); ILO (1974); and, Mawhood (1983).

responsibilities and priorities, but their actions should not be in conflict with overall national development objectives, as articulated through the political process.

### The Prospects for Local Government Reform in Kenya

Among the developing countries in Africa seeking to reform local government, Kenya is an interesting case to consider because many of the ingredients for successful decentralization are present. First, Kenya has displayed remarkable political stability on a continent where coups and revolutions are regular events. Second, the Kenyan economy has had its ups and downs in response to droughts and shifts in the world prices of oil and agricultural commodities, but it has experienced positive growth during most of the period since attaining independence in 1963. Third, in contrast to many developing countries, Kenya does have a history of semi-autonomous local government, which played a very prominent role in public service provision during the colonial era and the first decade of independence. By and large, there is a viable institutional and legal structure in place, which could, with certain reforms, permit local government to have an important role to play in the development process. Finally, as discussed above, there is widespread official recognition by the Kenyan Government that local authorities should be strengthened in order that they could fulfill their unique and important responsibilities more effectively.

The Government of Kenya is currently examining possibilities for local government reform as part of a broader program of decentralization and privatization. The Government's rural-urban balance strategy set forth in Sessional Paper No. 1 of 1986 provides a blueprint for simultaneously stimulating

the growth of urban centers and their agricultural hinterlands in a way that is consistent with macroeconomic goals. Recent policy documents have outlined the role of local authorities in stimulating economic development by providing vital services that support private sector activity and economic growth. Sessional Paper No. 1 of 1986 has stated that the foundation for the rural-urban balance strategy "must be dynamic and competent District Development Committees and local government authorities." More recently, the Sixth National Development Plan (1989-93) has reaffirmed the Government's intent to rationalize the functions of local authorities and improve their capacity. The Government has also demonstrated its faith in the institution of local government by creating more than 20 new urban councils during the past several years. Given the rapid growth of population and public service demands at a time when the government is working to restrain the growth of central public expenditures, the importance of local authorities as public service providers is expected to increase in the coming years.

In spite of the seemingly favorable climate for decentralization, Kenya has not yet made substantial progress in implementing meaningful reforms in its local government system. What is the nature of the problems that require reforms in order to make the system more effective? What are the major obstacles to implementing these reforms? What progress has been made to date? After a brief description of the local government system in Kenya, the rest of this paper considers these basic questions.

### The System of Local Government in Kenya

A system of decentralized central government administration exists alongside the local government system in Kenya. The country is divided into

seven provinces under the leadership of provincial commissioners, and the provinces are divided into forty districts administered by district commissioners. The districts are divided further into divisions, subdivisions and locations, which are respectively managed by district officers, chiefs, and sub-chiefs. The entire system is under the direction of the Office of the President.

There are four types of local authority which serve different types of populations and provide different services. The 20 municipal councils are established in large urbanized areas and have substantial service provision responsibility. They provide many basic urban services, including roads, sanitation, water, sewerage, housing, and social services. The largest and oldest of these councils are also required to provide primary education and health care. Town councils, of which there are 19, are generally in smaller urban areas and do not have as much service responsibility. None are responsible for health and education, and few have water or sewerage schemes. Both municipal and town councils tend to provide some local revenue-generating services, such as markets, busparks, and slaughterhouses.

The 39 county councils are in almost every case geographically identical with districts, the administrative subdivisions of the central government. The service area of a county council is all of the land area of its district not under the jurisdiction of a municipal or town council. County councils have had substantially fewer service responsibilities since health, education, and maintenance of most roads were transferred to the central government in 1970. They do provide social services, maintain some secondary roads, construct and operate market and slaughter facilities, and generally share in the provision of veterinary services.

The final type of local authority in Kenya is the urban council, which number 28. These are in emerging urban centers being prepared for transition to town, and ultimately municipal, councils. They often provide marketing and other basic facilities but do not have full fiscal independence. They are under the jurisdiction of the county council in which they are located.

In fiscal year 1985/86, local government accounted for only 5.5 percent of total public-sector recurrent revenues and 5.0 percent of total government recurrent expenditures, with about 80 percent of this being provided by the 20 municipal councils. If only expenditures on goods and services are considered, local authorities accounted for 8.5 percent of the total, the bulk of which was again provided by municipal councils. The role of local government in capital expenditures was more significant. Local authorities accounted for 15.9 percent of total public sector gross fixed capital formation in 1985, with municipal councils alone accounting for 11.9 percent; however, it is important to note that the bulk of local authority capital financing comes from the central government's Local Government Loans Authority.

Although the local government sector does not have a very important fiscal role in Kenya relative to the central government, municipal councils do provide most of the major public services within their jurisdictions, and rural local authorities provide services, such as farm access roads, water, and veterinary services, that meet important needs of their constituents and directly affect productivity. Thus, the issue of the effectiveness of local authorities is of considerable importance to the success of Kenya's economy.

#### Evaluating Kenya's System of Local Government

There are at least several highly interrelated levels of concern that need

to be examined in analyzing the fiscal role of local government and options for reforming it. First, there are a set of public finance objectives regarding service provision, revenue generation, and revenue-expenditure linkages. These relate to efficient and equitable arrangements for providing public goods and services. Second, there are a set of issues regarding institutional organization and capacity, which affect the ability of the public sector as a whole to provide public services efficiently and equitably. Finally, there are a set of primary contextual issues and constraints--political, economic, constitutional, and legal--that affect both the institutional organization and capacity and the public finance objectives.

The following discussion of the local government system in Kenya focuses on local public finance issues.<sup>14</sup> A treatment of institutional factors and broader contextual issues and constraints and how they affect the fiscal role of local government is incorporated directly into the discussion. The principal focus is the ability of local government to provide and finance effective services that are legitimately in the realm of the local public sector.

### Service Provision

The pattern of needs and preferences for public services follows a generally clear pattern in Kenya. Differences in preferences are related primarily to differences in economic base. Urban areas require traditional

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<sup>14</sup>The discussion here focuses on resource allocation issues, which are most relevant for local government. Stabilization is a public sector function that is clearly in the realm of the central government because of the small overall public spending role of local government in Kenya. Responsibility for the distribution function is also justifiably centralized, although some redistribution takes place at the local level because the burden of major local taxes is often borne by wealthier residents, while poorer residents, who benefit from at least some local services, may pay few or no taxes.

urban services, such as roads, water and electricity, while rural areas require a different mix of services, which depends on the relative importance of agriculture and livestock production and the lifestyle of the people. In particular types of areas, e.g., urban, rural agriculture-oriented, rural livestock-oriented, pastoral, etc., preferences are likely to be fairly similar in terms of the types of required services, and due to widespread poverty, with respect to service levels. An important role for local government is indicated both by the preference differences across areas with different economic bases and the geographic dispersal of local authorities.

Judging by standard local finance criteria, the pattern of service provision that has emerged among levels of government in Kenya is fairly good. Most public services that display externalities or economies of scale, such as electricity, health, and education, are provided centrally or subsidized, and most local authorities have attempted to provide a reasonable package of local services, such as trash collection, sewerage/pit latrines, street lighting, fire services, social services<sup>15</sup>, and local roads, particularly in the urban areas.

In addition, a strong case can be made for local authorities, particularly in the rural areas, to provide or create incentives for private-sector provision of certain facilities and services that are provided inadequately or not provided by the private sector. Such activities, which are often crucial for the effective operation of the local economy and the well-being of the local people, include market places, slaughterhouses, housing, and livestock auction yards.

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<sup>15</sup> "Social services" in Kenya is normally used to classify a wide variety of miscellaneous community services, including pre-primary education, community centers, local public sports facilities, orphanages, and parks. Most of these services are very local in nature. Although for some of them, such as orphanages, it may be justifiable for the central government to intervene on equity grounds, self-help fundraising is more likely to be a more workable solution to funding problems, particularly in the rural areas.

In fact, most local authorities in Kenya do provide many of these services, and many are able to do so effectively and profitably.<sup>16</sup>

Despite the generally reasonable assignment or self-assignment of service responsibilities, some problems do arise. The present assignment of health and education services to seven of the larger municipal councils, for example, is largely a matter of historical accident rather than any determination by the government that the local authorities currently providing these services are financially or administratively capable of adequately meeting this important responsibility.

Only a few major public services display widespread problems in their pattern of provision. Prominent among these are water and veterinary services. Both are services that can be provided locally, but may require central government intervention for equity reasons and because of potential externalities, and in the case of water, due to scale factors.<sup>17</sup> In Kenya, both

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<sup>16</sup> In some developed countries, housing is seen as a basic need and is therefore provided at subsidized rates for those who cannot afford other options. Housing is rarely provided as a public service in that sense in Kenya, except in a few of the largest cities. Housing needs are very simple in most areas, and there is sharing among extended family. Public housing in Kenya is normally provided for one of two reasons: (1) as a service for civil servants or local authority employees; or (2) as a revenue-raising enterprise for the local authorities, who have found that they can normally earn a healthy surplus by providing housing in urban centers, often for middle- and higher-income residents of their jurisdiction.

<sup>17</sup> Veterinary diseases sometimes have a differential impact on different breeds of livestock that predominate in different areas of Kenya. Improved (imported) breeds of cattle, for example, tend to be more susceptible to tick-borne diseases than breeds that are native to the country in question. This does not mean, however, that tick control measures can be ignored by owners of local cattle, particularly if they are nomadic. Movement of the untreated local cattle into areas where improved cattle predominate, which may be necessary for the local breeds to have access to water during dry seasons, can set off an epidemic among the improved cattle. The situation is further complicated by the fact that some breeds of local cattle have developed a natural immunity against certain diseases over the centuries. They may be carriers of diseases, but suffer no ill effects. Efforts to destroy the disease vectors through

of these services are sometimes provided by the central government and sometimes by local authorities. This situation could be justifiable if the service assignment were made on sound economic or administrative grounds. Unfortunately, the central government either does not have or does not consistently follow explicit and rational guidelines by which to make the service assignment decision. This has resulted in a situation in which some local authorities who could adequately provide these services are being heavily subsidized by the central government. In other cases, local authorities who cannot provide an adequate level of services efficiently are receiving no central government assistance.

It should be reemphasized that many county councils have been functionally marginalized since some of their major revenue sources and service functions, including health, education, and roads were taken over by the central government in 1970. Thus, although most local authorities in urban areas have clear and important service provision roles, the role of rural local authorities is often more poorly defined.

#### Problems with Service Provision

With the exception of the few issues noted above, local authorities have an important and economically justifiable fiscal role to play in Kenya. There are,

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vaccination or dipping may over time undermine the developed immunity of the local breeds, giving rise to an increase in disease incidence among local cattle who were treated solely to prevent the spread of the disease to other breeds. Although clinical veterinary treatment for injuries and non-infectious diseases may be provided privately in such a situation, the complex externalities involved with infectious diseases mandate a significant role for the public sector with respect to monitoring the composition of herds, their movements, and disease control efforts. This requires significant input from decentralized levels of government whose officials and employees are familiar with local conditions, but central coordination is clearly necessary.

however, a number of problems observed' in service provision. In many local authorities, service quality is poor, and some local authorities are not able to provide the services for which they are responsible. A number of intergovernmental and local institutional and managerial deficiencies create or exacerbate these problems.

### Interjurisdictional Cooperation

Interjurisdictional cooperation among local authorities is very rare in Kenya. The Local Government Act does provide for the formation of joint committees and joint boards across local authorities for the planning and provision of mutually beneficial projects subject to the approval of the Ministry of Local Government (MLG). However, few, if any, local authorities use interjurisdictional cooperation<sup>18</sup>, although there are many cases in which such cooperation would be very appropriate. For example, a municipal council putting in a water line to serve part of its constituency might pass its line through villages under the jurisdiction of the county council. Water service might also be lacking in the county council villages, which are unable to provide it independently, at least in the foreseeable future. In this type of situation, coordination might enable the county council to provide the service sooner, and it would certainly be more cost-effective for both the county and municipal councils. Various forms of intergovernmental cooperation at the local level are widely used in countries with developed local government systems. The local authorities in Kenya seem not to realize the potential benefits of coordination, and they have no precedent or encouragement from the central government to

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<sup>18</sup>Smoke (July 1987) found no cases of such coordination in a study covering nearly one-third of all local authorities existing in Kenya at the time of the study.

arrange joint undertakings that increase efficiency.<sup>19</sup>

#### Constraints Imposed by Central Government Ministries

The MLG, which has broad powers of control over local authority activities, can also generate local service provision problems. Local authority budget requests must be approved by the MLG, but guidelines and decision-making rules for this approval process are poorly developed. As a result, legitimate expenditure levels may be cut arbitrarily by MLG for particular services, making it difficult to provide the services demanded by a local authority's constituency. Similarly, local authorities are not permitted to hire new employees of a certain skill-grade and above, even to replace those slots left open by death or retirement, without MLG approval. Such approvals sometimes take long periods of time, so that vacancies or "acting" appointments may drag on for a year or more. In the meantime, management and/or service provision suffer from a lack of staff. In addition, the Local Government Loans Authority (LGLA), which provides the vast majority of funding for the capital expenditures of Kenya's local governments, is under the control of the MLG. The LGLA has been poorly managed and is widely presumed to allocate funds on political grounds. It

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<sup>19</sup>The one genuine form of intergovernmental cooperation in Kenya--the regional development authority--has not been comprehensively evaluated, and it is limited in its geographical coverage. In 1980, the Government established three regional development authorities: the Lake Basin Development Authority, the Tana and Athi Rivers Development Authority, and the Kerio Valley Development Authority. Each covers at least several districts. Their primary goal is to manage and plan activities related to hydrological resources within their jurisdiction, but they are also supposed to monitor, coordinate, and evaluate all development activities undertaken in their areas. There is certainly potential for valuable projects and activities that might be undertaken by these regional authorities. However, their relationship to other levels of government and agencies is not very clear, and this ambiguity may constrain their ability to provide effective coordination. Some critics have charged that these authorities have pursued their own objectives and ignored the activities of other levels of government.

has also been extremely inefficient at recovering the loans it has made<sup>20</sup>, and, at least partially as a result of its inability or unwillingness to be self-sustaining, it has been unable to provide the volume of capital required for basic local authority infrastructure development.<sup>21</sup>

Additional constraints on service provision come from the lack of support from other central government ministries that have an important role to play in local public service provision. Although the MLG is the primary link between the central and local governments, there are working relationships between the local authorities and other operating ministries, which are necessary largely because of limited local technical capacity.<sup>22</sup> Coordination between local authorities and these supporting ministries is often plagued by problems of bureaucratic delay, inadequate technical and financial assistance, and lack of staff at the central ministries. Many specific projects suffer long delays or never get off the ground because of these problems.

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<sup>20</sup>Good data on local authority debt are difficult to get because of the way in which the Local Government Loans Authority keeps its records and the reluctance of many local authority officials to discuss the topic in detail. Available evidence indicates that total outstanding local authority debts to the LGIA exceed two billion Kenyan shillings, at least several hundred million of which are in arrears. About 89 percent of this debt is estimated to be held by fewer than 20 municipal councils. Many of the indebted local authorities have made little or no attempt to repay, and the LGIA has made little attempt to recover loans.

<sup>21</sup>Local authorities in Kenya are permitted to borrow on the open market, but few can afford commercial interest rates, and most would be considered poor credit risks. In recent years, a few booming communities, such as Eldoret Municipality, have successfully applied for loans from private institutions, but this very rarely occurs.

<sup>22</sup>The Ministry of Public Works (MPW), for example, is in charge of coordinating infrastructure development. Other ministries work with the local authorities on specific projects. A local authority wishing to be a water provider, for example, must obtain permission from and work with the Ministry of Water Development (MWD). Similarly, local authorities wishing to provide veterinary facilities must work closely with the Ministry of Livestock Development (MLD).

## The Role of Provincial Administration

Other service provision bottlenecks occur because of the activities of the provincial administration, which includes the district administration and all decentralized offices of the Office of the President. There is a close working relationship between the provincial administration and the local authorities because of the District Focus for Rural Development strategy, which became operational in July 1983. This deconcentration policy involves shifting the responsibilities for planning and implementing decentralized development projects from the Nairobi headquarters of the ministries to the district level. The District Development Committees (DDCs) are the district level bodies with responsibility for implementing District Focus. Basically, District Focus is designed for the desirable goal of generating greater local input into district development projects.<sup>23</sup>

District Focus is important for local authorities because they are required to submit their planned development (capital) projects to the DDCs before they are forwarded to the MLG for approval and assistance in identifying potential sources of funding. Projects being jointly implemented by a local authority and a ministry must also go through this review process. Unfortunately, there are

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<sup>23</sup> Although the ministries retain responsibility for general policies and the planning of multidistrict and national programmes, districts have been delegated responsibility for the operational aspects of district-specific rural development projects. Districts are also responsible for the implementation of district-specific subcomponents of national or multidistrict activities. DDC responsibility for planning and coordination of development activities covers not only projects sponsored by the ministries, but also projects supported by Harambee (self-help), local authorities, nongovernmental organizations, and foreign donors. For more details on District Focus and district planning, see District Focus for Rural Development (1987) and Cohen and Hook (1986).

sometimes long and unnecessary delays in this process, largely due to inefficiencies in the local authorities and the DDCs and/or tensions between them.

Some local governments are threatened by the DDCs, which they feel infringe on their autonomy, and they are therefore reluctant to cooperate.<sup>24</sup> In other cases, the DDC is perceived by local authorities as nothing more than another level of bureaucracy and delays through which they must channel their project plans. In a few cases, there is a lot of friction between local authorities and the DDC--there are examples of DDCs holding up local authority capital projects because of political infighting, even in cases in which the local authority had clearly demonstrated its financial capacity to undertake the project as well as the need for it.

Some critics maintain that local authorities are inadequately represented on the DDCs. The only official members of the DDC from local authorities among the fifty or more total members are the Clerk to Council, an appointed officer who is the chief administrator, and the Chairman of the Council, an elected official. There are also Members of Parliament on the committee, but it is dominated by technocrats from the central government ministries, many of whom are not from the local area but have been assigned to the district from Nairobi. Thus, there is a feeling that the organization that is supposed to be soliciting input from local people is not really the grassroots organization it is so often claimed to be by national politicians.<sup>25</sup> Yet, this organization has a great deal

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<sup>24</sup>See Smoke (July 1987) for more information on how local authority officials perceive the DDCs.

<sup>25</sup> It is clear from a careful reading of the District Focus for Rural Development guidelines that the strategy is one of deconcentration rather than devolution. It is normally discussed by politicians and the press, however, as if it were genuine grassroots decentralization.

of control over most of the development projects undertaken by local authorities.<sup>26</sup>

Finally, the DDCs do an inadequate job of initiating coordination among local authorities for mutually beneficial development projects. As noted earlier, intercouncil cooperation on the provision of public services is extremely rare among local authorities in Kenya. This type of coordination is logically the responsibility of the DDCs. They have the administrative power to require coordination, which has the potential to introduce greater efficiency and reduce certain cross-council inequities in the provision of local authority services.

There seems to be general agreement among policymakers and politicians in Kenya that the basic concept of District Focus and the idea of a stronger and more cooperative relationship among local authorities, district officers of the central government ministries and decentralized representatives of the Office of the President are desirable. In a strong centralized state such as Kenya, the local authorities will be able to operate more effectively if they have the cooperation and support of the most powerful elements of the central government. It is clear, however, that the current system has been unable to satisfy some locals that their input is being seriously considered.

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<sup>26</sup>It should be noted that divisional DDCs, which function in specific areas of the districts, have much more local representation than the DDCs, but in many places they are not very powerful and in some areas may not be active at all. If the decentralized DDCs were more effective, it might be argued that the largely technocratic and nonlocal composition of the DDC is a good thing. The decentralized groups would provide the local input, while the main DDC would add an element of technical expertise and objectivity to the system, possibly minimizing the number of decisions based purely on local/tribal politics. This is the direction in which the process is supposed to be moving, but whether or not it will be successful remains to be seen.

## Local Managerial Problems

The provision of services in Kenyan local authorities is greatly impeded by problems with local institutional capacity and procedures. It is somewhat misleading to isolate these problems as "local" because central government actions and policies, or lack thereof, can greatly affect local institutional organization and performance. Nevertheless, these problems are largely local in their impact, and it is useful to make this distinction for purposes of the analysis.

In some local authorities, the process of preparing budget estimates is not a very useful exercise. The budgeted figures for some categories of spending are meaningless, as they are often not used as expenditure ceilings.<sup>27</sup> After the budgeted amount has been spent, some councils just keep on spending, wreaking havoc with the process of expenditure management.

Cash-flow management is a serious problem in many local authorities because most council revenues are collected during a several-month period, while expenditures are made on an ongoing basis throughout the year. Some local authorities spend all of their money when it comes in and then have none to cover even basic expenditures, such as salaries, later in the year.<sup>28</sup>

A significant number of local officers lack adequate training, experience, and skills, and there is a widespread problem with a lack of incentives for local authority employees. The pay scale is very low compared with the private sector,

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<sup>27</sup>Although a formal analysis of this problem has not been undertaken, the author examined budget estimates for 10 local authorities over a several year period and found that in no case were budget ceilings for most expenditure lines strictly adhered to.

<sup>28</sup> It should be emphasized that such extreme behavior happens largely in very poor councils, such as Turkana County Council and Lamu County Council, but there is room for improved cash-flow management in other local authorities as well.

and there is no clear system for raises and promotions. In addition, there are few benefits or opportunities for bonuses. Thus, local authority employees have little incentive to work hard, and there is substantial inertia, low productivity, and some degree of rent seeking in many councils. All of these factors have the potential to affect service provision adversely.

### Income Generation

Several Acts of Parliament, including the Local Government Act, the Rating Act, the Valuation for Rating Act and the Regional Assembly Act, give local authorities in Kenya the right to raise income from a wide variety of sources. No particular sources of revenue are reserved exclusively for specific types of local authorities, but wide variations in the use of many sources of revenue across local authorities do exist for a number of important reasons.

Type of council and geographic location are the major factors that should determine the principal revenue sources of a local authority.<sup>29</sup> Municipal councils get most of their revenue from water charges, land rates, market fees, house rents, plot rents, slaughter fees and buspark fees. The very large municipal councils are less diversified in their principal sources of revenue than the smaller ones. They tend to rely very heavily on water charges, land rates, house rents, sewerage fees and grants for teachers salaries, with very small percentages of income coming from all other sources. Town councils rely less on land rates and infrastructure-based revenues and more on plot rents for public land and income from less capital-intensive services, such as markets and busparks.

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<sup>29</sup>See Smoke (June 1987) for details on revenue generation patterns across local authorities.

County councils tend to have fewer substantial sources of revenue than the local authorities in urban areas, except for those councils that have been historically permitted to charge cess on cash crops or have significant access to agricultural land rates.<sup>30</sup> Most county councils rely heavily on market-related fees and trade licenses. Some county councils have busparks and slaughterhouses, and a few collect large amounts of revenue from game reserves within their jurisdiction. A number of county councils also have access to house rents, poll rates, and a wide variety of other sources of revenue. Many of these, however, are often very unproductive or unreliable.

The geographic location of local authorities also has a significant impact on their revenue composition and capacity. Given the diverse agro-ecological conditions in Kenya, location is a prime determinant of economic base. Thus, it also determines the forms of economic activity that generate public revenues. The fertile areas in the central and western highlands are very productive, and agriculture-related taxes tend to generate significant amounts of revenue. Market fees and various types of cesses are excellent sources of funding in these areas. In much of the rest of Kenya, agricultural opportunities are more limited. Even though market fees may still be important for the local authority in these areas, they are often much less productive than in more fertile regions. Semi-arid areas tend to be more dependent on livestock than on crops. Conditions permitting, livestock-related taxes, such as stock auction and slaughter fees, can be very important to councils in arid and semi-arid areas.

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<sup>30</sup>Cess is an ad valorem wholesale tax on agricultural production. It has historically varied across crops and districts, normally in the range of one to three percent. Cesses are charged only on produce sold through marketing boards, who collect the revenue and remit it to the local authorities. The Government is in the process of standardizing cess to a rate of one percent on a fixed set of crops in all districts.

### Problems in Revenue Generation

Given the legal access to a wide variety of revenue sources enjoyed by local authorities in Kenya, revenue generation and revenue-expenditure linkages should not pose major problems except in areas that have an inadequate revenue base because of poor agroecological conditions. In reality, a majority of local authorities experience significant revenue generation problems.

### Elasticity Versus Stability

One of the principal revenue problems for local authorities is the relative inelasticity of certain major components of their revenue bases with respect to the growth of income, prices, and population. Although there have not been formal studies to estimate elasticities, there is plenty of evidence to suggest that revenue inelasticity is a significant problem. Some important sources of revenue, such as land rates and house rents, are almost completely fixed for significant periods of time. Even though valuation rolls are supposed to be updated every five years, there are long delays in this process. Local authorities are permitted to impose interim rate increases between revaluations, but this is often difficult for political reasons, so that the revenue yield from land rates remains essentially static for five years or more, except for small additions to the base from supplementary valuation rolls. Most local authorities do not employ their own valuer, so they rely on the Ministry of Lands and Housing, which is not staffed to deal with the enormous workload in a timely fashion. Furthermore, valuation in Kenya is based on unimproved site value, so that the property tax base does not grow substantially with increases in local economic activity.

Other local taxes, such as market fees, are partially based on the level of economic activity, but they are almost always specific (per unit) rather than ad valorem charges, so that the revenue derived from the taxes grows slowly as the volume of trading grows. This problem is exacerbated by the failure of many local authorities to raise their per unit fees regularly as the cost of living goes up, a problem largely due to local political constraints on raising local taxes.

The elasticity of certain local taxes in Kenya displays an asymmetry not normally observed in developed countries. Market and stock auction fees, for example, are dependent on the level of trading, which would be expected to be dependent on the overall economic conditions. As noted above, the fact that many agriculture-related taxes are fixed fees rather than ad valorem limits their responsiveness to economic upswings; nevertheless, they do grow during these periods due to increases in sales. During downturns in economic activity, however, the yield from these taxes appears to fall dramatically. Thus, in years when there is a crop failure or low animal sales because of drought or disease, the volume of revenue can be substantially reduced. This is especially a problem in semi-arid areas where the arrival of rain is uncertain.<sup>31</sup>

The observed asymmetry of local tax elasticity may be a problem even with taxes that are generally presumed to be relatively stable, particularly under extreme economic conditions. This could be due to the limited role of formal sector savings in many parts of Kenya where people lead subsistence-oriented

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<sup>31</sup>It could also, however, be a problem even in relatively wealthy agricultural areas during serious floods or droughts because of the extreme dependence of some local authorities on one or two main sources of revenue. Some of the county councils, such as Muranga and Meru, who have access to cess on valuable crops may get 40 or 50 percent of their annual income from coffee or miraa cess. These councils are so dependent on this revenue that a serious crop failure could possibly render them insolvent.

lifestyles. If income is reduced either directly or indirectly because of a dramatic drop in agricultural production, people may not have funds available to pay land rates, business license fees, charges for water services, and other local taxes. This situation can have a dramatic impact on local revenue yields.

The problem of local government revenue instability can be clearly demonstrated by recent events. There was a serious drought in Kenya in 1984 during which agricultural production fell by 3.7 percent from the previous year and gross domestic product increased by only 0.9 percent, the lowest figure recorded in post-independence years. This did not affect the growth trend of central government recurrent revenues and expenditures greatly. In spite of the downturn in economic activity, revenues rose by 10.4 percent between 1983 and 1984, from 923.03 to 1019.59 million pounds, while expenditures rose by 10.8 percent, from 984.58 to 1091.32 million pounds.

During the same time period, the local authority revenue base was greatly eroded. Municipal council revenues fell by 11.1 percent, from 52.73 to 46.89 million pounds, and expenditures fell by 19.0 percent, from 50.55 to 40.93 million pounds. Other local authorities, primarily county councils with jurisdiction over rural areas, were even more dramatically affected. Their income fell by 36.2 percent, from 12.94 to 8.26 million pounds, while expenditures declined by 38.6 percent, from 11.6 to 7.16 million pounds. In all cases, local authority revenue and expenditure increased significantly in 1985 as the country recovered from the drought.<sup>32</sup> Similar patterns of instability can be found in an examination of a longer trend of local authority finance.

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<sup>32</sup>These data come from various years of the Economic Survey, an annual report published by the Central Bureau of Statistics of the Ministry of Planning and Economic Development.

The asymmetric elasticity of key local revenue sources creates serious problems for the local authorities. In good economic times, expenditure requirements may greatly increase with the growth of commercial activities and population, but revenue does not. As a result, many Kenyan local authorities are faced with growing deficits each year, even when the economy is flourishing.<sup>33</sup> During economic crises, revenue yields can plummet, particularly for those sources related to agricultural and livestock production.

#### Revenue-Expenditure Linkages

The issue of revenue-expenditure linkages is a very complex one in the Kenyan case, and the situation again varies greatly across local authorities. Because most services are not assigned by the central government per se and most sources of revenue are allowed to all local authorities provided the proper clearances are obtained, it does not seem that there should be difficulties in obtaining a correspondence between service provision and sources of income. Unfortunately, the situation is not nearly that simple.

Many of these services provided by councils in urban areas can be financed by charges if the charge levels are properly set and the revenue is actually collected. Land rate and license income should go a long way towards covering the costs of most services for which charges cannot be made. Some of the largest municipal councils have additional responsibilities for health and education. The latter is largely financed financially by generous grants for teachers salaries from the Ministry of Education, but health is the one service where significant problems might be foreseen because of an inability to charge cost-

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<sup>33</sup>Smoke (June 1987) found that less than half of the local authorities among 26 studied ran surpluses on a regular basis.

recovering fees and a lack of aid from the central government. In general, however, there seems to be a fairly good correspondence between services provided by municipal councils and their sources of income. This correspondence, however, breaks down because of institutional, managerial, and political constraints.

In the rural councils, the correspondence between expenditures and income is much less apparent. There are few fee-for-service type activities in many county councils, and some of the major ones, such as water and veterinary services, often require subsidies. Furthermore, local authorities in urban areas all have access to land rates, but has historically been no general and productive source of revenue available to all county councils except license fees. Some county councils have had land rates, others have had agricultural cess, a few have had both, and still others have had neither. This situation is being partially rectified by the ongoing standardization of cess, but land rates are still used only by certain county councils. The situation is further complicated by the same institutional, managerial, and political constraints that plague municipal councils.

An important revenue-expenditure linkage problem in Kenyan local authorities is that cost recovery is often very poor. Certain services that should cover costs through fees do not do so in a substantial number of local authorities.<sup>34</sup> Furthermore, the taxes, fees, and charges levied by a particular type of council vary dramatically across local authorities. It is not unusual, for example, for two county councils with similar characteristics to charge very different fees for the same license or service. Although there are sometimes

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<sup>34</sup>Smoke (June 1987) found that few county councils generate surplus revenue on any of the services they provide. A simple majority of municipal councils studied run surpluses on many of their services, but a significant minority run deficits even on services that would be expected to be self-financing through user charges, such as sewerage, garbage collection, and market facilities.

rational explanations for these variations, many of the differences seem arbitrary, with no apparent justification on the basis of population, wealth, or costs of service provision.<sup>35</sup>

### Efficiency

Local authority taxes in Kenya are not often very general in coverage. In some municipal councils, there is, in fact, fairly general coverage of most economic activities through a system of land rates, business and trading licenses, and marketing and vending fees. In other urban and most rural areas, tax system coverage is much less general. In a few county councils, there have historically been agricultural land rates or cesses in the rural areas and land rates and trading fees in the urban areas. However, many of the county councils with agricultural land and/or production taxation have not bothered much with taxes in their urban centers, while those lacking agricultural taxes tend to tax very heavily in their urban centers.

The diversity and lack of generality of the local authority tax base certainly creates the possibility of serious efficiency effects, but it is very difficult to measure them. There are significant interjurisdictional differences in both the local tax base and local tax rates that could generate locational efficiency effects.<sup>36</sup> This is not very likely, however, for several reasons. First, there are clear cultural constraints on mobility in Kenya.

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<sup>35</sup>Smoke (February 1987) found not only that there were enormous differences in the levels and rates of fees, charges and taxes across local authorities, but also that a perverse pattern sometimes existed. For example, it was discovered that business and license fees were often considerably higher in the poorest local authorities. This is probably due to the fact that these authorities do not have access to the more productive sources of revenue collected by wealthier councils.

<sup>36</sup>See Smoke (February 1987) for details.

many people will not want to give up their residence or business in their home area even if taxes are higher than in other areas. This is not to say that large-scale industrial investors will not, to some extent, react to interjurisdictional tax differences, but most larger-scale industry is concentrated in a few major urban centers in Kenya, and there are needed inputs and local business tax incentives in these places. Second, the absolute levels of most local tax rates and charges in Kenya are fairly low, and it is likely that many people would not respond even to relatively large interjurisdictional tax differences, particularly if there were other more important considerations, such as access to labor or nearness to family.<sup>37</sup> Despite the substantial differences in business license fees and land taxes between local authorities in the same district or contiguous districts, there is no clear evidence of a migration to the less expensive area. Third, information about tax differences in other districts is probably not widespread, which may account for some of the lack of response to interauthority tax differentials. Finally, many producers in Kenya must operate in a specific region because of the nature of their business. A coffee grower must operate in a particular agro-ecological zone and is not in a position to move to a semi-arid district even if it has lower agricultural or land taxes. Although food crops might be grown in the semi-arid district, the after-tax return from coffee or other cash crops is likely to be much higher.

The potential for intrajurisdictional efficiency effects may be somewhat greater than in the interjurisdictional case. For example, there have historically been great differences in the cess rate charged on different

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<sup>37</sup> The results of a recent study of the informal sector in four districts in Kenya clearly show that, although informal sector workers complain about license fees and taxes, only three percent of the respondents in the survey indicated that license fees and taxes were a barrier to them in setting up their businesses. Details may be found in Ng'ethe, Wahome and Ndaua (1987).

agricultural crops in the same district. These rates often ranged from one to three percent, potentially inducing a farmer to shift to the less highly taxed crops if the after-tax return is higher. Again, this is probably not common. Higher cesses are often on higher-value crops, so the after-tax return on the more highly taxed crops may still leave the farmer indifferent or better off. Similarly, sometimes not all land in an urban area is surveyed and valued, and there are no land rates charged in unsurveyed areas.<sup>38</sup> This may induce some businesses and residents to move to unsurveyed sections of the urban area. It is also doubtful that this is widespread, but there are certainly some cases of it in Kenya.

### Equity

It is difficult to assess adequately the equity of local authority revenue sources in Kenya because of a lack of relevant data, but it is possible to make a few observations. First, it is clear that there is little equity across local authorities. The fact that some farmers in some districts have to pay land rates while those in others do not is not equitable, nor is the fact that the same taxes are charged at such different rates in similar local authorities.

There have historically been vertical and horizontal inequities within local authorities. A local authority with stock auction and market fees but no cess or agricultural land rates might be a case in point. Small farmers or herders who sell one bag of potatoes or one cow locally in the period of a week have to pay fees to the local authority, but a wealthy farmer, who may cultivate thousands of acres of a cash crop, may pay little or nothing. This type of problem is being

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<sup>38</sup>For example, less than 50 percent of the central business area in Bungoma Municipal Council is surveyed land on which rates can be collected.

alleviated as county councils take advantage of Government's general permission for them to levy cess.

In many local authorities, most of the major tax revenue comes from center city merchants and businessmen. They often have to pay land rates or rents, fees and charges for water, sewerage and conservancy, and license fees. Although they may be among the wealthiest people in the jurisdiction, some of their middle and higher income counterparts who are less centrally located or located in unsurveyed parts of the city center may be much less heavily taxed. In general, only businesses are taxed to any significant degree in many local authorities, and some of them are treated very differently than others.

Another potential equity issue is relevant in county councils where there are great differences in agro-ecological conditions and economic activity in different parts of the counties. In a county such as Meru, for example, the landscape ranges from productive, wealthy agricultural divisions near Mt. Kenya, where coffee is cultivated, to semi-arid areas in which little can be grown, with many people relying on subsistence herding for their existence. In such cases, fees, charges, and taxes are usually uniform across the entire jurisdiction, despite the tremendous divisional differences in ability-to-pay.

Thus, there is no general statement that can be made regarding the horizontal, vertical, and geographical equity of local authority taxes in Kenya. There are clearly equity problems, but their nature and severity differs widely across local authorities.

#### Reasons for Local Authority Revenue Generation Problems

It is clear that the local revenue generation process in Kenya is plagued by major problems, including an asymmetric elasticity of certain major sources,

substantial and unjustified variations in the use of particular revenue sources and the rates that are charged across local authorities, and potentially significant cross-council inefficiencies and inequities. In addition, there are serious problems with revenue-expenditure linkages. Most of these problems are the result of a wide variety of institutional, legal, and political constraints on the revenue generation process.

#### Central Government Constraints

As was shown to be the case with service provision, local governments in Kenya are dependent on central government ministries and agencies in a variety of ways. Local authority revenue sources are subject to the approval of the Ministry of Local Government (MLG). As a consequence of inadequate staffing, underdeveloped operating procedures and guidelines, and political constraints, the MLG is frequently arbitrary in granting permission for local authorities to use certain revenue sources. Although all local authorities seem to be allowed to collect license fees, market fees, and a few other fairly standard sources of revenue, the disparity in permission granted to use some sources, such as land rates, agricultural cess, and forest fees, has historically been extensive. Some councils denied access to productive sources of revenue are much poorer than their counterparts, or they must tax themselves much more heavily from other sources. These arbitrary inconsistencies in granting revenue sources to local authorities have clearly been one of the main reasons for widespread interjurisdictional fiscal disparities.

There are also serious problems with MLG procedures for setting tax rates, fees, and charges for revenue sources that it does allow to the local authorities. The Ministry, which must approve all local revenue rates, has no

clear guidelines and criteria for making decisions about local authority requests for approval of fees and charges and no basis for making comparisons across councils. This contributes to the wide variations in tax rates, levels of fees and charges, and per capita collections across local authorities that were discussed earlier, which in turn have the potential to generate significant efficiency and equity effects.

Other central government ministries and agencies have an important support role to play in the local revenue generation process, and they often fail to meet their responsibilities in a timely manner. Sometimes a ministry is supposed to provide an ongoing service related to revenue generation that the local authorities rely on, but the Ministry is unable to keep up with its commitments. Local authority land, for example, is supposed to be revalued at least every five years, and supplementary valuation rolls are supposed to be prepared every year by the Ministry of Lands, Housing and Physical Planning. The MLHPP, however, is years behind schedule, and some local authorities scheduled for revaluations in 1985 or 1986 are still waiting for them to be conducted. In other cases, a one-time service is provided by a specialized office or ministry of the central government. The Office of the Attorney General, for example, is required to prepare and approve the local by-laws that give the local authorities power to undertake certain of their functions, such as raising revenue from a specific source. Sometimes, it takes years for these by-laws to become operational. In addition, local authority costs can be inflated by salary decisions made by the Public Service Commission or the Industrial Court.

Another problem faced to some extent by most local authorities in Kenya is the delinquency of central government agencies and parastatals in submitting the taxes, charges, and payments they owe to local authorities. In some cases,

local authorities claim to be owed millions of Kenyan shillings by these delinquent groups.<sup>39</sup> The problem seems to persist for several reasons. First, the claims of local authorities are sometimes disputed by the alleged defaulter and the disputes have not been properly resolved, even after many years.<sup>40</sup> Second, GOK ministries rarely budget enough money for their district offices to be able to pay for such local authority services as sewerage and water and for payments in lieu of land rates. Finally, local authority officers lack effective authority to enforce the collection of such revenue. The local authorities cannot easily turn off the water supplies of such services as schools, prisons, and hospitals, and they cannot force central government ministries or other local authorities to pay for such services. In some instances in which a local authority has tried to take a debtor local authority or parastatal to court, the MLG has intervened on the grounds that it is not good to involve a sister local authority or important parastatal in litigation.<sup>41</sup> In essence, this revenue has become uncollectible from a practical point of view.

Finally, the central government has failed to deal with the issue of poor local authorities. Many of these councils, which are expected to perform the same basic functions as other local authorities, would be unable to generate sufficient revenue to discharge their responsibilities even if other constraints

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<sup>39</sup>Smoke (July 1987) found that officials in 16 of 26 local authorities studied cited non-payment of taxes by central government offices and parastatals as their most significant revenue collection problem.

<sup>40</sup>For example, the Nairobi City Commission claims to be owed in excess of Ksh. 500 million by the central government and parastatals. Much of these arrears are attributed to Kenya Railways. This parastatal also occupies nearly 25 percent of the land under the jurisdiction of the Karatina Town Council, but has not paid land rates for many years.

<sup>41</sup>For example, the Ministry has forbidden Kisii Municipal Council to take Gusii County Council to court in a dispute over annual unpaid land rates that account for one third of the municipal council's total annual land rate revenues.

were relaxed. There used to be a substantial system of grants to the local authorities during the colonial period and in the 1960s after independence was established. For example, between 1964 and 1969, grants to all county councils ranged from 21.3 to 30.1 percent of their total expenditures.<sup>42</sup> Grant programs to local authorities have been gradually eliminated since 1970, and now only two grant programs of any importance exist. The major one is the Ministry of Education's grants for teachers salaries, which go to the large municipalities that have retained responsibility for education. In fiscal year 1985, 70 percent of the 14.3 million Kenyan pounds in central government grants to local authorities went for teachers salaries. The other grant program is made from a small annual allocation to the Minister for Local Government to assist "needy" councils. There are no specific criteria for defining "needy," so that the money is distributed according to the Ministry's judgement.

#### Legal Issues

Lack of legal enforcement authority can greatly constrain revenue collection, even in those councils that are adequately staffed.<sup>43</sup> As noted earlier, some local authorities do not have proper by-laws for some sources of revenue due to forces beyond their control. This is a problem especially in places where residents are aware of the lack of by-laws and refuse to pay the tax in question.<sup>44</sup>

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<sup>42</sup>Colebatch (1974), p. 69.

<sup>43</sup>Smoke (July 1987) found that officials in 17 of 26 local authorities cited this as a major revenue collection problem, and that there was evidence to suggest that revenue collection improved substantially when enforcement was provided by the Kenya Police, who are under the central government.

<sup>44</sup>Turkana County Council, for example, submitted by-law to collect trade licenses and hawkers fees in mid-1985. Such by-laws are fairly standard and

Even in places in which proper by-laws are in place, local officers lack strong legal authority to collect some sources of revenue and the legal machinery for collection is very complex and cumbersome. The primary example of this is land rates, which is one of the most important sources of local authority revenue in Kenya, both in urban areas and rural areas where it is permitted. There are certain things local authorities can do to enforce land rate collection, such as require tenants of a plot in arrears to pay rent to the council instead of the landlords. However, in addition to being politically difficult to implement in some places, the power of force is not really there. The local authority itself cannot fine or take delinquent taxpayers to jail, nor does it retain the power of sale for serious defaulters. It must operate through the national legal system, which has several disadvantages. First, there are long delays in the legal system, and recovery of revenue usually takes a great deal of time. In addition, most local authorities cannot afford their own full-time advocate, and they must therefore hire one to represent them. Legal costs are often so high that they are not covered by the revenue that would be collected in a successful case. There are also several instances in which lawyers have kept all of the money recovered from those prosecuted by the local authorities. In such cases, the local authority is faced with the undesirable choice of instituting further costly legal proceedings against their counsel or simply dropping the matter to minimize their losses.

#### Local Issues

Local political pressure can have a major impact on the ability of local

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should not have taken a long time to review, but approval had not been received by late 1986. Officers of the council reported that the local people were aware of the lack of approved by-laws and were refusing to pay the required fees.

authorities to raise taxes and collect revenue. This problem stems from the universally unpopularity of taxes and the need for councillors who wish to be re-elected to be popular. As a result, there are cases when councillors intervene in an attempt to prevent water from being turned off for default on the water/sewerage bill, to prevent tenants from being evicted for not paying rent on council-owned housing, etc.<sup>45</sup> Councillors are often reluctant to raise taxes and charges, even if they have not been raised in some time and the council is running persistent deficits. This is true not only because of the popularity issue, but also because councillors are sometimes major landowners or prominent businessmen in the local area, and they see the higher taxes as having a direct negative effect on them. All of these factors can greatly undermine revenue-expenditure linkages.

Despite official condemnation, rent-seeking behavior is likely to be a problem of varying degree in many local authorities. Because of the lack of enforcement and revenue control in many local authorities, it is relatively easy for revenue collectors to pocket some portion of the cash that they collect each day. Senior local government officials may be aware of these abuses, but are reluctant to take action because of local political pressures, because the procedures for hiring and firing employees are so cumbersome, or because they themselves are also involved in such behavior.<sup>46</sup>

Finally, the weaknesses in local government administrative procedures and operations that were discussed earlier with respect to service provision problems also have a major impact on the collection and use of revenue. In

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<sup>45</sup>Smoke (July 1987) found that these types of problems were reported by administrative officers in 8 of 26 local authorities studied.

<sup>46</sup>Officials in 9 of 26 local authorities visited by Smoke (July 1987) admitted that corruption was a serious problem in their councils.

general, the system of record-keeping in local authorities is inadequate. Poor and inaccurate records kept on council financial transactions lead to poor revenue collection and control, and make it very difficult to plan for the future and prepare revenue estimates. Data on specific revenue/activity at particular revenue collection sites, for example, would help the local authority officers to monitor and project their revenue trends for that source of revenue more accurately. This type of detailed data is very rarely kept. Revenue collection is also hindered by other management practices. For example, proper internal auditing and cross-checking of records are lacking in most local authorities.

The result of the problems and constraints outlined above is that a majority of local authorities in Kenya are struggling to make ends meet, and some have been for many years. Many consistently run deficits, and a significant number are heavily in debt, which they are unable to repay. Access to capital is inadequate, investment in infrastructure is generally low and maintenance is poor, and many services are of low quality and are provided at insufficient levels.

#### **An Agenda for Reform**

It has been suggested that the pattern of services provided by the central government and local authorities in Kenya is basically rational on economic grounds. There are a few services for which responsibility is not clearly or rationally assigned or self-assigned, but the basic division of responsibilities is normally reasonable. Local governments in Kenya also have legal access to a wide variety of revenue sources. It has been demonstrated, however, that there are in reality significant problems with both service provision and revenue generation, largely due to intergovernmental and institutional problems, and

administrative and managerial constraints. The situation could be significantly improved by a series of integrated reform measures, some of the more important of which are outlined below.

### Service Provision

It was noted earlier that certain services, such as water and veterinary services, were provided by both central and local governments without explicitly followed guidelines to determine this assignment. Given the importance of these services and the fact that present arrangements do not ensure for adequate provision in some local authorities, clear guidelines should be developed for assigning such services to particular levels of government.

The current lack of central government standards for reviewing local authority budgetary allocations results in arbitrary decisions that may frustrate the ability of local authorities to spend at a level commensurate with local service demands. The Ministry of Local Government should develop guidelines for approving expenditures levels based on local needs and expenditure trends.

While most local authorities in urban areas have significant service responsibility, many of the rural local authorities have limited functions, as noted earlier.<sup>47</sup> A strong case can be made for defining a productive role for county councils to augment their current responsibilities. Enhancing the role of county councils as marketing and distribution facilitators, for example, would give them a useful role to play as well as provide an important service presently

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<sup>47</sup>Some might argue that county councils, particularly the fairly inactive ones, should be abolished and their few responsibilities turned over to the central government ministries. This would not be desirable, however, because of varying cross-council preferences due to different economic bases, the limited resources of the central government, and the geographical remoteness of some areas.

lacking in Kenya. Although most county councils currently facilitate marketing through the provision of markets and stock auction yards, many of these facilities are located only in one or a few major trading centers that may be inaccessible to many district residents. Also, there are no good sources of current marketing/price information on a decentralized basis available in Kenya. Collecting and distributing weekly information on the availability and cost of goods in the districts would help people to decide where to buy and sell their products. This type of service could have an important impact on private sector development in the area. Development would be enhanced further if county councils could take responsibility for improving impassable rural access roads, which presently hinder the distribution of both agricultural inputs and agricultural products grown in their districts.<sup>48</sup> Improvement of trade in particular areas would give a major boost to county council self-sufficiency and their ability to provide services because most county council revenues are based on private-sector trading activity.

#### Revenue Generation

There are several major revenue generation policies in Kenya that will need to be implemented by the central government in order to insure that local authorities can effectively play a significant fiscal role. First, authority to use existing sources of income should be extended to all applicable local authorities, unless there are special circumstances that suggest otherwise. The Government's recent action extending agricultural cess to all rural local

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<sup>48</sup>The results of a recent study of rural-urban linkages in Kenya (Bendavid-Val, et. al., 1988) suggest that poor access roads and inadequate marketing facilities/information in the rural areas are the most significant constraint to the timely distribution of agricultural inputs and production.

authorities will be a important step in the right direction if it can be successfully implemented.<sup>49</sup>

The extension of land rates in urban areas is another step that should be taken. Every effort must be made to survey fully all of the central town areas of local authorities to alleviate the inefficiencies and inequities discussed earlier. Furthermore, as part of its efforts to expand the use of urban land rates, the Government should consider options for taxing improvements. There is a great deal of debate on the issue of taxing the developed value of land. A tax on improvements is likely to increase revenue yields, and it may improve efficiency to the extent that more developed land makes more intensive use of services financed from land rates. There is also the possibility that a tax on improvements will be more vertically equitable. The use of an improvements base, however, may tend to discourage intensity of land use and to encourage the speculative withholding of land from the market. Research in Kenya has suggested that a limited movement to tax the developed value of land would be productive, at least in a few of the largest municipal councils. However, there would be

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<sup>49</sup>An alternative to allowing more widespread use of cess that might be pursued over the longer term would be to abolish all cesses and substantially upgrade the use of rural land rates. In rural areas, a few county councils do have rates on agricultural land, but most do not rely on this source of revenue to any significant extent. It essentially taxes the same base as cess; therefore, the two should not be used together. Cess is based upon the value of output sold, possibly creating disincentives for production. Land rates may have the problem of being regressive, but they are more stable because they are based on the value of the land and are less likely to decline in low production years, except to the extent that some farmers/landowners do not have cash income sufficient to pay the tax. In addition, collecting a fixed rate on land provides an incentive to produce as much as possible, because any earned surplus over the value of the rates will be kept by the farmers as profit. A problem arises in that land rates are very difficult to collect without proper enforcement authority and adequate collection personnel. Because of the substantial administrative costs and problems associated with land rates, cesses are a more reasonable short-term solution to the revenue problems of rural local authorities, despite their potential lack of stability and efficiency loss.

major administrative problems to overcome, which might be insurmountable in the short-term.<sup>50</sup> More research on this issue is required.

Government efforts to rationalize the use of existing taxes should include a comprehensive review of all fees, charges, and taxes used by Kenyan local authorities. On the basis of that review, the MLG should issue guidelines for local authorities to use in setting revenue rates and for the Ministry itself to use in considering revenue rate requests. License fees should be set within certain bounds that would vary by profession, type of local authority, and wealth of local authority. Many types of fees and charges levied by local authorities should be differentiated on the basis of size, location, or other business characteristics. These actions would reduce inequities in fee levels across professions as well as streamline the schedule of fees and charges. Another possibility might be to charge license fees on the basis of volume of business instead of type of profession or trade. Finally, some types of commercial and professional service providers are currently not required to pay any license fees, including certain wealthy professionals such as doctors and lawyers. This exclusion should be revoked because there is no good economic basis for it.

User charges, which at present frequently fail to cover costs, should be set at least high enough to cover relevant costs unless there is adequate justification for the subsidization of particular services and a source of subsidy funds has been identified. In order to assist local authorities in setting user charges properly, the Government should develop measures of cost effectiveness and standards for the provision of local authority services. These would also permit the identification of excessive spending on labor and materials

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<sup>50</sup>Bahl and Mant, (1976).

for specific services, enabling action to be taken to adjust costs to a reasonable level.<sup>51</sup>

Tax rates, fees, and charges must be reviewed on a regular basis. As noted earlier, the failure to revalue land regularly and to increase fixed fee charges is a significant cause of the inelasticity of the local authority tax base in Kenya. Some fixed-fee local taxes could be made ad valorem, while others could be indexed to the increase in consumer prices. These measures should increase the elasticity of the local tax base substantially.

In many areas, it will be necessary to provide access to additional sources of revenue even if the revenue reforms suggested above are implemented. The institution of a local authority service levy in early 1989 should prove an important source of revenue, particularly for many urban local authorities, but data are not yet available to evaluate its impact.<sup>52</sup>

An important potential source of revenue rarely used by local authorities is tourism-based levies, such as a bed occupancy tax.<sup>53</sup> Such a tax could have a significant impact on local authorities in tourist areas, where substantial expenditures are often made on infrastructure for tourist facilities. Allowing more local authorities to be water providers, to the extent it is feasible to do so, would enhance their revenue capacity, as would more widespread use of other

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<sup>51</sup>It is important to recognize that this may cause other problems. For example, many local authorities are likely to discover that they employ more people than they need for service provision. Although it may be politically difficult to dismiss excess staff, it may at least be possible to use them more productively in another position.

<sup>52</sup>This tax is a controversial fixed fee payment that varies with income level deducted monthly from all salaried employees. All businesses also pay a monthly charge. It is discussed in greater detail later in this paper.

<sup>53</sup>A tourist tax also has the advantage of allowing local authorities to export a portion of their tax burden to nonresidents, who in this case are often relatively wealthy foreigners.

revenue-generating activities, such as housing estates, slaughterhouses, busparks, and hotels. In some districts, it would be possible to develop new game reserves as a source of revenue for county councils.

There are also a number of other smaller or special sources of revenue that have not been tapped by many local authorities. Charges for parking fees and other automobile-related taxes in urban areas are one example. Others might include grazing fees for livestock and special assessments for specific capital projects in areas where there is ability to pay for such projects. An example of the latter would be apportioning some of the costs of road development to adjacent plot owners, a policy which has been applied successfully in some areas of Nairobi.

An alternative approach to allowing local authorities some of the above sources of revenue would be to give them the option of adding some small local percentage to central government taxes. As long as the existing central government tax rates are relatively low, a small local add-on will not be very distortive, and would be very productive for local authorities; furthermore, centralized collection is, in many cases, more administratively efficient than local collection. One possibility might be to allow local authorities to add a small percentage to the national sales tax. Another possibility would be to allow local authorities a small percentage of the motor vehicle license fees and/or the motor fuel tax. Some portion of this revenue could be used for road construction and maintenance, a costly service which most local authorities do not have the resources to provide adequately at present.

The central government should ensure that adequate resources are available to local authorities for capital expenditures. Current efforts to reform the Local Government Loans Authority along the lines of a commercially viable

municipal development bank are a step in this direction.<sup>54</sup> In conjunction with this, it is necessary to think about devising a reasonable plan for dealing with the local authority debt problem. Forcing local authorities to pay back their outstanding loans fully to the Local Government Loans Authority is not necessarily the solution to the problem, and it may not even be possible. It should be recognized that many of the outstanding loans to local governments are old and were the result of the poor planning, lack of management skills, and perhaps dishonesty of local authority and/or Government officials who may have retired or changed jobs long ago. Some of these loans were used to finance the construction of assets, such as roads, hospitals and schools, taken over by the central government in 1970. There is also the issue that local authorities are owed large sums of money by the central government and parastatals. The financial claims of both sides are in some cases so enormous that full repayment on either side may be extremely difficult. It seems likely, therefore, that Government may at some point need to work out a loan forgiveness and/or rescheduling plan that is fair to all parties.

Any scheme for loan forgiveness or rescheduling should reward those councils that have done their best to service their debt and, at the very least, not unduly penalize those that have been unable to pay. In some cases, however, it may be possible to demonstrate that some relatively well-off councils have failed to make payments due to negligence or corruption, and these councils should be dealt with more severely.

Some elements of the donor community interested in strengthening local authorities have considered the possibility of devising an arrangement for

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<sup>54</sup>The Government commissioned Price Waterhouse to do a study of the options and to make recommendations for reform.

helping to repay central government and/or parastatal debts to local authorities on the condition that local authorities then repay their debts to the central government. This could be done, for example, by attaching a conditionality to a new loan made by a donor to Kenya. Before the loan is applied for its intended purpose, the central government could use the funds to settle its debts and perhaps those of the parastatals to the local authorities. The local authorities would be required to use these funds for the purpose of settling their outstanding debts to the Local Government Loans Authority and other central government institutions to which it is indebted. The LGIA would not be allowed to use any of these funds that are owed to the central government—they would be immediately credited to outstanding LGIA loan accounts with the Treasury.

A plan of this nature would not completely erase the debt problem because some local authorities may owe the central government more than the central government owes them, and vice versa. It would, however, reduce the magnitude of intergovernmental claims, put many local authorities in a better financial position, and help to recapitalize the Local Government Loans Authority or the institution that eventually replaces it. The local authorities, the central government, and the parastatals would still have various claims on each other, but the only case in which debt would have increased would be that the parastatals would owe more money to the central government to the extent that some of their debts to local authorities had been paid with money lent to the Treasury.

Even if local authorities improved revenue collection and were granted additional sources of revenue, there remains one issue that the Government of Kenya has not attempted to solve: some local authorities are so impoverished and have so few types of economic activity that they will remain in poor financial

shape even with improved administration and new sources of revenue. Although there are grants to needy councils provided by the MLG for some of the very poorest councils, there is no systematic way of measuring such need and channeling grant funds to these councils. In the interests of equity and to guarantee basic service provision, a system needs to be developed to allocate the scarce grant resources of the MLG to those local authorities who need it most. In the absence of such a system, the likelihood of using such grants improperly is greatly increased. In addition, the grants currently being given to needy local authorities are in many cases only nominal sums that do not go very far in helping these local authorities solve their revenue problems.

The needed intergovernmental aid system could be designed in a variety of ways. It might, for example, be a transfer program that provides direct grants to local authorities from central government revenues on the basis of a formula that rewards tax effort and limited fiscal capacity. Alternatively, there could be a tax-sharing system whereby a certain percentage of a national tax or taxes is remitted to local authorities according to some reasonable distribution criteria.

### Institutional Reform

Major intergovernmental and institutional factors have the most dramatic impact on the ability of local authorities to perform their fiscal functions. Most importantly, restrictive, cumbersome, and inefficient policies and procedures in the MLG can cause or further complicate some local authority problems, as detailed above. In conjunction with the process of standardising procedures discussed above, the government should improve staffing and training in the MLG to facilitate more rapid and standardized processing of local

government requests and submissions regarding budget estimates, schedules of fees and charges, by-laws, employment decisions, etc. To the extent permitted by the Local Government Act, there should be greater delegation of authority both within the MLG and among the MLG, the Provincial Local Government Officer, and the local authorities. This will allow for greater administrative efficiency in both the MLG and the local authorities.<sup>55</sup> Only if revenue possibilities and expenditure and employment requirements are understood more fully will it be possible for MLG to make good decisions on local authority budgeting requests, and reform is clearly required for this to happen.

The Government should encourage local authorities to take advantage of the provisions in the Local Government Act that allow them jointly to provide mutually beneficial services. Most local authority officials are aware of these provisions, but seem reluctant to take advantage of them even when there are situations in which their councils could clearly benefit from them. It is up to the Ministry of Local Government to take the lead in educating local authority officers about the possibilities and procedures for exploiting the opportunities available to them in the interests of greater efficiency. It would be possible to devise some incentives to encourage interjurisdictional cooperation in cases where it is appropriate.<sup>56</sup>

The capacity of other ministries that work with local authorities should also be augmented. Insufficient recurrent resources and inadequate staff are the

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<sup>55</sup>It may be necessary to consider options for reforming the Local Government Act because some of the provisions of the Act can be conservatively interpreted to proscribe meaningful decentralization.

<sup>56</sup>It would also be efficient in some cases to use the regional development authorities to facilitate the provision of certain services over multiple local authority jurisdictions. Some additional regional development authorities may need to be created to serve areas where they do not currently exist.

principal reasons for some of the problems discussed earlier, such as the delays on the part of the Ministry of Lands, Housing and Physical Planning in revaluing land and of the Ministry of Water Development in approving plans for water projects.

There is a lot of unrealized potential in the District Focus for Rural Development strategy, and the central government should try to tap it. In recent years, there has been much closer interaction between local authorities and the provincial administration because of the District Focus, but much more effort needs to be made in this direction. Although local authorities may feel infringed upon by District Development Committees, there are certain important advantages to having a close relationship with the provincial administration, and the goal of coordinating all development projects in the districts is a worthy one. For the strategy to be more successful, however, the relationship between local authorities and the District Development Committees must be clarified, and a well-articulated set of guidelines for inter-council cooperation and coordination should be developed. The DDCs could also help local authorities to obtain financing for certain types of projects. If a more effective and well-defined role for the DDCs vis-a-vis local authorities can be developed, great benefits for residents of both the local authorities and the districts in general may be realized.

#### Local Managerial Reforms

Whatever other steps the Government may take to strengthen local authorities, it will be necessary to deal with administrative and managerial constraints if the local authorities are going to be able to operate effectively. Improving service assignment, instituting new sources of local authority revenue,

and streamlining MLG procedures will not have the intended effect without an improvement in the way local authorities are managed. Some of the needed reforms can be initiated by local authorities, but support and incentives from the central government are likely to be required in many cases.

As discussed earlier, accounting procedures in Kenyan local authorities are unnecessarily complex and diverse. They should be simplified and standardized to facilitate better financial management, so that reliable financial information is available.<sup>57</sup> This implies that auditing of local authorities by the central government must also be conducted in a more timely fashion.

The MLG and the local authorities should jointly devise and institute better revenue and expenditure control management techniques, including budgeting and planning, cash flow management, and strengthening the role of the internal auditor. These procedures should be implemented on a rationally designed, step-by-step basis. There is no sense, for example, in requiring local authorities to prepare three-year forward budgets if they are still unable to prepare a single year's budget properly.

The central government should intensify its efforts to train local authority officers and employees at all levels, and should formally institute relevant training for councillors as well. The training should be on-going and, in some cases, on-site in order to have the best possible impact. Incentives for promotion and advancement as well as penalties for dishonest behavior should be implemented in an effort to increase staff productivity.

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<sup>57</sup>The MLGPP should use the new accounting system to develop a time-series database on local authority finances. This type of information will facilitate the work of the Ministry in monitoring the financial position of local authorities, developing guidelines for setting tax rates and charges, and establishing revenue collection targets for the councils.

The difficulties of revenue collection are probably the most crippling of all local authority administrative problems. The Ministry and the local authorities should institute policies designed to strengthen local authority revenue collection and expand enforcement staff and techniques, including the solicitation of formal cooperation from the Kenya Police and the introduction of better collection and monitoring procedures. Institutionalized cooperation between the local authorities and properly empowered enforcement authorities could go a long way towards improving council revenue collection capabilities.

The pocketing of public funds by local authority employees could be somewhat reduced by hiring better screened and better trained collectors, rotating and monitoring collectors and enforcement officers, instituting better pay and bonus systems for more productive revenue collectors, and where possible, instituting checks on and control of the revenue-collection process. It would be extremely helpful, for example, to institute multiple record-keeping and cross-checking of receipts and records for revenue sources where this is feasible.

Local authorities clearly need stronger enforcement powers for land rates, and a local court system for local matters would greatly expedite local authority collection proceedings. The councils would also benefit from a pool of trained lawyers who had experience in land rate recovery cases. As many local authorities could not afford a full-time advocate, it might be possible for the MLG to retain a group of advocates, who could be hired out on a fee-for-service basis to the local authorities.

The MLG should institute a system for regular monitoring of the relationship between local authority officers and elected councillors in order to deal with the problems in this area discussed earlier. One of the major problems is the exertion of political pressure for certain expenditures to be made or

certain taxes not to be collected. Pressures for spending on favored activities will never be eliminated, but improved guidelines for project feasibility studies and evaluation can help to some extent by formalizing procedures and standards for project selection. Better auditing and MLG review of projects might also help reduce inefficient spending. On the revenue generation side, some of the reforms discussed earlier, such as greater standardization of allowable revenue sources, explicit guidelines governing the periodic increase of tax rates, and better and more independent auditing, should reduce, to some extent, local political manipulation of revenue collection.

It is important to emphasize that many of the reforms suggested here are highly interdependent. For example, giving local authorities access to additional sources of revenue will not be very successful in making them more effective if local managerial capacity is not enhanced and various intergovernmental constraints are not relaxed. Unless a comprehensive package of mutually supporting reforms are initiated, significant results should not be expected.

#### Recent Local Government Reform Efforts in Kenya

Despite substantial rhetoric about strengthening local authorities, few concrete policies towards that end were implemented during Kenya's first two decades of independence, as discussed earlier. During the past five or six years, however, local government reform efforts have gone beyond plans and prescriptions outlined in central government policy documents and consultant reports. Although there is still a long way to go, the Government has taken a number of positive actions towards meeting its objective of strengthening local authorities in support of the rural-urban balance strategy.

The Ministry of Local Government has been developing a large-scale local authority training program during much of the 1980s. A series of workshops on local authority finances and management for senior administrative officers and elected councillors were developed with USAID technical assistance from 1983-87. These workshops were held in week-long segments either at hotels or the Government Training Institute (GTI) in Mombasa. More recently, a mobile training unit has been developed on a pilot basis with GTZ assistance. The purpose of this unit is to work with local authority officials on site in their council headquarters.

With USAID assistance, the MLG also instituted the Local Authority Development Programme (LADP) as a planning tool in the mid-1980s. LADPs are capital expenditure plans which outline the long-term investment projects of local authorities and assess their capacity to finance them. They were developed on a pilot basis but are now being required of all local authorities. The technical assistance provided by MLG as the local authorities are drafting the LADPs also helps to train local authority officials to do simple planning and feasibility analysis.

During the period 1985-89, MLG has developed a set of manuals designed to help local authorities formally plan and implement capital development projects. These manuals cover all phases of the implementation process, including preliminary feasibility studies, designs and costings, tendering, construction monitoring, and post-construction maintenance. They have proven very useful to local authorities and are expected to provide guidance for district-level projects as well.

In 1987, the Government commissioned a study funded by the World Bank to explore options for reforming and revitalizing the Local Government Loans

Authority. Several draft reports have been received and reviewed by Government, and the consultant has recently submitted a final report for Government's action. Thus, some action to improve local authority access to capital should be forthcoming in the next few years.

Another important reform issue is being explored with the Ministry of Local Government's recent commission of a consultancy to design and test on a pilot basis in a number of councils a standardized and simplified accounting system for local authorities. This consultancy is only getting underway in the second half of 1989, so results and recommendations for action will not be forthcoming for some time.

Government is also demonstrating its commitment to local authorities through priorities being emphasized in the development of new donor projects. World Bank urban-focused projects in the past have focused on large-scale infrastructure construction with insufficient regard for the issue of the capacity of local authorities to maintain and operate the newly provided facilities. In contrast, the proposed focus of the Bank's Fourth Urban Project, which has been agreed to in principle by the Government of Kenya, is to strengthen the institutional capacity of local governments and the central government ministries that work closely with them.<sup>58</sup> A World Bank mission to draft a local finance sector study in preparation for the Fourth Urban Project is expected to begin its work in February 1990.

The Government has attempted to deal with the problem of insufficient local authority revenue by extending the use of agricultural cess to all county councils and instituting a service levy that primarily benefits urban local

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<sup>58</sup>A joint Government of Kenya-World Bank aide memoire of June 1987 indicates the general agreement of both Government and the Bank that local government reform should be a major focus of the Fourth Urban Project.

authorities during 1987-89.<sup>59</sup> Although the timing of this decision to broaden local authority access to revenue is questionable because it was done before making institutional and managerial reforms sufficient to ensure that these resources are collected and well spent, the Government has shown that it recognizes the need for local government reform and that it is willing to take certain actions towards that end.

While the above initiatives are a step in the right direction, it must be acknowledged that most of them have run into problems. The MLG/GTI-Mombasa local authority training program was suspended in April 1987, and it has to date not been fully resumed. The research efforts on the Local Government Loans Authority and standardized accounting system have been subject to numerous delays over the past several years. This seems to have occurred largely because of bureaucratic delays rather than significant opposition to these initiatives. Finally, efforts to finalize plans for the World Bank's Fourth Urban Project have been moving in fits and starts for more than two years. The problem does not seem to be powerful forces fighting against the initiative. In this case, there has been a struggle between the Ministry of Local Government and the Ministry of Lands, Housing and Physical Planning for control of the project, coupled with a

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<sup>59</sup>The Cabinet in 1987 approved the application of a fixed county council cess of one percent on a standardized set of marketed agricultural produce by-laws were prepared in 1988 by the Ministry of Local Government and the Office of the Attorney General, and most county councils have now adopted these by resolution. The Local Authorities Services Charge Act (No. 6 of 1988) authorized the local authorities to levy a charge on all residents and businesses within their jurisdictions. The charge on residents ranges from Ksh. 10 per month for those with a monthly income of between Ksh. 700 and 999, to Ksh. 100 per month for those with a monthly income in excess of Ksh. 5,999. The annual charge on businesses varies by type of business establishment and by type of local authority. Different charge schedules apply in Nairobi, other municipal councils, town and urban councils, and county councils. The local services charge came into effect on 25th November, 1988, so that it is still too early to assess the impact of the charge on local authority revenues.

number of redefinitions of ministerial responsibilities that have affected both of these ministries.

### Conclusion

Despite the historical tendency towards centralization and recent bottlenecks that have been encountered in developing and implementing local government reform initiatives, there is reason for some optimism that local government in Kenya will be strengthened in the future. In the years since independence, the Government has seen many decentralized development projects collapse or function poorly because there was not adequate administrative, implementation, and recurrent financial capacity available at the local level. Kenya can no longer afford such extensive waste of resources. The country's population and service demands are rapidly growing at the same time that central government ministerial budgets are being cut to meet donor conditionalities, pointing to the possibility of greater reliance on local authorities. In addition, it is being increasingly recognized by central government officials that local authorities have an important role to play in implementing national development policies, such as the rural-urban balance strategy, which crucially depends on the ability of local authorities to function effectively.

Many Government of Kenya policy makers and influential donors seem convinced that significant reforms are required to revitalize the institution of local government, so that some degree of reform is likely to be realized in the next few years. The reforms outlined above that are already being implemented are a step in the right direction, but these will have to be moved forward much more vigorously. In addition, other comprehensive measures along the lines of those set forth earlier in this paper will have to be undertaken if local

government in Kenya is to be effectively revitalized. Success in this endeavour will require a serious commitment and cooperative effort from local authorities and the central government, as well as additional support from the donor community.

In the interests of generating a consensus on the need for local government reform and developing a coordinated set of policies on this matter, the Government of Kenya should consider appointing a special commission of enquiry to make a comprehensive assessment of the role of local authorities and how they currently fit into the overall administration of development. Together with the reform efforts already underway, the appointment of such a commission would give a clear message that the Government is serious about designing effective local government reform, and the commission would provide detailed information that would give the Government a strong basis on which to decide how to proceed.

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