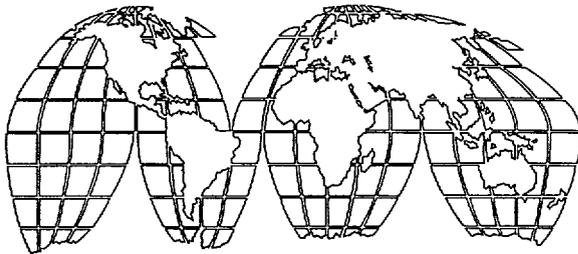


PN-ABX-883
98168

USAID Working Paper No. 213

Center for Development Information and Evaluation



Civil Society and Democratic
Development in Kenya:
A CDIE Assessment

September 1994

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

Introduction: Economy, State and Civil Society in Kenya

One might expect that Kenya, with its relatively advanced economy in the sub-Saharan African context, would have a strong civil society -- that Kenya might be among the leaders in African transitions to democracy. Unfortunately the Kenyan case is not that simple. The admitted richness of civil society organization is accompanied by considerable tension, often along ethnic lines, that severely compromises civil society cohesion and strength. And like other societies that have a legacy of authoritarian rule, civil society organization has been severely handicapped by a legacy of repression. Hence the evolution of civil society is not a "natural," "evolutionary," or "linear" process. Part of our task in this section is to point out the "unnatural" processes that have conditioned the basic character of civil society. Later in this report we will indicate how donor interventions might strengthen civil society organization.

The roots of modern Kenyan economy and the basic character of civil society are found in the turn of the century English colonial decision to invite European and Southern African agricultural settlers in the hope of settler production acting as the backbone of the colonial economy and, more immediately, helping to pay off the cost of building the railway from Uganda to the coast at Mombasa. Settlers did indeed arrive and once in place they were in a good position to argue for special attention from the colonial state. By the 1920s special access to the state paid off for the settlers and made them the cornerstone of the Kenyan economy. The result was a long-term pattern of an ethnically defined large-holder export sector with considerable autonomy and political weight able to garner state support.

In order for the settlers to become dominant economically they had to be protected from open competition with Kenya's peasantry in both domestic and export markets. The state was called upon to distort market access in the settlers' favor and especially distort labor markets in order to guarantee low cost labor. The major policy consequences involved alienating vast amounts of land to settlers, a labor pass system, and a host of measures that insured

limited development of peasant areas in order that residents offered low cost labor to settler agricultural enterprises. But not all Kenyans experienced the development of a settler-based economy in similar ways. Capital accumulation did occur, sometimes under pre-colonial dynamics, and especially in Kikuyu areas where commercial opportunities emerged and missionary education was concentrated. (Cowen) South Asian immigrants also accumulated capital in trade and petty commerce. But they were prevented by the regime from moving into agriculture and they were discouraged from branching out into manufacturing. They were at one remove from both African and settler social worlds, and while their intermediary non-indigenous position in the economy brought them some prosperity, they were also quite vulnerable politically.

Ethnic identity was used to protect and advance individuals in multiple competitive situations in the colonial economy. Ethnic consciousness had multiple roots in uneven regional, and hence ethnic, development in the colony, colonial reification of ethnic boundaries for administrative purposes, and in an educated leadership that sought followers on the basis of ethnic identity.

Even after WWII the colonial government remained opposed to any significant African political role in colony politics beyond the local level, while the settler political presence was felt in their agricultural organizations, county councils, and in prominent advisory roles in the state. But gradual political radicalization of the African population in Kikuyu-dominated Central Province, among squatters and workers in settler areas, and among the growing working class in Nairobi, brought a very different political situation. Because the colonial state failed to grant some political victories to middle class moderates led by Jomo Kenyatta and grouped in the Kenya African National Union (KANU), with their belief in constitutional methods of protest, the political torch passed to land radicals more attuned to direct action tactics. This dynamic coupled with over-reaction by the regime led to civil war and great loss of life.

The land radicals lost what was termed the Mau Mau war by 1955 but they nevertheless profoundly influenced the colonial regime that noted the high cost of colonial presence and decided that the settlers were no longer a viable political base for the regime and hence could no longer be the base of the economy. The independence agenda was brought forward in time while the regime built new alliances with moderate nationalists. Peasant agriculture, especially a better off "property respecting" yeoman peasantry, was now encouraged as were African traders and import substitution industry behind Asian or multinational corporation investment. Most importantly, Africans were brought into the largeholder export sector as guarantors of future political moderation. All this required an even more intrusive role for the state in reshaping the economy and civil society.

Independence came in 1963 driven by a civil society that increasingly asserted itself as part of broad-based nationalist political mobilization under a well-codified process that included elections, of transferring power from colonial to independence regimes. The early years of independence were marked by both significant economic growth and growing state repression. The land radicals gradually lost their foothold in some KANU branches in part due to the carrots and sticks of patronage and harassment by the regime and party at the center. (Furedi) The large-holder sector remained largely intact because it was Africanized and in the process some of the political onus of that sector was dissipated. About 20 percent of this land was divided up for small-holder purchase, but much of the rest was sold on a willing-buyer willing-seller basis mediated by World Bank loans through the Kenyan government. Wealthy Kikuyu benefited the most because of the ethnic base of the Kenyatta regime and their historical ability to accumulate capital.

The 1960s saw steady economic growth coupled with growing state repression that constrained civil society and compromised democratic rights won in the agitation for independence. The Kenya African Democratic Union (KADU), the main rival party to KANU, dissolved itself as its leaders, including then party leader, Daniel Arap Moi, were incorporated into KANU at high levels. The

populist left led by Odinga Oginga, was gradually pushed out of KANU before starting its own party, the Kenya Peoples Union (KPU), only to see it banned in 1969 as Kenya began a 13 year period as a de facto one party system. Agriculture did well as the government paid attention to the long repressed small-holder sector. Ethnic politics were prominent as the Kikuyu bias of the regime upset many, but a bouyant economy, expanding social services, and a post-colonial ideological climate of opportunity appealed to a rising middle class based primarily in growing state employment. The 1970s brought a slowing of smallholder growth, but an expansion of import substitution industrialization albeit with little employment generated. There was a mushrooming rural self-help movement involved in constructing social service infrastructure especially in primary and secondary education and in the health.

Kenyatta died in 1978 and Vice-President Moi came to power facing oil shocks, soft export markets, and an overall an economic slow-down. Similar to other African and Latin American states, Kenya went into debt as seeming short-term economic difficulties hardened into a long-term crisis. With the slowing economy Moi had less "room" than did Kenyatta immediately after independence, to insert his comparatively less well off Kalenjin ethnic cohorts on departing settler land, in prominent positions of ownership in the private sector, and in public sector employment. For the first time in this century the regime's dominant ethnic identity did not mirror leading elements of the large-holder sector or the urban middle class. This fact would lead to growing tensions between the state and civil society.

Facing a sputtering economy, limited patronage opportunities, and with the real income of the urban middle class falling precipitously and generating escalating political disaffection, the Moi regime declared Kenya a de jure one-party state in 1982. An attempted coup d'etat soon after brought more repressive tactics that further constrained civil society organization. The range of public debate was further circumscribed by the banning of some publications, the harassment and imprisonment of reporters and editors and the close regulation of public assembly. Detention and

sedition laws were increasingly used and torture was practiced. Ethnic tensions also grew as the regime became increasingly uneasy with growing urban middle class (and predominantly Kikuyu) dissent. Because the leadership of many NGO organizations were Kikuyu or individuals who were not beholden to the ruling party or the regime, civil society was all but officially defined as a zone of opposition.

President Moi's sudden December 1992 declaration of multiparty elections followed closely upon the decision of the Paris Consultative Group (CG) of donors to withhold \$350 million in program aid including \$28 million from the United States pending significant progress on economic and political reform. The CG decision followed the steady growth of an increasingly bold civil society demanding democracy. Initial expectations were that the Moi regime would lose the elections, but as 1992 wore on opposition forces increasingly fragmented into three major parties pervaded by ethnic divisions. Meanwhile regime-sanctioned ethnic cleansing was not sufficient to unite the opposition. On the contrary it appeared to fan ethnic tensions throughout civil society and in the process raised "the Kikuyu question." Although the Kikuyu were the primary victims of attacks and displacement, or perhaps because they were, there was a tendency for many non-Kikuyu to minimize the suffering, or look for reasons that would make the clashes "understandable" such as their presumed benefits from Kenyatta regime bias, their general economic "head start," so-called aggressive character, etc.

The December 29, 1992 elections returned Moi to power with 36 percent of the vote while his party, KANU, garnered a clear majority of Members of Parliament (MPs) with 108 out of 188 seats which included 12 MPs the President is constitutionally allowed appoint. No Kikuyus, and only one Luo in KANU, won their seats and consequently the regime nominated former MPs from those ethnic groups, (Judith: please let me know the 1989 census totals for the four or so biggest ethnic groups), most of whom lost badly in the election. There was an unusually high turnover of MPs and an unprecedented 6 female MPs were elected.

The election was not played out on a level playing field: election arrangements were made without the structured participation of the opposition; the supervisory Electoral Commission was appointed by the regime; the voter registration period was abbreviated; many young people had difficulty obtaining identity cards; the provincial administration sometimes worked hand in hand with KANU and sometimes harrassed opposition politicians and prevented their meetings; the regime and ruling party monopolized the electronic media; and although the press was less constrained than before, editors were sometimes detained, magazine issues were occasionally confiscated, and some reporters were threatened and bribed. It also appeared that a good deal of money was printed or brought into the country, and especially by the regime, for election purposes.

The very grudging political opening accorded by the regime and the reluctance of President Moi to fully endorse multiparty competition -- indeed his continuing patter of blaming a host of social and political problems, including ethnic tensions, on what he sees as donor imposed multipartyism -- gives some indication of the current rather pained position of civil society organization vis-a-vis the state despite the political opening. The post-election situation far from realized the high hopes of many in the opposition. Those hopes included: less corruption; less ethnic tension; better regime management of the economy; a more elevated policy debate; and greater regime accountability guaranteed by a more vibrant civil society enjoying expanded civil and human rights.

While observers differ in their assessment of progress along these dimensions, the disagreements tend to be over whether there has been any progress, and whether there might be back-sliding in certain arenas. All would acknowledge the authoritarian continuity albeit in a multiparty context. But at the same time most would agree that there is room for a "public voice" and a degree of civil society organization that was not possible in the recent past. Several of our conversations were punctuated by the comment that "...we could not have talked like this a few years ago." Some would

argue that the political opening, multiple parties, and the election gave a degree of legitimacy to debate, challenge, and disagreement with government and ruling party personnel at all levels of society. There is somewhat greater political knowledge and awareness that should neither be exaggerated nor ignored. Most would grant that while there have been precious few tangible policy returns from all the talk, but the talk, and considerable civil society organization growing out of it, are necessary for any further progress. It is increasingly understood that the democratization process is a long term process and it necessarily involves the strengthening of civil society organization and its advocacy role.

The Basic Character of the State and Civil Society

The Kenyan state is not just authoritarian, meaning that it lacks basic democratic attributes and processes such as truly free elections and freedoms of voice and organization. The state practices the art of corporatist incorporation to a degree as in its relationship to the Congress of Trade Unions (COTU) which will be discussed below. The state is also deeply patrimonial and both contributes to and reflects broader clientelist processes that pervade Kenyan politics. The Kenyan state has long been used for personal and collective economic and political advance -- efforts to, in a sense, "privatize" the state. Most observers would argue that government corruption has grown more pervasive over the years with the scale of high level corruption, as indicated by several well-publicized scandals, reaching breath-taking proportions. Although the political opening of the past two years has afforded greater public knowledge of high level corruption, it is not yet obvious that this understanding has had a major impact. Collective economic and political mobilization occurs primarily, though far from exclusively, along ethnic lines. Although the language of ethnic protection and advance at times masks and interacts other interests (eg. social class, region, and leadership survival tactics), ethnic discourse and organization, albeit informal, is a pervasive fact of Kenyan politics.

The Kenyan state has undertaken a variety of repressive measures that has distanced it from civil society. But at the same time

clientelism and ethnic considerations "cross the borders" of state and civil society with ease and as a result calculations and behavior of persons in the state and in civil society may be more similar than different. There is a degree of accountability of state to civil society, but accountability is restricted to a very narrow range of public policy considerations -- mainly jobs and the location of infrastructure development. It is also riddled with ethnic calculations and it involves relatively few people, again often ethnically chosen. The prominence of ethnic bias in both state and civil society organization also severely limits the legitimacy of organization in both arenas and as a consequence it inhibits trust throughout the society at large.

Public policy debate is attenuated in part because of historical state repression with the consequent difficulty of civil society developing institutions that challenge state dominance of information as well as both policy-making and implementation functions. But policy debate is also muted because of ethnic consciousness that privileges discussion of returns to ethnic groups over discussion of the intricacies of policies themselves. Because politicians are unable to monitor all policy, and deliberative arenas are few due in part to historical centralization of power and repression, there is considerable latitude for bureaucratic decision-making that is also likely to reflect ethnic bias due to the uneven representation of ethnic categories in different bureaus of the state. In the current political context the regime believes the bulk of civil society organization is led by ethnic rivals -- that civil society is not simply a repository of rival opinion over an array of public policy issues, but rather an ethnic and opposition redoubt out to hobble the regime at every turn and replace it as soon as possible. Regime ideology trumpets a brand of edgy nationalism requiring social unity on the regime's terms which, in practice, amounts to an deeply anti-pluralist perspective. Despite the turn toward a multi-party structure, the regime is reluctant to cede political space to civil society organization it does not control. This is the difficult political context that civil society organization must negotiate in contemporary Kenya

The NGO Coordination Act of 1990 as Catalyst and Context

The passage of the NGO Coordination Act of 1990 was an important moment in the evolving relationship between the state and civil society in Kenya. It was a focus of escalating tension between the Moi regime and NGOs and it culminated in something of a face-off with NGOs trying to re-shape their enabling environment and contribute to the democratization process, and the regime trying to put the burgeoning NGO sector under legal, administrative, and political wraps. The result was something of a compromise that we will access for lessons that might inform our discussion of specific sectors of civil society, its relations with the state, and the democratization process.

NGOs in Kenya have deep roots in a host of pre-colonial mutual aid institutions at the community level, some of which remain in recognizable form, and others which have all but disappeared. Our focus will be on so-called modern NGOs that exist to varying degrees "above" the community. Many of them had international origins and began in the colonial period as welfare and service providers, and were often religious institutions involved in education and in health activity. As urbanization spread indigenous mutual aid NGOs sprung up in cities. And in addition to traditional womens mutual aid groups, womens associations appeared that were focused on modernizing the roles of women in the domestic sphere.

After independence the structure and strategies of NGOs changed appreciably. There was a gradual shift of organizational emphasis from welfare provision to community involvement and development, international NGOs were gradually Kenyanized, and increasing amounts of money from foundations, donors, and international NGOs flowed to NGOs. In the meantime Kenya's much discussed Harambee ("let's pull together"), or rural self-help, movement engaged in the construction of social amenity infrastructure, expanded enormously along with womens groups that were now less focused upon domestic sphere modernization and more in production and income generation. The Harambee movement to varying degrees taxed local citizens, but it also

sought external funding for construction and especially for recurrent costs. It was deeply political and was enmeshed in patron-client relations from the village level to the highest reaches of government. There is debate over exactly who paid and who benefited from the process, but there is credible survey evidence that the participatory character of the movement led to modest "progressive" results -- that the poor paid comparatively little in construction efforts but often used the resulting services. (Barkan and Holmquist; Thomas) Politically, however, the local groups competed with each other over politician and government favor and hence rarely organized in a collective advocacy manner. On the other hand, the fact of hundreds, perhaps even thousands, of local initiatives in the clientelist framework added up to tremendous pressure on the national Treasury. Social amenity infrastructure expanded well beyond the level desired by the financial bureaucracy. In that sense local initiative may have had a powerful, if "unconscious" advocacy impact -- one that contributed to "breaking the bank" in the austerity of the 1980s. But clientelist politics reinforced political hierarchy even as the experience of local organization subtly undermined it. Harambee was a double-edged political sword.

The fairly stable regime relationship with the quite atomized NGO sector gradually grew more fraught and unstable as the 1980s wore on. (Ndegwa) There was a growing regime fiscal crisis and progressive weakening of state administrative capacity. At the same time, and sometimes in response to state decay, the number of NGOs increased steadily to the point that there are now well over 400 registered groups above the community level. (cite Ngethe & Kinyangi figs.) NGO numbers also increased because of the managerial skills the growing middle class faced declining employment markets in the private and public sectors and were now more willing to initiate or join NGOs. Meanwhile structural adjustment philosophy and policy turned donor attention away from the faltering and increasingly corrupt state to NGOs as vehicles for the advance of several key donor values including efficiency, probity, pluralism, and democracy. And as muffled political dissent arose in a repressive single-party context, it was

Inevitable that NGO organizations would have an air of "opposition" about some of them.

Responding to these trends the government began to reign in NGO autonomy. In 1986 NGOs were required to submit project proposals to the relevant level of the development council hierarchy which was dominated by government personnel. The government was arguing for coordination which NGOs experienced as control. Government also wanted NGO external funding to be channeled through its fiscally impoverished Treasury. And, most worrying of all, the President warned of "subversives" in the world of NGOs which strongly signaled that they were in political disfavor -- a perception that immediately radiated throughout the political arena and the bureaucracy. In 1990 the NGO Coordination Act was quickly pushed through Parliament with several measures that the NGO community objected to including a policy board strongly weighted in favor of government representation; ministerial authority residing in the Office of the President and internal security, and not with an economic ministry; the requirement that NGOs must renew their registration every five years; and NGO Board decisions could not be appealed to the courts.

In response to the government initiative the NGO community had to "come from behind" because they were caught completely off-guard. It was the Act, then, that prompted NGOs to "find each other." Up to that point they were not only an unwieldy grab-bag of interests and philosophies, they operated without a legal framework, they were registered under a variety of rules and regulations, and they had little awareness of each other, let alone of their collective interests.

The next two years saw the NGO community organize itself into a network, choose a representative group of leaders, and bargain with government -- in particular the Office of the President and later the Attorney General. The NGO group found the negotiations very difficult. Agreements or understandings that they thought they had with government about the specifics of implementation and of amendments to the Act tended to break down, leading the NGO groups to evolve new tactics including lobbying donors who

became upset at the government response. Eventually the NGO network threatened a boycott of the registration process believing they could not function under the proposed legislation.

The bargaining and negotiations were ultimately concluded and the NGO Network could claim some success although several NGO leaders remain very uneasy. Parliaments passed amendments that allowed for redress in the courts from Board decisions; the need for registration renewal every five years was dropped; and the NGO Council was gazetted as the self-governing arm of the NGO sector. **(spell out Bd and Council distinction)** The case is an example of civil society advocacy having an impact not only on a discrete government action, but also on the parameters of the NGO enabling environment. Stephen Ndegwa spelled out the reasons for their partial success. (Ndegwa) Collectively NGOs commanded a large amount of money -- one source estimates \$200-\$230 million in 1989 plus an additional \$150 through international religious organizations -- that bulks large in particular communities and sectors. (Krystal) As a result government could alienate NGOs only at the cost of the loss of important service delivery. The NGO Network also benefited from the key support of major donors, the momentary vulnerability of the single-party regime under seige from democratization forces, the actual and potential attention of the international press, and the dedication and organizational and tactical sophistication of a core of NGO leaders.

The NGO victory was decidedly partial but significant. The government march toward controlling NGOs was stopped, and government was forced into a bargaining situation that they worked hard to avoid. But what does this case signal for the future of civil society and state relations? The NGO sector was able to strike a blow for democratization, but the several reasons for its success were rare if not unique. And the NGO sector, like civil society as a whole, is by nature diverse, divided, and only very loosely coordinated. Nevertheless a small, if defensive, step was taken and the success gave heart to many in the sector as the new rules came on line.

The NGO Council

and the success gave heart to many in the sector as the new rules came on line. Organizations have been registered with greater ease of late, publications have emerged, and meetings have been held, but the instability of the one-step-forward one-step-back situation is illustrated by the fact that on the one hand organizations have been registered with greater ease, but on the other hand during our visit the President called for the vetting of seminars to screen out those with political agendas that are disguised as non-political in order to obtain licenses

The NGO Council

The NGO Council was born in, and survived, a kind of trial by fire. But at the time of our study, the Council was still an interim body with the inevitable financial uncertainties plaguing the small staff and its energetic director. The temporary character of the Council has found some foundation in the devotion of many on its Executive Council, but the future is uncertain. Donors have held back in part because the Code of Conduct for the NGO sector has only just been accepted by government and NGO approval is the next step. Legal and administrative uncertainties, and maybe the inevitable let down of the crisis aftermath, have meant that roughly half of member NGOs are behind on their payment of dues. Until the financial ground is more secure the Council will be unable to develop an array of services to member organizations that can garner their loyalty and support. However the Council has hosted two successful workshops on fund-raising and financial sustainability that are a constant headache for most NGOs.

If finances are available the plans of the Council are ambitious. One prominent NGO figure would like to see the Council evolve into nothing less than a national forum on good governance. There are requests from member NGOs for fund-raising training. The Council leadership would like to mount a lobbying campaign for tax breaks for individuals and organizations that contribute to NGOs. And some on the Council would like to pursue an important, if politically sensitive, aspect of the government imposed "disabling" environment for NGOs, namely that despite registration NGOs still require meeting permits. **(List others)** Clearly many, if not most, of the diverse organizations and objectives in the NGO world can find something in the organization for themselves. But there is

worry that divisions may grow. There may be struggles over: appropriate tactics and strategies for dealing with government ranging from dialogue to confrontation; over whether advocacy should be a central goal of the Council; over a basic philosophy of action that might be manifest on a continuum from privileging a commitment to community participation, women's rights, and democratic practice on one hand to a premium on service delivery regardless of process on the other hand; over choice of staff that may be bound up with any of the above considerations; over financial dependence and self-reliance on particular funding sources; over the ethnic cast of the Council staff; and over fears of government manipulation of some members of the Board or Council that would undermine NGO unity and prevent effective action.

Virtually all of the major NGO leaders believes the Council could and should play a central role in their future, although all admit there will be on-going debate over the definition of that future. Most believe that in order to avoid deep splits in the Council, and in order to maximize both needed services to member organizations and advocacy efforts, networks around particular interests might well be formed under the Council umbrella. Already there is a Clashes Network of member organizations involved in providing relief and services to those displaced in the ethnic clashes. **(The rest of this section might go into a conclusion/recommendation section of the report)** The Council and special interest networks of organizations in and outside (cf. the AIDS, womens, environmental, and local community-based networks) the Council deserve attention from donors for several reasons. They dampen competition and duplication of effort while they heighten transparency and coordination among groups of similar intent. They also encourage policy research and debate and provide a useful flexibility of advocacy in which different "levels" and kinds of networks may be activated depending on the issue at hand.

The role of NGO networks and intermediate organizations in general (ie. those between the community and the national levels) take on a particular relevance at this moment in Kenya's political life and hoped for transition to democracy. It has become apparent that political parties, the organizations that in theory are expected to bear the brunt of issue-focused advocacy and debate, are not doing it. Instead parties tend

to be a collection of politicians immersed in struggles for office and involved in a host of ethnic and local and personal alliances that have had little to do with national public policy debate. There is, to be sure, largely unfocused debate -- or rather serial speeches -- in Parliament touching upon important policy topics. But closely reasoned argument and debate over specific public policy coming from party and politician sources is notable for its rarity if not total absence. The local level was beyond our purview, but some observers argue that policy-based advocacy has been more effective at that level and that networks of local level NGOs might bulk particularly large and be quite effective.

The organizational vacuum between locality and nation, and hence the very weak advocacy strength at the national level, is not unique to Kenya. In the sub-Saharan African context where strong agricultural, labor, and other economic-based interest groups are rare, and where newly liberated political parties have yet to find a mass base and "policy feet," NGO networking and organization take on special significance. Strong NGO organization at the national level, manifested in the Kenya context by the NGO Council and subsidiary NGO networks, may provide the necessary structure, the effective attentive public, and the key mobilizing forces that pressure political parties to pay more attention to public policy matters.

Human Rights

The concept of human rights connotes the most basic aspects of the enabling environment of civil society. Although the Kenyan government has acknowledged more rights for organization and voice in civil society in the last three years, there are continuing reasons for anxiety. Some human rights activists argue that matters may even be growing worse as the regime devises new tactics of maintaining political control in the multiparty era.

The Kenya Human Rights Commission (KHRC) Quarterly Repression Report for the period April-June 1994 notes an array of government abuses similar to those of the past, and sometimes more frequent. There has been continuing harassment of opposition politicians with 33 arrested in the three month period. At least 22 opposition political rallies or meetings

were prevented by withholding or canceling meeting permits, a government practice that is usually rationalized on the grounds of maintaining public security. In addition there were 17 deaths due to ethnic violence, and 7 journalists were arrested for their professional work.

The KHRC report also asserts that there were 67 cases of torture. In the late 1980s torture was institutionalized in Nyayo House, a prominent government building in downtown Nairobi. The political opening ended this practice, but it appears to have begun again in Nakuru, the largest town in the Rift Valley which is also the site of most of the recent ethnic clashes. Credible sources claim that wealthy individuals have sometimes been "shaken down" for large sums of money. One Western embassy claims to have medical evidence of three torture cases. During our visit there was a major court decision blaming the Police for torture and requiring action to be taken against the perpetrators.

There appear to be new regime strategies that the regime has used in response to the somewhat more open political atmosphere and closer local and international monitoring of abuses. According to an Africa Watch report, "... the government has relied on different tactics, such as extra-legal intimidation and violence, to silence and disempower critics" (Africa Watch, p. 11) The report goes on to say that a "... growing culture of state-sponsored harassment and vigilante violence against opposition leaders and other critics is being encouraged and fostered by the government. The chilling aspect of the violence is that the government usually denies any knowledge ... or responsibility ... attributing it instead to unknown vigilantes." (ibid) Ethnic clashes are an example of this pattern in which the turmoil appears to be simply a matter of neighbor fighting neighbor rather than the state-sanctioned, if not always state-initiated, action that it is.

There also appear to be hierarchies -- rather than a single hierarchy -- within the political and public security administration. Several respondents suggested to us that the real center of security forces was in Nakuru rather than in the formal center of Nairobi. And at times the Police force seems to be pre-empted by the Special Branch controlled by the President's Office. And the Criminal Investigation Division, according to one observer, is not answerable to the Police. There are also persistent

assertations by some observers that there may be two or three private armies run by important politicians. The danger of entrepreneurial initiative from one or more pockets of coercive power is obvious. In addition some observers argue that political administration is increasingly set in motion by clues contained in Presidential speeches and speeches of those who are known to be in presidential favor. In other words the formal policy process becomes all but irrelevant when administrators are eager to carry out the latest Presidential wishes in hopes of gaining reward and notice, and in order to avoid censure. The opportunities for heavy-handed and abusive implementation practices are apparent.

This pattern of administration has obvious negative implications for the protection of human rights. It is sometimes unclear who is in charge or responsible, and hence it is very difficult to know how to gain redress. The pattern has negative implications for advocacy efforts and especially, those dealing with sensitive political matters. Where there is no normal process -- or the abnormal is normal -- virtually all formal political institutions lose credibility as do many politicians and administrators who have formal, but not always substantive, authority.

Lawyers who work in the human rights arena are not sanguine about the integrity of the judiciary and its autonomy from the state. There is hope among some -- and some point to concrete evidence -- that the multi-party era will gradually usher in a somewhat more autonomous judiciary responding to new societal expectations. But others argue that little has changed -- that the rule of law is exceptional rather than the rule. The new expatriate Chief Justice does not seem to have brought changes in a positive direction. But some lawyers believe that he and the Attorney General are at least more accessible and persistent dialogue may even bring about some legal reform. The practice of hiring expatriate judges with contracts only renewable by the regime -- thereby not granting judicial tenure -- continues despite the ample Kenyan talent available. Regime influence over at least some judges appears to be effective if mundane. Some lawyers mount campaigns for judgeships through well-placed patrons with implications for future judicial decisions. Special favors may also be given in the form of scholarships for a son or daughter, agricultural land, urban property, low interest loans

TAK FJ 1222

and mortgages, or a host of other perks of high office. Lawyers report practices that may continue such as calls to judges from high officials before important decisions are made, or required visits to the President's Office. There are a handful of High Court judges that have demonstrated real independence, as with the case of torture condemned by a judge in the case mentioned above, but these kinds of decisions are rare and the more independent judges are usually conspicuously absent from assignments to Appeals panels in important cases.

A more positive direction was signaled by the Attorney General appointment of several special issue task forces charged with recommending proposals for law reform in such areas as childrens law, womens rights, the press ...**(list)** The membership of most of the task forces include a broad spectrum of experts and NGO leaders, and some with strong credentials of opposition activism. The Attorney General told us that he would have preferred to tackle the question of constitutional reform head-on, but that his opinion was not widely shared in the regime and hence the task forces represent a compromise but one that allows considerable deliberation and opportunity for reform albeit in a piecemeal fashion. The task forces are also charged to solicit views beyond themselves and hence they could serve as forums. Opposition spokespersons have generally reacted favorably and have agreed to serve on some of the task forces, but others doubt the sincerity of the government intent believing it is a way to dodge serious constitutional reform. They argue that the major legal problems are quite well known and can be dealt with rather easily given the political will, and that lengthy discussion only presents delays and divides those who would otherwise demand a fundamental post-single party reforms by way of a constitutional convention. The Attorney General told us that the task forces must present their final report by the end of 1995 and that he fully expects a package of legislation well in advance of the mandated elections in 1977.

2. — **(This rather aimless disc. of orgs. will need clear purpose and detail at some point. Gary/Judith: would appreciate a copy of your interview with Kisi)** The number of organizations directly involved in human rights work are relatively few. We will provide sketches of some of them. The KHRC began in 1991 and has a professional

staff of one. Its aim is to monitor and report human rights abuses through its quarterly reports and other publications. It intends to develop a broader-based human rights constituency through grassroots organizing attempts including the means of theater. A somewhat more traditional style of organization is the Kenya branch of the International Commission of Jurists that began in 1974. In 1993 it had 165 members (out of 1200 lawyers in Kenya), a professional staff of two lawyers and five non-management staff, all financed by the Ford Foundation. They have conducted seminars and workshops to educate people on their legal rights, lobbied government over particular issues, published material in the popular print media, published a newsletter, established a legal aid clinic, and worked with others in a national effort to monitor the 1992 elections. The International Federation of Women Lawyers began in 1986 with the aim of promoting human rights and democracy, and offering legal aid to women. They have a staff of two lawyers and others offer their services without charge.

An organization with a long history of efforts to develop a mass-based constituency for human rights is Kituo Cha Sheria (legal aid society). Founded in (?) the organization has a well deserved reputation of successful coalition building at the elite level, but especially of constituency building at the community level by way of broadening the usually strictly constructed notion of legal aid to include action around the causes of de facto loss of legal rights due to poverty and lack of power. The organization has grown to a staff of (?) and has resolutely pursued internal participatory practices internally and in their relations with the community.

Human rights organizations articulate different tactics and strategies for dealing with the government ranging from dialogue to confrontation. But the actual differences of behavior are far less polar. Most believe that pursuing dialogue is crucial if only to prevent a somewhat unstable legal and political situation from getting worse which many fear will occur if the regime retreats, or is pushed, into a logger.

The newer human rights organizations have had difficulty managing finances due to the limited staff time available and the novelty of the task. They are quite dependent upon donors for crucial finance, and they

evince quite different modes of operating, constituency-building, and to some extent coalition-building. Observers in and outside the human rights community will at some times be somewhat cynical about the NGO enterprise alleging a certain degree of turf protection and job creation in the proliferation and expansion of organizations. But the plurality of organization in human rights and other arenas is only to be expected and each appears to be legitimately pursuing special niches. Questions about their financial fragility and the question of how to raise more indigenous funding are important and are related to the broader question of how to develop a supportive and vocal human rights constituency.

The Media

Kenya has three major newspapers. The Daily Nation financed by the Aga Khan, has by far the largest circulation at 160,000 copies daily. It is accused by the government of being a "tribal paper" run largely by Kikuyu. It is also the most critical of the regime although it criticizes the opposition as well. The Standard is backed by the multinational giant, Lonrho, and has recently seen its circulation fall from over 60,000 to around 43,000 due to, according to some, its growing reluctance to criticize the regime. Its increasingly mild political character is probably not accidental. We were shown a letter from Lonrho CEO Mr. Tiny Rowland, asking the Editor to moderate the newspaper's criticism of the regime. **(Gary: Could you fax me a copy?)** It is well known that Lonrho has been quite close to the regime over the years. The poor state of the paper's finances has led to rumors that it might be sold, and the name of a prominent financier close to President Moi has been mentioned as a possible buyer. In the event of this happening an important and reasonably independent newspaper voice would be lost. The third newspaper is the Kenya Times tied to the ruling party. It has been in considerable financial difficulty recently as well as negatively impacted at the managerial level by factional battles within KANU. Its circulation has declined to about 10,000.

On the surface Kenya's media looks reasonably free and open. But the reality is quite different. Just prior to our visit four newspapermen, including the managing editor of the Standard, were put in custody for two weeks and charged with subversion. The charges were then changed to the

more serious one of sedition. The offense was a report that the ethnic clashes in Molo on March 13 resulted in nine deaths. In another case the editor of the weekly newspaper The People, Bedan Mbugwa, a reporter for the paper, and two others associated with the paper were charged with libel and later found in contempt of court because the paper criticized a decision of the Court of Appeal. The paper is financed by Kenneth Matiba the leader of one of the three major opposition parties. The editor and reporter refused to pay the fine and were sentenced to unusually long sentences for contempt of five and four months. Also during our visit an Australian consulting editor involved with computer training at the Daily Nation was suddenly deported. The reason was never stated but may have been due to a bar room denunciation of the President that occurred within the earshot of a top police official. While editors of newspapers and small magazines will admit to worse times in the recent past, they argue that they must walk a fine line in order to survive, and they are particularly attentive to shifting regime definition of sedition and subversion.

After the political opening in December 1991, the press became more bold and several small magazines very critical of the regime appeared and were eagerly read by a news-starved public. But after the election as a result of the weakening of the opposition, its loss of political direction, popular disillusion, the routinization of a degree of public opposition, and the precipitate decline of middle class real income, small magazines have fallen on hard times. Circulation has fallen and about a half dozen have disappeared. The weekly independent and very professional Economic Review with a circulation of about 6000 and said to be backed by a group of wealthy Kikuyu, appears to be viable. The regime-supporting Weekly Review remains, although its circulation has fallen considerably to about 8000 perhaps due in part to its increasingly pro-government line.

The regime's tactics of press manipulation have changed from time to time but the basic methods have included the following: government approval of editors was all but required just prior to the political opening; harrassment of editors that might involve police interviews, physical threats to person and family, monitoring of personal bank accounts, and arrest; occasional phone calls from highly placed government persons suggesting how to handle certain stories although such calls are less frequent of late; libel suits that cost publications a great deal in court

costs; harrassment of publishers for alleged failure to register and following certain reporting procedures; confiscation of copies of publications from vendors which means a loss of money for them and sometimes bringing a reluctance to sell the publication in the future; intimidating or breaking the machinery of printers who are relatively few in number; registering regime disfavor with a publication and thereby discouraging advertisers who fear the loss of government business; and bribing reporters. Some observers believe that recently there has been less direct pressure upon editors and publications and more harrassment of individual reporters. Both carrots and sticks are used -- carrots in the form of the question "what do you need -- money, land, a car?", and sticks in the form of arrest and libel proceedings. The result of these methods over time -- and it is important to note that not all the methods are employed at one time -- is self-censorship. The issue of the clashes is a case of ethnic cleansing that has clearly traumatized the society but has drawn little press attention because of the centrality of the issue to the regime and the risks that the press takes should it address the issue in any depth. That said, however, virtually all participants in the print media said the situation is better than it was from 1988 to 1991 when there was less room for maneuver.

In recent years there have been attempts to create an association of editors but the attempts have floundered due to competition and personal and philosophical disagreements among them, and because so-called establishment newspapers kept their distance from more dissident smaller publications. The Kenya Union of Journalists has tended to stick to bread and butter issues and has not been a strong voice for press freedom. A local chapter of an African journalists organization (name?) is new but may be a stronger voice for the press in the future. The organization is, among other things, interested in developing international regional networks that might respond to attacks on press freedom. At the present time there is no substantial organization with a mandate to advance and protect the freedom of the press in Kenya. When attacks do occur the press is most likely to find support among the several human rights organizations. The government appointed task force on the press has made little progress although there will be efforts by some members to set up a press council to act as a forum for discussion and debate, and assert some self-regulation of the industry.

The electronic media is more directly controlled by the state. There are two television stations, one state-run and one owned by the ruling party. Opposition politicians regularly complain about the lack of coverage of opposition figures and the fact that they tend to be portrayed in a more negative light. Similar complaints are voiced against the sole radio station which is state-run. The radio is probably the last of the media to be opened up to competition and pluralism because it is the media with which the majority of the population is most familiar.

situation is better than it was from 1988 to 1991 when there was less room for maneuver.

In recent years there have been attempts to create an association of editors but the attempts have floundered due to competition and personal and philosophical disagreements among them, and because so-called establishment newspapers kept their distance from more dissident smaller publications. The Kenya Union of Journalists has tended to stick to bread and butter issues and has not been a strong voice for press freedom. A local chapter of an African journalists organization (name?) is new but may be a stronger voice for the press in the future. The organization is, among other things, interested in developing international regional networks that might respond to attacks on press freedom. At the present time there is no substantial organization with a mandate to advance and protect the freedom of the press in Kenya. When attacks do occur the press is most likely to find support among the several human rights organizations. The government appointed task force on the press has made little progress although there will be efforts by some members to set up a press council to act as a forum for discussion and debate, and assert some self-regulation of the industry.

The electronic media is more directly controlled by the state. There are two television stations, one state-run and one owned by the ruling party. Opposition politicians regularly complain about the lack of coverage of opposition figures and the fact that they tend to be portrayed in a more negative light. Similar complaints are voiced against the sole radio station which is state-run. The radio is probably the last of the media to be opened up to competition and pluralism because it is the media with which the majority of the population is most familiar.

Religious Institutions

Religious institutions are key civil society organizations and they played a pivotal role in the post-1985 struggle to open-up the political system. Their role was unique because they combined three attributes: political and financial autonomy from the state,

national scope, and a mass base. The vast majority of Kenyans profess Christianity or Islam with about 70 percent claiming Christian belief. (Africa Watch, p. 217) Christian churches have more than a spiritual presence. They have long been engaged in financially supporting, and to varying degrees managing, crucial community services, especially in education and health. In most rural communities churches are the strongest and most prominent institutions.

While religious institutions have a capacity to organize and voice interests at the national level, it must be noted that they are also diverse in philosophy and social base and they are competitive among themselves. They tend to be more and less well rooted in different parts of the country and hence members of particular ethnic groups may bulk large as members and as leaders. Because ethnicity plays such a prominent role in Kenyan politics, as soon as churches enter the political realm they will inevitably be accused by the regime and other sources as trojan horses of tribalism. The churches that have been significant national level political "players" have tended to be so-called establishment churches, and especially the Church Province of Kenya (CPK) which is Anglican, the Presbyterian church (PCEA), and the Roman Catholic church. These churches have international connections and have particularly strong bases in the middle class but reach well beyond that class to people of very modest circumstances. Churches with a more exclusively lower class base tend to be more regime supporting or apolitical, but some among them have challenged or questioned authority only to face strong regime pressures and without the international support structures that establishment churches enjoy. (Africa Watch, p. 227)

Islam, largely based in the Coast Province, gained a new political visibility in the run-up to the elections. The Islamic Party of Kenya (IPK) was formed and quickly gained a strong popular base built on historical resentment against up-country economic and political power. The government refused to register the IPK arguing that doing so it would legitimate religion in politics, a linkage the government had been arguing against. The government used a variety of harrassment techniques against both the IPK and

its most prominent spokesperson, Sheik Balala, including harrassment, imprisonment, spawning a rival organization, and even training a para-military group to fight it. Whether externally induced or not, significant splits have emerged within the IPK while Sheik Balala has shifted alliances from party to party of the opposition and appears to have dropped much of his populist language that had a strong appeal to the poor.

Religion has widespread legitimacy in Kenya and hence it offers a degree of cultural and political space for dissent that is not shared by most other institutions in civil society. Church organization also offers a unique venue for disseminating political information. For example, pastoral letters of the Catholic Bishops, which have grown progressively more critical of the regime, are read in the vernacular in every Catholic church and act as catalysts of further discussion. The growing national political prominence of churches came about reluctantly and not without a good deal of internal debate and uncertainty. There were precedents for a post-independence church voice at the national level, but the sustained national political role was new and began with the regime declaration of new electoral procedures in 1985 that included (?). These measures plus massive regime vote-rigging in the 1988 elections and growing political repression in general, brought the church to the fore as other channels of dissent were closed. People turned to the church as a last resort. Many church leaders responded believing that it was impossible to hold on to their central moral principles without entering the political realm -- in their view there was no longer, if there ever was, a clear division between what was religious and what was political.

As repression intensified, the economy stagnated, and as real income for the poor and middle class declined, there was a noticeably greater church focus on both the appropriate relation of the citizen to the state and on the regime's role as custodian of the economy. There was a growing sense in church circles that the population had internalized all too well their regime-prescribed role of passivity in the face of the one-party state. It was said that people forgot, if they ever knew, their political rights; and those rights could not be secured if there was only a dim

awareness of what they were. The result was a growing concern for civic education that began with the run-up to the 1992 elections when the churches allied with other civil society organizations in a voter education effort funded by a consortium of donors. At the same time that civic education rose to become a priority task of the church, there was also growing concern about escalating regime corruption and growing mass poverty. It appears that as the political and economic situation worsened, church members and leadership collectively, albeit gradually, defined a new social agenda for the church.

In the late 1980s as church leaders grew more vocal and critical the regime's harrassment of the church grew more intense. There were several notorious instances which galvanized popular attention such as regime attacks on the Rev. Peter Njenga (CPK) who drew popular attention to bloody mass evictions of squatters in Nairobi for reasons of land-grabbing by those close to the regime. Bishop Alexander Muge did not openly call for the end to the one-party state but he frequently condemned corruption, land-grabbing, and vote-queuing. In August 1990 he received a public death threat from the Minister for Labor and three days later he was killed in car-truck crash that was popularly viewed as far from accidental. Verbal attacks on specific church leaders were frequent. The churches were also criticized by the President and by other prominent politicians for their international connections - contacts sometimes referred to as "foreign masters." The government also had some success causing internal division within particular churches leading to demotions of particularly vocal leaders such as the Rev. Timothy Njoya (PCEA). Periodically, and up to the time of our visit, the umbrella organization of the Protestant churches, the National Council of Churches of Kenya (NCCK), has been threatened with de-registration, and its Secretary General has been personally threatened. Other churchmen have voiced their fears as in this 1991 report.

Churchmen who spoke to Africa Watch said that fears for the safety of their families inevitably had an effect on their work. One churchman commented that "my only worry is if they send some people to my house at night. Because then they can

say it was a robbery. And it is very difficult to disprove that.
My family -- that's the only thing that I worry about. (Africa
Watch,
p. 234)

The core of the regime's ideological response to the more prominent church role in politics is the claim that critical church leaders, indeed all critics, introduce division and chaos to the country that may lead to violence and bloodshed. During our visit this theme was voiced by the President during our visit with reference to the horrors of the Ruanda conflict. The President blamed that conflict on democracy and pluralism that served, in his view, to divide and inflame an otherwise peaceable citizenry.

Church political attention is currently on the ethnic clashes, civic education, and the call for a constitutional convention which we will discuss in more detail in our conclusion. In clash areas victims immediately turned to the churches as the only refuge in the face of a hostile or indifferent regime that all but ignored them, sometimes grudgingly provided basic needs, sometimes dispersed them again, proved unable or unwilling to protect them as they tried to return to their homes, or presented obstacles to those attempting to provide relief. The NCKK and the Catholic church stepped in as protectors and providers. The Secretary General of the NCKK claims that about 70 percent of his budget goes to the clash issue.

Both the NCKK and the Catholic are about to begin more intensive civic education efforts. Although the effort is still contested by some in the churches the leadership is convinced of the need. The marginally more open political system since the declaration of multipartyism allows for debate and discussion that would have been foreclosed only four years ago. People expected a great deal from the election. As one churchman said: "We saw it as our D-day. There was a tremendous spirit." In an election aftermath most notable for its authoritarian continuity, only grudging regime dialogue with the opposition and civil organization, and opposition disarray, many in the population at large and in the churches feel let down by all concerned. Thus there is renewed pressure for the

church to play a prominent political role. This view is, however, contested within the churches. Although the political opening and the comparative "freeing of tongues" is real, the opening is seen as fragile and reversible leading some churchmen to champion caution and dialogue as preferred tactics over confrontation and high decible discourse that may prompt a nervous regime to reverse hard won gains.

Civic education efforts are not overtly partisan although regime politicians frequently criticize such efforts for straying into partisanship. Proponents argue that the political opening should be used to discuss issues beyond voter education that was the focus of initial voter education efforts as the election suddenly appeared on the horizon. Many now argue that democracy is not simply co-equal with multiparty elections. Rhw population must be knowledgable about the central issues that concern them like land rights, poverty, and the meaning of structural adjustment programs. One priest said that churches should respond to very basic popular questions like: "Why do prices keep going up?"

etc.

Health/Population/AIDS Prevention

This sector has a significant institutional density and history in Kenya. Evidence gathered from those interviewed make it clear that this is one of the "leading sectors" in the NGO sphere, in terms of institutional maturity and the development of at least the potential for, if not actual evidence of, advocacy. Annex A gives a fuller description of the sector, for which the following summary indicates basic characteristics and conclusions.

I. Institutions. Institutions in this sector range from the large international PVOs like CARE and OXFAM, whose efforts have been first and foremost disaster relief, branching out into preventive/promotive programs; through large indigenous or quasi-indigenous organizations (often with a regional focus) such as AMREF (African Medical Relief Foundation) and the Family Planning Association of Kenya (FPAK); to externally-funded intermediary organizations (e.g., Family Health International, Pathfinder, and MAP International); church-funded service provider networks (e.g., the Christian Hospitals Association of Kenya -- CHAK, and the Aga Khan Foundation's hospital network); an emergent set of indigenous networks (e.g., the NGO AIDS Consortium); and at least two GOK-funded mechanisms designed to link the NGO and government sectors -- the National Council for Population and Development (NCPD) and the AIDS Secretariat.

II. Sub-sectors. At least four distinct sub-sectors can be discerned in this multiplicity of institutions. These include first a large number of traditional medical service agencies -- primarily mission hospitals and clinics, many established well before independence and of overwhelming significance in the sparsely populated areas of the country. This has political implications; these areas of the country are also overwhelmingly "pro-KANU" -- that is, areas where the governing party is dominant. Second in number and length of existence are the family planning service agencies, originally with significant external support but almost wholly "indigenized" at present. Third, there are a handful of relief, famine response and disaster-oriented agencies, many of them international organizations such as OXFAM, the UN complex, and local offices of international PVOs such as CARE. Finally, there are the mushrooming network of AIDS prevention efforts, directed toward spreading knowledge about AIDS and its prevention, as well as assisting the afflicted.

III. Issues Relevant to a Reform or Advocacy Agenda. This sector appears to be one of the least "controversial" of the sectors in the NGO universe, and thus to present the best potential for developing capacity for advocacy on those issues which do transcend the service delivery focus of the initial NGO efforts. The team concluded that the sector not only has the potential for advocacy, but that some of its component NGOs are actively engaged in advocacy, or in plans for imminent campaigns on important issues. It forms one of the leading three or four sectors in the Kenyan case.

There are in fact a large number of significant issues around which NGO advocacy efforts are beginning to emerge. The five most compelling are: youth access to contraceptives and counselling; abortion rights; female circumcision; rape, including marital rape (the latter a very odd concept to most Kenyans, but a growing concern in the age of rampant AIDS); and mandatory AIDS testing by employers. These are clearly human and individual rights issues of the highest degree and several are particularly important to women. The ability of the institutions which comprise the sector to address these issues depend on their characteristics and on the capacity for advocacy, to which we now turn.

IV. Sectoral Characteristics and Organizational Attributes.

Autonomy. Our interviews with several NGOs as well as with the AID staff working on projects and programs in the sector indicate that it is a well-institutionalized arena with a large number of autonomous organizations. Even the relatively recent donor-funded initiatives in pursuit of AIDS prevention have established credentials as cooperative and willing to learn cultural nuances, as well as to establish channels of communication with the Government. While the strategy for the most part is one of close collaboration with the relevant government institutions, the organizations maintain their autonomy in program planning. This is in good part a function of the nature of the sectoral tasks: there are few major vested interests opposed to most health sector goals, either curative or preventive/promotive, with the partial exception of the church, with its reservations in the family planning sphere.

Organizational capacity. There is a large indigenous component in this sector. It has moderate to high organizational capacity, deriving from its lengthy history of service provision in the field. Traditions have been established; recruitment patterns have been tried, tested, and changed when it appeared that the "wrong" cadre of field staff were being used (e.g., the initial reliance on young, well-educated persons as "family health field educators" -- family planning assistants -- was altered as it became clear that rural, uneducated, older couples simply could not take them seriously). Some of the larger institutions -- for example, AMREF and FPAK -- are now beginning to run training courses for the personnel of other agencies. AMREF may be able to play a role in transferring skills in strategic planning to new organizations in need of them.

In addition to organizational capacity, there is an element of professional "standards maintenance" support provided by the professional associations -- the Kenya Medical Association, the Obstetrical and Gynecological Association, and the Kenya Nurses Association. These serve as bridging mechanisms between government and the NGO sector. Medical professionals in the civil service, either in the central ministry or the provincial field services, are also members of the professional associations, i.e., the NGO arena. The

NGO voice carries more weight, stamped as it is with the imprimatur of the professional associations.

Of course, this can be as much of a hindrance as an asset to the pursuit of desirable reforms. The medical profession is notoriously conservative and unwilling to cede decision-making authority to those considered "unqualified" (paramedics, community-based health personnel, and traditional healers). There has been resistance to the community-based delivery agents for family planning devices now being utilized by the FPAK and its networks. There will be further resistance to the efforts now being formulated to equip traditional birth attendants with simple drugs. Nonetheless, the permeation of both the public and the NGO sector with cross-cutting professional associational networks provides a two-way communication which makes it impossible for the NGO sector to be isolated from the policy arena, even should the government wish to so isolate it.

Participation. Since the sector comprises such a wealth of types of organization, general comments their participatory nature cannot be sustained. In the apex-like organizations that we reviewed -- AMREF and FPAK -- decision-making is tightly controlled at the top. For AMREF, there is little that can be pointed to in the way of "participatory" opportunity; AMREF's main view of its own function is as a service provider, on a traditional medical model but with increasing rationalization of the training, accounting, and other organizational functions.

FPAK, on the other hand, has been using both its own and other NGOs' primary networks for its service-provision wherever relevant. These have been much more participatory than the AMREF model. For example, FPAK has used local grassroots community-based delivery agents, generally women, and many recruited from Maendeleo ya Wanawake, the mainstream women's organisation, or other women's groups. These women are reported to have been "empowered" to a degree not anticipated. They are increasingly being incorporated into the local level decision-making network. They are invited to barazas and are being invited to speak, not just on their specific service delivery issues but on the wider spectrum of issues relevant to women; and they are being taken note of.

Advocacy Potential. This same distinction between the two institutions can be seen in the extent of advocacy. AMREF, the large, quasi-indigenous "professional health care provider" has a regional focus which it uses adroitly to avoid being drawn into either local controversy or efforts at squeezing resources out of it for specific Kenyan communities. Its goal is to maintain a completely cordial relationship with the Government, at which it has been successful so far, and not to get involved in a policy reform agenda in any formal way. AMREF claims that its main self-perceived role in the policy arena is the brokering of relationships between other NGOs and the GOK medical establishment, but

that it wishes to steer completely clear of "politics", which is how the term "policy" was interpreted when raised in interview.

FPAK, by contrast, perceives itself as in the forefront of an advocacy campaign on an increasing number of issues that are the logical result of its particular initial service provision focus. These include most particularly the access of young, unmarried people to contraceptives and to family planning (and AIDS prevention) counselling; the right of adult women to seek and obtain legal, medically-supervised abortions; and the campaign to eliminate female circumcision (which is illegal in Kenya, but practised widely in some of its communities).

FPAK is well-positioned now to undertake advocacy on these issues, having a network of field personnel with grassroots credibility and a leadership with well-respected credentials among the medical establishment and the government. This is not to say that the organization's messages are completely accepted. There are still fairly strong pockets of resistance even to the family planning message, both among the conservative churches and those ethnic groups which consider themselves to have been marginalized by their small relative numbers in the population. However, the organization now perceives that further gains in family planning and improvements in the family standard of living require the more fundamental reforms it is now preparing to champion.

Other NGOs in the Sector. AMREF and FPAK have been discussed in detail as somewhat the polar extremes in the sector. What of the other institutions? They are many and this summary is not meant to do justice to their individual programs, targets and accomplishments; rather, the point is to elicit organizational characteristics with relevance for the "civil society" trajectory in Kenya. Two key players with external ties and USAID funding are Family Health International (FHI) and Pathfinder. FHI has developed a collaborative relationship with the Ministry of Health in producing summary data and educational materials on AIDS incidence and prevention. Pathfinder is an international NGO which has funded family planning activities using indigenous NGOs as the actual service delivery agents. Their perceptions about effectiveness in the Kenyan situation reinforce some of the conclusions derived from the AMREF and FPAK stories.

1.) Collaboration with the Ministry of Health or other GOK institutions. In all cases in this sector, NGOs indicated that they benefited from productive, collaborative working relationships with the relevant GOK medical institutions and personnel -- and suffered if they did not achieve this. In most cases, this meant establishing a relationship with the appropriate units in the Ministry of Health, involving them on an informational basis at every step of the way, allowing them to disseminate information collected by the NGO without being concerned about attribution. FHI described the far less productive relationship that had pertained during its

initial efforts to begin an AIDS statistical review and documentation and an AIDS prevention campaign. For two or three years this NGO reaped the negative harvest of the initial mistakes it made in not involving Ministry of Health personnel (as well as the legacy of the western media-inspired misinformation about AIDS in Kenya, as the GOK perceived it, which had been simmering for four or five years before FHI appeared on the scene). With an improved relationship, FHI now indicates it is able to move ahead on several fronts, including the production -- with GOK collaboration -- of a book which is specifically focused on the advocacy issues in the AIDS area -- employment concerns, access to medical assistance and insurance, care-giver "fatigue" and support, and the like.

Some NGOs actually have formal GOK participation; AMREF and FPAK both have GOK representation on their boards. This is another way of calming the government's fears about intrusive externally funded efforts, especially those which have as significant a potential impact as these two organizations do, with their size and funding base, and in FPAK's case with its grassroots network.

2.) Grassroots networks. The other element of an effective service delivery NGO in the health sector, which ultimately may translate into the basis for advocacy potential, is a grassroots network. FPAK has district branches and local organization; AMREF does not, which may in some degree explain its more conservative, apolitical stance. The externally-funded NGOs, such as Pathfinder and Family Health International, use FPAK's network as well as the churches, Maendeleo ya Wanawake branches, and other women's groups. Community-based delivery agents recruited from the communities themselves (frequently chosen by their intended audiences, and sent for training) clearly establish a type of credibility and communication link that cannot be provided by an externally inspired organization, however "resource rich".

3.) Complementary health services. Those NGOs providing family planning services are frequently doing so in a way which reinforces or complements the goals of the Government preventive/promotive efforts. CBDAs discuss child and maternal health needs and services, immunization schedules, growth monitoring, and simple information about curative medicine -- e.g., how to prevent and/or treat malaria and diarrhea, the common illnesses experienced in much of rural Kenya. For this reason the Government perceives them not as a threat but an asset. Such service provision is another way of building credibility, both at the top levels of government as well as at the grassroots. The main problem for institutions using this strategy in maintaining the collaborative relationship that can ultimately allow them to move into an advocacy role is to prevent the inexorable pressures of the unmet curative health needs, which are a bottomless well.

Sustainability. Organizational sustainability is high in this sector. Main reasons are the density of the institutional network,

its lengthy tenure in the field, its relatively cordial relationships with the government, and the relative prominence of indigenous as opposed to external actors. Recent efforts by AMREF to increase its own in-house organizational and planning capacity, and to offer assistance to other service providers in the sector, may presage the further development of its own self-perceived "broker" role into one that includes secondary or tertiary services to the rest of the sector, thereby assisting in the "apolitical" way that AMREF prefers. AID and other donors might benefit from encouraging this type of specialization, in pursuit of the overall enhancement of organizational capacity in the health/family planning/AIDS prevention arena.

In financial terms there is less clear evidence of sustainability. Major external funding is still important in all of the four sub-sectors described. However, a growing emphasis on commercial and private sector participation -- social marketing of contraceptives, for example -- may indicate increasing indigenous financial sustainability in health sector services. Given the inability of the public sector to sustain the "social adjustment" involved in cost recovery (as indicated by the fact that fees for services have now been introduced at least twice, and quickly abolished again after the ensuing political outcry), it may well be that this sector is the one that will forge the way to demonstrating the potential for sustainability through NGO/private sector initiatives. This does not, of course, speak to the sustainability of the NGOs themselves.

Networking. A major finding of the team has been the emphasis in nearly all sectors on the development of networks, both for rationalization of the service provision elements of any given sector and for the development of a lobbying capacity for any reform agenda. This is true in the health sector, although the need is felt most acutely in the AIDS prevention sub-sector, where an active effort to establish a network is underway. The NGO AIDS Consortium (registered as the "NGO Consortium") has constituted itself as a network and recently presented donors with a funding proposal, after having operated on a volunteer basis out of premises loaned by the Kenya Red Cross for the past six years.

The Consortium comprises a steering committee that meets on a monthly basis, ad hoc committees that are set up and meet as the occasion/ issue warrants, and a membership of around 27 to 30 organizations. Its goals include consensus-building among NGOs; networking at the district, national and regional levels (as well as among the several quite distinct clienteles in the sector -- e.g., medical professionals; care-givers; AIDS patients; AIDS educators); capacity building on the identification of issues and development of advocacy skills; and project management, including evaluation. A major objective is a "self-monitoring" capability with respect to issues of accountability.

Public Sector Coordination. The importance of networking in the NGO health sector is underlined by the lackluster performance of the GOK institutions meant to "coordinate" public-private sector cooperation -- the National Council for Population and Development and the AIDS Secretariat. While the latter has performed perhaps marginally better than the former, it is not known as a dynamic coordinating mechanism. It has followed the lead of the NGOs in the sub-sector, and served to remind them of the need to keep Government informed at all times, rather than making much creative headway in either the development of an AIDS prevention strategy or the formulation of guidelines for the relevant NGO sector. The NGO AIDS Consortium indicates that a major problem in developing targets and strategies in the sector has been the lack of any clear or concrete GOK guidelines on what is to be done, by whom; what is out of bounds or must be regulated by the public sector; what the public sector's own goals and programs are.

The NCPD, despite sustained and qualitatively unimpeachable technical assistance, has foundered in its role as the coordinator of the family planning effort, at least as much because of the abrupt changes in its bureaucratic position and leadership as any failure of will (although the latter seems to characterize it as well). Its main accomplishment has been the establishment of a cadre of "population officers" at district level, whose mandate however remains hazy in the popular mind, and whose input into the NGO-implemented programs in the field is not perceived as useful. It has coordinated training activities in the field, involving both these officers and the sub-district level field staffs involved in extension activities. Its main weakness has been the tendency to get heavily involved in service provision, despite funding agencies' (e.g., USAID's) concern with developing analytic and advocacy capacities.

Potential allies. Where are this sector's potential allies in developing leverage toward the pursuit of policy reform? Five stand out. They are: **the church**, which has been historically useful in facilitating service provision, with the notable exception of family planning (and here, FPAK indicates even the conservative, establishment church has been increasingly useful, other than the Catholic church); **youth and women's groups**, both of which represent segments of society with the most to gain from both service provision and policy reform in this sector; **employers**, who also stand to gain from successful AIDS prevention and family planning campaigns; and the **labor movement**, which has special interests in the health of workers, not just relating to AIDS prevention and reproductive health and rights but to workplace conditions and health concerns as well (e.g., exposure to hazardous materials, unsafe machinery, etc.). The **medical profession** is also an obvious potential ally, albeit one which will pick and choose issues to advocate -- e.g., while generally "progressive" on the realities of and need for abortion rights, and for opposing female circumcision, doctors are likely to oppose the extension of community based

delivery agents into the area of basic drug distribution, and are no more likely than the public at large to oppose mandatory AIDS testing by employers or other "individual rights" violations.

Some efforts to enlist such allies have occurred, with mixed results. The women's movement has responded positively, including the mainstream Maendeleo ya Wanawake, although the latter takes a very low-key, "apolitical" stance, similar to AMREF's, for reasons which will be discussed in the section on the women's movement. Individual employers have in some cases been quite enthusiastic and welcoming of NGO efforts to mount AIDS education efforts among their workers, and there is clear potential for building on this alliance. (British American Tobacco -- BAT -- an agri-business concern, and East African Industries, were the two singled out as especially responsive, and these can have substantial impact on industry generally). The Federation of Kenyan Employers, on the other hand, after an initial warm response to initiatives by one AIDS-prevention NGO (Family Health International), reversed its stand, reportedly over the issue of mandatory AIDS testing, which many employers insist on, especially where they are choosing employees to send for training courses. The AIDS organizations oppose such testing, on human and individual rights grounds. Finally, FPAK has found the Association of Gynecologists and Obstetricians to be a powerful ally "within" the Government (having major representation in the Ministry of Health) on women's reproductive rights issues, while other medical associations (e.g. the Association of Kenyan Nurses) are not reliable allies, on such issues as abortion rights and youth access to contraception.

Donor Issues. Donor contributions to the sector have been important but vexing. Funding for the successful family planning efforts was obviously critical, as has been the substantial technical assistance over the years from IPPF, USAID and others. In the case of AIDS, on the other hand, the initial external efforts were culturally inappropriate and perceived as racist, and are only now being productively incorporated into the collaborative mix. This is important because the resources potentially being made available are considerable, while donor ideas about culturally useful ways to deploy them are still not very convincing, and reportedly do not take into account the realistic organizational and implementation capacity of the individual NGOs in the sector.

Large, unfocused resource flows are potentially quite destructive to the indigenous NGO community in promoting conflict between organizations, leading them to extend their programs or plans beyond their capacity to implement (thereby leading to unwise spending and crises of accountability). The NGO AIDS Consortium indicates that donors have contributed to problems in the sector by not doing their "homework" in the sense of a careful review of the NGOs they support, and by sidestepping the National AIDS Control Program. Those who are currently operating successfully reportedly are those who have come to the network and worked with it on iden-

tifying the appropriate implementing agents. The Consortium also indicates that donors' differences of opinions over all aspects of AIDS prevention strategy -- which are reflected in battles between UNDP and the Bank over lead agencies and institutional foci currently -- further confuse the indigenous NGOS. **Because of the high potential in the sector as a whole, coupled with its "professional" domination by a relatively conservative medical elite, donors need to focus particularly on creative ways to support the establishment of both networks and policy/advocacy capacity within them, including the ability to identify and enlist allies on specific issues.**

Summary. Summarizing the organisational characteristics of this sector, then, the NGOs are high on autonomy and are playing an important role in increasing participation in this vital sphere through the pragmatic implementation of the "community based delivery" (community based health) strategy that the government articulates but is not able itself to implement adequately. The relationship between the NGO sector and the government is one of collaboration; NGOs which initially tried rapid intrusions without GOK sanction found the going quite tough, and now have adopted a strategy of "leading from behind".

Organizational maturity is growing in the leading NGOs; the plethora of new NGOs pursuing AIDS education objectives are going through the phase of development of institutional focus and accountability; and the NGO AIDS Consortium has emerged as a potential self-policing vehicle. Sustainability is assured in organizational terms, but the financial situation is still one of major dependence on a wide spectrum of donors, bilateral, multi-lateral, and PVO. The traditional "fees for services" approach of the mission-run curative service facilities, coupled with the "social marketing" approach USAID has adopted in family planning services, might mean that sustainability issues can be addressed in a productive manner more easily through the NGO sector than the public sector -- an important goal for USAID -- but the sustainability of NGOs in the sector itself remains tenuous.

Advocacy is both possible and emergent in this sector, especially on the part of organizations such as FPAK, which have the national legitimacy and grassroots credibility to begin to raise the broader issues that need addressing around reproductive health and rights. The history of failure on the part of PVOs and external NGOs to make any impact on policy issues here (as opposed to service delivery, where their impact has been considerable) argues for the need to **support the indigenous NGOs in developing a policy analysis and lobbying capacity**, rather than relying on externally-funded organizations. This may most easily and cost-effectively be done through supporting networks rather than individual NGOs.

LOCAL GOVERNMENT

Local Governments are by definition public sector institutions and as such are not a sector in the organizational universe from which civil society is constructed. However, local governments are an important arena in which civil society organizations aggregate interests, represent groups, and provide services. For some sectors in civil society the local government arena is far more important than the national arena. Examples are small scale business associations, community-based organizations, and the network of associations comprising the "informal sector" -- in the Kenyan case, "jua kali", hawkers, petty traders, and other micro-enterprises.

Institutions. Local government in Kenya is comprised of county councils in the rural areas (coterminous with districts), which have subordinate urban councils in their significant market and trading places; and municipal and town councils, which are independent of the county councils, in larger urban places. There are presently 136 local authorities in Kenya: 32 municipal councils, 31 town councils, 45 county councils (differs from the number of districts, which is now 50, because of the recent creation of new districts), and 28 urban councils.

The criteria for the classification of urban places as one or other of these types have never been clear. Since the late 70s, there has been a strong political component to the elevation of the status of an urban place from one category to another, related to the ability of the Ministry of Local Government to favor such places financially. While there is a very old set of criteria involving the infrastructure an urban place is supposed to have before such "upgrading", it does not appear to be in use. Consequently, the set of municipal councils contains places as different in size and financial viability as Mombasa (population ca. 590,000) and Mavoko (population ca. 27,800), although most municipalities are fairly significant urban places. Nairobi is Kenya's only city, with a population of approximately 1,500,000.

The main civil society institutions whose operations are vitally affected by this network of local authorities are **market users associations, hawkers associations, and small traders associations** in the smaller places; **business associations and especially chambers of commerce** in the larger urban places, such as municipalities and some towns; **parent-teacher associations and school boards** in the rural areas (county councils have relevance to the operations of the District Education Boards, although their actual impact is limited by the limitations of funding); and an increasing number of **environmental groups**, concerned with sanitation, water availability, and urban amenities in the large urban areas, and with forest protection in the rural councils. There are also a number of **community-based organizations** in such places as the squatter areas in large urban places such as Nairobi. Most of them are self-help oriented NGOs with some external stimulus and funding.

It should be obvious that there are civil society institutions missing from this inventory that are normally important in western democracies: rate-payers associations (i.e., taxpayers), labor unions, homeowners associations, neighborhood associations. The reasons for the absence of these, and for the paucity of the business-related associational network, as discussed below, have to do in good part with the extreme centralization of authority in the Ministry of Local Government -- i.e., the lack of autonomy in the local governments themselves. There may be cultural explanations as well, and there are certainly political antagonisms that strongly influence the structure and functioning of the local government arena: many local authorities are presently controlled by opposition parties, and the regime perceives them as illegitimate.

There are two other institutions relevant to the overall environment in the local government domain -- ALGAK, the Association of Local Government Authorities of Kenya, which is comprised of the local authorities themselves and represents them in policy fora; and ALGAE, the Association of Local Government Employees, which represents employees of the authorities. Neither has played a significant role in broad policy formulation for reasons discussed below.

Issues. The number and scope of broad societal issues that are relevant to local government and its operations contrasts dramatically with the meagre institutional development that has sprung up to address them. **Harassment vs. support for the informal economy**, which is expected to absorb the bulk of new entrants to the urban labour market, is a key issue. **Environmental issues**, including both the deteriorating urban infrastructure in many Kenyan towns and the growing problems of environmental pollution in both towns and rural places, are another critical concern. In both cases, the local authorities are the relevant public sector institutions which legislate in these issue domains, and which enforce the existing legislation with regard to them.

Problems of **urban destitutes**, previously a trivial concern in Kenya, have grown rapidly since the mid-80s. Especially significant is the issue of "street children", most (although not all) homeless and many orphaned, whose numbers have mounted in Nairobi to alarming levels and who are beginning to appear in other towns. This phenomenon, related to the impact of AIDS and to the increasingly desperate situation of an urban female underclass, has begun to have the inevitable negative impact on **tourism**, (and thus on a major business sector; tourism is Kenya's top foreign exchange earner) with the streets increasingly unsafe even during the daytime. The impact of structural adjustment on women and children has exacerbated this problem. The formulation of policies providing "safety nets" in the era of structural adjustment thus become relevant issues for interest groups in the local government arena.

The decentralization of the local government arena forms ano-

ther set of key issues engaging the public sector, the donor community and local NGOs in dialogue. The need to transfer much greater responsibility, and the concomitant resource base, to the local authorities has been discussed in GOK and donor circles for almost two decades. It has yet to strike a responsive chord in the top circles of KANU or the Government, however, and the consequent tight control over this vital arena by the Ministry of Local Government -- ultimately by the Minister himself -- is in part the cause of the lack of development of the expected density of "civil society" institutions in this arena. Politicisation is very prominent, overt hostility between central and various local governments is clear. The result is that this is in some senses a "prior" issue which must be addressed if donor efforts in support of the development of civil society at local level are to bear any fruit. The present environment is not very promising.

USAID has had some interest and undertaken initiatives in the area of decentralization in Kenya, both in local government and in the broader area of administrative decentralization of government agencies. In local government, efforts were primarily directed toward developing local authority planning capacity, training councillors on financial and management skills, and providing infrastructure in a set of 15 or 18 "small towns" (meant to stabilize rural populations and halt the inexorable drift to Nairobi). The GTZ project continues the effort with local planning capacity, but it is difficult to discern much impact from the rest of AID's efforts. The organizational and decision-arena issues (i.e., ministerial overcentralization and the lack of autonomy of individual authorities) were never addressed satisfactorily in project design.

In contrast, some progress was made on decentralization writ broadly, in terms of the AID-funded Rural Planning Project, which contributed to capacity building for district plan preparation (which nonetheless is still a central ministry-driven effort) and to the elaboration of the District Focus policy and its steering committee, the District Focus Task Force. Some progress was made on disaggregating the central government budget and increasing local administrative authority with respect to budget decisions (note: this is not a popular participatory effort, but an administrative decentralization). However, the fiscal constraints of the latter half the 1980s, up to the present, wiped out most of the visible signs of such gain. Further, the "district focus" initiative acquired an inevitable political cast, as the regime's chosen policy for redressing the skewed allocations of the **previous** regime. The opening of 1992 and the emergence of opposition voices has dampened regime interest in and enthusiasm for even such a modest amount and type of decentralization, while the opposition perceives the regime's decentralization strategy as part of the "divide and rule" strategy meant to hobble organization intent on national policy arenas and objectives. It seems unlikely to survive the Moi regime, at least in its present embodiment.

Background to the Local Authority System in Kenya. Kenya's local authorities are structured by and regulated under the Local Government Act, Cap. 265 of the Laws of Kenya. They were reconstituted after independence and are elected bodies, but they are patterned strongly on the "native authorities" of the pre-independence period. At independence they inherited many of the functions that the latter performed at that time, which included almost all of the service provision in the "African" areas (as opposed to the settler areas) -- schools, health facilities, roads, some of the agriculture and veterinary services, water supplies. The Local Government Act lays out a host of functions which are either obligatory or permissible for the authorities, although they now undertake only a small fraction of these.

By 1969 many local authorities -- especially the county councils in the central, most economically mobilized part of the country -- had begun to bankrupt themselves. This was a function both of financial mismanagement and of the tremendous pressure for the establishment of schools. The demand for schools far outran the ability of the councils/local communities to provide them. This, however, was a pressure which could not be resisted by local councillors, whose political fortunes depended on the perception by the electorate that their service provision demands were being met, (with schools far and away the most important service demand), while at the same time there was strong pressure to reduce the graduated income tax the authorities had collected which funded these services.

The result was predictable, albeit regionally quite variable. In the most economically mobilized central regions of the country, where the importance of education was keenly perceived, the councils began to be unable to meet obligations or pay staffs, road maintenance deteriorated, etc., as all the available revenue was channelled into opening new schools. In the sparsely-settled areas of lower economic mobilization, less deterioration of the councils' capacity took place, but it was never nearly as high in these areas anyway. Finally, the situation was assessed by the central Government to have deteriorated to an unacceptable point. The major local authority services in education, health and road maintenance were transferred to the relevant central government ministries in 1969/70, together with the graduated taxes meant to fund them.

A second and at least equally important reason for the curtailment of local authority responsibilities and budgets was the alternative political recruitment arena that they provided. The rising national political elite were predictably opposed to the unfettered operation of alternative public sector institutions through which potential rivals could make reputations and build patronage networks. Local government institutions provided just such an alternative vehicle, especially given the insignificance of political party structures in Kenya's independence and early post-independence periods. The curtailment of local authority responsi-

bilities can be read as a struggle between locally based elites and a proto-nationalist political strata, with the latter emerging as the winner and removing as much in the way of political capital from the grasp of the former as possible.

In many Kenyans' view, whatever the "real" reason -- whether the mismanagement evident in many councils or the political rivalries simmering under the surface -- this left the local authorities as hollow shells, with few significant functions. Although they continued to operate at a much reduced level, focusing on urban infrastructure, market place operation, the development of nursery schools, and some residual veterinary and water supply services, these are viewed by many as "displacement activities" rather than the core of what local governments should be engaged in.

Present Functions. The local authorities are thus greatly reduced both in function and in revenue base as presently constituted. They do not benefit from central government grants, popular belief to the contrary notwithstanding. Their main functions are town and urban place infrastructure, including most importantly the market place network, both urban and rural, which is the nub of commercial life for large numbers of the citizenry, and which is not provided, maintained or regulated by any other public sector agencies. Several have an important role as "water undertakers", supplying urban water, but this is not a universal responsibility.

The handful of largest municipalities still have substantial responsibilities for education and health facilities, on the basis of funding "passed through" from the relevant Ministry budget. The county councils run nursery schools, although the Ministry of Education has increasingly taken over a regulatory role in this area. County councils are also theoretically responsible for the maintenance of both the entire "unclassified" road system (minor roads, very numerous) and in areas of cash crop production the crop/processing-facility access roads (e.g., coffee roads, tea roads, and the like). However, since the councils for the most part do not have the resources, in fact they play only an advisory role, informing the Ministry of Transport about roads needing maintenance and the order of priority.

Revenue Base. The local authorities have a very inadequate revenue base for the self-defined functional portfolio they claim to be responsible for. They have a variable set of revenues: rural and urban councils have different revenue sources, and the differences in ecology and historical economic development also has had an impact. **Crop cess** is a main source of revenue for most of the county councils, and is/was substantial in areas with high value cash crops, e.g. coffee. The unevenness of the revenue resulting from a historically generated patchwork of crop cesses led the GOK in 1988 to institute a uniform 1% crop cess in place of the variable cesses of the past. This greatly damaged the revenues of the most viable councils, the "coffee councils", which had previously

received a 3% cess that constituted 95% of their revenues. Their income was thus cut to a third of its previous size, and they have not recovered from this shock.

Further, the 1% uniform cess on crops is not so straightforward from the point of view of collection. Cash crop cesses like coffee are collected through the cooperative system, as a deduction from payments to farmers -- thus representing a "cost-free" revenue to the councils. Subsistence and horticultural crops not marketed through cooperatives, on the other hand, have to be cessed in some other way -- at markets, or on farm -- and this is not "cost free". Kenya's poor rural councils have neither the infrastructure nor the skills to levy or collect cesses in a satisfactory manner.

Urban councils, and those in the rural areas previously inhabited by the colonial settler population, receive their primary revenue from **land taxes**. Urban land rates and some agricultural land tax is collected, but it has been a major source of conflict. The urban land rating system is woefully inadequate; periodic efforts to jump the rates 400% in places such as Nairobi simply lead inevitably to taxpayer revolts and the backing down of the local authority in question, whose land rates then fall even further behind economic reality.

Both urban and rural councils receive a substantial amount of revenue from **market fees**, charged on the users of municipal, town and county council markets. In some counties this is the only viable revenue source, and in many urban areas it is a potentially high yielding revenue. However, the local authorities tend to use the revenue from the markets to finance their total administrative budget, putting little or nothing back into the maintenance and improvement of the markets. Increasing the fees when there is no evident service being provided becomes difficult, if not impossible. Further, monitoring of the collection of the fees, much of which reportedly is pocketed by the collecting agents and diverted to personal use, is unsatisfactory. Finally, increasing fees tends to decrease the use of the markets, and falls especially hard on those segments of society who are most at risk economically and most likely to fall through the so-far non-existent "safety net" -- poor women producers, hawkers, and petty traders.

Several other minor sources of revenue support some of the councils. GOK grants to about five of the county councils are an important source of revenue for these, which are in the pastoral areas of undeveloped economic potential. The one additional source of revenue for two or three councils that is significant is **game reserve revenue** -- park fees, tourist hotel fees and the like, which support the Narok and Samburu County Councils, and are of some importance to Baringo. Several other councils have argued for the rights to a share of park and other tourist revenues derived from resources in their territorial jurisdictions, but so far their

efforts have fallen on deaf ears.

One other source which many councils have begun to try to tap is the proceeds from **commercial undertakings** they engage in. This is economically viable for a few which have built or bought shares in tourist facilities. For most, however, it means merely the construction of rental housing or operation of bars and hostels, which have many hidden costs (including heavy management requirements) and which tend to become a patronage vehicle that eventually wipes out the revenue benefits they confer.

Operation and Regulation. The local authorities are all run under the close supervision of the Ministry of Local Government. There is something of a parallel with the case of the cooperative movement here. Mismanagement of the local authorities led to GOK intervention, with the resulting heavy-handed and centralized controls preventing the local governments from making needed economic changes to improve their revenue position or management, leading to further demoralization and efforts to circumvent the MLG controls, in an unending spiral of unproductive activity replete with line-item budget control that misses the essential economic irrationalities.

As noted, there is, of course, a parallel set of political reasons for the tight control over councils; this prevents local leaders from using them to make political capital at the expense of the current members of parliament. Since the repeal of Section 2A this situation has become considerably more complicated, with a great number of the local authorities controlled by the opposition. This has led to even tighter supervision by the Government, as well as attempts to oust council chairmen and mayors of opposition persuasion and have them replaced with KANU-oriented leaders. At its best, the Ministry was an administratively inept supervisor; now it has its own ulterior political agenda, headed by a Minister who is considered the most "hawkish" of the pro-KANU, anti-opposition group.

Whatever the other possible causes for this centralization, the consequences are an arena in which local governments cannot make even the smallest decisions themselves -- or claim they cannot. They cannot increase market fees or produce cesses at will, but must have them approved by MLG and frequently the Ministry of Agriculture or Commerce as well. They cannot assess property rates at will but must have approval. They cannot hire staff without the approval of the positions by the Ministry, and the top tier of administrative staff is posted to the councils by the Public Service Commission rather than chosen by the authorities themselves. Dissatisfaction with senior councils staffs is rife and there is substantial conflict between them and the elected members of the councils, leading to further demoralization and suspicion.

Some observers with long experience working with local au-

thorities in Kenya claim that the pernicious effects of central over-control are exaggerated. They claim that the central controls do not in fact get enforced with anything like efficiency and that any council which wants to get around an administrative impediment can do so. Their assessment, which has much to support it, is that the reason the councils find the supervisory regime so obstructionist is that it is in their interest to do so -- i.e., they use the fact of centralized control to explain to their constituents why they cannot do the things being demanded of them, while finding ways to circumvent the controls when it is in their own personal interests. If this is the case (and the writer believes it is), then the overcentralization of control is significant not in and of itself but as an excuse for recalcitrant senior officers of the local authorities with personal interests in resisting constituency demands. Thus, reforms aimed at improving the Ministry's operations and decentralizing control to the authorities will not necessarily have the intended impact, since local elites with vested interests will not have had these interests changed in any significant way. Local government reform, while long overdue and necessary, is thus likely to be a long and complicated affair, and not the simple or straightforward task that the Bank appears to view it as in its project aid in this sector.

Civil Society and Local Government.

Organizational Capacity. The civil society institutions that operate in the domain of local government are relatively few, then, partly because of the highly centralized nature of the system. "Local" issues are dealt with by a centralized Government ministry; local authorities are not able to make decisions on anything important -- or claim that they are not able to do so, which amounts to the same thing from the point of view of providing a focus for civil society organizations. The organizations that were noted as having most focus in this arena -- hawkers and "jua kali" associations, small traders, chambers of commerce -- make frustrating efforts to influence the local government staffs. They quickly learn that to have any effect they must take their case to the Ministry/Minister himself, or to other "allies" they may have at Cabinet level or in the senior ranks of the civil service.

Consequently, it is the national level of the organizations such as these -- the Kenya National Chamber of Commerce, the Jua Kali Federation, the Hawkers Association in Nairobi, and the nationally-oriented community-based NGOs like the Undugu Society (which works with street children and in shanty areas in Nairobi) -- that take up the effort at policy dialogue and influence. The local level is simply not the arena where decision making responsibility is recognized and exercised, and this means local organizational capacity of a "civil society" type is conspicuous mostly by its absence.

This does not mean that no lobbying is done at local level.

Various institutions do make representations over local issues that are non-controversial to the local authorities -- mostly for service provision, or suggestions to improve urban amenities and rural market places. These are important for local communities. However, the controversial issues that confront local authorities -- plot allocations and the need to preserve public land and forests, harassment vs. support to hawkers and "jua kali" artisans, the structure of market fees and trade license fees and the updating of property rolls and valuations -- tend to gravitate to the national arena. The result is an extreme poverty of local civil society organizations that can represent public views and interests, and a low level of organizational capacity in those few that do operate.

The case of Nairobi is somewhat exceptional, since many of the relevant civil society organizations have offices and projects in Nairobi, which is in turn both the seat of local and national government. In this case, the centralization of local government and its recent politically-charged operation has possibly contributed to the increase in organizational capacity, as organizations such as the Undugu Society and Kituo cha Sheria have learned how to develop advocacy strategies in the local and national arenas simultaneously.

Autonomy. This portrait of the local government arena makes clear that the local government institutions themselves are either totally lacking in autonomy, or profess to be so in order to avoid the demands made on them that run contrary to the interests of senior staff or influential local elites. The civil society institutions in the sector, on the other hand, are to varying degrees autonomous. They include the Jua Kali Federation, which was discussed together with the business and commerce sector, and which is very new and vulnerable to cooptation both from the GOK side and from the side of the donor community.

The traders' and hawkers' associations and the taxi drivers are more visibly autonomous and thus more threatening to Government. Market users' associations in the county councils are organized on a market by market basis and do not appear to cooperate; they are autonomous but lack relevance at district level, let alone in the national policy formulation arena. Business associations, including the chambers of commerce in major towns, are visible and important, and may have significant impact on the demands which senior staff of local authorities take to the central Ministry.

Two community-based organizations in Nairobi were interviewed. Both have goals that make the local government arena their natural arena. **Kituo cha Sheria**, a human rights organization that also provides pro bono legal assistance, initiated a campaign to redress the environmental pollution (involving medical wastes) that plagued one of Nairobi's poorest squatter slums. The Undugu Society, which originated in and spun off from the charitable effort that launched the Starehe Boys Center for orphaned children in Nairobi, deals

with street children and the problems that produce them. Both of these organizations -- which are representative of perhaps a score more, a mixture of indigenous groups and externally-funded PVOs -- are decidedly autonomous, although there have been close relationships between Undugu and various Government personnel over the years. The recent advocacy efforts of these two organizations, and the constraints they face, are described more fully below.

Finally, the two "official" civil society organizations, ALGAK and ALGAE, are fairly substantially coopted by Government and cannot be considered particularly autonomous. ALGAK membership is not obligatory for individual local authorities, leading to greater potential for politicisation; ALGAE is strictly under the control of Government, since local authority employees are public servants. The GTZ project is presently trying to resuscitate ALGAK and make it a true and autonomous representative of local authorities. However, given that the authorities themselves are not autonomous, it seems unlikely that much progress can be made without a significant restructuring of the Local Government Act and the way the Ministry of Local Government does business.

Participation. Participation in the local government arena is distressingly low. For the reasons discussed above, very little clear decision-making potential at local level results in low levels of participation in civil society institutions there; and high levels of demoralization and passivity on the part of those which do function. This is especially unfortunate since local government as an arena is a potentially very important element of the strengthening of a participatory system. That is, when decisions are made at local level, the visible and tangible consequences are a major motivation for citizen participation -- for the development of civil society generally. The closer to the citizen the arena is, the greater the encouragement to participate. The present stalemate in local government is thus a critical failure in Kenya's political evolution and is likely to inhibit the development of civil society until it is productively dealt with.

Advocacy. Advocacy in the local government arena is meagre for the reasons outlined above. A few examples of existing efforts to influence policy in or about this arena will be reviewed for the lessons they suggest.

The Jua Kali Federation represents a new player in this arena with some objectives that involve policy formulation and reform, notably around the issue of the regulation of land/plot allocation by local authorities, and the issue of the pervasive harassment of artisans (along with hawkers and small traders). The organization's newness and vulnerability to cooptation have been discussed elsewhere. They inhibit its ability to pursue a successful reform campaign. More serious probably are the additional service-provision goals the organization has, which leads the GOK to view the organization as a handy vehicle for reaching artisans with credit or

other needed inputs, and therefore for "pacifying" or buying off this sector.

Community-based organizations dot the large urban areas and have some impact on service provision, though little on the underlying causes for the problems besetting the cities. The Undugu Society has major service-provision activities in place to work with destitutes generally and street children in particular. This organization is well-established, wholly indigenous and respected. It has had some success in persuading the City Council what types of action towards the children are helpful and which are not, but there is nonetheless an increasingly aggressive effort underway to round up these children (and destitutes generally) and get them out of sight. Their presence in the center of Nairobi disturbs the business community and the tourist industry; the "advocacy" that is successful over this problem, then, is primarily lobbying by the forces of economic power against the advocates of social reform. The advocacy successes of Undugu in this realm are the small but not unimportant gains in attitude toward the need to rehabilitate and provide social services to deal with the problem, rather than simply continued street sweeps.

Undugu also embarked on a campaign to provide meal vouchers for the homeless and destitute, similar to the efforts in many American cities. Rather than providing spare change (which the street children tend to use to buy glue for sniffing, and other drugs to repress hunger and despair, rather than food), the idea was that concerned citizens could purchase vouchers to give them, and Undugu then contracted women from the urban informal sector to prepare and serve food in exchange for the coupons. This failed dismally; too many abuses of the system occurred, with the non-destitute finding ways to acquire the coupons, and the women who did the meal preparation also finding ways to "beat" the system; Undugu had to pull out of this effort. Here is an example of a **service provision** effort which is being constrained by a number of factors, in this case cultural factors. Undugu has not yet worked out a mechanism for dealing with this problem.

Another interesting case concerns the efforts of Kituo cha Sheria, a media-oriented legal aid group, to deal with environmental pollution in a Nairobi shanty area. Kituo came to the conclusion that the difficulty of organizing urban Kenyans who have until recently had only a temporary identification with the urban area they reside in (most having deeper ties to a rural area) meant that community organizations were precarious and fragile. Consequently, they feel communities must be organized about specific issues confronting them at the specific moment, and taught to analyze the nature and possible means of redressing the problems. One such community, a slum, brought to the attention of the organization the problem of illegal medical waste being dumped in it. The organization supported a study of the nature and severity of the problem (although they were not able to establish the source of the waste),

and then outlined methods of pressuring the Nairobi City Council (and/or the Ministry of Health) to deal with this problem. They produced a video which was picked up and aired by the KANU-owned television network, as well as the Standard newspaper. There have been follow-up editorials in the Standard. In addition they circulated a petition for local signatures that was presented to the Kenya Medical Association, in an effort to gain powerful allies. No response had been received from KMA when we interviewed the Kituo staff.

Kituo has interested itself in numerous issues over the years, many of controversial nature, including land tenure and allocation in the peri-urban and squatter areas. They have employed modern media methods to the best of their ability, but have in recent years been completely stymied by the penchant for the broadcast media (radio is the critical component) to accept the material and then put it into an interminable queue from which it never emerges into air time. Kituo has also employed theatre in consciousness raising efforts, to more effect, and has participated in civic education of citizens on their rights, both through initiatives of the organization itself and through response to invitations from the all-important church and related grassroots organizational networks.

Others. A very informal, ad hoc form of impact on policy formulation is waged periodically by the business community, particularly the (unorganized) large-scale rate-payers. On occasions when the Nairobi City Commission attempts to raise their property taxes -- generally by some dramatic percentage, say 400%, since they are so amazingly out of date on valuations -- they quickly band together and put pressure on the top-level political elite. They are usually successful in getting such rates increases cancelled, or drastically reduced. This type of activity, however, is a function of the ineptness of the local authorities, such rates hikes being preposterous to even an uninformed observer. What does not happen is more instructive than what does; the ad hoc collection of affected ratepayers does not then crystallize into an organizational effort to pursue a rational rates setting mechanism in city government.

What else does not happen in Nairobi, demonstrating the dearth of civil society? Neighborhood associations do not appear to be in evidence. The constant wailing about lack of services -- garbage collecting in huge mountains, moving closer and closer into the city center; streets badly potholed, disintegrating in the shanty areas into wholly impassable, unpaved roads; non-functional street lights and traffic signals; and the ever-more-precarious water supply, which often disappears for days at a time in the dry season -- has not produced either general or functionally specific groups devoted to dealing with the problems. Among the reasons for this is the centralization described above; citizens know from experience their efforts at more local level will be futile, and that

only access to the Minister will have any effect. Coupled with the perception by the current Minister for Local Government that many local authorities are "opposition" elements and thus the "enemy", and the politicisation consequent on the multi-party elections in 1992, this has led to a complete stalemate in efforts to address needed reforms in the Ministry, the local authorities, and the substantive activities they undertake.

A recent effort to break this stalemate was a conference funded by the German technical assistance effort (Friederich Naumann Foundation) labelled "the Nairobi We Want". Precedents for this effort can be found in at least two previous national workshops on government policy bringing together policy makers and opinion leaders from all sectors (the most recent one, in the early 1980s, was titled "the Kenya We Want".) This conference brought together a wide spectrum of the organizations that inhabit Nairobi and are interested in policies affecting it. The conference produced a report and an action plan, but appears to be stalled. It was perceived as a tool of the opposition, especially because of the high profile, anti-Government image of one of the leading donor personnel among its convenors, who was subsequently deported. A similar effort has taken place in Kisumu, reportedly with less heated political fallout and more chance for producing results. These may be a convenient way of developing a consciousness and perhaps networks among civil society at local level, but major efforts need to be taken to incorporate all of the political forces in any area, and to emphasize the non-partisan nature of the undertaking.

A tool that seems underutilized in the Kenyan case is the "sister city". There are a few towns in Kenya which have established sister city status with western counterparts, and which have sent staff to see how urban affairs are run elsewhere. This does not seem to have been taken up by major donors in the aggressive manner one would have expected in the wake of the 1992 electoral victories by opposition parties in many local authorities. Given GOK's evident unwillingness to assist these authorities, donor interest in them must find other channels than the Ministry. Sister cities and the relationship between public interest groups in western cities and nascent counterparts in Kenyan towns would seem to be one of the only alternatives. Whether this requires Ministerial approval the team did not enquire.

Sustainability in the local government arena involves both the local authorities themselves and the civil society organizations that attempt to influence them. Both organizationally and financially, the authorities have for most of their post-independence existence displayed extreme weakness. This is the Government's stated reason for intervening in their affairs, transferring functions to the central ministries, and periodically dissolving authorities and calling for fresh elections or appointed commissions to run them. It is the stated reason for line-item budget scrutiny performed by not one but two tiers of central ministerial budget

officers on the councils' budgets, and for the absolute embargo on increasing staff positions in the councils unless ministerially approved.

Financially, only a handful of counties and perhaps of the urban authorities managed to maintain themselves at a "break-even" level or better through to the mid-80s; the rest overspent out of accumulated reserves, and eventually bank overdrafts, or levied erratic cesses and license fees without serious concern for their sustainability. Only the councils in the coffee producing areas managed to accumulate surpluses. Taxpayer revolts and the refusal of the banks to continue overdraft financing led to a downward spiral into red ink for many of the councils.

The Government attempted to deal with this by standardizing agricultural cesses (thereby dealing a death blow to the "coffee councils", while providing the rest with a form of revenue that is notoriously hard to levy and collect) and by adding an "urban service charge" for the municipal and town councils. The Government did not increase grant funding; in fact it eliminated grants to all but five of the county councils. Local authorities are meant to be self-financing but in fact have attained a paper viability by devoting an ever-increasing amount of their revenues to administrative overheads, particularly administrative salaries. The two or three councils that performed above the average in the past have in recent years also experienced deficits. The sustainability of local government is itself one of the issues most relevant to a potential reform agenda and to the civil society institutions that do or might pursue it.

Civil society institutions operating in the local government arena run the gamut from the community-based organizations largely dependent on external funding (although increasingly Undugu and a few others are beginning to solicit funding from large industrial concerns -- Coca Cola, etc.) to the very local level market associations that are supported out of membership fees, members being the local market users. These latter are "sustainable" but unable to raise sufficient funding to undertake major projects advocacy efforts. The former are **beginning to address** the sustainability issue, as they fall prey to the fickleness of donor fads and find local business funding a viable alternative.

The real question is the sustainability of the "missing middle", the institutions that are not there: the neighborhood associations, water user groups, "friends of the parks", ratepayers associations, and business associations focused on urban infrastructure and services. Without clarification of the roles and responsibilities of local governments for these issue domains, little organizational development is to be expected. Organizationally, it is clear that individuals and NGOs that do have these types of concerns will continue to focus on the central government ministries responsible for the concrete issues of their concern,

rather than the local authorities. Local level institutional development is a major aspect of the development of civil society: the term itself comes from the "civitas" that described the proliferation of an associational network in the urban arena of ancient Greece. Civil society is a poor and feeble thing without a major local government component and focus. Reform and progress in the performance of the local government arena is critical to the development of a vibrant and sustainable civil society; in the case of a "hostile environment" to civil society generally such as Kenya represents, the underdevelopment of this arena is likely to constrain civil society more generally.

"JUA KALI": INFORMAL BUSINESS SECTOR

The "jua kali" sector is a portion of the sector designated "informal". The informal sector as a whole comprises both manufacturing and commercial micro-enterprises, generally operated by sole owners with on average no more than one or two additional employees, and frequently none. Hawkers and petty traders are the bulk of the commercial informal sector. The sector shades off into small scale business on one end, and illegal activities, such as traditional beer and alcohol brewing, prostitution, and the booming business in the theft and resale of automobile parts, on the other. The "jua kali" portion of it is that component engaged in manufacturing of the myriad of household and industrial items -- as well as repairs, such as automotive repair -- using minimal equipment and generally lacking business premises, -- i.e. "in the hot sun" ("jua kali", in Swahili).

I. Institutions. Institutions in this sector are primarily the associations of small businessmen, hawkers and "jua kali" artisans, organized at district level, who attempt to get access to land, to credit, and to management information through the organizations (e.g., marketing assessments, ideas about better technology, reductions in local Council fees and a halt to harassment by the police). There is in addition a newly-emergent Jua Kali Federation which is a network of these associations, formed in 1992 and designed to provide services to the primary associations and to serve as their representative to various Government bodies and their advocate.

The Jua Kali Federation is currently funded by the Friederich Ebert Foundation but has at least tentative GOK support. It has an 8 person board, 3 representatives from each of Kenya's 8 provinces constitute a 24 person Governing Council, and it has an Executive Director. Its main arena of policy advocacy is at the local government level, since this is the tier of government responsible for most of the issues confronting "jua kali" artisans. Local government is an area of special interest to German Technical Assistance; GTZ has a longstanding technical assistance effort in the Ministry of Local Government, focused on small towns and planning capacity. The corresponding GOK institution concerned with this sector is the section in the Ministry of Research and Technological Training specifically focused on promoting "jua kali" artisans; the Ministry of Local Government itself; and occasionally the Ministry of Labor, which is concerned with conditions of laborers.

II. Sub-sectors. "Jua Kali" forms only one of the sub-sectors of this larger informal business arena. For a while, the Hawkers and Small Traders Associations were joined with the artisanal associations, and the Matatu Drivers Associations have been identified in the public mind with this sector as well. Recently, however, the Federation has succeeded in distancing itself from the hawkers and traders, which it claims have different problems and membership profiles from the artisanal sector. The differences include the need for greater infrastructure on the part of the "jua kali" arti-

sans, who frequently need electricity and water for manufacturing (although most operate without it). Artisans may also need larger land areas for their operations, e.g., carpentry/furniture makers and metal/hollow-ware manufacturers, as compared with hawkers and petty traders, who frequently carry their merchandise on their backs. There is also a noticeable gender differential in the composition of these sub-sectors, with hawkers including a far higher proportion of women than artisans; the "jua kali" sector is almost entirely male.

There are, however, many problems and policy issues in common, and the differences between these sub-sectors are to some degree artificially created for political purposes. The Government of Kenya began in the mid-80s to identify and respond to the needs of the artisanal community when it became clear that this was the main livelihood of the lower class, peri-urban inhabitants of Nairobi, who were overwhelmingly Gikuyu, and perceived by the regime as potentially divisible from their ethnic leadership, which was in no sense serving their interests. There were at this time aggressive efforts to assist the "jua kali" artisans with infrastructure provision -- the famous Gikomba shade structures are the symbol of this effort -- in order to put up a credible, alternative "populist" face which would split the always-feared, numerically dominant Gikuyu ethnic community. These efforts quickly found their echoes in official policy statements, e.g. the emphasis on the informal sector in Sessional Paper No. 1 of 1986, as well as in funding that was allocated to most districts, and targeted at this group more widely.

Hawkers and small traders, by comparison, are frequently in greater potential conflict with other elements of the town populations which buttress the regime -- formal sector businesses and traders, as well as the markets run by the local authorities in which produce is sold. The great numbers of women petty traders who sit by the roadside with a meagre supply of beans or vegetables or fruits, and who pay no fees to the local authorities, are perceived as directly in conflict with the larger producers/traders (more likely to be male) and with the Councils' own revenue needs from utilisation of the Council-run markets. Similarly, hawkers and traders who sell cheap merchandise that competes directly with the wares of those with fixed business premises -- but who themselves have no costs in the form of rents, rates, taxes, and license fees -- are perceived as direct and unfair competitors by the formal sector, and as curtailing the local government's legitimate revenue base.

Consequently, although the official policy statements do not specifically reject these non-artisanal sub-sectors of the "informal" economy, in practice the conflicts are clearer to the local authorities and their responses are generally negative (harassment, refusal of permits and licenses where applied for, etc.). GOK thus defined the artisanal sector as a productive one, attempting to

assist it for a number of political reasons, while the commercial sub-sectors remain in disfavor. The "jua kali" associations began to perceive that they were less in conflict, since few "jua kali" artisans produce products competitive with formal sector products. They thus have increasingly divorced themselves from the other sub-sectors, whom they claim to wish well but wish not to be identified with. The Federation argues, ^{the} latter must fight their own battles.

III. Issues Relevant to a Policy Agenda. The sector as a whole is perceived by the donor community as very important in terms of the potential for providing employment and absorbing surplus population from urban migration. Many senior GOK figures also see the importance of this sector for labor absorption, although not all are convinced that the potential is as great as the donors claim/wish.

Some of the issues forming the basis for a policy agenda in the sector were already alluded to. A central one is access to land. Jua Kali artisans complain that town plot allocations have been dominated by corrupt Councilors, while their own requests and needs are ignored. Even where towns have explicitly set aside land for artisanal use, it has on occasion been mysteriously allocated to individuals. This issue was one of those that caused the formation of many of the "jua kali" associations in the first place, and is the central issue the Federation lists in discussing its policy and advocacy concerns.

A second issue alluded to above is the conflict between formal and informal sectors, which has been most noticeable in the almost daily confrontations between local government police personnel and the hawkers, petty traders, and "jua kali" artisans that populate the latter. Bitter complaints from formal sector traders, who pay stiff taxes, license fees, and rates to run their business premises, against this lower-cost set of competitors, seem to make conflict inevitable. This has been muted by the Jua Kali Federation's breaking of links with the Small Traders Association and the Hawkers Association, but since the three types of activity are inevitably found in the same general areas in market towns and urban areas, police sweeps rarely succeed in distinguishing between them and sparing the "jua kali" operators, nor has formal sector business understanding reached a level at which clear distinctions are made between the sub-sectors.

Access to credit is a third major issue in the sub-sector. The Federation is meant to assist with credit access for member associations. The associations are comprised on a territorial basis rather than a functional one (i.e., all "jua kali" artisans in a town ward will be members of one, irrespective of trade), which may complicate their ability to obtain credit.

A fourth objective of the Federation is the intention to assist in the acquisition of marketing skills and knowledge, both

with respect to input supply and technology and with a view to increasing output market assessment capacity. These are critical skill gaps for the sector. Most "jua kali" artisans have learned a skill from a craftsman, as an apprentice, and have had little exposure to the idea of creating or assessing market demand for this skill or product, which leads to oversupply and lack of sales of some commodities and unexploited potential in other craft areas.

IV. Institutional Characteristics and Strategies. The team reviewed primarily the Jua Kali Federation and its donors and GOK counterparts, leaving the hawkers and small traders associations to one side. These will eventually need to be taken into account and the policy issues they provoke and confront are important, but the organizations themselves are as yet not particularly promising for AID or other donor intervention, which is focusing first on the "jua kali" area.

The Federation was established with Friederich Ebert Foundation funding in 1992, after an initial trip by 10 small businessmen to India for 3 months in 1990 to observe a similar type of effort. While a donor-inspired initiative, the Federation began with the advantage of a fairly positive stance from the GOK side; the Government was equally as keen to see an apex body to organize and represent the 300-400 associations then estimated to exist. Over 200 associations have now been registered as members. The Federations main activities to date, given its short life, have been to recruit both individual and associational members, to represent the "jua kali" sector on numerous Government boards and Commissions (as well as in donor circles, and in the NGO community broadly), and more recently to try to improve the collection of membership fees and build organizational capacity.

Organizational Capacity. Organizational capacity is quite low, in part a function of the youth of the organization. The FES has supplied a technical assistance person, who indicates that the organization cannot manage on its own for the foreseeable future, and that this is likely to get worse rather than better with the demands which will be put on the organization as the Bank begins to implement a major project (funded at Shs.1.2 billion) currently being formulated. The Federation will be doing the monitoring of the project with respect to beneficiary impact.

Autonomy. It is clear that the organization has something of a problem of image and cooptation, on the one hand being viewed by the GOK as an apex organization that can control the individual jua kali associations and channel GOK assistance and regulatory inputs to them, as much as donor funding; and on the other side, being viewed by donors such as the Bank as an all-too-handy "agent" for donor funding and control. The Executive Director, James Bwatuti, claims that the organization has no difficulty maintaining its independence, and that the voices of the 200+ member organizations are heard loud and clearly, determining the Federation's objec-

tives and strategies. He argues that the actions of the Federation are a monitorable index with respect to the cooptation issue.

However, the main elements of the strategy as described to the team involved representing the sector in high-level GOK committees and commissions, which can easily become a displacement activity and a main method for Government cooptation of the organizational leadership. (This is very similar to the case of the Federation of Kenyan Employers, which is on very good terms with the GOK, on very many committees and commissions, is very highly-regarded by the Government and thus "listened to", but which speaks with a very soft voice to little practical effect on controversial issues). The autonomy of the Federation is thus not yet clear, and it may in turn compromise the autonomy of the member associations, which have had much less opportunity to fall into this trap. As suggested, the GOK has strong political reasons for wanting to "coopt" this sector, and to try to incorporate the Federation as part of the "command and control" structure of the public administration, and it is not completely clear that the major donors in the sector have any clear idea about the virtues of "pluralism" vs. the practical advantages of "coordination".

Participation. Are the "jua kali" associations and the apex Federation acting to increase participatory opportunities? The main participatory activity for these, which somewhat resemble labor unions, is the payment of membership fees. One index of the degree to which an organization is participatory is the degree to which its members clearly feel "ownership" as indexed by prompt payment of membership fees. In this respect the sector is not very encouraging, with only about half the associations actually having joined the Federation, and around a 67% rate of non-payment of fees, which the Executive Director claims has dropped with recent attention. Nonetheless, the collection rate is characterised by the technical assistance personnel as "poor". Other than this, evidence on the operation of the associations is inadequate for the team to assess their participatory potential.

Advocacy. The Federation is primarily engaged in the organization-building and requisite service provision that may serve the short-term interests of a clientele that can sustain it. It has not been involved in much in the way of advocacy yet, with the exception of the efforts made in several fora to deal with the "plots" issue. The Federation claims to have succeeded in getting recent decisions at the highest level in the Ministry of Local Government to require local authorities to allocate plots to the jua kali sector through the associations, issuing 99 year leases to them for such land. A conference on export promotion and investment which the Federation participated in resolved to put pressure on the GOK to reduce or eliminate harassment of artisans by local authorities (this is an old issue, one to which the GOK pays lip service but which is eventually ignored by the local authorities). Other issues have been presented, for example at a conference on

human rights in Ontario, sponsored by the ICJ, some issues of credit access and basic human rights of artisans were voiced. It is not clear that any echoes of these have been heard in local Kenyan fora, or what role the Federation intends to play in pursuing them.

Sustainability. The sustainability problem has already been hinted at. The Federation is entirely donor-funded, with its associational members much in arrears in their payment of membership fees. The FES support and forthcoming Bank efforts have tended to overwhelm the organization, so that serious thought about long-term sustainability is unlikely to be a priority agenda item at present. Unfortunately, this may have the effect of producing either the weak, ineffective organizations that have little in the way of an advocacy potential or strategy, such as the labor unions, if the donor funding is eventually reduced through the lack of results; or the total involution and ultimate collapse of the sector, if the organizations continue to receive substantial donor funding, like the cooperative movement, without adequate organizational strategy and vision (but with the continued interest of the GOK in using the apex organization for its own regulatory and political purposes).

V. Other Issues. Two specific issues with policy relevance that seem inadequately addressed or conceptualized in this sector are the need to deal with overall reform in local government (the associations/Federation seem pre-occupied with getting the central Ministry to issue orders and countermand the actions of specific individuals, rather than any more fundamental concern with land control) and the complete lack of any mention of the word "women" at any point in the discussions of the "jua kali" sector, either with the Federation, the Ministry of Science/Technology and Training, the Ministry of Local Government or the Deputy Secretary in Labor (himself a committed but quiet "feminist" in a deeply patriarchal society). This is despite the fact that the numbers of female-headed households has sky-rocketed in Kenya and their dominance of the "informal sector" as a whole (though not the jua kali portion of it) suggests that the tackling of the problems in this piecemeal fashion will once again direct resources disproportionately to men.

ENVIRONMENT

The environment emerged as a key sector in the Thai case, and one would expect a similar prominence for the NGOs in this sector in Kenya. Globally, the environment has become a major focus in the post-industrial world, spawning an incredible number of environmentalist and conservation NGOs and "green parties". Kenya is world-renowned as a wildlife refuge for some of the world's largest remaining (and vanishing) herds of plains game, and much else, albeit a refuge that is under extreme pressure from competing human resource use. We would expect the environmental sector, therefore, to play at least as great a role in galvanizing the NGO community in Kenya as in the Thai case. Oddly, this is not the case.

I. Institutions. Institutions in this sector include a few large international PVOs like the World Wildlife Fund, with its primarily emphasis on wildlife preservation, as well as a growing number of indigenous NGOs, with and without international partners or funding. The latter include, for example, the Wildlife Clubs of Kenya; the clubs associated with the National Museum/Herbarium and Coastal Marine research areas (generally referred to as the "museum hill complex", which can be stretched to include the Girl Guides and Boy Scouts, Kenya chapters; the Greenbelt Movement, founded by Wangari Maathai and primarily focused on tree planting, maintenance and use by women; Mazingira and other "non-profits" with an educational mission; the Bellerive Institute, Techno-Serve, KWAHO and others with a technological emphasis; and at least one budding, prototypical apex institution, Kengo (Kenya Environmental NGO).

II. Sub-sectors. As with the health/pop/AIDS sector, this one is really a number of discrete sub-sectors with some fairly large differences in the characteristics of the NGOs comprising them. Sub-sectors include wildlife conservation, which has the greatest international visibility (and is intimately related to the major foreign exchange earner, the tourist industry); social and agro-forestry, which remains distinctly a "step-child" in comparison with Kenya's forest plantation sector, and which has recently seen growing efforts and calls to preserve Kenya's few remaining indigenous forest resources; environmental education; and appropriate technology/woodfuel use, which has been especially focused on fuel-efficient stoves and woodfuel conservation -- their development, production, and widespread dissemination. Other foci in this sub-sector include bio-gas development for smallholder farmers, and solar energy.

These sub-sectors precipitated out as separate aspects of the initial concern with conservation during the 1970s. A brief description of the trajectory of the institutions in each, and the issues that gave impetus to their formation or coalescence, provides context within which to assess the NGOs in the sector in terms of the variables with which we are concerned.

A. Wildlife Conservation. This is the sub-sector in which international attention has been riveted. International PVOs such

as the World Wildlife Fund have been prominent players on the scene and have put pressure on the Kenyan Government at several points. For example, in 1975 (?) Kenya banned sport hunting, as a response to international concern over the dwindling wildlife herds, despite the fact that local interests were negatively affected by the ban -- local "legal" hunters, "poachers" in the more remote areas where indigenous peoples earned some income from game products, and the settled farming communities in areas closest to the game herds who suffered damage from game migrations through their farms, sometimes extensive damage, with very poorly developed compensatory schemes from the Kenyan Game Department. It should be pointed out here that local, legal hunters argued vociferously that outlawing sport hunting entirely would not only hurt them but would ultimately lay the country open to rampant poaching, since the main realistic control on poaching was the self-interest of the hunters in reporting evidence of poaching; the Game Department, it was maintained, was incapable of policing this situation. This, in effect, seems to have been borne out, at least until the overhaul of the Wildlife Department done by Richard Leakey recently, which is now imperilled by his removal.

A recent symbol of the might of the international wildlife lobby was the celebrated burning of elephant tusks by the Kenyan Government in _____ (repeated in _____), which was reputed to have been the quid pro quo for a substantial financial "reward" in terms of quick-disbursing donor funding. Kenya has held the line on the protection of all its remaining animal species, in principle. In practice, poaching continues and at times has become very serious, generally in tandem with the demoralization of the wildlife staffs (game wardens, etc.), who are greatly suspected, at least by the international community, of being centrally involved in poaching.

Currently the situation is confused, with Richard Leakey's two-year tenure as Director of a semi-privatized Wildlife Services coming to an abrupt end under charges of racism, arrogance and the mismanagement of funds. His efforts apparently did improve the conduct of the wildlife personnel significantly, but at the expense of the complete alienation of the indigenous communities surrounding the parks, as of their representatives in the Government. The new director, another expatriate, is under intense scrutiny by the international community and is felt to be unlikely to be able to hold the line against the types of encroachment on both wildlife and the land supporting it that were an increasing feature in the late 1980s. Local NGOs in the sector include the Kenya Wildlife Society, the Wildlife Clubs of Kenya, the "museum hill complex", the scouts, and a few others, mostly concerned with wildlife education in the schools and among the general public, but without much concern for developing advocacy (as opposed to educational) skills. The international PVOS continue to exert the greatest pressure toward reform.

B. Forestry -- Agro-, Social, Indigenous and Plantation. The forest sub-sector has the oldest public-sector embodiment in Kenya, as the plantation forests were an important element of the colonial economy and legacy. Substantial plantations of evergreen march up the Rift Valley and have been the venue of considerable commercial sawmilling, supporting construction and furniture industries, as well as some paper production and the production of wattle/tannin, used in tanning leather (this became an important smallholder crop in Central Province during the colonial prohibitions on the production of coffee and tea by smallholders).

Only in the 1970s did the dwindling of the indigenous forest cover become noticeable and were serious efforts to introduce agro-forestry begun. While this approach was pursued on a very modest scale by the Ministry of Agriculture, most agro-forestry development took place in the donor-funded regional, integrated, or arid/semi-arid lands projects of the late 70s, early 80s -- for example, the Machakos Integrated Development Project. Some NGOs appeared at this time that were concerned with indigenous tree species planting and with water conservation and harvesting, the latter in conjunction with tree planting. The best known of the local efforts, at least internationally, is the Greenbelt Movement, founded by a Kenyan woman to target women as users and producers of fuelwood.

In the late 80s and early 90s attention on indigenous forest preservation came into the limelight. The development of social contracts with communities surrounding the forests, frequently encroaching on or living in them, began to be the focus of the NGOs involved in the sector, in direct opposition to the Government's strenuous efforts to remove all squatters from the forests. The diametrically opposed views on the best approach to preservation of indigenous forests resulted in 1994 in the complete rupture of the advanced plans for ODA funding of KIFCON, the Kenya Indigenous Forest Conservation project meant to develop this sort of tenant-social forestry (based on models in Asia). This has thrown the donor communities efforts into disarray; the local NGOs operating in this area never shared the donors' optimism about GOK willingness to permit this monitored use of the forests; consequently, they have developed a completely different approach, discussed below.

C. Fuelwood Development/Appropriate Technology. The late 70s saw the mushrooming of efforts to develop fuel-efficient cook stoves, based on prototypes developed elsewhere and increasingly on the methods used by people in Kenya's own arid areas, whose use of fuel is reportedly extremely parsimonious and efficient. NGOs such as Technoserve and the Bellerive Institute pioneered in developing these. They are now reportedly used widely in Kenya's public, rural institutions -- i.e., primary and secondary schools and health facilities, the main institutions in which food preparation is done. One report puts their rate of conservation at 90% -- i.e., only about 10% of the fuel that was previously used for an

equivalent amount of food preparation in these institutions is now used. One such NGO, Bellerive, has now moved onto other areas, notably environmental education. Others are involved in dissemination of the cook stoves ("jikos", in Swahili) more widely at the household level. Still others have moved into experimentation with solar and wind power, bio-gas, and other forms of renewable energy.

D. Environmental Education. The 1980s saw a number of environmental education efforts begun. Some NGOs that began with the idea of developing new technologies, or promoting agro-forestry, discovered that major attitude change toward resource use was an essential prerequisite, and have moved over to the arena of environmental education. Mazingira Institute is one of these, producing materials targeted at schools and women's groups, in addition to the occasional analytic assessment it does into specific environmentally-related issues (e.g., its study of matatu transport in the Nairobi area). In some senses, these can be seen as substitutes to the development of direct advocacy skills and tactics. For reasons which will be discussed below, advocacy is a difficult enterprise in this sector, and most of the local NGOs have reacted with one or other of the types of activity they see as prerequisite to a local, as opposed to international, type of advocacy. Environmental education is one of these.

III. Issues Forming a Basis for Advocacy and a Reform Agenda.

Some of the issues that are relevant to policy formulation and reform in the sector emerge from the discussion of the sub-sectors. Others cross-cut them, or relate them to other institutional domains important in resource use and conservation.

Forests, squatters, local Council revenues, and plots. With respect to the forestry sector generally, plantation forested areas are the responsibility of the central government, and the issue here is the degree to which forestry staff and/or local communities should be permitted to reside in and utilize the forests, on a temporary basis, while protecting them. GOK has always had a fairly hard-line attitude toward this, since it is felt that once permission is given for people to use the forests, there will be no way of maintaining control, and major forest encroachments will take place -- such is the pressure on land in the densely-populated areas of the country. There is, needless to say, something to be said for this point of view, although advocates of social and community forestry argue that the controls have to be in the hands of the communities themselves to actually be enforced. The main defenders of this "hands off" approach to plantation forest areas are the professional foresters in the Ministry of Environment and Natural Resources, as well as in the research facilities, who have to deal with the results of forest encroachment when it occurs.

The rest of the forestry sector -- indigenous and "local"

forests -- are the responsibility of the local authorities, which are County Councils in Kenya. There is extreme pressure on virtually all Councils except those in the most arid areas to allocate "plots", with Councilors involving themselves in allocation of hitherto communal "Trust Lands" in order to maintain patronage networks, as well as for personal accumulation. Most such land is excised from these forests for agricultural purposes, although some may be for residential use, or for private tourist facility development. In addition, the Councils themselves are in increasingly difficult financial straits and have taken to issuing sawmilling licenses far in excess of prudent use in some areas. There are thus both personal and institutional vested interests in exploiting forest resources in the non-plantation, indigenous areas, and there currently are major excisions of these forests taking place.

Quarries. Similarly, there is pressure for quarry licenses to be granted, again to improve Councils' revenue positions. Sand quarrying in Machakos has reached alarming proportions. Quarries and other mineral resource exploitation are not yet well-regulated with regard to watershed protection and the prevention of soil erosion, with the result that many quarried areas resemble moon-scapes after some time.

Parks and Wildlife Vs. Farms. A main issue with regard to the high visibility wildlife arena is the conflict between the tourist use of the parks and need to preserve wildlife habitats both in the parks and surrounding them, vs. the considerable damage done by wildlife to surrounding farming and herding communities. The communities bordering the parks have recently been a target of Bank efforts in the wildlife sector to devise programs that would produce concrete rewards for these communities' protection of the parks, rather than encroachments into them. Most of the parks are in areas populated sparsely, by communities staunchly pro-government politically, so there is considerable hope that these efforts might be actively pursued and accepted by the Government. On the other hand, the similar efforts at indigenous forest conservation project development under ODA auspices came to a crashing halt as Government felt it was being pressured intolerably by the "conditions" imposed in the ODA negotiations.

60175
10-2

Generally, this entire sector has the well-known issue of the "commons" at its core -- the problems of individual rights and gains vs. the public interest, in the form of common property and its preservation. The conflicts are very strong and thus far no strong conservationist vision or movement has emerged locally to advocate and sustain the public interest. Rather, the individual rewards of natural resource exploitation have overridden the public interest consistently. While strenuous efforts on the part of the international environmentalist movement has arrested some of the worst depredations, temporarily, it is not at all clear that the temporary gains are sustainable. It is clear that the weapons and tactics of the international environmental movement are not useful

for the long-term domestic effort, so the local NGOs have turned to other strategies, discussed below. LX

IV. Sectoral Characteristics and Organizational Attributes.

Organizational Capacity. Organizational capacity within the sector is only moderate, with greatest institutionalization and ability to define goals, recruit members, and pursue specific programs in three of the sub-sectors -- the museum hill complex (which however remains highly circumscribed in its focus and its willingness to engage in policy dialogue), the environmental educationalist movement and the appropriate technology/alternative energy NGOs. These sub-sectors are in an analogous position to those in the health/population sub-sector -- ready to benefit from the development of advocacy skills and the pursuit of a broader reform agenda, which donors might now productively consider assisting them with.

On the forestry and wildlife fronts, all seems in disarray. The Greenbelt Movement and other less high-profile agro-forestry ventures are caught

in a conflict between traditional service provision activities, e.g., extension, mobilisation, seed supply and the like, to their traditional targets, and the broader ad-vocacy that Greenbelt, for one, has undertaken. A new entrant in the NGO universe dealing with forest conservation is the "land trust", being pursued through the courts to restrain the local Councils from forest excisions and get them to grant authority to these bodies to maintain the forest. Examples are the _____ and the Ngong Road Sanctuary Trust. The use of this tactic is to be commended in terms of creativity, but it is expensive and vulnerable to wholesale Government legal manipulation, and so probably not ultimately an organizationally sound method in Kenya.

Autonomy. As with the health sector, there are a multiplicity of groups focused on environmental issues, some of them reasonably institutionalized (e.g., the museum hill complex). Unlike the health sector, they have had a fairly low level of impact on policy formulation or dialogue, and it is not clear that many have established good channels of communication with the GOK. The most promising recent sign of communication involved the drafting of the National Environmental Plan, prompted by the conditions of Bank funding for the sector, which was undertaken through the National Environmental Secretariat (an parastatal attached to the Ministry of Environment and Natural Resources) and which by all accounts involved a wide spectrum of actors and institutions in a systematic fashion -- probably the first time this has been the case. ?

They are in the main quite autonomous (the museum hill complex

excepted). The National Environmental Secretariat serves as an apex body on the public sector side, and has been significantly funded in the last decade to produce both national and regional or district environmental plans (some of them of high quality, mostly using professional consultancies for the work done). Kengo is trying to position itself as a "network" organization that can broker relationships between donors and grassroots NGOs, but the funding for this is as yet largely unavailable. There are some emerging sub-sectoral networks, but they are ad hoc and they are tenuous because of the substantial competition for available donor funding which tends to pit them against one another rather than promote coalitions.

Participatory orientation in the sector as a whole is high. These organizations tend to be comprised of "activists" who have additional and other political concerns as well. The strategies being devised by Kengo and others -- from the failed KIFCON effort to the museum hill complex -- are aggressively participatory, putting major emphasis on the responsibility of individual citizens to become educated about, and participate in the protection of, the natural resource base. Even the NES's approach, from the GOK side, has been participatory, with a canvassing of views from a wide spectrum of organizations.

Advocacy. Unfortunately, advocacy at present seems to be inversely proportional -- at least in terms of impact -- to the level of participation in the sector. Because of individual interests in exploitation of Kenya's unique resource base, the ability to move a "reform agenda" has been minimal. The main problem identified in the sector as a whole is the degree to which it is characterised by high profile conflicts of interest. Elites, whether in central or local government, civil service or parastatals or the private sector, have vested interests in natural resource exploitation. They are confronted by a not very aware public, which has been rather passive when it perceives its own resource base being threatened, as well as involved centrally in many forms of unsustainable resource utilisation itself.

Consequently, the main protagonists in the policy arena around resource utilisation have been either central or local governments and the international environmental groups, especially wildlife conservationists, aided and abetted by the residual local "settler" community with ties to the tourism and wildlife sector, for example Richard Leakey. The high profile of these groups and their strategies of exerting maximum pressure have led to confrontations and to the ultimate failure of policy dialogue, as evidenced in the collapse of the KIFCON project.

As a result, the local NGOs in the sector have begun to re-think the strategy. A major apex-like organization, Kengo (Kenya Environmental NGOs), has concluded that the only strategy offering a hope of long-term success and sustainability is to promote the

development of community-based organization around specific natural resources -- i.e., forests, river systems, lakes, etc. -- similar to the Ministry of Agriculture's traditional agro-ecological zone approach to planning, and to create public "fora" in which local responsibility for and discussion of resource use can take place. They are consequently seeking funding for the creation of such fora and intend to play an intermediary role, relinquishing their previous role as either "advocate" or "service provider" in a welter of resource use conflicts/projects.

Instead, they will focus on the provision of educational material, organization, advocacy skills and the like to local NGOs prepared to preserve the resource in question. This will remove them as well from any visible high level advocacy role, which they claim is simply counterproductive, partly because of the multiplicity and venality of vested interests in harmful resource exploitation, and partly because of the back-lash against the perceived "interference" by international wild-life exponents. FORD is funding the basic strategy development and documentation for this organization; they are still seeking funding for three pilot "local resource fora" with which to launch this effort.

In the appropriate technology sub-sector, numerous efforts (such as the Bellerive Institute, a Swiss-inspired innovator in fuel efficiency, and only one of many at work in Kenya) have borne fruit but produced little in the way of broader advocacy with respect to public policy formulation. Rather, the activities these have pursued have been primarily the development and dissemination of fuel efficient technology, and subsequently the development of environmental education to deal with an uninformed public. In turn, the environmental education sub-sector has developed more of an advocacy-style rhetoric, but focuses primarily on dissemination of the material produced through the school system, the women's organizations, farmer's clubs and occasionally the church. The perception by these organizations, then, is that the problems are at least as much with popular understanding of resource availability, ecology, and renewal as with the depredations of exploitive elites, and that sustainable, viable resource use requires addressing the former before the latter.

Bellerive has consequently moved into the production of materials for use in the school system, and has actually succeeded in getting them introduced into the schools in several districts. They have pursued a regional strategy and are hoping to replicate this effort in Uganda. Mazingira has also been involved in the preparation of materials for use by schools and by the women's movement. These examples suggest that Kengo's new, FORD-funded, low-profile ecological-zone "educational-advocacy" approach may be well-tailored to the specific organizational skills and capacities that have been demonstrated by the most promising NGOs in this sector, and thus that donor assistance to Kengo's strategy may be a good medium-term bet (albeit requiring considerable assistance to

Kengo itself to bring it to the point where it can supply the necessary assistance to the "front-line" NGOs).

One local NGO that is an exception to this is the Greenbelt Movement, internationally recognized and founded by a dynamic Kenyan woman, initially to organize women for social forestry efforts. The individual who founded the organization is perceived as a "dissident", especially since she has been involved more recently in high profile advocacy efforts -- successful ones -- to prevent the construction of a KANU office building on some of Nairobi's essential central park space. While many sources indicate it was actually pressure from the Bank which brought about this result, the popular perception is that the Greenbelt Movement was centrally involved. This organization -- or rather, its leader -- has no "credibility" with the regime, but plenty with the international environmental community, and thus draws financial and moral support from external sources primarily. (This example is complicated by the fact that she has also been involved with the mothers of political prisoners who demonstrated during the pre-election period in 1992, and is thus perceived -- correctly -- as politically involved in opposition politics, albeit she has attempted to maintain a "nonpartisan" stance within the opposition).

This alternative -- continued high-pressure tactics from the international wildlife groups -- may be nearing the limits of their usefulness, or even become unproductive, as the pressure of tourism itself causes deterioration in Kenya's parks (e.g., Maasai Mara, Amboseli) and the issue of compensation for wildlife crop damage remain unaddressed. Conversely, Kenya's government being as opportunistic as it is, **debt for conservation swaps** are likely to have a fairly good, if temporary, prognosis, and could be pursued more aggressively than they have been so far. Finally, the "land trust" method of protecting natural resources may have a long-term relevance, and certainly is worth pursuing on an **experimental** basis in a variety of ecological settings to determine where it is most likely to be successful. It has to be recognized that this is not as short-term a commitment as might initially appear to be the case, and donors should be prepared to sustain such efforts for long enough (given the nature of most legal processes, several years) to get a realistic sense of their potential.

Sustainability. This last point leads directly to a consideration of sustainability. Organizationally and financially, there is low to moderate sustainability of the existing NGOs in this sector. Not surprisingly, the museum hill complex may be the most financially secure, with membership funding and a limited focus on goals which do not present major confrontational potential. The organizations which pursue alternative energy development tend to be almost like the private sector; while not requiring to turn a profit, they nevertheless have to produce technology that is cost-efficient, and thus have an eye to financial considerations at all

times. Nonetheless, some of these receive substantial external funding, as do the environmental educationalist NGOs. Finally, the sector dealing with social and agro-forestry is meant to teach cost effective resource exploitation and preservation, but since there appears to be stalemate in the development of any major efforts in this sub-sector, not much can be said about its sustainability yet.

V. Allies. Who might be allies in this area? The general universe of "**community-based organizations**", including women's groups, might well be allies, in that this is an area of bread and butter issues for many of them, around which organizational coherence can be built and technical skills transferred. The **schools** are also clear allies already; it remains to be seen how the environmental NGOs can capitalize on this alliance to promote their interests nationally. A third ally might well be the **business community**, although of course this remains an area where some conflicts are also inevitable. However, in that both tourism and export agricultural are fundamental components of Kenya' economy, the preservation of both the wildlife and land resources seem fundamental to sustainability of the economy over the long term, and business should clearly be one central target for the environmental groups, with this message. Finally, **local governments** are also a potential ally. These are the bodies responsible for the actual use of most resources, and their revenues depend on their careful preservation and exploitation. Environmental NGOs need to increase their efforts to convey the message of conservation and renewability to these local authorities, and the way that they can increase their own revenue base through careful husbanding of the natural resource base.

Handwritten notes: 1/27, 3/4, 1/1, 2/1

WOMEN'S MOVEMENT

The women's movement cuts across many policy areas, including health and the environment. Advocacy potential in this sector is very high; the furtherance of women's economic, social and political positions means that efforts and institutions in this sector are directly concerned with the broader individual and human rights agenda.

I. Institutions. Women are well-organized in Kenya, compared to male counterparts in sectors such as labor and farming. There is network of women's organizations that carpets the country. One component of it is the local level branches of the national organization Maendeleo ya Wanawake (development of women). A second component is the network of **church-related groups** that are either primarily or wholly women-oriented: church is a major vehicle for female participation in the wider society in Kenya.

A third component is the **network of "self-help" (harambee) organizations** that have played a major role in providing physical and social infrastructure for development in rural Kenya. The origins and regulation of these institutions is discussed elsewhere in this assessment. They are heavily weighted toward women, both in terms of membership and actual participation. All of these -- Maendeleo, the church women's network and the harambee groups -- form the "old" network of women's associations.

In addition there are a host of **new organizations** with women's rights as their objective. They include the Kenya chapter of FIDA, the international women lawyers' association; the National Council of Women of Kenya (NCWK); the League of Kenyan Women Voters; the Center for Women in Politics; the Forum for African Women Educators (FAWE), which is an all-Africa assemblage of women education ministers and Vice-Chancellors focusing on improving women's access to education in Africa; and FemNet, an intermediary organization which provides training on gender-sensitization both locally and regionally.

There are in addition several institutions that are either **part of the GOK machinery** or currently serving as intermediaries between it and the women's groups. The Task Force on the Law Relating to Women is the latest such effort, launched by the Attorney General as part of the effort to mount a credible law reform effort. The Women's Bureau in the Ministry of Culture and Social Services is the oldest such official organ. The Committee on the Status of Women is a more recent effort. These three form the "official" women's group network, and NGOs are expected to direct their efforts along the lines laid out by these institutions.

II. Sub-sectors. The sector is not characterised by sub-sectors in the same way as environment and health, but three broad areas with different goals and characteristics can be distinguish-

ed. These are traditional women's groups, originating in the self-help movement and presently focused on income generating activities; groups focused on legal and individual rights, targeting the improvement of the socio-cultural and legal environment that women confront; and organizations with political empowerment as their objective, focused on the political system that structures the "rules of the game" itself.

III. Issues Relevant to Policy Reform and Advocacy. Issues relevant to a broader policy arena in the area of women's rights in Kenya are endless. Indeed, one of the main problems confronting the women's movement presently and for the foreseeable future is the difficulty many of the newer organizations are having in prioritizing activity and focusing on a limited number of concrete, remediable issues. Many organizations instead seem to be focusing on of consciousness-raising, in which all of the evils confronting women are identified and dissected, and some desirable actions outlined, but far in excess of the ability of the existing organizations to implement in a satisfactory manner. This is partly a function of donor emphases on the status and role of women; frequently Kenyan women have a clearer picture of what is essential in the search for improvements in their lives, but their priorities are complicated by the larger agendas of the donors who fund them.

Issues that do seem "prior" in the Kenyan case, and that are provoking considerable activity, include: inheritance, property and land rights; access to credit, to jobs and to other basic elements of economic security (e.g., insurance, bank accounts, legal assistance); educational discrepancies and the high rate of drop-outs of girls at all levels of the educational system; access to birth control; female circumcision. Kenyan women's organizations emphasize the economic issues above the "human rights" ones, i.e. property rights above all else, followed by access to credit, jobs and other economic security, and only then access to birth control and the enforcement of the present law on circumcision.

IV. Sectoral Characteristics and Organizational Attributes.

A. Background: the Status of Women in Kenya.

The political and institutional significance of the women's movement in Kenya can be understood better in the context of a brief picture of the status of women. Women in Africa confront a wide spectrum of degrees of control, from the near-total seclusion of some (not all) North African Islamic societies to the near-total economic and social independence of some (not all!) West African market women. Neither of these ends of the spectrum applies in the East African case. There is nonetheless a considerable range of control over, and value accorded to, women in this region as well.

Cultural variation in the idealized role of women in Kenya, which is quite substantial, is complicated by increasing class

stratification, even in the economically least mobilized areas. Urban and rural differences in life style contribute to the complexity, as does the fact that most men in Kenya, and increasingly many women as well, spend some of their time -- generally during economically productive years -- in urban settings, and some of it in rural areas with a greater residue of "traditional", stereotypical role definitions. All of these factors make it difficult to make general statements about the status of women in Kenya; no generalities will apply to all social or ethnic groups or strata. Nonetheless, a few points are worth bearing in mind in this discussion of women's organizations.

Economic Role. Women in Kenya do the bulk of the routine agricultural work. Traditionally men were responsible for the heavier tasks, such as the clearing of new plots of trees and shrubs and the ploughing or other treatment of the soil in preparation for planting. Now, however, they are increasingly absent for lengthy periods of time. Rural households are thus increasingly headed by females, who are now responsible for much more of what used to be considered "male" agricultural tasks in the settled areas, and herding and other tasks involved in animal husbandry in the pastoral and semi-pastoral areas. Without the resources to hire casual labor to do these tasks, what this means in practice is that the household produces less and is on a downward spiral of reduced productivity, increasingly precarious subsistence, and a much reduced ability to either "subsidize" urban migrants from the household until they find wage labor or to pay school fees.

The strains this places on families has led to increasing social dislocation, not only in the urban areas where life in shanty areas bears no resemblance to "tradition", but in the rural areas as well. Men in urban employment with low-paying jobs no longer remit significant sums of money to the rural household; many cannot remit anything at all, and eventually "disappear" to all intents and purposes, with the shame of having failed the family. The reduced cash income pays school fees for fewer children; the first children to be pulled out of school are generally girls, and the failure to finish primary school by the majority seals their fate. They then marry early, begin to bear children to demonstrate their only value, and can only obtain casual labor on farms at very low rates of pay, which simply removes them from productive employment on their parents' land and substitutes a bare minimum wage on someone else's that cannot provide anything above subsistence.

Women traditionally did not inherit property in Kenyan cultures. They can legally inherit, of course, if an enlightened parent has recourse to the relevant modern legal instruments -- a will and a lawyer. Most do not, and the inability of most rural women to inherit the land on which they spend so much time is the single most economically destructive cultural issue presently confronting Kenyan women. Without land titles, access to credit is also impossible. Women are thus effectively barred from the possi-

bility of acquiring the resources, either individually or on a group basis, to invest in and improve their holdings. Many women's organizations are focusing on ways to make resources available, especially on a group basis to redress this discriminatory socio-legal position. Others, of more political bent, are focusing on the law relating to inheritance itself, on the theory that elaborate strategies to circumvent or neutralize the discriminatory aspects of the law will in the end lead to frustration and/or a continuation of the two-tier system which penalizes women for no reason.

The work load is a very visible issue in discussions of the status of women in Africa. Rural women do almost all of the agricultural work that is done, generally both a substantial amount of subsistence food production and an effort, however modest, at some commercial crop production. They are also responsible for all of the child care, which is considerable given the preference for large families. They do all the food preparation and washing of clothes and utensils, which involves the acquisition of fuel (generally firewood) and water (about 60% of rural households have access to piped water at communal waterpoints; perhaps 15% have individual water connections). **These last three activities very early involve the other female children in the family, who therefore are at a disadvantage in terms of the time available for schoolwork.**

Urban women have similarly heavy work loads. Most are involved either in petty trading or casual labor, or if they are very lucky, formal wage labor. They must then maintain a household and manage the essential economic activity. The main advantage to being in town is the easier access to water, which may be closer (albeit increasingly unreliable in Nairobi) and to commoditized cooking fuel -- kerosene, charcoal -- which, of course, have to be bought. The household chores may be passed over to a "maid", in some cultures a rural female of the family/clan brought to town to assist, but in many cases a stranger. (The exploitation of these "maids" by urban households, and their complete unreliability, in turn, would be suitable for a serious sociological study. This is an issue waiting for the women's movement to adopt it.)

Human/Reproductive Rights. On the side of human and reproductive rights, women confront similarly serious issues. Marriages are not arranged, and girls generally have considerable say over whom they will or will not marry, although this varies by ethnic group (and some Islamicized groups do practice arranged marriage). Bridewealth is still important in many areas, especially those least economically incorporated into market production. Bridewealth or "bride price" is a variable payment to the parents of a bride by the family of the groom, demonstrating their understanding of the economic value of the woman, whom one family is losing and the other gaining. It was traditionally scheduled to be paid over a lengthy period of time, the first part before the couple took up

cohabitation and successive portions as the children were born. Final payments were frequently not made until the couple became grandparents. African bride price thus puts a value, an economic importance, on the woman, quite unlike the case of the Asian bride price, which clearly "values" a woman as a liability.

These traditions have been seriously eroded but not disappeared. In some areas bride price has been through a period of serious abuse that led to its being capped, and now it takes the form of token payments of cash at the time of the announcement by the man, to the woman's family, that he intends to marry the woman. In some cases it is still being abused, (through extortionate demands by fathers, mostly in terms of cash) and can form the basis for the abuse of a woman, with her husband arguing that he has "paid" for her and is entitled to treat her, as his property, as he sees fit. Traditionally it was a method for inducing both families to intervene to save troubled marriages, in that the parents of the bride in no way wanted to have to return the bride price (which is necessary in cases of divorce), especially where the cows or cash involved have been counted on and calculated into the accumulation of a bride price for one of the girl's brothers. Attitudes toward bride price are very confused and variable presently (except among urban elite young people, who uniformly reject it). This is an issue in search of a policy position and reform proposals by the women's movement, but one that has yet to be taken up.

Fertility. Large families are still the cultural ideal in Kenya almost universally. While the section on family planning organizations points out the recent successes in reducing total fertility, the drop from 8+ children per woman to 6+, both in actual terms and in terms of the family sizes they profess to desire, indicates that high fertility is still strongly desired. Urban families are increasingly smaller, but the wealthiest urban families generally have large families, and this still serves as a cultural ideal. Schoolgirl pregnancies are not uncommon, although they are not universally considered "okay". A large number of illegal abortions is performed on truly desperate girls (some of them mind-bendingly innocent about the mechanics of reproduction) who know they will be thrown out of their homes if their pregnancies become known. Many die; 60% of the gynecological admissions in the GOK medical facilities in Nairobi are a result of the complications of illegal abortion. This is another critical issue of importance to women, which seems to have been taken up by the health/family planning NGOs, in particular the Family Planning Association of Kenya, rather than the women's movement.

Circumcision. Male control over women as "property" takes the extreme form among some of Kenya's peoples (not all) of female circumcision, which is an additional outrage to individual and human rights. There are ethnic groups which still manifest almost 100% female circumcision, although there are other groups which do not circumcise females at all, or where the practice has considerably

decreased. Women are equally as involved in maintaining this custom in areas where it obtains, as a passage to adulthood; young women and the midwives who circumcise them engage in a conspiracy to carry out the practice (which is contrary to Kenyan law) because they will otherwise "not find husbands" and will not consider themselves worthy adult females. This is a custom which dies hard. It is one which has mobilized the international women's movement, but Kenyan women's organizations have reservations about involving outsiders in this particular fight, which the major "old" women's movement organization has taken up on a pilot basis.

Summary and Comparison. The picture is thus one of low educational levels, early marriage, high birth rates, a highly discriminatory cultural and legal system with respect to inheritance, property rights, banking facilities, and the other bases for economic independence. Women must generally have male "authority figures" involved to legitimate their efforts to use any of these. The picture is particularly grim because it is **getting worse rather than better**. As the economy deteriorates and the effects of structural adjustment hit, women and children are disproportionately affected, and the effects on men as urban wage earners inevitably are felt in their rural households.

The picture, however, is not the worst case globally in terms of the status of women. One study in the early 1980s of the status and situation of women around the world calculated that around 100 million women were "missing" -- i.e., there were around 100 million women fewer than there should be given known sex ratios of births and deaths. The reasons for the "missing women" were the types of discriminatory cultural patterns one would expect -- malnutrition, unequal access to modern medicine, deaths in childbirth, even the exposure of baby girls in some Asian cultures. A ranking of areas of the world for their theoretical vs. actual demographic profiles related to women put south Asia, some areas of east Asia, and north Africa/areas in the Middle East at the bottom of the list, with western Europe and North America at the top. East African women fare better than some areas, despite the major problems they confront.

Compared with some south Asian and north African women, then, Kenyan women have greater value traditionally and greater independence, both economically and socially. The main problems for Kenyan women are **access to resources** with which to exercise this independence and the longer-term task of socio-cultural change in the perception of the role of women.

Political role. One other major point is the **potential importance** of women in the political system. Women's groups have traditionally been a target for clever politicians, who know that in areas of the country where women are active (i.e., not secluded or otherwise culturally hobbled) they can be a very strong and unified force, partly because of the networks of organization that they

maintain. This translates into major voting bloc potential. The GOK has been particularly keen to control these women's organizations in recent years, and to be perceived as supportive of women at the same time as it attempts to keep women's organizations tightly bound to the regime. For all the handicaps that women operate under, then, they are politically important to the Government. This complicates the life of the women's organizations, especially with respect to the difficulties in maintaining autonomy.

B. Organizational Characteristics

Organizational Capacity. The women's organizations which have arisen to deal with these challenges are a combination of very new and relatively old ones. The premier institution, Maendeleo ya Wanawake, was originally formed in 1952 to deal with the Gikuyu women who had been put into the camps during the Mau Mau rebellion. It became clear to the colonial government that a different approach was needed to work with women than with the men in such camps, and they introduced instruction in various aspects of housekeeping -- sanitation, food production, nutrition, child care and some adult education. This type of self-improvement was then transferred over and incorporated into the informal women's networks for self-help which exist in all Kenyan societies and are focused on the household's critical episodes -- birth, death, marriage.

Maendeleo gradually spread its net nationwide. It is currently organized at district level and in most areas even down to sublocational level. It has been a major mechanism for reaching women with messages and assistance in the form of small grants to groups to use in income generating activities. Grants to women's groups have been fairly trivial in size, equalitarian (that is, divided equally at the local level between the hundreds of groups and women members, irrespective of the use to which they might be put), frequently "biased" in terms of the allocation to communities in favor with the regime.

Maendeleo has experienced a great deal of politicisation at national level. It suffers further from an image as an "elite" women's group at the district level, where offices tend to be held by prominent women (e.g., wives of local political figures), and this generally translates into politicization. Maendeleo nevertheless does have an extensive network of grassroots groups and the potential to mobilize them. They have in fact been mobilized and used by NGOs in the health and family planning sector. The organization nationally, however, has little ability to make strategic plans, and is vulnerable to cooptation and interference from the political system.

Others of the "old" institutional network are similarly characterized by a low to moderate level of organizational capacity, with a fairly high capacity to mobilize women but a vulnerability

to interference from outside forces, primarily political. The harambee movement is rife with this, as harambee has played a political role from its inception. Even the church women's group network is vulnerable to political regulation and competition within the church hierarchies; the church in Kenya cannot be considered an "apolitical" entity, and certainly is not considered so by the Government.

The "new" women's groups show a wide spectrum of organizational capacity. Some, such as FemNet, serve both as an informal "network" and an advocacy-cum-service-provision agent, training institutions on methods of gender-sensitization. The women who run this network are organizationally skillful, experienced, and willing to devote lengthy hours to their goal, which is to increase gender-sensitive content in public institutions and documents and in the educational system. FemNet has a regional focus and a wide membership on which to draw, and something of a track record.

Another such organization, with an African regional focus, is the Federation of African Women Educationalists (FAWE), which is comprised of women ministers of education, broadened to include women Vice Chancellors of African universities. While this might seem to be a very tiny and elite group, the Chairperson indicated that it presently has members from 23 African countries. Kenya does not fall into this category, not having either a woman minister of education or any women vice chancellors, but the organization is headquartered in Nairobi and headed by a senior Kenyan woman educationalist who has served in many top positions both in the Government and in the women's movement, including the National Council of Women of Kenya.

The organization focuses on the need to increase retention rates for girls in the educational system in Africa at all levels. While it would seem that such an elite cadre would have all of the skills necessary to mount successful advocacy for educational and societal reforms, the chairperson indicates that many of the members feel isolated and are unaware of basic statistics on African education and their nations' ranking on the retention and success rates of girls. They are frequently sole female members of otherwise exclusively male Cabinets, and are surrounded by patriarchal governing elites. The organization serves thus to provide them with basic moral support, analysis, analytic skills, and suggestions for methods of advocacy and types of reform that have worked in other African countries. The organization is wholly dependent on external funding, and not likely to reduce its dependency in the foreseeable future, but the quality and top-level advocacy that it represents probably makes it a useful organization for donors to continue funding.

Other organizations, such as FIDA (the international women lawyer's association) and the National Council of Women of Kenya (NCWK), have considerable institutional development. They have suc-

cessfully undertaken advocacy, or non-partisan but explicitly political activity, such as the monitoring and assessment of the 1992 Kenyan elections. They have unsuccessfully pursued other efforts -- reform of the marriage law in Kenya, bearing greatly on child support and inheritance, is the most important example. Many of these organizations, however, tend to suffer from the same major organizational defect as the business associations and labor unions until very recently -- personalization of the leadership, which is not regularly replaced, tending to exaggerate the identification of the organization with a person and a political perspective, whether fairly or not, which ultimately can be misinterpreted as a political agenda by the GOK; and promoting a stagnation of new ideas essential to organizational growth and maturity.

A few of the new institutions, such as the League of Kenyan Women Voters and the Center for Women in Politics, the latter with assistance from the National Democratic Institute (NDI), are still grappling with the problem of membership and recruitment as well as with the perception by the Government that they are the political opposition. One or a few women dominate in leadership roles, repelling women of other political persuasions.

The League of Women Voters of Kenya, for example, formed in 1991 just after the repeal of Section 2A of the Constitution (which had mandated a one-party system for Kenya), is headed by a woman MP from FORD-Asili, the party most feared by KANU. She herself is considered a dangerous dissident, and her parliamentary responsibilities take up most of her time. The League has an executive council of ten members, all of whom are very busy professional women, and a Secretariat of 4 members, (only one of whom could be made available for an interview despite two weeks' worth of efforts to make contact). The League has around 2,000 members, has no representation from the KANU-dominated areas of the country. It has recently begun to think about having Executive Director and to seek funding for one. While this would no doubt be a positive step toward greater organizational capacity, the leadership issue is not the only one the organization faces.

The League has been unable to obtain permits to hold its rallies, which are aimed at teaching women about their rights and responsibilities as voters, since before the 1992 elections. A rally organized in conjunction with the church in June was stopped by the provincial administration. It is clear that a high visibility, high profile "dissident" leader such as this woman has an impossible task in persuading the Government that the organization is "non-partisan." Consequently, the organization has had to work through the church, which has assisted it in calling public meetings and then inviting the women to come and speak. It appears at present to be operating most effectively in response to requests from other women's organizations -- the Mothers' Union of the CPK, the Catholic church women's network, and local women's groups -- as well as in conjunction with other human rights groups -- the Human

Rights Commission, the NCCK, FIDA, Kituo cha Sheria -- rather than as an organization in its own right. Such meetings are reportedly very well attended, indicating a grassroots perceived need for this type of activity. The League has funding from several donors at a very modest level, including CIDA, SIDA and IRI.

Another example, the Centre for Women in Politics, has funding from NDI and is meant to provide assistance to women candidates for parliament. Presently Kenya has six women members of parliament, out of nineteen who ran. Three of the six are from one of the four political parties and have captured all the leadership positions, which for some time effectively antagonised women from other parties. The NDI staff assistant has made substantial efforts to attract other women to the organization, but it seems to have even more serious organizational problems confronting it than the League of Voters. Personalization of leadership, and in this case an explicit political agenda, make it an unlikely vehicle for the non-partisan efforts it was designed to pursue.

Autonomy. The governing party, KANU, in its efforts to remold itself in the mid-80s into a more credible mass party with grassroots organization and support, unilaterally affiliated Maendeleo ya Wanawake with itself, thus constituting Maendeleo in effect a "women's wing" of the party. Needless to say, there were major objections from some quarters, especially areas of the country with lukewarm or negative attitudes toward KANU. In the last two years, after the repeal of Section 2A, Maendeleo has reportedly dissociated itself officially from KANU, making the case to the Government that it is an organization for all Kenyan women, not a partisan one. In this sense, the repeal of 2A has aided the organization in reclaiming an autonomy it had lost. However, major suspicions remain on the part of women who are active in the "new" women's groups that Maendeleo continues to be a tool of the GOK, and that it is used for explicitly political purposes. Autonomy in these circumstances is very problematic.

The national leadership avers that no pressure is put on the organization to carry out any particular agenda, and that the negative aspects of recent politics are mostly at the national level, where the ethnic communities from which the national leaders come tend to be perceived as setting and controlling a political agenda for any organization. They claim this is a false perception but one that has yet to be successfully fought; and that autonomy increases as one descends to the grassroots. Here, it is argued, the control of the organization is in local hands, with all of the complexity of Kenyan rural ethnic and class stratification manifested in the local leaderships.

At national level, there is considerably more fear on the part of leaders that the ideas they have, which are for the most part targeted at income generating activities, will be stolen by male politicians and used to benefit their own patronage networks,

than that any real politicisation of the organization itself has or will occur. There is considerable reality to this fear; women's groups and their activities have been the target of ambitious male politicians in the past. Because of the national scope and consequent political significance of Maendeleo, the leaders at national level are very cautious in the articulation of an organizational strategy and specific projects and plans, and to this degree their autonomy is circumscribed by the political potential of the organization.

The newer women's organizations are generally quite autonomous with the exception of the Centre for Women in Politics, which is grappling with the problem of the perception that it serves the interests of the Democratic Party. Kenya's present KANU government appears to have decided that the infiltration and take-over of such organizations is not a useful strategy. They are perceived as "opposition" and treated as "the enemy", their ability to meet the public being circumscribed or prevented completely rather than attempts being made at cooptation. It is possible that some of the opposition parties will begin to see a value in having a women's auxiliary and target one or more of them for cooptation, just as KANU did with Maendeleo in the mid-80s. However, none of them have the type of grassroots network, and thus accessibility to the electorate, as Maendeleo, so it is difficult to see this happening. They are likely to remain autonomous but personalized and competitive, lacking organizational plans or focus over the short term.

Participation. The "old" women's organizational network did foster participation, but in a very segregated arena -- women's organizations were for women, and were concerned with the things women are centrally concerned with -- ceremonies, local amenities such as communal water points and common tree plots, and social clubs and schools -- but not with the wider political arena. In a sense, these institutions have -- despite the positive economic impact they have had in many of their members' lives -- facilitated a "separate but equal" strategy to problems of half the population, which strategy is ultimately not viable, as the record from racial apartheid in the US and South Africa shows clearly. Presently, the use of the grassroots networks of this "old" women's movement is producing a more realistic type of participation with some potential for sustainability, in terms of the incorporation of trained community-based health delivery agents and traditional birth attendants into the local leadership arena. The team could not determine how significant this is quantitatively but had the same point made by several NGOs -- Pathfinder, Maendeleo, and the Family Planning Association of Kenya.

The "new" women's organizations, on the other hand, foster a high degree of participation for a very small, elite group of urban professionals. The overlapping memberships mean that many women are stretched past the point of a rational allocation of their time. This is not sustainable. A major need on the part of many

of them is to develop a coherent organizational plan, one that divides responsibility for activity (including advocacy) from administration, and that puts significant emphasis on definitions of membership goals, on membership recruitment itself, on financial sustainability in both the long and the short term, and on the appropriate mix between service provision and broader advocacy activities. Participatory goals cannot be effectively tackled until these prior organizational issues are sorted out.

Advocacy. The "new" women's organizations are high on advocacy but have limited impact, given that they are perceived by the KANU Government almost universally as politically-motivated, opposition supporters. They have tended to take on a plethora of issues, but not to have found a viable method for advancing a reform agenda with respect to them. The most conspicuous example is the lack of progress on the issues of marriage/affiliation and inheritance. These are by women's own articulation the central issues they consider important, yet the women's movement has not been able to mount a credible campaign to convince parliamentarians that they will face a unified and dissatisfied female half of the electorate if they do not support the reforms.

Other issues which these organizations are currently pursuing are more stringent penalties for rape and opposition to the practice of "wife inheritance", which in some communities means that widows of persons who have died of AIDS are incorporated into a polygamous household which then is put at risk of infection if the widow herself is infected. This is what has wiped out whole villages in the areas of northern Tanzania where the virus initially appeared in the region. (There are other objections to wife inheritance on human rights grounds; women's own wishes are subordinated to the husband's family's, and the practice involves the taking over of her household's assets, leaving her virtually penniless). It is of interest that these are the "mobilizing" issues, despite the fact that most women interviewed put the economic issues at the top of the agenda for the advancement of the situation of women. This prioritization has not yet been translated into an effective set of issue positions being advocated by the "newer" women's organizations, in some degree because they see the concern with these leading toward service provision agendas of the "income generating activity" type that Maendeleo pursues, and which many feel simply reinforce the second class status of women by making marginal improvements that buy the old regime a little more breathing space.

The "old" women's organizations, specifically Maendeleo, has trod very gently with respect to issues, confining itself to the service provision portfolio it began with for the most part, in particular the pursuit of practical income-generating activities for women locally. Recently, however, Maendeleo has begun to develop and articulate a reform agenda. It has, for example, rather surprisingly, chosen female circumcision as a target and sent women from four pilot districts (in which it is felt to be an

especially serious problem) to a conference on the subject in Addis. These women returned seething with anger and were then able to obtain donor funding to launch a survey in Kenya on the qualitative aspect of the problem.

Based on this experience, Maendeleo argues that the citizenry simply remains ignorant about the harmful impact of the practice on women's health and on their reproductive lives. They outline an educational campaign to deal with it, utilising interested NGOs at local level together with their own grassroots network. They stress that an equivalent "rite de passage" may be the only solution for many groups, who feel strong cultural need for circumcision on these grounds. Such an educational campaign is not in evidence in Kenya presently; if one is launched by Maendeleo it is likely to be very low key, and it is not clear that the technical or organizational expertise is available in the organization to mount a credible effort. Nonetheless, it is important that Maendeleo has chosen this issue and begun efforts on a pilot basis in some districts. This may be the most effective form of advocacy in the long run on this particular type of issue, since the practice is already outlawed, so advocacy at the national level, among the national leadership which already professes to abhor the practice, would not serve any clear purpose.

Sustainability. Organizationally, the "old" women's network of institutions is clearly sustainable because they remain focused on the service-provision which affects women's lives in small ways country-wide. Their financial sustainability is an important, less easily answered question. Maendeleo receives grants from the GOK through the Ministry of Culture and Social Services, and funding from donors for specific projects, many of which are implemented by Maendeleo together with other NGOs. The women's groups themselves frequently collect very small amounts of money from their members, but these are all used for group projects (or sometimes as revolving savings accounts). Maendeleo remains dependent on external funding for any major project activities, including those involving advocacy, such as the project to address the female circumcision issue. Internal sustainability only applies to the running of the essential administrative offices.

More distressing is the fact that Maendeleo, despite its good intentions in respect of pursuit of income generating strategies, does not have the capacity to do needed feasibility studies or to identify new sources of funding, or to implement and evaluate many of the types of agri-business venture they describe as having good potential. They were not aware of the USAID-funded PAM project, which might be able to supply the sort of skills they need. They express extreme fear of the appropriation of their ideas by others -- specifically males -- who will use them for political capital formation.

The "new" women's organizations are even less evidently sustainable at this point. Most are in the initial stages of developing an organizational and membership strategy. They are almost wholly dependent on external funding. Because of the emphasis placed by some western donors on the status of women and the need to incorporate women's particular needs in all project aid, these organizations are vulnerable to having major portions of their agendas set by donor-driven requirements in support of larger projects -- they can easily obtain funding to implement a "gender-sensitive" component of another project, whereas they cannot necessarily find funding for agendas set by themselves in accordance with what they perceive as the critical issues.

There is an even greater temptation to succumb to this pressure, since it is frequently sweetened with some "capacity building" auxiliary funding -- that is, money to pay additional staff and increase office running expenses and equipment. Most donors will not consider this type of funding in and of itself, so such NGOs (and not only those in the women's movement, although these are particularly a target) accept projects and activities they are not 100% committed to in the quest for the funding to build organizational capacity. This can deflect the organization from its perceived purpose, including a well-focused approach to advocacy, although it should be recognized that this is also a vehicle for the transfer of good ideas from the donor community, as well as technical skills, to NGOs in a fashion that can contribute to building organizational sustainability, if the donor is careful and sensitive to the organization's own explicit and implicit agendas.

Networks do exist in the women's movement -- several have emerged, including FemNet (with a regional aspect and focused on gender sensitization) and the National Council of Women of Kenya, which serves as an informal clearing house for many of the other groups. FAWE, the pan-African educationists' network, might be the primus inter pares of these, with a carefully structured focus and substantial organizational capacity despite its recent vintage. Discussions with women in the networks elicited the opinion that more regional activity would be useful and might deflect the present hostility of Government if the women's movement were less identified with specific Kenyan women, issues, and ultimately the ethnicities/parties that the leaders are perceived to be affiliated with. Some women also indicated that the international fora -- the conferences for the international women's decade held in Nairobi in 1985, and the one planned for Beijing in 1995 -- have been a galvanising activity for the NGO sector. Others indicate that the mobilisation around these conferences is short-lived and does not carry over into productive collaboration after the conferences.

Donor Impact. Donor impact in this sector is very significant in both positive and negative ways. Most of the funding for the newer, advocacy-oriented groups is donor funding. The groups argue that they need capacity building funding, which donors are loathe

to give except as an adjunct to project funds. This has led to the saddling of many groups with projects they did not originally envision and that may not be priority activities for them. Further, the "capacity building" funding is usually quite small, as donors are concerned about building dependency on funding that is temporary. For the older groups, traditional donors have funded projects primarily, with the organizations' already-built capacity sustaining them.

This has not translated into the development of a sustainable capacity for advocacy, with the exceptions of the Maendeleo effort recently to address the female circumcision issue, and the use by the churches of the Mothers' Union-type network to reach women on a variety of political issues, most particularly civic education before the 1992 election and the subsequent by-elections. It is possible that these older organizations have a large untapped potential to sustain much more in the way of advocacy; it is not clear that they have the motivation to undertake it. At the same time, the vulnerability of these networks to political manipulation, both on the part of the Government and by other political interests, cannot be ignored.

V. Summary. The NGOs operating in the women's movement are characterised by a combination of older, service-provision oriented organizations just beginning cautiously to develop an advocacy agenda and handicapped greatly by their vulnerability to political interference, and newer, issue-oriented groups with explicit advocacy goals but little in the way of organizational capacity and handicapped by the personalization of their leaderships. The first set -- the older network -- has built a series of communications links and a modus operandi with the GOK, and is accepted as legitimate. The trade-off is their extreme caution and the lack of autonomy they manifest, consequent on the importance of women to the political system and the efforts of politicians to "use" these women's organizations for their own purposes.

The newer organizations are characterized by lack of institutionalization, personalization of leaderships, and sometimes by a lack of focus on specific issues and strategies for addressing them. The capacity for advocacy is high in these groups, but their ability to have impact on public dialogue in a productive manner is low. The Government is adept at tarring any well-focused and articulate efforts with the brush of "radical feminism", which automatically sets the entire male establishment against it. There are in addition strong differences of opinion among and between the women's groups themselves; the newer groups do not trust the older ones at all, and differences over the approach to dialogue with the GOK tend to divide the groups into hostile camps.

The Labor Movement

Trade unions figured prominently in the struggle for independence during the 1950s, but thereafter have experienced a gradual decline in political power. The union movement lost much of its independence with the adoption of a one party, authoritarian state in the early 1980s. KANU was able to coopt many of the leaders and manipulated the downfall of those who were not disposed to the party's dominance.

The initiation of a multiparty system in early 1992 has brought with it a growing restiveness and turmoil within the union movement. Some union leaders supported the political opening, whereas others stood with the old order. This has served to accentuate conflicts and factional splits in the leadership. These tensions have been exacerbated by growing demands for change emanating from the rank and file membership. In part member grievances are driven by hardships associated with the rise in cost of living and lack of any significant rise in wage levels within the private and public sectors. But member dissatisfaction also frequently arises from a lack of internal democracy and a rejection of unaccountable, corrupt and incompetent leadership. In several unions member insurgencies are underway to topple old-line authoritarian leaders.

The government frequently has sought to capitalize on labor disunity by undermining those dissident leaders aspiring for greater union autonomy. For example, elections of new union leaders may not be certified by the Ministry of Labor if there is some indication that the new leaders will not tow the regime's line. Similarly, the government continues to use a restrictive enabling environment in resisting the formation of new unions. Thus, it is rejecting the demands for unionization from university professors and medical doctors in the civil service. This struggle has reached an impasse, with professors being on strike for nearly a year and thus closing three of the five major universities, and with medical doctors remaining on strike since June of this year.

The internecine conflicts which bedevil the union movement and their manipulation by the government exploded on the public scene in May, 1993 when the duly elected, top officials of main union federation, the Central Organization of Trade Unions (COTU), were overthrown in a coup undertaken by a competing union faction acting in league with the government. After a long court battle the elected leaders were eventually restored but this has left a legacy of ill-will in the union movement and generally has had an enervating effect on the COTU.

The coup was precipitated when the COTU leadership called for a general strike in May, 1993 demanding a 100 percent across-the-board wage increase. This demand reflects growing worker distress in the steep decline of living standards as a consequence of inflation and consumer price decontrols associated with the

government's structural adjustment program.¹

The strike did occur, to the great displeasure of the government which declared it illegal. The government has tried to keep issues of worker benefits and wages off the policy agenda in order to tackle other more pressing issues associated with the control of inflation. Thus, COTU has been excluded from government discussions on economic policy. However, mindful of growing labor discontent the government recently conceded some ground with regard to wage rates, announcing in July of this year that unions could bargain for increases of up to 100 percent and even beyond this amount if productivity increases so warranted.

In brief, the labor sector is in transition, with signs of increasing assertions of independence, which are coming into conflict with forces in and outside of the movement who have a vested interest in protecting the status quo. Power struggles are rife within union leadership and old line authoritarian leaders are engaged in backdoor fights against member demands for greater participation in decision-making. In addition, previously unorganized groups are seizing the opportunities associated with political liberalization to demand their right to organize.

African-American Labor Center (AALC)

It is in this disorderly and uncertain context that AALC, through a regional A.I.D. grant is seeking to strengthen the role of organized labor in civil society. Staffed by one expatriate professional, the AALC office is part of the AFL-CIO's longstanding international outreach program. The Nairobi office serves the east African region, but by virtue of its location, much staff attention is focused on labor issues in Kenya.

AALC has both a short and longer term strategic agenda in Kenya. The shorter term effort is generally comprised of responding to issues and exigencies which arise unplanned, but because of their importance require immediate attention. Thus, for example, when the COTU coup occurred the AALC went into immediate action in alerting and urging its international affiliates to insist that the Kenyan government honor international labor conventions by restoring the COTU leaders to their elected positions. This was

¹Accurate statistics on the rise in the cost-of-living index are difficult to come by. One source cites union estimates indicating that "average prices have risen by as much as 263 percent since 1986, while the general minimum wages have improved by only 85 percent." The same source cites the Nairobi consumer price index which indicates that the cost-of-living has increased by 347 percent since 1986, whereas civil servant salaries have increased between 16 and 46 percent for the same period (Njonge, p. 18). Informed observers reinforce the seriousness of the decline in their observations on dramatic economic descent of Nairobi's middle class residents.

eventually accomplished, in part because the ILO was obliged by virtue of its conventions to warn the Kenyan government that all UN sponsored programs could be suspended in the absence of corrective action.

The AALC has also been called upon for assistance by the striking university professors. It soon became apparent that the effectiveness of the strike movement was constrained by some major deficiencies; a lack of sophistication in the tactics of collective bargaining, a lack of strategic planning concerning the goals of the strike, the absence of a public relations campaign to enlist public sympathy, and the need for an outreach program in securing supportive alliances with other unions. In order to address these needs the AALC financed the visits of consultants from the American Federation of Teachers to work with faculty leaders in the development of a more coherent strike strategy. These improvements have enabled the strike movement to persevere as a relatively unified force for nearly a year.

Aside from the short-term contingencies, the AALC is emphasizing a number of longer-term issues involving labor. First, major attention is being focussed making COTU a more vital force in the union movement. COTU has a small staff which has little experience on how to promote its leadership role in the union movement. Thus, the AALC is seeking to engage the COTU leadership in a strategic planning exercise which lays out a multi-year agenda of objectives and progress benchmarks for setting organizational priorities. This is a relative new initiative and it is too early to measure much impact in this area.

Second, the AALC is subsidizing the addition of three professionals to the COTU staff to strengthen the organization's membership outreach and advocacy roles. These staff will focus attention on building stronger communication links with affiliate unions and undertaking research on labor issues which can be used by union leaders in collective bargaining. One of the staff members will spend full-time on addressing women's labor issues.

A second long-term objective of the AALC is to improve the lot of the women laborers in the plantation sector where women constitute the majority of the workforce. Most of these women are illiterate, impoverished, and lacking in the self-esteem and sense of efficacy required to protect themselves from abuse and harassment.

Last year the AALC initiated a dialog with women workers on one plantation and found the major aspiration was to become functionally literate. Literacy classes were organized by the AALC and there has been a significant rise in the self-confidence of the women as they are learning about hygiene, nutrition and family planning as part of the literacy course. AALC views this as a beginning awakening in preparing the women to acquire a sense of collective self-empowerment in bargaining for better wages, benefits, improvements in working conditions, and in defending their rights against sexual discrimination. AALC plans to

initiate women's literacy groups in each of the provinces by the end of the year.

Summary

The organized labor movement is one of the few sectors of civil society which has the potential to emerge as a powerful political force. However, it is very unclear whether it will be able to fulfill this vision. Some individual unions have operated with a high degree of autonomy, professionalism and internal democracy. However, many others have been tarnished by their authoritarian character and close association with the machinations of the ruling regime. As a consequence, the movement's credibility and trust has been eroded and some natural allies, such as the human rights community are reluctant to cooperate with union leaders.

The efforts of the AALC illuminates some issues with regard alternative strategies in contributing to the growth of civil society. The AALC's support of the striking professors is a demand and issue driven enterprise; the strikers came to the ALCC seeking help on a major issue--how to become a effective and unified strike force. The effort to assist the women plantation workers shares similar characteristics. Although ALCC came to the plantation, the women initiated what they wanted to act on; learning to be literate. Furthermore, these two efforts involve more than simply bread and butter union issues; rather at base are issues of empowering an entire sector; in the one instance, as is shown in the section on universities, the restoration of academic freedom and university autonomy; and in the other instance, bringing a sense of collective efficacy and thereby enhancing the status of women in society.

The AALC strategy with regard to COTU. is more of an institution-building effort in developing organizational capacity. It is not demand driven but more of a supply side endeavor. It is very unclear what the impact will be of this effort, given the political and financial instability associated with COTU's recent and current history. In this regard, the AALC's investments in the mobilization of university faculty and women plantation workers may yield more significant contributions to civil society because they are more directly linked to the vital concerns of a particular constituency than is the case of COTU, which is an apex association with indirect and tenuous relations to the union community, and whose leadership is contested within its own affiliate unions.

Business Associations

The political opening associated with the adoption of a multi-party system in late 1991 has allowed the business sector to assume a more assertive stance in advocating basic economic reforms. Prior to 1991, business leaders were frequently hesitant to voice their criticisms of public policy for fear of government retaliation. The government could deny businesses access to import licenses and foreign exchange or call in bank loans prematurely. Such arbitrary measures could produce great hardship and constituted a death-knell for some firms.

In the post 1991 era, pressure from the donor community has resulted in the elimination of many of the cudgels which the government could use in hammering dissident business leaders. Import licensing and foreign exchange controls have been abolished and there is a freer atmosphere with regard to open discussion of economic reforms within business and government. In this regard, business associations have become more prominent in articulating reform agendas.

The most important associations are the three apex structures which represent a wide and diverse range of business sectors: the Federation of Kenyan Employers (FKE); the Kenya Association of Manufactures (KAM), and the Kenya National Chamber of Commerce and Industry (KNCCI). The KNCCI has come under the patronage of the President and in effect became a mouthpiece for government policies (Gibbon, p. 39-40). Until recently, the KNCCI has been paralyzed by internal power struggles and thereby rendered ineffective as a genuine spokesman for the business community. In contrast, the FKE and KAM have been able to maintain their autonomy from government interference and have positioned themselves to assume leadership roles in representing the policy interests of their membership.

Federation of Kenyan Employers (FKE)

The FKE is the most all-embracing representative of business interests in Kenya. With very few exceptions all of the major business and employers associations, some 1095 in total, along with another 2000 individual employers are members of the FKE. FKE has a large staff of professionals some of which serve as the secretariat for individual member associations. The staff are also engaged in offering a wide range of membership training programs in such areas as small-scale enterprise development, export promotion and management improvement.

FKE is the primary representative of employers in sector-wide industrial-labor negotiations. Thus, FKE representatives serve on wide range of government boards and councils where policies regarding the full spectrum of industrial and commercial issues are frequently discussed and decided. Because of these representative functions FKE has responsibility for formulating a coherent set of positions with regard economic reform. These positions are expressed in various policy papers prepared by the FKE research

staff, which are then submitted for approval to the FKE economic affairs committee and the governing board.

An examination of the FKE policy papers reveal that as early as 1990 it has been an advocate for economic liberalization in the form of rolling-back government involvement in the economy and eliminating the morass of regulations which currently constrain private enterprise development in the agricultural, industrial and commercial sectors. In particular, FKE has advocated the abolishment of price controls on commodities and services, privatization of the parastatal sector, trade liberalization, and the adoption of policies which would emphasize export-led growth.

The FKE policy agenda goes beyond the economic arena, highlighting the need for major reforms in the area of good governance in order for business to be able to function in a predictable, and open playing field. In particular, FKE has been critical of the lack of transparency and accountability in government agencies and the need to address issues of corruption. For example, it has called for the establishment of an anti-corruption court with special powers to investigate and prosecute cases of corruption. Aside from proposing measures in the area of good governance, FKE has focussed attention on some important political development issues such as urging the government to stop meddling in the affairs of the union movement in order that unions can develop as an independent sector.

What has been the impact of FKE in championing these policy prescriptions? Very little, according to the leadership of FKE. Up until 1992, the FKE had to walk a fine line in voicing its concerns, as a more aggressive or confrontational approach would have been counter-productive, and perhaps ended its continuing entree and membership in the councils of government. By taking a more muted approach FKE survived and was not coopted by the government. In spite of these limitations, it is true that the government has adopted many of the policies which are reflected in the FKI reform agenda. However, FKI attributes this change to pressures exercised by the donors rather than to its influence. It should be added that few reforms have been initiated with respect to the FKE agenda for good governance.

Kenya Association of Manufactures (KAM)

As the primary industrial apex association, KAM occupies a potentially important role in the small constellation of advocacy groups concerned with economic policy. Much of what FKE has advocated in the area of policy reform can also be found in the policy statements of KAM.

In a report issued in September 1988 the Kenyan Association of Manufacturers claimed that price controls had "created monopolies, caused disruption in production, decreased Kenya's export competitiveness, encouraged hoarding, served as a wage suppressant, discouraged or

delayed investment in new and expanding business, and created an unnecessary, costly and unresponsive bureaucracy (Mosley, p. 308)."

Given KAM's central role as spokesman for the industrial sector, and its evident interest in pressing for reform, USAID has sought to strengthen its capacity for policy dialog with the government. In 1987 it was given a five year grant, which allowed KAM to undertake policy studies on such topics as price controls in the manufacturing sector, rural industrialization, export incentives, parastatals and the financing needs of the industrial sector. All of the studies included recommendations for government policy changes.

In 1992, an evaluation was conducted to determine whether the KAM proposals had any impact on government policies. The evaluation was "unable to identify any major policy reforms for which KAM could be said to be directly responsible (Ernst and Young, p. 10)." In interviews with KAM leadership it was acknowledged that KAM had little direct impact on government policy-making. At the same time however, it was evident from the evaluation that many of government's new policy directions were consistent with the KAM proposals. However, most observers, including the KAM leadership, recognized that most of these changes could be attributed to donor pressure.

Summary

The lack of hard evidence which demonstrates a direct cause and effect relationship between policy proposals advocated by FKE or KAM and government adoption of such policies does not warrant a conclusion that neither organization had any influence on policy. Measuring and attributing influence is a difficult process in most policy-making situations. This is even more so in Kenya, where a small circle of elites and technocrats frequently try to keep the policy process relatively opaque and camouflaged in order to deflect opposition from those who are losing their economic privileges as a consequence of the government's gradual adoption of structural adjustment measures.

The most notable policy achievements of KAM and FKE have been in their capacity to build and sustain a dialog with the government on economic and governance issues. This dialog is being carried on primarily with the Ministry of Finance and Central Bank where technocrats have assumed a major role in championing structural reforms. The KAM evaluation and our interviews indicate that KAM has access and is listened to by policy-makers, in part because of the quality of the data and analysis it has been able to demonstrate in the policy papers financed by the USAID project.

In brief, KAM, FKE and other such business associations can provide a valuable input in filling a void not only in the area of policy analysis but most importantly in the area of policy implementation. In many developing countries, as is the case in Kenya, governments

frequently fall-short in assuring that policy reforms are followed up with corresponding second and third order changes in regulations and institutional procedures. The absence of such changes generally negates the intended effect of policy change. It is also these lower order changes where bureaucratic undergrowth needs to be cleared away in advancing the cause of good governance.

Implementation issues of a second and third order are particularly salient in the government's and USAID's emphasis on export-led growth. In general, the policy environment for export led investments has greatly improved. However, it is in the nuts and bolts of lower level implementation where regulations and institutional procedures continue to stifle investment initiatives.

Many of the obstacles which inhibit export investment deal with issues of government accountability and transparency. For example, the investment approval process is time consuming and frequently non-transparent. Similarly the application procedures for manufacturing under bond and duty VAT remission for exporters requires multiple clearances and excessive documentation (Emery, Executive Summary). All of these hurdles create opportunities for rent-seeking, not to mention the pervasive corruption and delays in the customs service which adds to export and import costs.

Institutional and procedural impediments to effective policy implementation have been identified by USAID sponsored studies under its export development project which works closely with KAM and another newly emerging business association, the Fresh Produce Exporter's Association of Kenya (FPEAK). FPEAK was established in 1975 but it has functioned as a very weak and insignificant player in the area of policy advocacy. However, with the growth in Kenya for fresh produce exports (primarily cut flowers, fresh fruit and vegetables exports to Europe), the association needs to assume a stronger role in advancing the interests of its member growers. For this reason, USAID is providing assistance to FPEAK to enhance its policy advocacy role as part of a larger emphasis on increasing Kenya's exports in non-traditional agricultural products.

The need for a FPEAK type advocacy association is well illustrated by some of the constraints which serve to raise costs and limit the growth and returns on investments in this sector. For example, contrary to government policy the cargo handling firm at the Nairobi airport operates as a monopoly, and this results in damaged produce and high costs. Similarly, FPEAK will need to put pressure on the Kenyan government to sign the International Plant Breeders Rights Agreement in order that Kenyan produce growers can have access to high quality seeds from international breeders.

The above examples clearly indicate that creating the right policy environment is only a beginning step, one which the Kenyan government is taking. Follow-up steps in reforming institutional practices and streamlining the regulatory environment are essential in order that policies are actually implemented. Business associations will have to pressure for such changes, as

bureaucratic inertia and vested interests will otherwise nullify new policy initiatives. In effect, this is a good governance reform agenda, constituting as it does, efforts to make public institutions more transparent, accountable and efficient in serving public needs.

A number of issues will likely remain as a cause of concern concerning the contributions of business associations in advancing the cause of good governance. The first, concerns the inclination of the associations to protect domestic industry from foreign competition. Thus, while KAM has consistently pressed for the removal of price controls, in the past it has opposed the removal of import controls (Mosley, 308). Pressures from industry for protection public policies creates greater dependence on the government and erodes the capacity of the private sector to serve as countervailing force.

A second issue concerns the capacity of business associations to finance the kind of applied policy analysis necessary for effective advocacy. KAM remains financially dependent on USAID funding to undertake policy studies. KAM does collect dues from its members, but this income is only sufficient to support a skeleton six person staff. With USAID support KAM is expanding its membership services, which will be a modest income source. For the near future, however, the issue of financial sustainability will remain a vexing agenda item requiring more creative thinking on the part of donor and recipient.

Third, the business community is distinguished by different ethnic overlays which has important political implications with respect to government policy-making. Commercial enterprise was initially heavily dominated by Asians, who were gradually forced out of retail trade and supplanted by Gikuyus, who themselves have been supplanted in "up-country" areas increasingly by other ethnic groups, although they still remain dominant in many town areas. Manufacturing is still quite heavily dominated by Asians. Agriculture/business ventures are bifurcated into the very small-scale producers and bulkers of high value export crops, who are Gikuyu (with some minor participation of other ethnic groups) vs the aggressive development of "pre-pack" industry which is overwhelmingly Asian.

In brief, there tends to be an ethnic identity on the two, potentially conflicting sides of alot of policy issues having to do with the business sector -- Asians on the marketing/trading side, Africans on the producer side. This means that business associations do not confront a conflict-less, liberalized economy toward which government has no specific orientations. The regime has major political needs, and they have to do with "buying off" one of the two main communities involved in business and commerce (i.e. the Asians) and setting it against the other main community, the Gikuyus, which the government has been actively involved in trying to supplant and curtail.

92

The fact that the government perceives the economy through ethnic-colored glasses may presage serious difficulties in the short-run for business associations which are seen as supporting economic policies which indirectly favor ethnic groups which the government finds inimical to its larger political interests. For example, as in the case of agricultural parastatals, the government has been slow to privatize non-agricultural parastatals, as many of buyers would likely come from the Gikuyus.

KAM leadership has been quite aware of the potential for government manipulation of ethnic divisions in the business sector, or concomitant efforts by different ethnic factions colluding in seeking special favors from government authorities. In particular, it is leaning on the Asian members of KAMs in presenting a united front with African business leaders vis-a-vis the government.

Universities

Since the early 1980s, universities in Kenya have experienced a gradual erosion of academic freedom and institutional autonomy with the government exercising greater control over faculty and student affairs. Viewing the universities as potential sources of political opposition the regime has employed a wide range of measures to assure conformity and squash dissent. Police informers have been used to monitor faculty and student activities; dissident students organizations have been banned; cooperative faculty have been rewarded whereas non-compliant faculty frequently have been subject to harassment and intimidation.

As a consequence of government interference, student selection, academic awards, and faculty appointments and promotions have become highly politicized. Controls have become so intrusive that faculty research proposals must be submitted for government clearance.

Erosion in university autonomy and academic freedom has been accompanied by a general decline in academic standards and student/faculty morale. The government has greatly increased student intake without a corresponding growth in campus facilities and faculty numbers. As a result much larger classes have to convene under very congested conditions. Faculty salaries and benefits have declined precipitously, with many faculty now seeking off-campus work to supplement their incomes. In brief, the quality of the educational experience has been seriously degraded.

In 1992, seeing a political opening with the move from a single to a multiparty system, students and faculty began to agitate for reform. The Student Organization of Nairobi University (SONU) revived itself and demanded autonomy and depoliticalization of the university. The government responded to the demand by banning SONU and expelling its leadership.

Meanwhile, several faculty movements came together to demand recognition for a faculty union. The leaders of the movement made it very clear that, while they needed a union to bargain for salary and benefit increases, more was on their agenda than simply bread and butter issues. Rather "they expressed disgust at the political interference in the running of the universities...complained of having had to contend with political appointees and academic mediocres because of this political patronage." In brief, it was very clear that the union movement represented an effort to reclaim faculty control over university affairs.

The government refused to recognize the union. The unofficial union then went on strike in November, 1993, and remains on strike to this day. Some faculty have not supported the strike, and thus several universities continue to operate. However, for all practical purposes two of the main universities remain closed. University administrators have tried to undermine the strike, to no avail, by selective sacking striking faculty. The strikers have

reached out to other constitutencies and picked up support from churchs and opposition parties. However, the government remains adamant in its opposition to registering the faculty union. Thus, there appears to be an impasse with no evdience of any resolution near at hand.

most notable for its authoritarian continuity, only grudging regime dialogue with the opposition and civil organization, and opposition disarray, many in the population at large and in the churches feel let down by all concerned. Thus there is renewed pressure for the church to play a prominent political role. This view is, however, contested within churches. Although the political opening and the comparative "freeing of tongues" is real, the opening is seen as reversible leading some churchmen to champion caution and dialogue with government as preferred tactics over confrontation and high decibel discourse that may prompt a nervous regime to reverse hard won gains.

Civic education efforts are not overtly partisan although regime politicians frequently criticize such efforts for straying into that realm. Proponents argue that in lieu of politicians and political parties doing so the political opening must be used to discuss issues beyond voter education that was the focus of initial voter education efforts as the election suddenly appeared on the horizon. They argue that democracy is not simply co-equal with multiparty elections. The population must be knowledgeable about the central issues that concern them like land rights, poverty, and the meaning of structural adjustment programs. One priest said that churches should respond to very basic popular questions like: "Why do prices keep going up?"

Conclusion

We have described a civil society on a very short leash. Since December 1991 political space has been only grudgingly opened up by the regime. Meanwhile there is widespread suspicion that many among the political opposition are less committed to fundamental reform than they are to themselves as outsiders becoming insiders. The political disarray implies that civil society organization may bear a considerable burden as a source of initiative and movement in a more democratic direction. We are well aware of the complexities, indeed the almost utopian character of efforts to advance democracy by strengthening civil society. But we began

our report recounting the "construction" of Kenya's civil society in the 20th century in order to convey the fundamentally "unnatural" character of a very contingent process. As donors shift much of their aid investment from states to civil society organization we believe there are opportunities to play a constructive role. This concluding section will suggest some broad guidelines for those investment decisions -- guidelines that we acknowledge may conflict with each other in practice.

We noted early on that the defining character of the Kenyan state is its neo-patrimonial nature. This is not to assert a single concept designed to explain everything, but rather to note that the African state differs from states in Latin America and Asia that are variously labeled as corporatist or bureaucratic-authoritarian. The latter are encumbered with rules, stable expectations, and arenas of bargaining over public policy that are rare in Kenya. (Bratton and van de Walle, p. 458) A good deal follows from the neo-patrimonial characterization: politics in Kenya veers close to a zero-sum game connoting struggle over the spoils of office for reasons of patronage and sometimes personal use; programmatic debate does not fundamentally inform this politics; and the major distinction among politicians is who is in and who is out and hence politics is brittle and full of tension, while the regime occasionally resorts to repression to hobble challengers.

Perhaps most importantly for our discussion of aid interventions, the neo-patrimonial state is ~~by a state that~~ frequently ignores the rule of law. The operation of a neo-patrimonial state requires getting around rules and regulations for purposes of moving resources in directions that make immediate patronage and political sense. This pattern of behavior need not occur all the time to have a deleterious impact upon institutions -- in the extreme case creating little more than a group of employees who do not embrace a well defined mission or practice a transparent mode of operation. Secrecy is deliberate with the result that it is very difficult for citizens to know when and where a decision will be made. With persistent investigation it is often possible to know who will make the decision, but it is less than clear what criteria she or he will use to decide.

With this pattern of state behavior in mind it is easier to understand why our review of Kenyan civil society sectors and organizations was thin on discussion of policy advocacy, let alone of successful advocacy. Successful advocacy is rare with the possible exception of business in the current context of economic decline and structural adjustment pressures. But even here the enormous leverage of the donors is acknowledged by all concerned. We suspect that successful advocacy does occur, but examples are not so well known because they are accomplished within the expectations of neo-patrimonial politics -- through private networks of favors and rewards rather than in more public arenas of bargaining and debate.

Efforts to promote the rule of law deserve special consideration from donors. The rule of law is required for democracy to function -- indeed it is a minimal pre-condition. But because the rule of law is only a sometime thing in Kenya, donor assistance might well focus upon it and generally strengthening the fragile enabling environment for civil society organization. We noted the partial victory of the NGO sector in the struggle with the state over the legislation governing the NGO sector. We also noted that the coalition of NGOs and donor allies was rather unique and not easily duplicated. But it is also true that there is currently broad agreement among the extremely heterogeneous and normally fractious civil society organizations on the need for rules of the game that all can agree upon.

At the time of our visit the priority issue for civil society organization and the political opposition was a constitutional convention with the intent of creating a legal system in keeping with a multi-party reality. The consensus around the goal is striking. Calls for a national convention have been in the air ever since the opening nearly three years ago. But the calls are more insistent of late as the continuity of pre- and post-opening regime behavior is more apparent, as both the opposition and civil society appear unable to effect everyday regime behavior, and as people contemplate the next election 1997 and the need for a more level legal and electoral playing field.

The consensus around the need for legal restructuring is accompanied by disagreements over how it should come about. Some, including the NCKK and its Secretary General believe that convening a convention risks provoking a regime backlash; wastes effort if the regime ignores the result; minimizes opportunities with the Attorney General's task forces; and it may trigger a regime-dominated constitutional change in Parliament along the lines of a majimbo constitution meaning stronger, though not necessarily more participatory, regional government that would fan fears of revived ethnic cleansing.

Proponents argue that the regime will not convene a constitutional convention, and may obstruct it and not participate (although all agree regime representatives should be invited), but if a convention is called a cross-section of Kenya's organizations and society would attend and an unstoppable popular pressure would be generated similar to the pressure that forced the political opening in 1991. Working up to that point will require a draft of a constitution (and representatives of the LSK, KHRC, and the ICJ have done so) that will be progressively modified as more organizations and persons are brought into the effort culminating in a national constitutional convention. The Catholic Church and Mwangaza, a political forum, appear to be leading forces in this effort. This opinion fears that absent a clear reform prospect, a disillusioned Kenyan majority may lose all faith in the new political process and political chaos may ensue.

We believe that the rule of law, advance of civil rights, a divorce of party and state, and fewer Presidential prerogatives, among other constitutional matters, are crucial for civil society's strength and a democratic transition. Although the specifics of how donors might support that effort are beyond the scope of this report, we believe that support should be a donor priority.

Donors might also pay special attention to national level NGO networks, and intermediate organizations in general -- those between the community and the national level. We noted above that, apart from churches, Kenya lacks strong national level civil

society organization. Although there is an extraordinary amount of local organization in the form of self-help and womens groups and many others, they do not consciously aggregate and exercise influence over national level issues. Organizations with a national level presence such as the NGO Council, the AIDs network, environmental networks (?) and local development coalitions take on a particular relevance at this moment in Kenya's political life. It has become apparent that political parties, organizations that are in theory expected to bear the responsibility of fostering issue-focused advocacy and debate, are not doing so. Parties tend to be collections of politicians immersed in struggles for the spoils of office and involved in a host of ethnic and local and personal alliances that have had little to do with national public policy debate -- behavior very typical of neo-patrimonial politics. There is, to be sure, largely unfocused debate -- or rather serial speeches -- in Parliament touching upon important policy topics. But closely reasoned argument and debate over specific public policy coming from party and politician sources is notable for its rarity if not total absence.

While organizations capable of operating on a national level are central to informing and even "disciplining" parties and regimes. We are also impressed by the utility of international, and especially regional, connections and contacts. Ideas from the region are frequently the most relevant comparative international references, while regional allies can be very useful to organizations and sectors that may suddenly find themselves under political seige by the regime. Donors might usefully pay greater attention to efforts at international and regional networking.

Donor decisions about what sectors and organizations to invest in are also decisions about preferred beneficiaries within the social structure. It is clear that the better funded organizations of civil society in Kenya are those that speak to and involve the more well-to-do of society. This is not to say that elite-led organizations operating in elite networks cannot advance the interests of the poor. Many have and will continue to do so. Human rights and media organizations are two examples that come to mind. But there are few, if any, strong national and membership-based

organizations with deep roots among the popular majority. Some civil society organizations because of their small and elite character are better able to tax themselves, communicate and inform each other, and negotiate their differences, than are others with far-flung and poor members or constituents. Business organizations are in a far better position to raise money to strengthen themselves and their advocacy attempts than are, for example, national level organizations responding to the needs and voices of poor women. The arena of advocacy is inevitably as much one of conflict among various interests in civil society as it is between the regime and civil society organization in general. Because donor investment choices in the short run will have long run implications for the comparative power of different interests within civil society, the choice should be made in a conscious manner.

The strength and effectiveness of civil society organization depends in part on internal characteristics, not the least of which are the number of supporters and the organizational cohesion that may be brought to bear upon a decision-making process, and the organizational capacity of organizations. Donor investment decisions should consider an organization's degree of internal democracy and representativeness, particularly of ethnicity and gender. The context of pervasive ethnic tensions suggests that credibility with government and with other organizations in civil society will normally be enhanced if an ethnic affirmative action policy is pursued. The durability and strength of an organization depends in part upon its long term ability to resolve internal disagreements and gain depth in the population through democratic processes. Kituo cha Sheria may be one example of success along these lines. Organizational capacity-building has been a priority concern of donors and we believe it should continue to be a priority. The sudden emergence or expansion of many organizations as repression is partially lifted and as government infrastructural decline pressures NGOs to take up the slack, have produced organizations occasionally operating beyond their capacity. Capacity assistance with an eye on the problem of sustainability, is a continuing priority.