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INTRODUCTIONACKNOWLEDGEMENTS

This dissertation is basically concerned with a discussion of a form of social-political organisation hereinafter called the local government. In addition as regards Gachuki for the expert advice which he rendered towards definition, there exists no universally accepted definition of local government or of what properly constitutes local government functions. Indeed, different writers have

attempted different definitions of local government and we believe one has the freedom to adopt any definition so long as it suits the purpose of his writing. We are however not also Josephine UTZ for both her encouragement and meeting going to engage ourselves in wrangles over definitions but all the typing costs. Special thanks go to Mrs. Jaiha for the purposes of this study, local government will be taken for sparing her valuable time into typing this dissertation to mean a political subdivision of the nation state, which for me.

through allocation of political authority and responsibility by the central government is directed and serves to maintain order and integration among the people on the basis of their sharing a common spatial locality¹. Under local government falls the local authorities which actually constitute it and in Kenya these comprise municipalities governed by elected municipal councils and the counties, governed by elected county councils. These two constitute the first tier of local government. At the second tier, within municipalities or counties are the local council areas governed by elected local council areas and the county divisions governed by elected urban and area councils. As for the roles played by these local government authorities, municipalities are smaller than a city council and have less roles. Similarly,

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municipalities are bigger and play more roles than county councils. This dissertation is basically concerned with a discussion of a form of socio-political organisation hereinafter called the local government. In addition as regards definition, there exists no universally accepted definition of local government or of what properly constitutes local government functions. Indeed, different writers have attempted different definitions of local government and we believe one has the freedom to adopt any definition so long as it suits the purpose of his writing. We are however not going to engage ourselves in wrangles over definitions but for the purposes of this study, local government will be taken to mean a political subdivision of the nation state, which through allocation of political authority and responsibility by the central government is directed and serves to maintain order and integration among the people on the basis of their sharing a common spartial locality¹. Under local government falls the local authorities which actually constitute it and in Kenya these comprise municipalities governed by elected municipal councils and the counties, governed by elected county councils. These two constitute the first tier of local government. At the second tier, within municipalities or counties are the local council areas governed by elected local council areas and the county divisions governed by elected urban and area councils. As to the roles played by these local government authorities, municipalities are smaller than a city council and have less roles. Similarly, such they are supposed to participate fully in decision

municipalities are bigger and play more roles than county council and this has been the trend since the colonial days upto independence and after. Many of the councils especially the town councils have been elevated to municipal status. The elevation to a higher status depends on the size of the population served and the ability of the councils to manage its own funds.

In Kenya there has been a tradition of strong central control which has been exercised over the local authorities. Control in this paper is restricted to the power by the minister for local government as provided for in the local government Act which is very similar to the powers provided ~~for under the~~ under the local government regulations of 1963. One such power is the power of dissolution which over the years has been exercised badly. But as we will attempt to show in this paper, control per se is not bad. It becomes so when it is too much for it tends to harm the local authorities such that it becomes almost impossible to dispense their functions and duties satisfactorily and for the benefit of the people within a given locality. The kind of excessive control which the central government has exercised over the local authorities in Kenya has tended to kill democracy vis-a-vis the local authorities. Local authorities are supposed to be democratic institutions whose major function is to act as a 'halfway house' between the central government and the ordinary 'Wananchi'. As such they are supposed to participate fully in decision

CHAPTER 1

THE HISTORICAL EVOLUTION OF LOCAL GOVERNMENT

The whole of East Africa did not have a well organised indigenous system of local Government. In Kenya, the history of local Government is very recent¹ and starts with the advent of the British colonialists when they declared Kenya a protectorate at the end of the last century. It all started from 1901 when the colonial government invited White Settlers to come and undertake commercial farming in what later came to be known as the 'White highlands'². These White Settlers (the majority were from South Africa) expected the government as their host to provide them with cheap human labour for their farms, adequate roads in their areas and Military protection against the potentially hostile indigenous people. It however took them some time before they settled down into communities with local identities and interests which they needed to protect against outside influence in general, and central government in particular. It was not until it later dawned on the settler that if they were to have any influence over the development of political institutions and policies in the whole territory, then it was good they Co-operate with the colonial Central government. Thus there evolved a close working relationship between the Central Government and the Settler Community.

On the other hand, the indigenous people were isolated from participation in Central Government politics. Their areas the 'African reserves' - were strongly controlled by the Central Government³. The control was effected through the provincial commissioners, district Commissioners, local chiefs and headmen. Unfortunately for the Africans, the Pre-existing traditional African systems were largely discarded and replaced by a new bureaucracy which derived authority from the Centre and not from local traditional leadership and popular support.

With this introduction in mind, we will proceed to divide this chapter into two main sub-topics namely:

- (i) the settled areas where the whites lived and
- (ii) the reserves where the Africans lived.

We will also mention in passing, the development of local government in the urban areas. Moreover, each of the two ethnic groups specified above was to organise and carry its own affairs via the theory of separate development, more so during the initial stages up to the 1950's of colonial power in Kenya.

- 2 -

(i) The Settled Areas

There was no local government so to speak in the Settled areas until the 1920's. The first local authorities to be set up were the district committees and appeared in the 'white highlands' in 1919. Each of these committees consisted of members nominated by the government from among local residents of the district.⁵ The committees were only advisory and were not, in the first instance, set up by law. However, they were consulted by D.Cs on a wide range of issues including allocation of land, the collection of taxes, security and development of urban centres. In practice, these committees were often the same as the statutory Road Boards appointed by the governor under the public roads and access ordinance of 1920.⁷ These had certain executive functions and controlled the direction of some public expenditure.

Later in 1926, the governor appointed Mr. Justice Feetham, a South African specialist and believer in separate development, to review local government in the settled areas and the urban areas and make recommendations for the development of more responsible local administration.⁸ Influenced by his South African orientation, he recommended a separate development of local government based on racial discrimination.⁹ Under his recommendation, the former Road Boards and District Committees were to be replaced by district councils. These were to be set up in each of the rural districts in the white highlands consisting of at least 15 members elected by the European residents of the districts, one member nominated by the governor to represent the central government, and one or two Asians nominated by the governor to represent the interests of the Asian residents in the trading posts within the district.¹⁰ Consequently in 1928, the government enacted the local government (District Councils) Ordinance to implement Feetham's recommendations. As a result six districts were established.¹¹ The D.C., who had been chairman of the District committees lost his position to an elected member who served for a term of three years.

The District Councils were given wide powers to levy rates and taxes and were expected as a matter of course, to undertake the provision of social amenities for all communities in their areas. However, 'as an experiment in developing local responsibility, the councils were a sad disappointment;¹² refusing to rate themselves and functioning no more than local boards for the maintenance of roads with grants provided by the central government. An efficient road system was clearly the basis for the economic development schemes of the region. But it was not the only service required by the residents. Much earlier, the local native

and Thika townships had been co-opted to municipal councils, quite often used to bypass the DCs dominated by the DC, and presented their grievances²⁰ directly to the centre in Nairobi or the colonial office in London.

In 1924, the government introduced and the legislative council passed the Native Authority ordinance which created the local Native councils.²¹ It was this ordinance which set up Kenya's local councils.

Indeed, this was effected through an amendment to the Native Authority ordinance of 1912.²² The local Native Councils (LNC) were granted powers to levy taxes and make byelaws affecting Education, agriculture and other functions assigned to them by the Central Government. But they remained advisory to the DC, who was their Chairman and chief executive officer. Councillors were selected by the provincial Commissioners from among chiefs and candidates nominated jointly by administrative officers, chiefs and the leading churches in the district.²³

A new Native Authority ordinance was passed in 1937²⁴ and was amended its financial sections in 1942. This ordinance became the statutory

authority for the whole system until the passing of the African District Councils (ADCs) ordinance in 1950.²⁵ The ADCs after replacing the LNCs were given wider powers and the number of elected Members in them was increased. Besides, African officials were appointed to the

ADCs and elections were made more democratic but they used to differ from council to council.²⁶ The effect of the ADC ordinance in Nairobi was virtually reduced to a set of villages, still provided with services by the City Council but as far as the rest of the country was concerned, it represented an application of English local government principles to African conditions to an extent unparalleled elsewhere in the colonial office, but in reality it brought the LNCs (all of which became ADCs in 1951) nearer to the statutory position enjoyed by local authorities in the European settled areas.²⁷

As regards the urban areas development of local Government was a direct consequence of European settlement and Asian Commerce. It was these two factors which prompted the growth of towns in Kenya.

Nairobi and Mombasa were the first among the towns to receive local government as long as 1900 for Nairobi and 1903 for Mombasa. Apart from these two, a number of other townships sprung up such that by 1930, there were over 70 township in existence in Kenya. By 1948, most of these townships including Nakuru, Kisumu, Eldoret, Kitale

and Thika townships had been co-opted to municipal councils. Nairobi and Mombasa had grown rapidly and had long before acquired the status of municipal councils. The members to these councils were dominantly Europeans and Asians. African members were just handpicked by the municipalities from African Advisory committees of their own towns, which in turn were created by the municipal councils themselves²⁸.

Development from emergency period to Independence

During the outbreak of the emergency in 1952, the central government found it imperative to enlarge provincial administration. This was achieved through the appointment of more district officers whose main duty was to aid the British forces in their action against freedom fighters. As a result local authorities in the areas most affected lost practically all their powers to provincial administration²⁹.

Nairobi was virtually reduced to a set of villages, still provided with services by the city council, but effectively administered by the central government through district officers in various suburban areas³⁰. Kenya thus emerged out of the emergency period with a provincial administration which was particularly elaborate in central province and with a dwarfed local government structure.

As the country approached internal self-government local authorities acquired greater responsibility in the provision of services but remained subordinate to the provincial

Handwritten notes and scribbles in the bottom right corner, including the number '10' and some illegible markings.

administration. The ADCs moreover continued to run their services, and their decisions and proposed changes in policy still had to be approved by the DC before they could be implemented. In 1953 they were transferred from the Chief Native Commissioner's office (C.N.C.) to the office of the commissioner for local government; but even under this arrangement separate development was maintained with African reserves in a separate distinct department from the settled areas and the urban areas³¹. Even as late as 1960 advocates of separate development maintained that control of any local authority must remain in the hands of those who contributed most to the services of that authority³². Local government was therefore not rationalised until 1963 when new local government regulations spelt out a uniform structure of local authorities for the whole country.

Local Government at Independence

The independence (Majimbo) Constitution³³ which claimed to give Kenya both a 'strong central government' and a 'strong regional governments' transferred several functions from both the central government and local authorities to newly created regional governments³⁴. For instance, the once powerful provincial commissioner under his new title - civil secretary - became simply the executive officer of the regional Assembly and head of the regional administration without power over the security forces in the region and without communication with central government except through the regional Assembly and president of the region. The district

CHAPTER 2 PART I
CENTRAL VERSUS LOCAL GOVERNMENT

commissioner - regional government agent (R.G.A.) similarly lost the power he had exercised over local authorities and the police during the colonial period³⁵.

During the short spell of KANU-KADU coalition the control of local authorities by the central administrative government preceding internal self-government in 1962, the departments of the government. It should also be understood that the term control is widely construed as including both of powers to the regions had the coalition lasted long enough³⁶. But in June 1963 KANU won an electoral victory over KADU and took complete control of the central government³⁷. As the ruling party, KANU began to erode regional powers. KADU at this time was stealthily disintegrating and a number of its parliamentarians were gradually deserting the party to join KANU. Indeed before the debate in parliament in November 1964, KADU dissolved itself giving the government a free hand to determine the future of provincial administration³⁸.

Thus with the dissolution of KADU and apart from the local government regulations³⁹, local government received a briefer and more generalised treatment under the 1964 Republican Constitution. Hence a new local government Act⁴⁰ was enacted to fill in the details. It is this new Act which also gives the minister for local government power to iron-out other provisions found to be unworkable.

In Kenya there has been a tradition of strong central control which has always characterised local administration. As a result all the local government authorities have tended to play a subordinate role as agents of the central government; when in actual fact they should be independent.

CHAPTER 2 PART I

CENTRAL VERSUS LOCAL GOVERNMENT

For the purpose of this chapter and the entire paper central government control is viewed or interpreted to mean the control of local authorities by the central administrative departments of the government. It should also be understood that the term control is widely construed as including both coercive powers and powers of influence which occasionally flow from the central government to the local government. As for coercive powers, all local authorities are required to follow all the directions of the minister for local government as is explained elsewhere in this paper. On the other hand, local authorities are not supposed to do anything pertaining to its affairs without consulting the central government and this is what we ^{call} conceive of powers of influence. Local government in this paper is taken to mean the Municipalities governed by elected municipal councils¹ and the counties governed by elected county councils². These two constitute the first level of local government. At the second level, within municipalities or counties are the local council ~~areas~~ ^{areas} governed by elected local councils³ and the county divisions governed by elected urban and area councils⁴. In Kenya, there has been a tradition of strong central control which has always characterised local administration. As a result all the local government authorities have tended to play a subordinate role as agents of the central government; when in actual fact they should be independent

institutions within their own legitimate source of power.

Most central government departments are under the direct control of the Ministers who Man different ministries⁵.

For instance in Kenya, local government is virtually under the control of the Minister for local government.

There are generally three forms through which central control over the activities of local authorities is exercised. These are namely by parliament, by the government departments and finally by the courts. The control of local authorities by parliament is legislative, by government departments mainly administrative and by courts judicial. The justification given for departmental control⁶ among others is that it would be unwise to give local authorities unfettered discretion in the Management of their affairs because they obtain their information and experience from a limited field. In contrast it is assumed⁷ that the officials of the government departments are more equipped with adequate experience gained from dealing with problems arising from a wide area and as such capable of ^ewilding a lot of influence over the affairs of a single local authority. ^fThis, however, may not be true as will be shown below. There is equal justification for judicial control. This is because there should be some machinery to ensure that an individual who suffers from arbitrary or inconsiderate treatment on the part of a local authority or even from the central government is provided with a judicial remedy if other forms of redress are not available⁸. In addition, the parliament is equally better

placed to exercise control over local authorities. This is so, for the parliament is the source of all power delegated to local authorities in Kenya. Brownwood rightly states⁹ that, after the political struggle in Kenya between proponents of regional control of local government and proponents of central control of local government the 1964 amendments to the Kenya constitution clearly resolved the issue by placing all ultimate authority without exception, in parliament. Furthermore there is a provision in the Constitution to the effect that parliament may establish and prescribe functions for local government authorities by Act of Parliament¹⁰:

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(1) Financial Control

Before we discuss how the actual control is exercised it is appropriate to mention the reasons advanced in favour of central control. One of the major reasons for central control is to instil uniformity throughout the country in services, so as to ensure general welfare and social justice¹¹. For instance it would be bad to have different standards from area to area; say in the field of education. This would not in fact be in keeping with the education policy in the country in which the education system should be uniform throughout the country. The same case would apply if in the field of local government itself, the conditions of service are not uniform. However, while it may be true to advocate uniformity of services, it is very vital for the central government to exercise such degree as not to inconvenience the working of a local authority. This is

so because too much control often leads to stifling of the growth of a given council especially when the plans of the council are prematurely altered or even interfered with every now and then. The officials of the council¹² may relax and this would give rise to mismanagement of the councils affairs. On the other hand, if the control is too little, a council which is in the initial stages of development may make grave mistakes unless it is watched¹³. Other reasons for control will be explained visa vis the explanation of actual control as indicated below under various sub-headings:

(1) Financial Control

This is done through the control over grants offered to the local authorities by the central government.

Indeed, control over grants is the most important financial control exercised by the central government¹⁴. Before a council qualifies for a government grant, it is required to make an application to the appropriate central government department¹⁵. Besides, once granted, the council is expected to use it diligently otherwise the minister for local government has power to restrict the grant if he sees or has reason to believe the finance is not used properly.

This power in effect tends to give the minister a general power over the field by local administration. This power is too much prone to over use as witnessed recently when the minister for local government withdrew all government

tion for the service provided by the local authority in his

grants given to local authorities¹⁶. The reasons given for the withdrawal were that the councils have had a tendency of including a figure under the heading of government grants without knowing whether such grants would be forthcoming and hence there was need to stop the practice. The other reason was based on budgeting. The minister alleged that local authorities in many cases made unusual estimates which became obsolete even before they were approved by the government. One could moreover argue convincingly that withdrawal of the grants would lead to the local authorities being accorded more freedom but this would apply to the richer authorities which can afford to finance their activities. Such freedom would have no meaning to the poor rural oriented local authorities.

The impact of this withdrawal will therefore be extremely great specifically on the rural local authorities which have experienced financial hardship since the colonial era¹⁷. One such problem was felt in 1958 when the African courts were handed over to the judicial department so as to facilitate the more efficient administration of justice. It was the African courts which ^{have had} been the lucrative sources of revenue for the then African District Councils (ADCs). There was unfortunately no alternative sources of revenue introduced until 1964 when graduated personal tax was proposed as 'the financial mainstay of rural local government. The tax was made mandatory for every adult person as a contribution for the service provided by the local authority in his

area¹⁸. However, instead of benefitting the areas as intended it turned out to be a better revenue for the towns, where taxpayers were more affluent and where cash incomes could be precisely assessed and taxed; the collection being based on the pay-as-you-earn schemes. (page)

On the contrary, the collection in the rural areas was difficult. Two reasons necessitated this: firstly, the population is mainly farmers without fixed cash income. There were as well cases of corruption where the tax collector could favour some people by placing them in lower income groups¹⁹. In order to curb evasion of the graduated personal tax (GPT) and relief the poorest people of the tax burden, the government reduced the rate of GPT from Shs. 48 per annum to Shs 24 per annum. The tax was completely abolished in 1969 with the result that the rural authorities which depended almost entirely on this source of income²⁰ were subjected to even severer suffering. Therefore rural local authorities were left with no alternative than turning to the central government for grants.

Apart from government grants and GPT, the other sources of revenue for the local authorities have been loans, school fees, rates, licences and medical fees among others. These cannot provide all the finance needed by the local authorities. Besides, the rural local authorities were still subjected to more problems in 1969 when they were relieved of some of the most important services²¹ due to

lack of adequate finance. This was accomplished through the local government (transfer of functions) Act No. 20 of 1969. Which gave the president power to facilitate the transfer of primary education, health services and road maintenance to the respective central government ministries. Consequently, although county councils were relieved of the services which forced them to overstrain their budgets, they lost their main sources of revenue and this meant more social suffering for the people could not be provided with the vital services instantly. The situation will be more grim for the poor councils which of late had the central government grants as the main source of supplementary revenue. Lastly, the reliance of local authorities on government grants made it possible for the central government to successfully dictate any terms on the local authorities by threatening to withdraw the grants for non-compliance. Therefore, the withdrawal of the grant system should be seen as yet another threat aimed at making local authorities realise they cannot do without the central government. In other words, the central government is making survival very difficult for the local authorities and especially the poor councils.

(iii) Control over by-laws or local legislation

- (ii) Control by issuing orders, directions, sanctioning of schemes etc²¹

This general power is contained in the local government Act. In addition to the power of accepting or rejecting on the application for grants, the minister for local government has a multiplicity of other powers. He has for instance the power to issue orders and regulations in relation to some services such as housing, public health and the like, directing a council on what should be done about that particular

service. On the other hand, it is often the duty of a local authority to prepare schemes for the administration of a particular service within its area, e.g. planning: but the scheme should be submitted to the minister for approval. Failure to comply with an order or regulation²² may prompt the minister to exercise that power as he thinks fit and then recover from the local authority any expenses incurred by him. Actually this power may be exercised badly for what the minister thinks is fit may not be so from the point of view of the people who enjoy the service being regulated. Besides, it is very tempting for the minister to be expending a lot of money towards exercising a power for he knows he would be compensated later. Why he should be so compensated is not clear and still there is no justification. Further-more the minister is not a rating authority so that he can be committing the authorities to extra expenses when in actual fact there may not be enough money. That act by the minister may as well lead to interference with a council's budget for the service he chooses to expend money on may have to be performed at a later date according to the budget.

(iii) Control over bye-laws or local legislation

A local authority is given power to make bye-laws. This general power is contained in the local government Act²³. The bye-laws could be made in respect of health, the well-being of the inhabitants, good rule and government of such area and even for the suppression of nuisance²⁴. The bye-laws may control, regulate, prohibit, compel or require the

doing of something that the local authority has jurisdiction of. The conditions the bye-laws must satisfy are that:

- (a) it must not be ultravires *- must be within the powers they're given*
 - (b) it must be certain in its terms *D v Hermite*
 - (c) it must be reasonable *Kunze v Johnson*
 - (d) it must be in conformity with the general law. *Kanji v Tanga*
- (iv) Control over appointment of officials of local authorities

These four conditions were stated in the case of NONALAL DAMODAR KANJI V TANGA TOWNSHIP AUTHORITY²⁶. *give facts*

[By-law making is an offence to play music with 50 watts in a dwelling house held to be unreasonable]

The local authority must also abide by the procedural requirements^{26 27} in making a bye-law. The first requirement is that it must give 14 days notice of its intention to make a bye-law in the local newspapers. Such notice should contain the general purpose of the bye-law. Then after it is ready made, the bye law is taken to the minister for the approval accompanied by a copy of the minutes. The minister has discretion under the law to either approve the bye law with any alteration or even reject it completely. After it has sought the confirmation of the central government, the bye law is then published in the official gazette and it comes into operation as law on the date of publication²⁶. *28*


Unless the procedure is followed, the bye law does not have legal effect. Lastly, the process of confirmation of bye laws by the minister is just another example of the wide ministerial powers exercised over local authorities and because the power is discretionary, some bye laws may take

By-law

long before they are approved. In general, the check on the law making powers of the local authorities is in addition to the limits imposed by parliament under the doctrine of *ultra vires* by the courts²⁷ whose effect among others, is to make legislative power of the local authorities quite theoretical.

(iv) Control over appointment of officials of local authorities

Apart from councillors every local authority is supposed to have other officials whose major duty is to supply expert advice in most affairs of the local authority where such expertise is needed. The reason the professional officials are very essential among others, is that most councillors are unqualified academically and would not therefore efficiently run a local authority; especially where a technical matter arises. Such ^{principal} ~~principle~~ officers comprise among others the clerk to the council, the medical officer of health, the treasurer and municipal or town engineers. These are appointed by the local authorities which are granted power by the local government Act²⁸ to do so. The powers, duties and responsibilities of these officers are specified in the third schedule of the local government Act. However, before their appointment becomes effective, it has to be confirmed by a central government department²⁹. Theoretically the councillors have the power of ^{appointing} Chief officers but in practice this is not the case. The current tendency is that the minister for local government may fail to confirm the appointees of the local authorities and in substitution



appoint officers of his own choice. Besides, the minister has power to order the appointment of a chief officer to a municipality and if this is not done within six months, then the minister does the appointment. Having been equipped with the power to determine, the affairs of local authorities by the central government, it is not surprising to see the minister acting beyond his powers. The fact is exemplified by an incident which took place at the Machakos Municipal Council in December 1983. The minister had ordered the dismissal of the clerk to the council and the treasurer. After the order was effected, the two brought an action against the local authority, questioning the validity of the order and the subsequent dismissal. The court nullified the dismissal and declared the order ultravires. There are still other instances where the ministerial powers in relation to officials of local authorities have been challenged. Firstly, two councillors of the Mombasa Municipal council furiously rejected the appointment of three chief officers for the Council by the minister for local government. They argued the appointment was not done according to the local government Act. One of them went to the extent of storming out of a full council meeting when the majority of councillors voted in favour of the appointment³⁰. In 1982, the then minister for local government approved the dismissal of the treasurer of the city council of Nairobi when in fact the dismissal had not been unanimously resolved by the council³¹. Still in the same vein, the minister for local government wrongly nominated councillors to the Machakos Municipal council in 1982 and a

where's the case

³⁰

³¹

councillor brought an action seeking the nullification of that nomination. The court then ^{ruled} ~~ruled~~ that the minister had ~~acted~~ ^{acted} beyond his powers in nominating the four councillors ³².

Moreover a very important fact to note is that central government through its departments and ministers has been usurping the statutory powers of local authorities and this has in effect rendered the authorities impotent as far as the dispensation of duties and services is concerned. Equally important and in so far as the appointment of officials is concerned, the central government is determined to retain the power of the minister intact, so that through his discretion he would keep on nominating members to every local authority, who would be interested in serving the interests of the central government. Besides, there is a bill now which seeks to amend sections 106, 107 and 123 of the constitution so as to enable the public service commission to appoint officers of local authorities. If the bill sails through, the appointment of the officials will be made more democratic in that the appointment will be done by one body, covering all the local authorities in the country. The officers will also have the benefit of being transferred to work in various local authorities instead of remaining in the same council until declared redundant. Once such transfers are effected the local authorities will have the opportunity to benefit from an officer's past experience in another local authority. The transfer of the power to appoint officers to the public service commission from the local authorities may also prevent the perpetual fear such officers have. They will now be dispensing their duties without fear of losing their jobs for acting contra

No! Don't forget the prerogative where a minister may be acting within the framework of Presidential consent!

minister, the local authority must have failed to exercise its functions for the benefit of the inhabitants of its area of jurisdiction. These requirements are in the alternative. Since independence, the minister for local government have exercised the power of dissolution extensively and among others, the council of Nyeri, Kakamega and Mombasa Municipal Council have fallen victims³³. In 1983 March, the city council of Nairobi was as well dissolved and remains so upto to date. The reasons normally advanced to justify the dissolution of a council are corruption, violation of established procedures and gross mismanagement of the council's funds. Officers for good. This notwithstanding there are other officials including the provincial and District administrators who by virtue of their offices are members of local authorities. They have power as government representatives on the councils to veto any new expenditure which has not received government approval³⁴.

(iv) Control by removal of all the Members of a local authority

This is the most drastic power exercised by the central government over the local authorities and it is the minister for local government who does it on its behalf. This power of dissolution is provided for under the local government regulations of 1963³⁵. The minister is required to act only if the requirements stipulated in the regulations are satisfied. These are that; **the local authority must have skipped three meetings in the case of a municipality or six ~~months~~ in the case of the others;** the local authority must, in the opinion of the minister be unlikely to meet its financial commitments and lastly, still in the opinion of the

minister, the local authority must have failed to exercise its functions for the benefit of the inhabitants of its area of jurisdiction. These requirements are in the alternative. Since independence, the minister for local government have^{has} exercised the power of dissolution extensively and among others, the council of Nyeri, Kakamega and Mombasa Municipal council have fallen victims³⁶. In 1983 March, the city council of Nairobi was as well dissolved and remains so upto to date.¹⁹⁹⁰ The reasons normally advanced to justify the dissolution of a council are corruption, violation of established procedures and gross^{mis} management of the councils funds³⁷.

Once dissolution is effected, the central government appoints a commission to take over the duties of the dissolved council. This commission is supposed to consist of not less than three members who should manage the affairs of the dissolved local authority for a period of two years and sometimes more than two years if the commission fails to regulate the affairs of the council within that given period³⁸. All in all, the effectiveness of the commission remains doubtful for only three people who are normally civil servants³⁹ are intended to substitute the councillors and other council staff members. This is so far in reality it is quite impossible for the commission to satisfactorily perform dual roles i.e. their usual roles plus this additional one. For instance the city commission which was set up following the dissolution of the Nairobi City Council has been at work for almost two years now but no positive solution has come up towards the rectification of the problems purportedly created by the former

CHAPTER 2 PART 2

members of the city council. **Water shortage** still hits the **city and garbage remains uncollected** not only in the suburbs of the city but even within the city. Besides, no step has been taken by the government even after the task force **investigating the affairs of the defunct city council** presented its report to the ^{centre} President in October 1983.

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Supplementary to the control afforementioned⁴⁰, local authorities also work so closely with the central government in matters such as housing, agricultural and veterinary services, water supply and control of business enterprises such that it is impossible to distinguish between the two⁴¹. However, the actual control is exercised by the government through the various ministries and departments of the central government.

(1) The political role

In the political sense, local government has on a number of occasions been viewed as part of the complex political, social and economic system of any country². Addison continues to state that local government does not stand apart from this complex system but rather affects the way it operates³. Therefore he sees the role played by local authorities as that of creating opportunities for enabling people to develop their skills and interests to improve their lives themselves⁴. As such, he concludes, local government is concerned with making sure that the total system does not harm or inhibit the opportunities created⁵. However, what we can really gather from Addison's conclusion is that sometimes local authorities do provide checks on the Central government when it impinges on the welfare of the people in a locality. This could be true

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FUNCTIONS OF LOCAL AUTHORITIES

Central Government control over the local authorities does not stop at the point where the former concludes its regulatory controls¹ but extends also to the functions of the latter. The functions of local authorities merit special consideration inspite of the fact that they fall under the regulatory control. This is because it is in this field where a considerable number of changes have taken place since independence. For the purposes of this paper, the functions of local authorities will be divided into two; namely the political role and the practical role. In the first categorisation, we will attempt to consider the views expressed by different writers on the role the local authorities should play so as to make intact the demands of the central government within the people of the locality. In the second categorisation, we will attempt to discuss the role the local authorities in Kenya play which are meant to benefit the community as a whole or the people within a given locality.

(1) The political role

In the political sense, local government has on a number of occasions been viewed as part of the complex political, social and economic system of any country². Eddison continues to state that local government does not stand apart from this complex system but rather affects the way it operates³. Therefore he sees, the role played by local authorities as that of creating opportunities for enabling people to develop their skills and interests to improve their lives themselves⁴. As such, he concludes, local government is concerned with making sure that the total system does not harm or inhibit the opportunities created⁵. However, what we can really gather from Eddison's conclusion is that sometimes local authorities do provide checks on the Central government when it impinges on the welfare of the people in a locality. This could be true

for decentralised systems like Britain⁶ but not in Kenya where centralisation has been the order of the day since independence. Indeed, Kenya did not have a unified centrally controlled system of local government until the introduction of the amended republican constitution in 1964, which returned the control of the system set up in 1963 from the regional assemblies to the Minister⁷. To clarify the point further, we could assume that the central government in Kenya decides to impose heavy taxation on the local inhabitants to support any of the services provided by the local authorities. The inhabitants would definitely complain but we do not expect the local authorities to do anything about it for they lack the power to challenge a directive emanating from the central government. Not even the association of local government of Kenya (ALGAK) which was set up as a pressure group and later on prescribed by the president, could challenge such a move by the central government⁸.

Another view on the political role of local government was expressed in 1970 by the Royal Commission on local government in England⁹. It stated that local government has a general responsibility for the well being of the communities it represents and its concern should not be confined to the discharge of the duties imposed on it by the central government. Rather, it must seek to promote community well being in all its aspects - economic as well as social, cultural as well as physical - whether or not it has a statutory duty in any particular aspect. In discharging its statutory duties, continued the commission, the local government must put the general well-being of the local community before the sectional interest of the central government department that is nationally responsible for the function concerned. This view however leaves us doubting its applicability in a country like Kenya where local government has pathetically suffered from lack of autonomy¹⁰. With the all pervading central patronage over local authorities in Kenya, we can not at any time expect local authorities to give preference to the well-being of the people and ignore the interest of the central government. This could happen in an 'ideal' democratic situation

but not in Kenya where every step a local authority takes has to be made in consideration with the central government¹¹. In order to make sure that no local government authority reaches a decision which could jeopardise the interests of the central government, the latter distributes its personnel to all the local authorities. This personnel is expected to attend council meetings, to give advice and guidance whenever called upon to do so, to participate actively in the execution of development projects and to undertake supervisory duties in relation to services provided by local authorities¹². Due to this physical presence of central government personnel, we cannot say with any Scintilla of confidence that local authorities ever reaches any decision independently, let alone ignoring the interests of central government in favour of the well-being of the people in a locality.

To come more closer home, we meet Burke, another writer who dealt with the political role of the local government. He sees the primary purpose of local government and the masses as expressed on a number of occasions by leaders¹³. In this respect, the institutions of local government are required to extent perception consistent with national identity. They are further required to translate and legitimize national policy so as to instil alterations in behaviour within the people within a locality and make the formulation and implementation of such authoritative decisions by the central government acceptable to them. Burke further states:

"The local political system acts as a turnstile in a permitting nation state policy to move outward from the centre so as to give rise to the desired new forms of behaviour and to the meanings and values required to explain and legitimize that behaviour; and on the other hand provides a means for measuring and manipulating local consensus and the aggregation and communication of needs and expectations and reactions to the central policies to the state capital"¹⁴.

The assumption this writer makes is that local government is very necessary because of its proximity to the people and its representative nature; together with the retention of some of the vital structural aspects of traditional legitimacy and as such it can accomplish what direct administration cannot¹⁵. The assumption per se is quite plausible. Indeed the local authorities could be said are well versed with the problems of the local communities and for that matter are better placed to look for satisfactory solutions to those problems, be they social, political or economic. On the contrary, the local authorities in Kenya are not fully equipped to meet the demands of the people; such that whenever a small problem arises or even vexes them, they turn to the central government for salvation. As explained elsewhere¹⁶, this has actually been the trend of affairs and still persists in the Kenya system of administration. This notwithstanding the government in Kenya has a general reputation for centralising administrative authority in the centre¹⁷ and distributes administrative pillars in form of civil servants who traverse all aspects of administration in the country. In addition, the fact that we have so many central government representatives in all local government authorities; coupled with the fact that the same authorities are in perpetual reliance on the centre for things like financial assistance defies Burke's assumption.

In summary therefore, the proper political role of local government should be to implement centrally formulated policies. And again being in closer touch with the people than the national legislators, local government institutions are in a position to bridge the gap between the people and the legislators. On the other hand, the powers and functions of county councils acting like a link or agent to convey the sense of local needs as well as translating national plans into action at the local level. Viewed in this light, local government is an agent of the total Kenya political system and is charged by the total political system and on behalf of the local people with the powers and functions of county divisions.

maintenance of local order, for so long enough a period to bring about integration requisite to the maintenance of the political system as a whole.

(ii) The practical role

Local authorities are by definition multipurpose structures and apart from the role they play as 'political halfway house'¹⁸ between the central government and the people in a locality, they also perform practical functions which are directly beneficial to the people. These functions are stated clearly under the local government regulations of 1963. The regulations preceded the new local government act. They establish the local government in Kenya, largely by general reference to authorities established under the colonial local government ordinances repealed by the regulations¹⁹. These regulations sets out the powers and duties relating to all local authorities, and then proceed to sort out carefully certain specific powers and functions of country councils, Municipal Councils and the councils of the county divisions (urban or area councils). All authorities have for instance power to enter into contracts, acquire land, establish offices and buildings, make and guarantee loans, and many others²⁰. On the other hand, the powers and functions of county councils as specified under the regulations comprise among others the establishment of schools, provision for omnibus and vehicle services, the control of shops in the rural areas, and the control and maintenance of secondary roads²¹. The powers and functions of county divisions are wider and include

provision of sanitary services, fire protection, control of certain trades and occupations, sewage and drainage among others²². In case of municipalities however, they have all the powers of both counties and county divisions and in addition they have responsibility for control and care of all public streets in the municipality²³.

After drawing the general picture of the functions of the local authorities we now turn and consider some of the changes that have occurred in relation to the major functions of local authorities since independence. In this respect we will lean on the so called mandatory functions and specifically primary education, health services and maintenance of roads. These are referred to as mandatory because they are activities which the central government requires the councils to perform. The councils do not have any choice in the matter but carry out their mandatory functions²⁴. Besides the mandatory functions, there are also permissive functions which concern personal health services, shops and markets, social and welfare services, and measures for the promotion of agriculture and livestock²⁵. Permissive functions are optional as the term suggests and each council has the discretion to decide which service to give preference which choice is dictated by the availability of funds among other factors.

As regards the mandatory functions, they are now undertaken by the central government and to a lesser extent by the municipalities under the guidance of the central government.

Therefore no county council any longer performs these functions. They were transferred to the central government in 1969, through the enactment of the local government (transfer of functions) Act²⁶ when it became clear to the central government that the county councils, unlike the Municipalities, could not satisfactorily perform the services without risking over-straining their budgets²⁷. We will now proceed to deal with each of the three mandatory functions separately.

(a) Primary Education²⁸

Since independence, primary education has always been subject to strong central government influence. The emphasis on the importance attached by the government to control primary education is exemplified by the speech by Tom Mboya in 1968 in his contribution on the transfer of functions bill. He said:

"There is a need to have more government say and control in the education of the people of this country. We can no longer continue with the system by which you have pockets of authority all over the country, deciding what and how to conduct education throughout the country. There must be established a definite area of government control if we are going to implement our policies"²⁹.

The pockets of authority referred to in this speech were mainly the local authorities and the missionaries who

Before the transfer of functions all public health

services, just like primary education had increasingly

also were running schools on private basis³⁰. The county councils upto 1969 were therefore formerly responsible for primary education and the control structure of the service consisted of the district education officer (DEO)³⁰ and the Education Committee of the Council which together with its teachers were answerable to the D.E.O. The D.E.O. used to be responsible to both the Council and the Ministry of Education³¹.

As the representative of the Central Government the D.E.O. together with the District Commissioner used to co-ordinate the service in all the council schools. The DC used to be the Chairman of the County Council education committee³². However, with the transfer of functions this committee became defunct and instead District Education boards were reestablished in 1972. Very many other changes have occurred since the transfer

of functions in relation to not only primary education but the entire education system in Kenya³³. This notwithstanding, the major impact of the transfer of primary education to the centre on the county councils was that, the councils lost the grants allocated to them specifically for education purposes.

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On the other hand the transfer was an advantage to the councils in that they saved various miscellaneous council revenues such as crop cesses and licence fees which they used to channel into the primary education service. and as such council reserves could not easily be exhausted for provision of one service as was the case with primary education before the transfer.

these county council services were taken over by the Ministry

(b) Health Services

upto 1970, the county councils were the statutory health authorities under the public health Act, a Before the transfer of functions all public health services, just like primary education had increasingly

responsibility that had been imposed on the African District Councils in 1959. After the transfer, these new government services came under the control of the local authorities. It became a burden on local authority finances in the post-independence period³⁴. It is stated that health services covers three different sorts of activity³⁵: viz:

- (a) Personal medical services which include the treatment of the sick or in other words curative services. *Treatment Curative*
- (b) Preventive services i.e. those which are aimed at preventing illness (as opposed to treating it) through measures having a direct impact on individuals. Such as mass vaccination, health education, and attempts to improve dietary habits. *Preventive*
- (c) Environmental health services which involve measures intended to prevent illness which are aimed at the environment rather than individuals, such as sanitation, food inspection and malarial control measures such as the spraying of houses. *Preventive Environment*

The county councils were responsible for all three types of services except for the district hospital which was the responsibility of the Ministry of health³⁶. However, they dominantly concerned themselves with the first service, i.e. the provision of personal medical services through a network of health centres and dispensaries³⁷. Later in 1970, all these county council services were taken over by the Ministry of health. Thus upto 1970, the county councils were the statutory health authorities under the public health Act, a

responsibility that had been imposed on the African District Councils in 1958³⁸. After the transfer, these new government services came under the control of the Medical Officer of health (MOH) who became a central government official in every respect. Consequently, the effects of the transfer of functions had on this service were three fold among others: Firstly in the case of Municipalities, the introduction of free medical attention for children and outpatient adults which followed the transfer of functions led to desertion of their health centres and dispensaries. This in addition resulted to a reduction in the revenue formerly received in form of medical fees. The second effect could be viewed with reference to the county councils. These substantially lost all the revenue derived from this service but just like with primary education the transfer was a relief to their budgets because instead of injecting most of their revenues into primary education, health and Road services, they could now give attention to the other services. The third effect was that the councils were deprived of a very vital service with the result that the attention they formerly ^{gave} given the people began to die slowly. For instance before the transfer the councils through their council health communities used to exercise considerable influence in several decision making areas suitably the siting of new facilities; such as building sites for the health centres and dispensaries³⁹. It was also the council committee which established the order of priorities among competing claims for services and although this often led to political conflict between the

councillors, at least the distribution used to be more suitable than today. Of course the central government has time and again been encouraging people to engage themselves in self help activities. In the realm of public health this has resulted to the building of a large number of health centres on self help basis, often with the hope that they might be taken over either by the government or by the local authorities (municipalities). But such expectations have often gone unfulfilled since the local authorities have simply been unable to provide recurrent costs⁴⁰ and also because it really takes long for a decision to take over, to permeate all the central government bureaucracy and is be ultimately accepted.

III ROADS

The construction and maintenance of roads is a local authority inpectorate to advise them and to train service described by policy makers in Kenya as being essentially an 'economic' service, whereas education and health services are seen as being 'welfare' services. It is through roads, together with other means of communication that the wealth of our country (natural resources) is tapped and after marketing is used to enhance our country's economic stability. Even when the white settlers arrived in Kenya during the colonial time, they agitated for construction of roads from the colonial central government so as to facilitate exploitation⁴¹. We can't therefore over-emphasize the importance of roads more so, in economic development.

councils. This then meant that the county councils could not bother with road construction and the people in the rural areas were then left at the mercy of the central government. From independence to 1969, the Ministry of Works was legally responsible for the construction and maintenance of trunk roads, the county councils for secondary and minor roads and area and urban councils for unclassified roads⁴². As a result, the central government, through the Ministry of Works, has not fully penetrated the rural areas in road construction. The central government's responsibilities were carried by the roads branch of the Ministry of Works, either directly or in some cases by a county council acting as the agent of the Ministry. Most new construction was carried out by private contractors under tender to the Ministry⁴³. Indeed, the Ministry did make periodic checks on the standard of council maintenance on grant-aided roads. In addition it occasionally referred payment of further grants until standards were improved. However, the close supervision of councils (especially ADCs) carried out in the 1950's by the Road Authority, which both loaned staff to ADCs and created the local authority inspectorate to advise them and to train staff for them) was not carried on after independence⁴⁴.

In the case of municipalities, the transfer of functions did not divest them of their power to perform various functions. Thus in Kenya today, municipalities provide so many services ranging from public health, education, maintenance of unclassified roads, but they had no road water and electricity supply, roads and different other organisation of their own. Usually they voted funds from the proceeds of their poll tax for particular roads to be maintained and were charged an hourly rate by the county councils whose road teams actually did the work⁴⁵.

At the transfer of functions, the ministry of works absorbed all the staff plus all equipment of the county

councils. This then meant that the county councils could not bother with road construction and the people in the rural areas were then left at the mercy of the central government. As a result, the central government, through the ministry of works has not fully penetrated the rural areas in road construction. The ministry of local government as well does not bother the treasury to make funds available for construction and maintenance of recommended roads. If anything, it intervenes only to the extent of helping the municipalities get funds to make the necessary repairs on the potholed roads within them. Besides, one needs to go to the rural areas and see how ragged and eroded the roads once maintained by the councils are. The call by the government to the people to engage in self-help projects has not helped much as far as roads are concerned for it is viewed as tantamount to compulsory labour. The future of the rural access roads is thus uncertain without the intervention of the local authorities.

In the case of municipalities, the transfer of functions did not divest them of their power to perform various functions. Thus in Kenya today, municipalities provide so many services ranging from public health, education, water and electricity supply, roads and different other social services and amenities such as provision of parks and play-grounds among others. In providing these services, the municipalities are required to conform with the provisions of different statutes that regulate them.. These comprises the local government, ~~Act~~ Public Health Act and ~~Education Act~~ among others. In all these ~~Acts~~, the patronage of the

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minister and hence that of the central government is expressed in various sections ⁴⁶. As such the municipalities attempt to provide these services in the best interests of the government and this is because of the control imposed on them by the government. Otherwise if left alone to sort out which is good for the people, they may either relax or perform the functions badly. this juncture and discuss them generally for we feel it is impossible to discuss ~~all of~~ them exhaustively in a paper of this size.

The present structure of local authorities in Kenya consists of four categories namely the Municipal councils, town councils, county councils and the area councils. These could be further reduced into urban² local authorities or rather the councils operating within the urban areas and the rural local authorities or rather these councils which operate within the rural areas. By 1979 there were 22 urban local authorities and a large number of rural local authorities³. In order to fully appreciate our discussion on the problems affecting local authorities, we feel we should distinguish between urban and rural local authorities. The first basic distinction is that the former do not, in general, suffer from the same scarcity of human resources⁴ as is characteristic of rural authorities. The town councils got off to a much better start in life than their rural counter parts. Besides, urban councils, being located in areas of commercial development are able to draw for their membership upon a body of councillors who are better equipped to understand their role in the local government system and to cope with

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CHAPTER 2 PART 3

GENERAL PROBLEMS CONFRONTING LOCAL AUTHORITIES

Local government authorities in Kenya are generally beset by quite a number of problems, which are scattered in various parts and chapters preceding this particular part. It is therefore ^{my} ^{is yours} intention to identify some of the problems at this juncture and discuss them generally for we feel it is impossible to discuss ~~all~~ ^{any} of them exhaustively in a paper of this size.

The present structure of local authorities in Kenya consists of four categories namely the ¹ Municipal councils, ² town councils, ² county councils and the area councils ¹. ^{Urban & Rural Councils} These could be further reduced into urban ² local authorities or rather the councils operating within the urban areas and the rural local authorities or rather those councils which ^{area of urban} operate within the rural areas. By 1979 there were 22 urban local authorities and a large number of rural local authorities ³. In order to fully appreciate our discussion on the problems affecting local authorities, we feel we should distinguish between urban and rural local authorities. The first basic distinction is that the former do not, in general, suffer from the same scarcity of human resources which is so characteristic of rural authorities. The town councils got off to a much better start in life than their rural counter parts ⁴. Besides, urban councils, being located in areas of commercial development are able to draw for their membership upon a body of councillors who are better equipped to understand their role in the local government system and to cope with

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the demands made upon them.. Moreover, the constitution of a town council is divided so as to include in its membership certain senior officials of the central government who are stationed within its area of jurisdiction. In addition the standard of the executive staff is superior to that which is found in most rural councils.

There are still other advantages enjoyed by urban authorities. Being the main centres of population as well as foci for the development of the country as a whole, they have for long been able to count upon regular and financial assistance from the central government for their expansion of their services. This has compensated them to some extent for relatively small taxable resources upon which they are able to draw⁶. On the other hand, the compactness of the area over which they exercise jurisdiction facilitates the work of revenue collection and makes possible the close supervision and more efficient operation of local services⁷. Lastly, the English system of local government upon which Kenyan system as a whole is modelled has been transplanted into the urban centres of the country with a degree of success. Just to emphasise what we have already stated, the problems which beset local government are many and serious. But they are to be found in their most acute form in the vast rural areas of scattered population where the physical and human environment is less favourable to the accommodation of the British mode of local government. In the ensuing discussion of the problems, we should have in mind the fact that it is the rural local authorities which are worst hit.

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control/

The problem we are going to address ourselves to now is that of control. Elsewhere in this paper we attempted to show the mechanisms the central government uses to effectively control the local authorities⁸. We also indicated that such control was even there during the colonial period and was inherited by the independent Kenya government. Control per se is not bad. Of course local authorities must be controlled in carrying out their functions among other controls so that they serve the people they represent well. But control becomes a problem when it is excessive or when it leads to the usurpation of the powers of the local authorities by the central government. Take for instance the case where the minister for local government repeatedly fails to approve a council's budget. The effect of this refusal is that the council can not spend its funds above the levels of the previous year⁹, which therefore implies that if additional activities or projects were to be undertaken by the council for the benefit of the people, then they will have to be struck off the budget. If on the other hand the inflation of the budget is necessitated by increased costs for providing a particular service, failure to approve the budget will mean either the council stops providing the services, or some people who previously benefited from the service will have to go without it. This example should suffice to illustrate our conception of the term 'excessive control' where once exercised would eventually lead to hardship on the side of the people served by the local authorities. This is the role of acting as the link or agent between the central

Although tied to the problem of control, the question of usurpation of power could be viewed as a distinct problem confronting local authorities. The central government usurps the powers of local authorities mostly through the provincial administration. During the colonial period, the provincial administration had been a powerful machine through which the central government administered by direct rule¹⁰. Local authorities during this period had no free hand in dispensing their statutory duties to the people in the localities. There used to be too much uncalled for interference by the central government through the PC, the DCs and even the Chiefs, thus making it difficult for the local authorities to perform their functions freely¹¹. After independence, provincial administration was strengthened and transferred to the office of the President, thus becoming a direct representative of the central government¹². The present administrative position in Kenya is that the PCs and DCs ~~held~~^{wield} a lot of political power both inside and outside the ruling party. For instance the DCs have extensive powers of control over the local authorities in their areas¹³. Besides, it is still the instrument of provincial administration which the central government has perpetually been using as the link between it and the people. For instance when the central government has to transmit and translate its national policies, it uses the provincial administration, which explains such policies to the people through public baraza's. By so doing, the central government overlooks the very vital role of local government authorities. This is the role of acting as the link or agent between the central

over the past years, many local government councils and the people, as agents for progress in the As a result, this important area of organised government in the country has fallen into

government and the people. Further still local authorities are required to participate in the decisions that affect their communities¹⁴. And as the democratic institutions that they purportedly should be, they should at least be making final decisions. However, this is not the case in Kenya. In fact any decision reached by a local authority is not final until approved by the central government¹⁵. Even at other times the central government makes decisions affecting the people and imposed them on the people without even consulting the local authorities. The cumulative effect of all this central government interference is impingement of democracy as it relates to local authorities.

Politically still, there have been many instances in this country where the central government subjects local authorities to too much contempt that one is forced to begin doubting their existence. Such contempt is well highlighted in a speech delivered by the head of the Kenya civil service at the Kenya Institute of administration in 1967. While disregarding the main causes of the local government predicament especially in the rural areas, he goes out of his way to show that without the provincial administration, local government performance cannot but decline. Although he agrees with the basic philosophy on which local government institutions are based, he goes on to assert:

"Over the past years, many local government councils have failed to meet the expectations of the government and the people, as agents for progress in the provision of amenities and services at local level. As a result, this important area of organised government in the country has fallen into disrepute"¹⁶.

Recently the chairman of the Kenya National Chamber of Commerce and Industry criticised local authorities for providing very poor services while charging high rates. He stated further that, some local authorities were even charging for services they do not even render and as a result people had filed over 15000 cases before the appeals tribunal objecting to such rates¹⁷. In yet another instance the Chief executive warned all councillors and officials of local authorities to look upon their local authorities not as places from which to enrich themselves but as organisations created to provide services in partnership with the central government¹⁸. Moreover, we are not at all attempting to question the veracity of most of the criticisms levelled at local authorities. In fact many successful cases have been ^{filed} ~~field~~ in the courts against council officials in connection with ~~embezzlement~~ of council funds. There have also been many cases of neglect on the part of local authorities in provision of services. One needs only to visit the suburbs of the city of Nairobi and see how poor sewage and garbage facilities are. However, the point we are making in the foregoing argument is that contempt or criticism should be viewed as a problem confronting local authorities. It becomes a problem when the central government hurls the criticism but does absolutely nothing to rectify the situation or even alleviate the problem as is normally the case in Kenya.

The problem of finance is the most nagging of all. It is as old as the local authorities themselves. All the main

sources of revenue for local authorities are fixed by the treasury and alterations to the rate of taxation by any local authority must be endorsed by the treasury and the ministry of local government. In its report, the Ndegwa commission stated that it has been in the field of finance that the majority of county councils (and other local authorities including the municipalities) have experienced their greatest difficulties¹⁹. The finances of local authorities have been deteriorating for a number of years now and the sources of local authorities financial difficulties have been summarised under five headings: Incompetence, dereliction of duty, failure to collect revenue, failure to keep accounts and failure to maintain financial control²⁰. These weaknesses however, arise from the poverty of rural authorities and their concomitant inability to secure and retain qualified financial officers. Although each council has a treasurer responsible for managing authority finances, in practice detailed administration has been centrally handled by accountants employed by the Ministry of local government in Nairobi. And all estimates of county councils and any subsequent alterations to them have to be referred to the ministry for approval. By contrast, municipal councils can afford to employ better qualified financial experts to administer their finances with considerably less supervision from Nairobi. In 1969, in order for the central government to save the rural authorities from their precarious financial position, it centralized the services which used to consume most of the council's revenue²¹. It also increased the grants to subsidize other ~~covered~~ sources of revenue but this did not help

CHAPTER 3

much. The grant system has now been struck off thus paving way for more financial stress on the rural based local authorities.

We have attempted to survey the intention and purpose of this paper in various chapters and parts. We commenced by showing that there is a great divergence in democratic ideals between the central and local government institutions. The reasons for the divergence have basically been historical and the historical evolution of local government is discussed. But we can't deal with all of them. We therefore feel the few we have mentioned suffice for the purpose of this paper. A significant thing in this era was the institution of separate development in the sphere of local government as recommended by the Potham Report. We as well showed that democracy had little expression in local government during the latter years of this history. Then at independence the same was exulted through lip-service only.

As regards the relationship between central and local government, we attempted to show that the central government exercises an overriding control over the local authorities politically, financially and in the exercise of their functions. We have given the details of all these in chapter two. In the same chapter, we went on to show that the current relationships between the two institutions of government is very much similar to that persisting during the colonial era. There must be some changes at least, but we cannot expect them to be very significant if we bear in mind the fact that we are living under a neo-colonial government. It has been

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CONCLUSIONS AND REFORMS

We have attempted to survey the intention and purpose of this paper in various chapters and parts. We commenced by showing that there is a great divergence in democratic ideals between the central and local government institutions. The reasons for the divergency have basically been historical and the historical evolution of local government is discussed under chapter one of this paper. This history is closely appended to the colonial relations of the time. The most significant thing in this era was the institutionalisation of separate development in the sphere of local government as recommended by the Fether Report. We as well showed that democracy had little expression in local government during the latter years of this history. Then at independence the same was exulted through lip-service only.

As regards the relationship between central and local government, we attempted to show that the central government exercises an overriding control over the local authorities politically, financially and in the exercise of their functions. We have given the details of all these in chapter two. In the same chapter, we went on to show that the current relationships between the two institutions of government is one major conclusion. This is that local government in Kenya, very much similar to that persisting during the colonial era. There must be some changes at least, but we cannot expect them to be very significant if we bear in mind the fact that we are living under a neo-colonial government. It has been

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under these circumstances that a wide rift in Kenya has developed between the central government and the local government on the one hand and between the central government and the people on the other. This is evidenced by the fact that the mere act by the central government of usurping the powers of the local government not only defies democracy but also results to unsurmountable suffering of the people². For instance when the central government finds that it cannot satisfy all the demands of the people unaided, it sometimes compels the same people to fully participate in self-help activities. In the same vain, the local authorities are as well victims of multiplicity of ministerial powers³. As such the local authorities have not been able to work properly with the people in the localities. On the other hand, due to lack of cohesion in the central-local government relationship coupled with compulsion, the people have been distrusting government policies. Many such instances have taken place as regards especially the so called progressive self-help projects.

The sphere of local government has over the years been traversed by many problems. We discussed most of these under part three of chapter two; and in view of everything we have discussed in this paper, we have no hesitation to resort to one major conclusion. This is that local government in Kenya, apart from being a myth, it has no life of its own as the case should be, other than that which the central government breathes into it. Physically, the local authorities are there but in terms of the role they play, we could view them

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as heading to a total collapse. In future, their physical existence may as well end up in extinction. But since it is beyond doubt that local authorities really have a role to play in society, we do not just have to watch them die slowly and systematically. We should therefore ensure their resuscitation; indeed their survival. To borrow Jennings's words, if local authorities are not functioning properly, then we should reform the existing system in order that the old powers might be better exercised⁴.

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It is in view of the foregoing explanation that we move the following recommendations for the reform of our local government system. Firstly, the question of finance is a central one in considerations revolving on local government; for without finance, local authorities cannot perform or dispense their services to the people. According to the Ndegwa Commission, 'if local authorities are to play any significant role --- (they) must have a sound financial base. With the transfer of G.P.T. to the central government and the abolition of government grants, councils derive their revenue from site value rates, land rates, ^Scesses, licences etc. which in total yield only £2M'⁵. We need therefore to reorganise the financial structure of the local authorities so as to make it stable. This would actually help mobilise locally available resources and energies for the development of the localities in which the local authorities operate. However, with the current financial structure of the local authorities, it is impossible to have any meaningful

Graduated Personal Tax

development in the localities. We therefore propose that there should be introduced an indirect tax of some kind especially on consumer goods so that the financial base of the rural local authorities is boosted. Besides, creation of other sources of revenue aimed at supplementing the few existing ones would be most welcome. Moreover, since the central government has monopoly over all the unliquidated resources of the country, it should always be ready to provide assistance to the local authorities in form of grants in aid. We therefore recommend the restoration of the government grants withdrawn recently, so as to occupy the financial vacuum created by the withdrawal especially within the rural local authorities.

The Ndegwa commission stated that the objectives the local government should have in view were to provide the constitutional means whereby the representatives of local communities participate in the making of decisions affecting their communities to mobilise locally available resources and energies for the development of the localities where the authorities operate, to perform on an agency basis a number of functions that are primarily the responsibility of the central government, and to provide a necessary link between the wananchi' particularly in the rural areas and the central government⁶. The government not only associated itself with these views, it accepted the recommendations of the commission through the sessional paper No. 5 of 1974. In this paper however, we have strongly rebutted this assertion by the also that in exercising their functions, the local government

government because it did not keep its word as expressed in the sessional paper. Constitutionally of course, the councillors, who are the representatives of the people in the localities do reach decisions which they think are best for the local people but such are not final. They must be influenced or approved by the central government. At other times the central government makes decisions that directly affect the people without even consulting their representatives or eliciting the peoples consent. In effect therefore, the people have been subjected to perpetual denial of their constitutional right of participating in the decision making process. We therefore propose that the range of autonomous action by the local authorities should be increased so as to make them participate actively in the affairs affecting the people in the localities. At least they should be given a chance to reach decisions without much interference from the central government.

As regards the link or agency role the central government has time and again overlooked the local authorities and instead has used the provincial administration for transmitting and explaining its national policies to the people and even supervising their implementation through compulsion. All this has brought about friction between the local authorities and the provincial administration as far as their roles are concerned. We recommend that this friction should be removed. There must also be a clear definition between the functions and duties of the two institutions and also that in exercising their functions, the local government

central government and the local authorities for the benefit of the people, should as much as possible be given a free hand. In addition, the central government should as much as possible use the local authorities for communicating its policies to the people. This way the local authorities will be ensured of playing their role in a democratic manner.

Another area which requires reform is that of control over the appointment of the officials of local authorities by the central government. The qualifications for appointment of these officials are laid down under sections 122-125 of the local government Regulations. The power to appoint is vested on the councillors and if anything this power is quite theoretical for every appointment has to be approved by the Minister for local government. In 1980, the Central Government attempted to divest the councillors of this power through the local government service commission bill⁸ but unfortunately the bill did not sail through. The Minister for local government also exercises his control over the local authorities and as a representative of the central government through regulations, orders and circulars. We hereby recommend that instead of the minister issuing these orders, regulations and circulars, there should be established a direct dialogue between the local authorities and the minister (central government) as to what procedures should be used in say, Managing the affairs of a local authority. This would in effect tend to curb any dictatorship that usually accompany the unilateral decisions of the minister. This would also normalise the relationship between the

central government and the local authorities for the benefit of the people.

The power of dissolution vested in the minister for local government as per regulations 252 and 254 of the local government regulations needs reform, perhaps more than any other area. This is a notorious power and has been extensively used in Kenya. As we have argued elsewhere in this paper, it is not possible for a handful of a commission to satisfactorily manage the affairs of a dissolved council⁹. Besides, the fact that the councillors in a given council have been unable to manage the affairs of the council as expected of them does not mean that there cannot be found better people in that area, capable of handling such affairs even better. We therefore propose that the power of the minister to dissolve councils should be abolished or at least modified so as to suit the conditions prevailing at the moment or rather to inhibit the problems that accompany a dissolution. As such, instead of dissolving the whole council and substituting it with a commission, the minister should be empowered to be ordering for a fresh election of new officials. This way, the people in the locality would be given another chance by governing or running their own affairs. In addition, whenever incidents of corruption are unveiled in a council, the best thing to do is to apprehend all the colluding councillors and take them to court for trial instead of victimising all of them through dissolution of the council.

As to the question of division of functions between the central and local government, we have argued that there is great overlapping as far as performance of functions is concerned. Besides, it is not easy to identify the functions of each or even group them. The fact is that there is no hard and fast rule which can be laid down for the purpose of differentiating the functions. For instance, prior to 1969, local councils were providing services which could be viewed as being primarily a central government function¹⁰. As regards primary education, the government through the KANU independence Manifesto had promised the people free primary education yet later, the responsibility was handled on the local authorities giving rise to serious financial constraints. It was only after the central government realised it could handle the service more efficiently that it transferred it, together with roads and health services to itself in 1969. But as we have stated elsewhere, the transfer of the functions left the local authorities in a more worse financial state than before, for GPT which was a major source of revenue for local authorities was as well transferred to the centre. The local authorities also lost other revenues which directly emanated from provision of primary education, roads and health services. In addition, only a few people within the realms of the central government appears to appreciate the services performed by the local authorities and this could be one reason why too much criticism has been levelled against them of late. We therefore recommend that there should be devised a clear distinction between the

services provided by the central government on the one hand, and those the local authorities should provide on the other, if the problems arising out of the friction between the two institutions of government are to be overcome. The government should also desist from allocating services to the local authorities only to withdraw them later on because such an act would really inconvenience the authorities greatly as was the case in 1969. On the other hand, instead of criticising the local authorities for providing poor services, the central government should be ready to investigate why such services are poorly provided and then try to regulate the malady once exposed.

Lastly, we cannot recommend the total removal of all central government controls over the local authorities because this may not be the best thing to do. But the controls should be exercised in such a manner that the local authorities are not hindered in performing their democratic function of enhancing local participation in decision making. Besides, while still making all these recommendations, we had in mind the fact that in practice Kenya is geared towards centralisation of power and as such it would be impossible for some recommendations to be implemented, for this would lead to decentralisation of power which the central government cannot wish to endorse: for decentralisation would mean interfering with the interests of the ruling class and those of their neo-colonial masters, which in Kenya are given first hand priority. For any meaningful survival of the local government, we therefore should annihilate our neo-colonial superstructure

FOOTNOTES

and then implement the recommendations we have made, otherwise there may be no local government properly so called in future.

1. Dr. FRBD G. BURKH: Local Government and politics in Uganda, Syracuse University Press, (1964) P. 248.

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1. La Fontaine S.H. and J.H MOWER: Local government in Kenya. Its origin and development. Chapter 1.
2. Ghas Y.P. and McAulian J.P.W.B.: Public law and political change in Kenya (1970) P 25.
3. Ibid. Chapter 3.
4. Nottingham J: The development of local government in Kenya, p 2.
5. Six districts were established following the passing of the local government (Districts) Ordinance in 1928. They included Nakuru, Uasin Gishu, Nairobi, Kisumu-Londiani, Naivasha and Trans-Nzoia - see Nottingham, Supra, p 3.
6. Maundu P: Evolution and role of local government in Nation building in Kenya (1985) p 123
7. Nottingham, Supra, p.2.
8. Goran Hyden and Robert J and Okumu J: Development administration. The Kenyan experience (1970) p 156.

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FOOTNOTES

9. Maundu, Supra

Introduction

11. See note 5

1. Cf. FRED G. BURKE; Local Government and politics in

12. Nottingham J. Supra, p. 3
Uganda, Syracuse University Press, (1964)

13. Ibid, pp 8-9 P 248.

14. CHAPTER 1 Supra, p 125

15. La Fontaine S.H. and J.H MOWER: Local government in

16. There were in Kenya. Its origin and development. Chapter

and Meru and 1. others which used to control crime, land

2. Gha\$ Y.P. and McAuslan J.P.W.B.: Public law and political

One such inst change in Kenya (1970) P 25. elders which

3. Ibid. Chapter 3

17. Where there were densely populated African reserves.

4. Nottingham J: The development of local government in

18. See Native Affairs Department, Annual Report 1924
Kenya, p 2.

5. Six districts were established following the passing of
1924.
the local government (District Council) ordinance in

19. La Fontaine and Mower, Supra, p 30
1928. They included Nakuru, Uasin Gishu, Nairobi,

20. Kisumu-Londiani, Naivasha and Trans-Nzoia - see Nottingham,
Supra, p 3. relating legislation against the Indigenes

6. Maundu P: Evolution and role of local government in

21. La Fontaine Nation building in Kenya (1965) p 123

7. Nottingham, Supra, p.2.

8. Goran Hyden and Robert J and Okumu J: Development

24. Goran Hyden, Supra, p 230
administration. The Kenyan experience

(1970) p 236.

9. Maundu, Supra
25. Ordinance No. 11 of 1937
10. Goran Hyden, Supra
26. Ordinance No. 12 of 1950
11. See note 5
See Nottingham supra, p 11 for details
12. Nottingham J. Supra, p 3
29. See Gertzel C.J. Journal of Commonwealth Political
13. Ibid, pp 8-9
studies (provincial Administration in Kenya)
14. Maundu P; Supra, p 125
201
15. Goran Hyden; Supra, p 238
30. Goran Hyden, After (London, Andre Deutsch,
16. There were institutions especially among the Kikuyu, Kamba
31. and Meru among others which used to control crime, land
32. rights, marriage and other aspects of their societies.
One such institution was the council of elders which
33. was very popular. Mostly among these tribes. KAPU
17. Where there were densely populated African reserves.
34. Statutory instruments, 1963, No. 791 East Africa Kenya
18. See Native Affairs Department, Annual Report 1924
order in council 1963, Chapter V, VI, and VIII
p 20. Native authority (Amendment) Ordinance
35. Nottingham supra, p 16
1924.
36. See Ghan and Machakos supra, Chapter V
19. La Foutaine and Mower, Supra, p 16
20. Most grievances were focussed on the loss of tribal
39. land, humiliating legislation against the indigenous
40. population among others of the time.
21. La Foutaine and Mower, Supra, p 917
22. Nottingham, Supra, p 5
1. No. 12 of the Kenya Local Government Regulations of
23. Ordinance No. 22 of 1912
24. Goran Hyden, Supra, p 236
3. Article 48 Ibid

25. Ordinance No. 11 of 1937
26. Ordinance No. 12 of 1950
27. See Nottingham supra P11 for details
28. Goran Hyden Supra, P239
29. See Gertzel CJ. Journal of Commonwealth Political studies (provincial Administration in Kenya) ¶201
30. T.J. Mboya: Freedom and After (London, Andre Deutsch, 1963) P37-9.
31. Nottingham, Supra., P11
32. Cf. New Kenya party: Plan for success (New Kenya publication, Nairobi 1960) P 20
33. The Ministry of Local government was under a KADU Minister
34. Statutory instruments, 1963, No. 791 East Africa Kenya order in council 1963, Chapters V, VI, and VIII
35. Nottingham Supra, P16
36. See Ghai and Machanslan Supra, Chapter V
37. Ibid, P211
38. Ibid P212
39. Legal notice No. 256 of 1963
40. Cap 265 of the laws of Kenya.

CHAPTER 2 PART I

1. No. 12 of the Kenya Local Government Regulations of 1963
2. Article 28 Ibid
3. Article 48 Ibid

23. eg para 246, LR?
4. Article 41 Ibid
24. Ibid
5. Phillips O.H: Constitutional and Administrative Law
S2(1) of the Local Government Act
(6th Ed.) P 247
26. (1940) 1 TLR 239
6. L. Golding: Local government (4th Ed.) P 150
27. See PA Oluyebe: Administrative Law in East Africa
7. Ibid
8. See The Local Government Act, Cap 265 of the laws
S27 of the Interpretation and General Provisions Act
of Kenya.
9. Brownwood David O: Limitations on the exercise of power
by local government authorities in Kenya
See Brownwood D. Supra, Chapter 1
30. Para 5 of the Local Government Act.
(KIA, 1968) P3
31. See Part III (Regulations 107-120) of the LGRs
10. *No such section* (S. 223) of the Kenya Constitution
32. The Standard, December 7, 1983, P1
11. Hannigan A: What is local government?
The Weekly Review, February 1982, P12
34. The Weekly Review, March 1982, P 8.
12. In particular the councillors
*The Standard May 9th 1984
13. Hannigan A. Supra, P12
See the 'Sessional Paper' No. 12 of 1967' Part 2
14. Brownwood, D., Supra, the Introduction
Ibid para 39
15. Phillips Att.; Supra, P 533
Para 254 and 255 of LGRs
16. Para. 249 of the Local government Regulations 1963
In the years 1973, 1975 and 1976 respectively.
17. The Daily Nation, November 3rd. 1983, Front Page
The Weekly Review October 11, 1983, P 8.
18. Goran H., Robert J. and Okumu J.; Development
Administration. The Kenya Experience (1970)
of the City Commission
P 246. UN
42. Oluyede - Supra
19. Ibid
20. Mushele JS: The Control of Local Government
Authorities (An LLB Dissertation) P30.
See part 1
21. Goran H, RJ and OJ, Supra P 247
Management and Corporate
22. Para 247 of the L.G. Regulations

23. eg para 246, LGR,
 24. Ibid
 25. S2(1) of the Local government Act
 - 26 (1940) I TLR 239
 27. See PA Oluyebe: Administrative Law in East Africa
(1971) PP 62, 63, 64.
 28. S27 of the Interpretation and General Provisions Act
Cap 2, Laws of Kenya.
 29. See Brownwood D, Supra, Chapter 1
 30. Part 8 of the Local government Act.
 31. See part III (Regulations 107-120) of the LGRs
 32. The Standard, December 7, 1983, P1
 33. The Weekly Review, February 1982, P12
 34. The Weekly Review, March 1982, p 8.
*The Standard May 9th 1984.
 35. See the 'Sessional Paper No. 12 of 1967' Para 9
 36. Ibid para 39
 - 37 Para 252 and 254 of LGRs
 38. In the years 1973, 1975 add 1976 respectively!
 39. The weekly Review October 21, 1983
 40. Para 252 (2) of LGRs.
 41. The Nairobi provincial commissioner is the secretary
of the City Commission
 42. Oluyede - Supra
- CHAPTER 22 PART 2
1. See part one
 2. Eddisson T: Local government; Management and Corporate
Planning (1975) 2nd Ed. P5

21. Para 180-191 of the LGRs
3. Ibid
22. Para 182(1) LGRs
4. Ibid P18
23. Severid Peter: Local Government Members Guide; a summary of the history, functions, and organisation of local authorities for the benefit of councillors, (1970) P1-1
5. See Mawhood P.M.: Decentralised governments in TROPICAL AFRICA. A Comparison of the cases of Cameroun and Tanganyika, Chapter 1.
- 6 Nottingham: The development of local government in Kenya P 25
24. Ibid
25. Act No 20 of 1969
7. See Colebatch H.K.: Local services and government process in Kenya, Chapter 8
26. See Strein R.E.: Local government in Kenya. The limits of development Planning, (1969) P 8 and 12
8. Royal Commission on Local Government in England, 1966-1969, vol. 2, (1970) p 39
27. For the purpose of this paper we have decided to stress primary education (or mandatory functions) in order to relate it to county councils which were responsible for it and also as far as the mandatory functions are concerned it is they which fell victims of the transfer of functions Act.
9. See the Introduction
10. Cliffe L.R.? Proposals for Local Government Reform, 1966, pl.
11. Stanley Dryden: Local Administration in Tanzania (1971)
12. Burke F.: Local government and Nation building in East Africa; A functional Analysis Occasional Paper No. 9, (1965) P8. (cited in Colebatch)
28. Nairobi 8 January 1968 vol. 382
13. Ibid P16 Supra, P 183
14. Ibid P 18 Supra, P 185
15. Part I The 1968 Education Act did not provide for the DC to be an ex-official member of the councils
16. Leonard D.K.: Communications and decentralization in Kenya (1970) P 105
17. Mawhood P.M.: Supra P 16
18. L.G Regulations Para 4, are not the concern of this paper
19. See especially paragraphs 143-150 and also 201 of the LGRs
20. Para 152, 153, 159 and 187 (1) of the LGRs
32. Goran Hyd and ORS, Supra P 249

21. Para 160-191 of the LGRs
22. Para 182(1) LGRs
23. Severeid Peter: Local Government Members Guide; a summary of the history, functions, and organisation of local authorities for the benefit of councillors, (1970) P1-3
24. Ibid ~~S. 261 NGA~~
25. Act No 20 of 1969
26. See Strein R.E.: Local government in Kenya. The limits of development Planning, (1969) PP 8 and 12
27. For the purpose of this paper we have decided to stress primary education (or mandatory functions) in order to relate it to county councils which were responsible for it and also as far as the mandatory functions are concerned, it is they which fell victims of the transfer of functions Act.
28. Nairobi 8 January 1968 col. 3822 (cited in Colebatch Supra, P 183
29. Colebatch Supra, P 185
30. The 1968 Education Act did not provide for the DC to be an ex-official member of the councils education committees but it appears he was accepted as such.
31. These changes, we feel, are not the concert of this paper.
32. Goran Hyden and ORS, Supra P 249
See also Strein R, Supra P 5

33. Colebatch, Supra, P 220
34. Nottingham, Supra P 14
35. Goran Hyden and ORS, Supra P 244
36. Colebatch Supra, P 227
37. Ibid
38. Goran Hyden and ORS, Supra P 249
39. See the Introductory part of Chapter 1
40. Supra
41. Colebatch HK Supra, P 258
42. Road Authority Annual Report 1960/01.2
43. Colebatch, Supra OP 261
44. See Sections 165 of the local government Act, 13, 32 and 34 of the Public Health Act and 7 and 32 of the Education Act.

15. See Part 1 of Chapter 2

CHAPTER 2 PART 3

16. Cited in Gertzel and Rothchild;

1. Development Plan, 1979-1983, Para 9: 22
2. The term 'urban' should not be confused with 'urban councils' which are in this paper treated as being under the urban local authorities set.

3. Development Plan, Supra, para 9.23

4. See Chapter one of this paper

5. Stren Richard. Supra. P 4.

6. Stanley Dryden Supra, P 103

CHAPTER 3

7. Ibid

8. See also Stren R, Supra P 5

2. See part 3 of Chapter 2.

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8. Part 1 of Chapter 2.
9. Stren, Supra, P 8
10. Gertzel CJ.: 'Provincial Administration'
Commonwealth Political Studies Journal
p 207
11. La Fontaine P Mower Supra p 16-17.
12. Gertzel CJ.: Supra.
13. See PA Oluyede, Supra. p 49 for details.
14. Report of the commission of inquiry (public service
structure and remuneration commission)
widely known as the Ndegwa Commission.
Para 89
15. See Part 1 of Chapter 2
16. Cited in Gertzel and Rothchild; government and
Politics in Kenya EAPH 1969, pp 428-431.
17. Daily Nation, Sunday October 29th, 1983, p 23.
18. Presidential Speech - cited in Daily Nation, Friday
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19. The Ndegwa Commission, Supra, Chapter XX Para 634
20. Stren, Supra, P1
21. Development Plan, Supra, P 455

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2. See part 3 of Chapter 2.

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