Urban livelihoods, institutions and inclusive governance in Nairobi: ‘spaces’ and their impacts on quality of life, influence and political rights
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5. The metropolitan institutional context

5.1. Introduction

This chapter analyses the opportunities and constraints the metropolitan institutional context and structures provide for invited spaces, collectively claimed spaces, individually claimed spaces, and individual household pathways. Nairobi was recently characterised as a spontaneous and organic city, reflecting the make-up of the country at large, and rhetorically a kind of ‘belonging to everyone’ (AEGIS 2006). Nairobi differs from other cities that are built on or around older settlements, and from cities with migrant communities who have lived there for years. It also differs from residentially segregated cities resembling an ethnic cauldron rather than a melting pot and reflecting a ‘divided nation’.1 This chapter further clarifies and nuances the picture of Nairobi as a city ‘belonging to everyone’ and reflecting a ‘united nation’. Section 5.1 begins with an analysis of the geographical characteristics and historical background of Nairobi and its informal settlements. Section 5.2 follows up with an analysis of the economy, wages and employment in Nairobi. In section 5.3 politics, governance and public sector reform are discussed. Section 5.4 and 5.5 analyse metropolitan policies and institutions on business, and on land and tenure, respectively, which affect poverty and inequality. Finally, section 5.6 concludes on the opportunities and constraints of metropolitan institutions for the invited, collectively claimed and individually claimed spaces included in this research.

5.2. Metropolitan geographical characteristics, historical background and informal settlements

Physical and geographical characteristics

Nairobi is located 140 kilometres south of the equator and 500 kilometres west of the Indian Ocean in Kenya’s Central Highlands, at a latitude of 36°50’ east and a longitude of 1°17’ south (K’Akumu & Olima 2007), at the southern end of Kenya’s agricultural heartland (Mitullah 2003a). Nairobi has a (sub)tropical highland climate with mild daily temperature and cool evenings and mornings becoming distinctly cold during the rainy season. There are two rainy seasons: the long rains from March to May and the short (lighter) rains in November and early December. The mean annual rainfall ranges between 850 and 1050 mm. The altitude of the metropolitan city varies between 1,600 and 1,850 metres above sea level (Mitullah 2003a). The western part of Nairobi is on high ground (approximately 1700–1800 msl) with rugged topography, the
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eastern side is generally low (approximately 1600 msl) and flat (Saggerson 1991). Key physical features include the Nairobi, Ngong and Mathare rivers and the indigenous Karura Forest in northern Nairobi. The Ngong hills stand towards the west, Mount Kenya towards the north and Mount Kilimanjaro towards the South-east. As Nairobi is adjacent to the Rift Valley, minor earthquakes and tremors occasionally occur (CCN 2007). The soils of the Nairobi area are products of weathering of mainly volcanic rocks. Weathering has produced red soils that reach more than 50 feet (15m) in thickness (Saggerson 1991). A number of subdivisions are recognised in the Nairobi area according to drainage, climatic regions and slopes, and other categories have been introduced for lithosols and regosols (CCN 2007a).

Nairobi’s origins and spatial development

The name Nairobi comes from the Maasai phrase ‘Enkare Nyirobi’, which translates to ‘the place of cool/cold waters’. Before the start of the colonial administration, Nairobi was a major trading center for the Kikuyu people and their neighbours (the Maasai, the Ndarobo and the Kamba), with whom they traded in grains, tobacco, copper ornaments, livestock, animal skins and other merchandise. Nairobi had been established as a stop-over for trading caravans from the coast en-route to Uganda and brought in imported beads, angles and cloth items (and also brought Islamic culture and Swahili language to the region – see Hirst & Lamba 1994; Zwanenburg & King 1975; Lee-Smith & Lamba 1998). The construction of the Mombasa-Uganda railway gave it further prominence when the railway reached Nairobi. In 1899 the railway authorities established their administrative and railway headquarters in Nairobi. In 1899 the railway authorities established their administrative and railway headquarters in Nairobi. They made more extensive developments in Nairobi than at any other point on the railway line (Hake 1977; Obudho & Obudho 1992). In 1905 the British colonial government moved its headquarters from Mombasa on the coast, to Nairobi, after the completion of the railway line. The town quickly grew to become the capital of British East Africa in 1907 (instead of Mombasa) and eventually the capital of the Republic of Kenya in 1963.

The boundaries of Nairobi were extended four times in 1920, 1927, 1963 and 2008. In 1920 Nairobi had just become a municipality with corporate powers and its boundaries were extended to include some residential areas such as Parklands (K’Akumu & Olima 2007; Olima 2001). In 1927, as a result of rapid urban growth in population and infrastructure, the boundaries of Nairobi were expanded to cover 30 square miles or 2537 ha (77 km2). In 1963 the boundaries were extended to cover an area of approximately 266 square miles or 68,945 ha (686 km2), anticipating the massive influx of migrants to the capital of Kenya after independence. Finally in 2008, with the introduction of
Nairobi Metropolitan Region (NMR) and the adoption of the status of Metropolitan city, the area covered was extended to 3,000 square kilometres, within a radius of 40 kilometres, despite the functional area covering approximately 100 kilometres (Map 5.1) (GoK 2008a). It swallows 12 local authorities from the districts of Murang’a, Thika, Kiambu, Machakos and Kajiado. Residents of Kiserian, Athi River, Kitengela, Kangundo, Tala, Kyanzavi, Juja, Thika, Kilimambogo, Ruiru, Ngong, Kikuyu, Uthiru, Limuru and Oloolotikosh will all be under the metropolis.

Map 5.1: Nairobi Metropolitan Region

Source: GoK (2008a).

Settlement structure, land-use and population

The origins of the settlement structure of Nairobi lay in the need to accommodate people of different races and ethnic origins. The major influence that set the frame of the city was racial segregation, a practice of the colonialists that prevailed as late as the early 1960's (Desouza 1988; Syagga et al. 2001; see also: Olima 2001; K’Akumu & Olima 2007). Nairobi was systematically racially zoned in the major plans of 1905, 1927 and 1948. The
main aims were to keep African urban population low and to prevent the spread of infectious diseases (Stren 1978) with a minimum of public expenditure (Amis 1984). The 1948 Master Plan - until the recent Nairobi Metro 2030 Vision (2008) - was the only comprehensive plan for the city (with the non-implementation of the 1973 Nairobi Metropolitan Growth Strategy). The 1948 Master Plan did not address the issue of segregation. The result was a ‘racial tripartition’ of the city with Europeans overwhelmingly inhabiting the north-western and western areas with high rent and land values, Asians predominating in the north-eastern parts, while Africans were condemned to live in the densely populated areas to the east and south of the city (Salau 1988) (Map 5.2).

Map 5.2: The segregation of residential areas in Nairobi, 1909

At independence in 1963, the racial segregation and tri-partition of the city became socio-economic residential segregation, with differences in legal tenure between formal and informal settlements (K’Akumu & Olima 2007; Olima 2001; see also Syagga, Mitullah & Gitau 2001). The restriction on the movement of indigenous population to urban areas was lifted, which brought migrants to Nairobi in search for employment. The population rose to more than 300,000 (K’Akumu & Olima 2007).

First order-polarisation divides the city in six land use divisions; namely, the Central Business District (CDB), Industrial Area, public and private open
spaces, public land, residential areas, and undeveloped land (K’Akumu & Olima 2007). Table 5.1 shows the absolute and relative distribution of land use types in Nairobi in 1994. Most land in Nairobi, including the CBD, is publicly owned and leased to private owners, usually for periods of 99 years (Ondiege 1989, in Obudho 1997). Government leasehold covers most of the legalised residential areas; moreover (temporary) corporate occupation of land in these areas has become increasingly widespread. Freehold land is privately owned either by individuals or by groups of individuals and can be sold on the market without limits to the period of ownership. This covers a small portion of land mainly to the west and North-west of Nairobi and includes suburbs such as Dagoretti, Mwimuto, Runda, Gigiri and part of the Kahawa area in the north. Over 50 percent of Nairobi is estimated to be under private ownership (Karuga 1993, in Obudho 1997). A number of the larger illegal residential areas are found in these freehold zones (Ondiege 1989). By 1993, 40 percent of Nairobi’s land was owned by the Government. This included Nairobi National Park and other major parks and forest areas, airports, Kenyatta and Nairobi universities, and Kamiti prison. Of the total land, only about 5 percent, mainly in the east, is owned by the City Council of Nairobi (Karuga 1993, in Obudho 1997). In practice, the public sector has little direct control over land available for development (Macoloo & Maina 1994, in Obudho 1997).

Table 5.1: Land use types in Nairobi in 1994

<table>
<thead>
<tr>
<th>Land use type</th>
<th>Area (km2)</th>
<th>Cover (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential areas</td>
<td>175.6</td>
<td>25</td>
</tr>
<tr>
<td>Industrial/commercial/service centres</td>
<td>31.8</td>
<td>5</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>15.9</td>
<td>2</td>
</tr>
<tr>
<td>Recreation</td>
<td>12</td>
<td>2</td>
</tr>
<tr>
<td>Water bodies and riverine areas</td>
<td>11.8</td>
<td>2</td>
</tr>
<tr>
<td>Urban agriculture</td>
<td>96.8</td>
<td>14</td>
</tr>
<tr>
<td>Open lands</td>
<td>198.8</td>
<td>29</td>
</tr>
<tr>
<td>Others (including protected areas)</td>
<td>153.6</td>
<td>22</td>
</tr>
</tbody>
</table>


Second-order polarisation of residential use reflects the skewed income and expenditure distribution in favour of higher income groups (Olima 2001; K’Akumu & Olima 2007). Map 5.3 shows the geographical distribution of poverty in Nairobi in 2003 at location and sub-location level (CBS 2003).

The Nairobi population grew from 2 million in 1999 (K’akumu & Olima 2007), to 3 million in 2007 and almost 5 million in 2008. It is expected to grow further to 8 million in 2030 (GoK 2008a). The average annual population growth in Nairobi in the last 30-40 years is 4.8 percent annually (Omwenga 2008). The city’s population is principally composed of migrants. The proportion of city-born residents is no more than 20 percent up to age 35 and
less than 10 percent after age 50. Half of the migrants came to Nairobi between 17 and 23 years old (Agwanda et al. 2004).

**Map 5.3:** Nairobi poverty incidence: percent of population below the urban poverty line

Source: GoK (2003a).

Table 5.2 shows the area and population increase between 1906 and 2030. In general, population and housing densities are a reflection of the socio-economic status of (sub-) locations. In 1993, 55 percent of the population was living in informal settlements, which covers only 5.5 percent of the city’s residential land (Matrix 1993; Alder 1995). Low-income high-density areas are predominantly found to the east of the CBD (Eastlands) (CBS 2003; Obudho & Aduwo 1989). Informal settlements are predominantly located here - except for Kibera, Uthiru and Kawagware - and are either located near sources of employment opportunities (industrial area, city centre), or along rivers, dumping grounds, airfields, quarry sites and other abandoned or reserved sites which have not been developed. The population density ranges from 358 and 2490 per km² in high and middle income areas, to, between 15,753 and 82,590 per km² in low income areas (GoK 2001). Table 5.3 shows the population sizes and densities for a selected number of high, middle and low income areas.
Table 5.2: Area and population of Nairobi between 1906 and 2030

<table>
<thead>
<tr>
<th>Year</th>
<th>Area (ha)</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1906</td>
<td>1,813</td>
<td>11,512</td>
</tr>
<tr>
<td>1928</td>
<td>2,537</td>
<td>29,864</td>
</tr>
<tr>
<td>1931</td>
<td>2,537</td>
<td>47,919</td>
</tr>
<tr>
<td>1936</td>
<td>2,537</td>
<td>49,600</td>
</tr>
<tr>
<td>1944</td>
<td>2,537</td>
<td>108,900</td>
</tr>
<tr>
<td>1948</td>
<td>8,315</td>
<td>118,976</td>
</tr>
<tr>
<td>1963</td>
<td>68,945</td>
<td>342,764</td>
</tr>
<tr>
<td>1969</td>
<td>68,945</td>
<td>509,286</td>
</tr>
<tr>
<td>1979</td>
<td>68,945</td>
<td>827,755</td>
</tr>
<tr>
<td>1989</td>
<td>68,945</td>
<td>1,324,570</td>
</tr>
<tr>
<td>1999</td>
<td>68,945</td>
<td>2,143,254</td>
</tr>
<tr>
<td>2007</td>
<td>68,945</td>
<td>3,050,000</td>
</tr>
<tr>
<td>2007</td>
<td>300,000 (NMR)</td>
<td>4,730,000</td>
</tr>
<tr>
<td>2017</td>
<td>68,945</td>
<td>4,400,000</td>
</tr>
<tr>
<td>2017</td>
<td>300,000 (NMR)</td>
<td>6,840,000</td>
</tr>
<tr>
<td>2030</td>
<td>68,945</td>
<td>7,560,000</td>
</tr>
<tr>
<td>2030</td>
<td>300,000 (NMR)</td>
<td>11,740,000</td>
</tr>
</tbody>
</table>


Table 5.3: Population sizes and densities in a selected number of high, middle and low income areas

<table>
<thead>
<tr>
<th>Settlement/Estate</th>
<th>Population</th>
<th>No of households</th>
<th>Area in square km</th>
<th>Density</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Low density or high income areas</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Karen</td>
<td>9,764</td>
<td>3,381</td>
<td>27.3</td>
<td>358</td>
</tr>
<tr>
<td>Muthaïha</td>
<td>6,786</td>
<td>1,681</td>
<td>14.1</td>
<td>481</td>
</tr>
<tr>
<td>Lavington</td>
<td>18,966</td>
<td>5,815</td>
<td>11.0</td>
<td>1,724</td>
</tr>
<tr>
<td>Loresho</td>
<td>15,784</td>
<td>5,131</td>
<td>9.5</td>
<td>1,661</td>
</tr>
<tr>
<td><strong>Medium density or middle income areas</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Langata</td>
<td>16,118</td>
<td>5,051</td>
<td>44.5</td>
<td>362</td>
</tr>
<tr>
<td>Highridge</td>
<td>46,642</td>
<td>13,019</td>
<td>42.3</td>
<td>1,103</td>
</tr>
<tr>
<td>Parklands</td>
<td>11,456</td>
<td>3,369</td>
<td>4.6</td>
<td>2,490</td>
</tr>
<tr>
<td>Kitisuru</td>
<td>27,459</td>
<td>8,603</td>
<td>20.9</td>
<td>1,314</td>
</tr>
<tr>
<td><strong>High density or low income areas</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kibera Silanga</td>
<td>16,518</td>
<td>6,281</td>
<td>0.2</td>
<td>82,590</td>
</tr>
<tr>
<td>Korogocho Gitahuru</td>
<td>22,899</td>
<td>7,415</td>
<td>0.3</td>
<td>76,330</td>
</tr>
<tr>
<td>Mukuru Nyayo</td>
<td>36,232</td>
<td>10,224</td>
<td>2.3</td>
<td>15,753</td>
</tr>
<tr>
<td>Mathare</td>
<td>69,003</td>
<td>24,525</td>
<td>1.5</td>
<td>46,002</td>
</tr>
</tbody>
</table>


The gender composition of the Nairobi population is uneven, with 54 percent men and 46 percent women. At national level the division is almost equal (APHRC 2002). The city has a smaller percentage of female headed households (20 percent) compared to the national level (almost 32 percent) (Oxfam 2009). Moreover, close to 40 percent of the slum and Nairobi
populations are men aged between 15-29, compared to approximately 25 percent nationally. The proportion of women in this age-group is 26 percent for Nairobi slums and the country as a whole, and 29 percent for Nairobi as a whole (APHRC 2002).

The ethnic composition of the Nairobi population is diverse. The dominant ethnic groups, which constitute 88 percent of the total population, are Kikuyu, Luhya, Luo and Kamba in that order. Compared to their relative size in Nairobi as a whole, the Luo and Luhya are over-represented in the slums while Kikuyu are under-represented (APHRC 2002).\(^6\) The Maasai, the original inhabitants of the region before the city’s establishment, constitute only 1 percent of the population (Practical Action 2004). The other major ethnic groups are Asians (people who trace their origins to India and Pakistan), Europeans and Somalis.

**Informal settlements**

Informal settlements originate from colonial times (see K’Akumu & Olima 2007), especially as a consequence of local people loosing control over their land, in order to provide labour for settler farms and emerging urban centres (Kobia 1991; K’Akumu & Olima 2007).\(^7\) Majale (2000) indicates that next to the displacement of Africans to make room for European settlers, the colonial government’s de facto policy of not allocating enough resources to cater for housing needs of Africans (K’Akumu & Olima 2007; Olima 2001) and clearances of ‘sub-standard’ housing, played a role in the pre-independence formation of slums. Post-independence formation and growth of slums can be attributed to rural-urban-migration, natural population growth, lack of adequate housing provision, demolitions, resettlement due to new developments, upgrading of slums and/or relocation to new sites and extension of city boundaries (Mitullah 2003a).

In Nairobi generally two types of informal settlements can be distinguished: squatter settlements and illegal subdivisions of public and/or private land. Land tenure in informal settlements in Kenya takes the form of non-formal de facto tenure where land is acquired, occupied and used with or without the permission of its owner (Syagga et al. 2001; Musyoka 2004/6). Three major tenure sub-types can be distinguished in informal settlements in Kenya (Okoth-Ogendo 1999):

- **Share ownership:** land is acquired by joint purchase through land buying companies, cooperatives, trusts, societies, self-help groups, etc, while individual members are issued with share certificates.
- **Squatting:** land is acquired through invasion of public or private vacant land.
Temporary occupation license: land is acquired by permission from central government through the local authority for the use of vacant public land on a temporary basis.

Different land tenure systems can exist in the same informal settlement (NISCC 1997).

Most of the informal settlements that exist in Nairobi today were established after independence (K’Akumu & Olima 2007). At independence the Kenyan government introduced a policy of containment and slum clearance, which was common in many developing countries at the time (Syagga et al. 2001), and often without alternative resettlement plans. The proliferation and growth of new slums led to a laissez-faire approach. The hostile attitude was superseded by a conciliatory and accommodating position and a tacit acceptance of informal settlements (K’Akumu & Olima 2007). New approaches such as site and services schemes – including relocation of beneficiaries - were introduced during the 1970s, although demolition and evictions remained regular parallel practices. The 1980s were characterised by further deterioration of services and growth of slums, through adoption of a laissez-faire approach by the government in the context of Structural Adjustment Programmes (SAPs). Accelerated commodification and commercialisation of unauthorised housing since the mid-1970s transformed squatting into renting practices and small-scale subsistence renting into large-scale commercial housing (Amis 1984). In addition, small scale private landlordism, predominantly with owner occupation, is increasingly replaced by - mostly unauthorised - large scale multi-storey private landlordism. Nairobi was renamed a ‘tenement city’ (Huchzermeyer 2007). Most residents (92 percent) have become insecure tenants (World Bank 2006), paying rents to individual landlords who negotiated informal arrangements with the authorities to allow them to erect structures and collect rents (UN-Habitat 2006). Vested interests of absentee owners and other stakeholders in an unregulated housing-market characterised by huge demand and few suppliers and a ‘high price-low quality’ trap, has led to continuous growth of informal settlements (World Bank 2006; Gulyani 2008; Huchzermeyer 2008).

Upgrading programmes during the 1990s and 2000s have only brought mixed results, despite increasing levels of community participation. Until recently these programmes have been largely restricted to aspects of physical and land tenure, rather than adopting an integrated approach responding to the social and economic needs of communities (Syagga et al. 2001). Reallocation and/or trade of units to middle-class citizens has been a regular practice, amongst others for reasons of unaffordability and windfall gains (Huchzermeyer 2008; Kusienya 2004). In the case of the Kibera High Rise project of the National Housing Corporation in the early nineties, middle-class standards were used in
building from the outset (Huchzermeyer 2008). Renting rooms to tenants by the new owners often leads to unanticipated increased densities and lack of privacy. Less density and more privacy had been formulated as aims by the community at the start of the Huruma Upgrading Programme in the early 2000s (Huchzermeyer 2008). Furthermore, new structure-owners were often found to immediately behave like all slum landlords (Weru 2000) reinforcing market exploitation. Fights between tenant and owners also played a major role in the Mathare 4A upgrading programme (Martin & Mathema 2006). In implementing that programme, residents were inadequately represented, force was used to ensure implementation, and corruption occurred in allocating units (Opiata & Bodewes 1999), together with problems of slum lords, rent defaults and political interference (Kusienny 2004). Huchzermeyer and Omenya (2006) in addition indicate that despite policy advances there are ongoing problems of uncoordinated and drawn-out policy making, conflicting stakeholder agendas and duplicating policy initiatives. Recently, the delivery of 1,000 apartments in the KENSUP pilot programme in Kibera-Soweto, was accompanied by heavy complaints of residents about the size and price of units as compared to their former houses, the lack of space for economic activities between the blocks of flats, the absence of water and electricity connection two weeks after slum dwellers moved in, and the removal of original structures of residents from the Nubian community who owned title deeds to the land they occupy (Daily Nation 2009e). Overall, the need indicated in the Nairobi Situation Analysis (Syagga et al. 2001), to go beyond (international) standardised solutions to housing problems, squatter upgrading and reduction in building and planning standards for resolving settlement problems in Nairobi, is still valid today. The World Bank recently suggested regulation of the Nairobi housing market and upscaling of negotiated development approach to land in informal settlements of the Muungano wa Wanavijiji slum dwellers federation, and supporting NGO Pamoja Trust (Gulyani & Talukdar 2008). Huchzermeyer (2008) in addition discusses whether the housing rights and provision of shelter, water, sanitation and refuse collection should be taken out of the hands of informal entrepreneurs and placed into the hands of local government or public agencies.

Informal settlements are not homogenous (Olima 2001; K’Akumu & Olima 2007). Settlements vary considerably in physical layout, density of housing units (Majale 2002), size (built-up area), availability of basic urban services, materials and methods of construction, and tenure, ranging from neighbourhoods with methodical planning and a moderate concentration of dwellings, to areas with an arbitrary layout and extremely high densities. The socio-economic profiles of the inhabitants differ considerably and range from illiterate and chronically unemployed or under-employed individuals to professionals. The differences are traceable to various factors, including the
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history and evolution of settlements, location, ethnic composition and original ownership of land. The efficient operation and functioning of informal settlements is partly ascribable to this heterogeneity, which allows individuals and groups to play all roles: leaders and followers, financiers and borrowers, and buyers and sellers.

Kibera and Mathare Valley are the oldest and largest informal settlements of Nairobi. Kibera emerged in 1918 as the ‘Kibra Nubian Villages’, when the British colonial government settled 40,000 Nubian ex-soldiers (originally from Sudan) of the King’s African Rifles on 4,180 acres of forest land just outside Nairobi and gazetted it as a military reserve (Lamba 2005). The first World War veterans named their new home Kibra (the Nubian word for jungle) and settled on 10-acre agricultural parcels. In 1928 the administration de-gazetted the reserve and re-gazetted it as a settlement reserve. The residents were issued with permits allowing them to live, build a house and cultivate their demarcated parcels of land at Kibra. Kibra must be distinguished from Kibera, the informal settlement in which the four Kibra Nubian villages are located. Kibera lies 7 kilometres South-west of the Nairobi city centre (Lamba 2005).

Mathare Valley is likely to have existed already as a quarry and squatting area around 1931, when the city council was found debating the destruction of ‘African housing’ outside the ‘Native location’ of Pumwani (Etherton 1971). The Africans employed by the Asian quarry owners lacked appropriate accommodation and had started putting up cardboard structures. Others suggest that Mathare grew after the demolition of the informal settlement of Pangani in 1938 (Undugu 1995; Ngau 1994, based on NACHU 1990). After the declaration of the Emergency in 1952, it was believed that Mathare sheltered a Mau Mau core, and in 1954 structures were bulldozed and most inhabitants taken into detention. After the Emergency in 1959 and at independence some of the previous inhabitants returned to Mathare, though the new government at independence intended to clear Mathare Valley. The opposition amongst politicians has prevented the intention from being carried through.

The villagers, for safety reasons, decided to band together to form cooperative organisations and purchase plots in Mathare Valley. The practice of collective land purchase and informal subdivision originated from land distribution in the resettlement period (see also chapter 6). In 1969, 34 percent was owned by the state, 8 percent by the city council and 58 percent by individuals, companies and co-operative societies. Until 1969, when the co-operatives began buying land, the Mathare villages were illegally built in all three types of ownership. While all Mathare land-buying companies were originally organised for cooperative landbuying, only one remained as a cooperative society. By mid-1969 most of the companies began to take in outside members from other parts
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of Nairobi and Central Province and went into speculative tenement building. Towards the end of 1969 land buying companies from outside the squatter villages began to buy land in Mathare Valley, in line with the patterns of commodification and commercialisation of housing in Nairobi indicated earlier. Mathare is located five kilometres North-east of the Nairobi city centre. Photo 5.1 shows Mathare Valley slums.

Photo 5.1: Mathare Valley slums

Source: author

5.3. The metropolitan economy, employment and wages

The economic structure of the metropolitan city is important, because it affects the way of life of its residents and the wider country. Nairobi contributes around 50 percent of the country’s GDP (UN-Habitat 2006). It is considered a regional hub and a potential ‘global city’. Nairobi is among the four sub-Saharan African candidate cities (besides Johannesburg, Cape Town and Lagos), with a national capacity to house global cities and the required levels of corporate services (as indicators of the connectivity index for corporate services) (Table 5.4 and 5.5) (Taylor 2002). Scores on accounting, advertising and banking are relatively high, and low on insurance and law (Merwe 2004).

The important economic sectors in Nairobi reflect the composition of the nation’s economy. Nairobi’s metropolitan region has a major Central Business District (Photo 5.2), secondary commercial centres and houses (regional) headquarters of several world-wide companies (CCN 2005). It also houses the Nairobi Stock Exchange (NSE), which is the leading securities exchange in East and Central Africa, the fourth largest in Africa in terms of
trading volumes, and the fifth in terms of market capitalisation as a percentage of GDP (Millennium IT 2007). Nairobi also has two industrial areas and export processing zones. It is the home to several international organisations and is one of the four international UN headquarters. It has a large tourism industry, both as tourist destination and as transport hub.

Table 5.4: Possible Global Cities in sub-Saharan Africa

<table>
<thead>
<tr>
<th>Country</th>
<th>City</th>
<th>Connectivity Index</th>
<th>Corporate services (2000) (% firms)</th>
<th>Accounting</th>
<th>Advertising</th>
<th>Banking/Finance</th>
<th>Insurance</th>
<th>Law</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>London</td>
<td></td>
<td>2.42</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Africa</td>
<td>Johannesburg</td>
<td>1.00</td>
<td></td>
<td>31.9</td>
<td>18.8</td>
<td>26.4</td>
<td>11.5</td>
<td>1.2</td>
</tr>
<tr>
<td>South Africa</td>
<td>Cape Town</td>
<td>0.58</td>
<td></td>
<td>65.3</td>
<td>19.7</td>
<td>4.5</td>
<td>5.3</td>
<td>0</td>
</tr>
<tr>
<td>Kenya</td>
<td>Nairobi</td>
<td>0.55</td>
<td></td>
<td>47.8</td>
<td>23.6</td>
<td>23.5</td>
<td>2.1</td>
<td>0</td>
</tr>
<tr>
<td>Nigeria</td>
<td>Lagos</td>
<td>0.48</td>
<td></td>
<td>53.3</td>
<td>23.7</td>
<td>13.8</td>
<td>2.4</td>
<td>0</td>
</tr>
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<td>Cote d'Ivoire</td>
<td>Abidjan</td>
<td>0.44</td>
<td></td>
<td>40.9</td>
<td>17.2</td>
<td>29.3</td>
<td>5.1</td>
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<tr>
<td>Zimbabwe</td>
<td>Harare</td>
<td>0.43</td>
<td></td>
<td>36.9</td>
<td>29.3</td>
<td>15.1</td>
<td>8.7</td>
<td>0</td>
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<tr>
<td>Ghana</td>
<td>Accra</td>
<td>0.40</td>
<td></td>
<td>46.3</td>
<td>24.9</td>
<td>18.0</td>
<td>2.8</td>
<td>0</td>
</tr>
<tr>
<td>Zambia</td>
<td>Lusaka</td>
<td>0.39</td>
<td></td>
<td>40.9</td>
<td>24.1</td>
<td>23.9</td>
<td>2.9</td>
<td>0</td>
</tr>
<tr>
<td>Tanzania</td>
<td>Dar es Salaam</td>
<td>0.31</td>
<td></td>
<td>37.5</td>
<td>32.4</td>
<td>16.0</td>
<td>3.6</td>
<td>0</td>
</tr>
<tr>
<td>Mozambique</td>
<td>Maputo</td>
<td>0.29</td>
<td></td>
<td>40.4</td>
<td>34.1</td>
<td>16.0</td>
<td>3.8</td>
<td>0</td>
</tr>
<tr>
<td>Senegal</td>
<td>Dakar</td>
<td>0.28</td>
<td></td>
<td>47.7</td>
<td>16.4</td>
<td>23.7</td>
<td>4.0</td>
<td>0</td>
</tr>
<tr>
<td>Cameroon</td>
<td>Douala</td>
<td>0.25</td>
<td></td>
<td>62.1</td>
<td>15.8</td>
<td>11.2</td>
<td>4.4</td>
<td>0</td>
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<tr>
<td>Angola</td>
<td>Luanda</td>
<td>0.22</td>
<td></td>
<td>46.0</td>
<td>0</td>
<td>34.3</td>
<td>5.1</td>
<td>0</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>Addis Ababa</td>
<td>0.16</td>
<td></td>
<td>42.5</td>
<td>28.1</td>
<td>12.9</td>
<td>6.9</td>
<td>0</td>
</tr>
<tr>
<td>World Average</td>
<td></td>
<td></td>
<td></td>
<td>45.5</td>
<td>10.9</td>
<td>21.0</td>
<td>10.1</td>
<td>1.9</td>
</tr>
</tbody>
</table>


Table 5.5: Capacity of African Countries to House Global Cities (2000)

<table>
<thead>
<tr>
<th>Country</th>
<th>Population Millions</th>
<th>Total GDP ($ Millions)</th>
<th>Internet users</th>
<th>Foreign Investment ($ Million)</th>
<th>Liveability of Cities (Water availability)</th>
<th>Airline departures</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Africa</td>
<td>2.46</td>
<td>1*</td>
<td>1*</td>
<td>1*</td>
<td>1*</td>
<td>1*</td>
</tr>
<tr>
<td>Nigeria</td>
<td>1*</td>
<td>3.67</td>
<td>18.20</td>
<td>1.04</td>
<td>1.51</td>
<td>8.63</td>
</tr>
<tr>
<td>Kenya</td>
<td>3.69</td>
<td>13.42</td>
<td>52.00</td>
<td>8.74</td>
<td>1.79</td>
<td>3.79</td>
</tr>
<tr>
<td>Ghana</td>
<td>5.54</td>
<td>18.75</td>
<td>60.67</td>
<td>8.78</td>
<td>1.34</td>
<td>22.53</td>
</tr>
<tr>
<td>Cote d’Ivoire</td>
<td>7.50</td>
<td>13.42</td>
<td>45.50</td>
<td>4.13</td>
<td>1.72</td>
<td>48.00</td>
</tr>
<tr>
<td>Tanzania</td>
<td>3.32</td>
<td>19.01</td>
<td>72.80</td>
<td>6.94</td>
<td>1.59</td>
<td>18.40</td>
</tr>
<tr>
<td>Angola</td>
<td>8.72</td>
<td>29.76</td>
<td>60.67</td>
<td>1.10</td>
<td>2.26</td>
<td>25.09</td>
</tr>
<tr>
<td>Mozambique</td>
<td>5.65</td>
<td>39.11</td>
<td>60.67</td>
<td>6.96</td>
<td>1.43</td>
<td>16.48</td>
</tr>
<tr>
<td>Cameroon</td>
<td>7.41</td>
<td>15.74</td>
<td>91.00</td>
<td>30.85</td>
<td>1.39</td>
<td>19.71</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>8.59</td>
<td>19.01</td>
<td>91.00</td>
<td>41.76</td>
<td>1.01</td>
<td>8.00</td>
</tr>
<tr>
<td>Zambia</td>
<td>12.14</td>
<td>42.78</td>
<td>121.33</td>
<td>7.96</td>
<td>1.37</td>
<td>18.10</td>
</tr>
<tr>
<td>Senegal</td>
<td>11.79</td>
<td>29.13</td>
<td>NA</td>
<td>11.01</td>
<td>1.10</td>
<td>122.67</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>1.73</td>
<td>21.39</td>
<td>182.00</td>
<td>7.20</td>
<td>3.58</td>
<td>4.15</td>
</tr>
</tbody>
</table>

Chapter 5

Photo 5.2: Nairobi Central Business District

Source: UN Habitat (2006).

Nairobi has since long been Kenya’s administrative centre. There are a large number of educational institutions in and around Nairobi with potential and the global air transport network could form the basis for a regional transportation and logistics hub (GoK 2008a). However, current development trends depict a slow decay of industrial areas due to collapsed infrastructure, high costs of utilities and opening of markets. The planning dilemma is ‘how to resuscitate such a sleeping giant to conform to the current shift to IT industry rather than heavy industry and compete as an international investment destination’ (CCN 2005).

Lately many businesses consider relocating and/or establishing (regional) headquarters outside the CBD, especially Upper Hill and Westlands areas at about 2 kilometres from the CBD. Land is cheaper, facilities can easily be built and maintained in these location and traffic is slightly less congested. Recently many landlords in CBD are subdividing floors into small rooms to accommodate more small and medium sized companies and maximise returns, which raises rental prices further (Capital Business 2009).

Proponents see Nairobi Metro Vision 2030 as an opportunity for planning and indicate that it is for the first time since independence that a comprehensive planning for the area is within reach (Opiyo 2007). Others emphasise that until now plans have never worked out and indicate potential negative effects of increasing land prices, rates and house rents.
Nairobi provides 25 percent of Kenya’s formal employment and 43 percent of the country’s urban workers (SID 2004, based on Economic Survey 2004 and 1998/9 Integrated Labour Force Survey; UN-Habitat 2006). The size of the formal sector has remained relatively stable through the years (Figure 5.1). The decrease of formal sector employment from 60 percent of the employed population in 1989 to 55 percent in 1999 \(^{19}\) – as a consequence of the economic crisis and a shrinking public sector - is less if the employees informally contracted by formal enterprises are taken into account. Nairobi is one of the most formal urban labour markets in sub-Saharan Africa, with the exception of South-Africa (NUrIP 2005). Nairobi also accounted for 24 percent of the country’s informal employment in 2005 (SID 2004; UN-Habitat 2006), that is 1.5 million people, up from 1.1 million in 2001. A further growth of the informal sector is expected, in wholesale trade, retail trade, hotel and restaurants, manufacturing, industry, community, social and personal services, transport and communication, and construction.

**Figure 5.1: Comparison of formal/informal employment patterns 1998-2001**

<table>
<thead>
<tr>
<th>Year</th>
<th>Formal</th>
<th>Informal</th>
<th>Formal</th>
<th>Informal</th>
<th>Formal</th>
<th>Informal</th>
<th>Formal</th>
<th>Informal</th>
<th>Formal</th>
<th>Informal</th>
<th>Formal</th>
<th>Informal</th>
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</thead>
<tbody>
<tr>
<td>1998</td>
<td>421,700</td>
<td>801,400</td>
<td>424,600</td>
<td>896,000</td>
<td>425,400</td>
<td>998,900</td>
<td>419,900</td>
<td>1,114,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>424,600</td>
<td>896,000</td>
<td>425,400</td>
<td>998,900</td>
<td>419,900</td>
<td>1,114,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>425,400</td>
<td>998,900</td>
<td>415,090</td>
<td>1,677,100</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>419,900</td>
<td>1,114,000</td>
<td>415,090</td>
<td>1,677,100</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Mitullah (2003a), adapted from economic survey (GoK 2002).

The unemployment rate for Nairobi is 21 percent overall, and for youth aged 15-24 it was 42 percent in 2008 (World Bank 2008a).\(^{20}\) This was largely due to the urban population growth rate exceeding economic growth rates in the city. Public sector retrenchment and downsizing has mainly effected older people,
whereas private sector employment has led to a flexibilisation of labour. The
consequences of both are fewer formal jobs for youth and reduced wages in an
increasingly competitive informal sector.21

Absolute poverty estimates for Nairobi range from 26.5 percent in 1992, to 26
percent in 1994, 50 percent in 1997, 53 percent in 2000, and 22 percent in
2005/6 (GoK Economic Survey 1994 and 1997; Mwabu et al. 2000; Mwabu et
al. 2002; Kimalu et al. 2002; KIHBS 2005/6). Income inequality in Nairobi is
high. The Gini coefficient for Nairobi (as measured in 1999) is 0.59. The top
10 percent of households commands 45.2 percent of total income, while the
bottom 10 percent commands 1.6 percent (SID 2004). Poverty was high in the
informal settlements of Nairobi, with 63 percent of the population falling
below the poverty line in 2006 (De Laat, Faye, Suri & Zulu 2008). At the same
time, a significant heterogeneity within and across slums is suggested (Gulyani
2006/8; De Laat et al. 2008), as well as large numbers of people who move
both into and out of poverty (World Bank 2008a). Among the minority of slum
dwellers who had been non-poor in 2003, only about half were still above the
poverty line in 2006. Conversely almost a third (31 percent) of those poor in
2003 were above the poverty line in 2006 (World Bank 2008a). Recently food
poverty levels in Nairobi (and other urban areas) increased dramatically
through inflation and the international food crisis.22 Urban households are
considered especially vulnerable to inflation, given that most urban food and
non-food needs are purchased from the market (Oxfam 2009).

5.4. Politics and governance in Nairobi

Politics in Nairobi

The City Council of Nairobi (CCN) is supervised by central government
through the Ministry of Local Government. It is governed in its operations by a
variety of legal statutes and administrative decrees from the Office of the
President (OP) and the Ministry of Local Government. The Local Government
Act, Chapter 265 of the Laws of Kenya is the main legal statute that governs its
operations. CCN performs mandatory functions such as provision of public
health and primary educational facilities, maintenance and repair of urban
roads, and burial of destitutes. It has permissive functions, which include
administrative activities, sewerage and drainage, water supply, collection of
garbage, markets, and social welfare services. Day-to-day operations of CCN
are carried out by the non-executive mayor and elected and nominated
councillors. The executive role is performed by the Town Clerk appointed by
the Ministry of Local Government.
CCN politics has been largely dominated by central government politics. At independence, Nairobi was a full-fledged urban centre, run by an elected council. Between 1983 and 1992 the council was dissolved and replaced by the Nairobi City Commission. This commission was characterised by continuous infighting among officials, frequent changes of chairpersons, an increase of appointed commissioners from 3 to 26 over the years (compared to 55 elected councillors previously) and yearly threats of dissolution (Lee-Smith & Lamba 1998). In 1992, when multi-party elections were introduced, and a strong opposition developed and concentrated in Nairobi, the City Council was reconstituted. Between 1992 and 2002, opposition parties gained the majority of seats in the council, which was answered by severe central government repression. In 1992, 52 percent or 28 seats of the 55 council seats went to the Democratic Party of Kenya (DP) and 26 percent or 14 seats to KANU. In 1997, the elections resulted in a three quarters majority of opposition councillors (almost two-thirds of them being Kikuyu). Proportional control by political parties of the 17 nominated seats was also won through intense public and political pressure in January 1998 (Lee-Smith & Lamba 1998). After 2002, differences in Nairobi’s and the nation’s political composition were decreased, though opposition politics remains stronger in Nairobi. In 2002, out of 21 political parties only the two main parties of NARC and KANU won city council seats, with NARC taking all of the seats minus two (Mitullah et al. 2004). In 2007, with an increase in elected councillors from 55 to 75, and nominated councillors from 18 to 25, ODM and PNU won 52 and 45 council seats, respectively. Interests of national political parties and national politicians often undermine representative local democracy and tie local politicians. Lack of resources makes some political parties influence allocation of resources, which were originally intended to enhance efficiency of council operations. Parallel local and national elections encourage patronage relations between national and local level politicians along party and ethnic lines. Local politicians often win elections on a ticket of national politicians, for which they expect political support in return in times of need. Appointment of the mayor through the Electoral College often exposes him to political intrigues related to electoral campaigns and makes maintaining political alliances more important than satisfying residents’ interests. (Mitullah, Mboga, Mundara, Cherono, Odipo, Agevi & Mbugua 2004; Mitullah 2004).

**Governance in Nairobi**

Similarly, central government dominates executive local government. Under colonialism local governments were fairly autonomous and had significant sources of revenue, and this *majimbo* or semi-federal system was continued some time after independence. Soon after administrative spaces for local
government vis-à-vis central government increasingly deteriorated. Five main reasons for this deterioration of administrative spaces for local government are mentioned in the literature (Oloo 2009; Wanjohi 2003, Mitullah et al. 2004).

1. Transfer of the most critical functions and powers to central government (especially in 1969), curtailing the autonomy of local government councils (Oloo 2009; Wanjohi 2003). Currently CCN is mainly responsible for provision of services with regard to pre-primary and primary education; public health and sanitation; environmental protection and management; roads and drainage (construction and maintenance); water supply and sewerage (privatised); urban planning and development control; urban public transport management; public housing; fire services and fire brigade; community development; burial of destitute persons (CCN 2006).

2. Acquisition of new supervisory powers by central government over execution of the limited functions that local authorities retained. The Minister of Local Government acquired the power to upgrade existing local government authorities and to create new ones, to establish local government electoral areas without consulting local residents, to nominate members to local government councils without consulting local people, to dissolve local government councils and either call for fresh elections or unilaterally appoint a commission to run the affairs of the local government authority, and to vet local government budget and development plan proposals (Oloo 2009; Wanjohi 2003). In effect this turned local authorities into appendages rather than autonomous entities (Oyugi 1994).

3. Central government undermined the financial base of local government authorities by taking over local level sources of revenue on which local governments depended. In addition the Graduated Personal Tax (GPT), which local governments used to levy the local population, was abolished in 1974. The central government introduced Service Charges in 1988 intended to benefit local government authorities, but central government designated itself as the collecting agency and did not remit the collected revenues to the area of collection. Currently about 10 percent of CCN sources of revenues are intergovernmental transfers and grants of LATF (3 percent) and Fuel Levy Fund/Road Maintenance Levy Fund (6 percent) and about 90 percent local revenues of property rates (41 percent), permits (17 percent), parking fees (8 percent) and other (25 percent) (Sarzin 2006; based on CCN records 2003/4). In addition, the council receives finances from development partners.

4. Local government has been undermined by the Provincial Administration (PA), which the central government has designated as the prefectural authority in all field units, a role that included supervision of operations of local government councils. Local governments thus came under direct influence of the District Commissioner (DC) – (for Nairobi the Provincial
The metropolitan institutional context

Commissioner) - and the PC also greatly influenced council decisions as the PC was nominated by the Minister of Local Government. The intervention of the central government in the affairs of the council through the PA has ensured that central government is the actual dispenser of patronage as opposed to local government councillors (Oloo 2009).

5. In the divisions, locations, and sub-locations, district officers (DOs), chiefs and assistant-chiefs are the actual wielders of power and authority (see also chapter 8, figure 8.1 on parallel systems of government in Nairobi). The powers and authorities that the Chief’s Authority Act vested in Chiefs and by extension in their superiors – DOs, DCs and PCs – depicted the PA as the actual local government and their status as the President’s personal representatives in their localities enhanced their power and prestige over the elected local leaders (Oloo 2009). Dominance of central government over local government was recently further increased by the installation of the Ministry of Nairobi Metropolitan Development (MoNMD) responsible for coordination and governance of Nairobi metropolitan area.

Besides the mentioned limitations in means and power through the central government dominance, the costs and capacity of CCN human resources remain a major limiting factor in improving performance. About 60 percent of the council’s available financial resources is spent on salaries, while only about 40 percent remains for investment in operations, maintenance and service delivery (CCN 2006). In the 2003/2004 budget, these figures were 75 percent for wages, 21 percent for operations and maintenance, and 4 percent for service delivery (UN Habitat 2006).²⁶ Also, financial resources (and human capital) are negatively influenced by the inability of HIV/AIDS recipients to pay for services rendered and HIV/AIDS of CCN staff (Sarzin 2006; CCN 2006).²⁷ Furthermore, some interest groups succeeded in court cases to withhold council revenue, while others used the poor image of CCN as an excuse for non-compliance with CCN Bylaws, particularly those relating to revenue collection (CCN 2006).²⁸ CCN does not collect taxes effectively. For example, at the close of the financial year 2002/2003 only Ksh 2 billion of the Ksh 11.4 billion payable accumulated rates had been collected (GoK/Rweria report 2004a). CCN’s recent transfer of water distribution to a commercial entity reduced its collected revenues by half (UN Habitat 2006).

The human resources capacity of CCN has been limited through the years. CCN considers itself understaffed in the senior and technical cadres and overstaffed in the lower staff grades (Sarzin 2006; CCN 2006) (Table 5.6).²⁹
Table 5.6: Number and costs of categories of CCN personnel

<table>
<thead>
<tr>
<th>Scale</th>
<th>Category</th>
<th>Number of people</th>
<th>Percentage of people</th>
<th>Costs in mln Kshs</th>
<th>Percentage of costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-3</td>
<td>Senior management</td>
<td>16</td>
<td>0.12</td>
<td>15</td>
<td>0.4</td>
</tr>
<tr>
<td>4-9</td>
<td>Middle management</td>
<td>621</td>
<td>4.74</td>
<td>326</td>
<td>9.5</td>
</tr>
<tr>
<td>10-14</td>
<td>Technical staff-non mgmt</td>
<td>3,556</td>
<td>27.12</td>
<td>1,163</td>
<td>33.9</td>
</tr>
<tr>
<td>15-18</td>
<td>Subordinate staff</td>
<td>8,918</td>
<td>68.02</td>
<td>1,925</td>
<td>56.2</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>13,111</td>
<td>100%</td>
<td>3,429</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: CCN Strategic Plan (CCN 2006).

In addition, the senior management level faces a high turnover through interventions from the Ministry of Local Government through the Public Service Commission (PSC) and wage gaps at some personnel levels between the Council and the Civil Service (CCN 2006; KACC 2007). Non-performing officers and appointments to positions are not based on qualifications but on tribalism (GoK/Rweria report 2004a). The frequent transfer of senior level staff leads to lower ranked officers acting ‘in much higher positions than their current designations and above their qualifications’ (KACC 2007). The low public sector wages as compared to private sector wages and - until recently - frequent delay in payments of salaries by CCN negatively influence staff motivation (KACC 2007) and in many cases drive staff to take on ‘side activities’ to make a (better) living. The CCN strategic plan indicates a huge deficit in financial management, performance management, ICT, change management and service delivery skills.

Ineffective and inefficient bureaucracy undermine CCN’s operations. Deficiencies in the overall structure of CCN and its management have led to segmented and uncoordinated responses both internally and externally. The operations of CCN are mainly conducted through full Council and Chief officers’ meetings held at least monthly or as required. These have however been characterised by turbulence and the vested interests that have held the Council in its grip over the years (CCN 2006). Strategic planning has been weak and performance information and performance trends are not available or used to streamline these meetings. Rather meetings are centred on resources and activities and not on results and performance accountability (CCN 2006).

Heavy corruption and inappropriate bureaucratic controls are major causes for the lack of (resources for) adequate service provision by CCN. In 2005 around the time of publication of the Rweria extra-ordinary inspection report, CCN ranked 13th out of 33 organisations surveyed in the Kenya Bribery Index. The four key issues to discuss with regard to corruption and control are the role of the Ministry of Local Government, interference by civic leaders in the administration, lack of transparency and accountability, and external influence and interference (GoK/Rweria report 2004a).
First, the role of the Ministry of Local Government has already been discussed above. Second, councillors interfere in the administration leading to disposal of council assets and fraud in the supply of goods and services through collusion and/or conflicts with Chief Officers. One major form was the liaison of councillors with Chief Officers over elections in 1992, 1997 and 2002 to grab plots and plunder council resources. Another form is that councillors increasingly functioned as parallel or alternate heads of department, since the 2003 instructions of MoLG that chairmen of Council committees should have offices in City Hall gave councillors a greater role in management of CCN. This was accompanied by cases of intimidation, unethical behaviour and physical confrontation of officers (GoK/Rweria report 2004a). While the instructions were later reversed, councillors have increasingly shifted from a primary policy making role to a more activist and executive role. A third form exists in the many cases of conflict of interest and contravention against procurement procedures, for example through payments for substandard or undelivered goods and services not rendered, and through the establishment of an illegal tender committee in 2003 run by councillors with chief officers attending as observers (GoK/Rweria report 2004a). The Mbogua report (GoK/Mbogua report 2000), speaks of involvement in ‘get-rich-quick’ schemes of councillors, council officers and their associates. The KACC report speaks of ‘a complex web of system manipulation involving city council employees, defaulters and a coterie of shady business partners and ‘cowboy’ contractors’ (KACC 2007).

Third, there is a lack of transparency and accountability in revenue collection and expenditure by CCN. The recent forensic report by the Kenya Anti-Corruption Commission states that City Hall continues to loose a huge portion of parking fees, land rates or rent to corrupt officials exploiting weak financial management systems (KACC 2007). The report indicates that perpetrators of fraud at the Council had devised a complex system to block evidence of unremitted money estimated to be worth millions of shillings. Key to these events is concealment of the paper work involving such money, including bouncing cheques, tempering with the numbering of parking fees receipts and the filing of fraudulent expenditure claims at the council’s cash office (KACC 2007). By the end of April 2007, City Hall was unable to account for Ksh 33.6 million in unsurrendered imprest and Ksh 9 million worth of obsolete stock in its stores (KACC 2007). Rweria in addition points out the almost non-functional internal audit function and answerability of the Chief Internal Auditor to the City Treasurer whom he is expected to audit (GoK/Rweria report 2004a). Disciplinary action (on staff in scales 10-18) is difficult due to patronage and political interference (KACC 2007).
Fourth, external influences and interference among others concern the allocation of council properties by the Commissioner of Land to individuals and developers without consent or knowledge of the council, the appointment of commissions by central government to run the council after dissolving it with a view to facilitating the plunder of CCN resources in the 1980s and early 1990s, and the lack of appeals in courts of law in potentially successful cases, and the exaggerated fees and fraudulent multiple payments to external lawyers by the CCN Litigation Section due to external influences (GoK/Rweria report 2004a).³³

Within this context of central government dominance, lack of resources, ineffective and inefficient bureaucracy, corruption, and rapid population growth, CCN failed to manage the city adequately. This has led to the current deplorable state of services and infrastructure and contributed to the Council’s image as a poor performer and a ‘den of corruption’ which cannot be trusted with national resources (CCN 2006; see also KACC 2007).³⁴ External and internal client satisfaction of CCN were recently rated low (CCN 2006).

Public sector reform in Nairobi

To address the immense problems CCN has been facing, the government of Kenya since 1983 appointed 18 independent probe commissions, task forces, committees and reports to look into its affairs (GoK/Rweria Report 2004a). Especially the Odongo Omamo report of the Commission on Inquiry on Local Authorities in Kenya (1995) and the Mbogua extra-ordinary inspection report (2000) were significant, providing recommendations to guide future development and management of the city council (CCN 2006). In August 2003 the Nairobi Interim Oversight Board (NIOB) was briefly charged with restoring financial and management health of CCN as precursor of a full-fledged Financial and Management Control Board for CCN (GoK/Rweria report 2004a).³⁵ In 2004 the Rweria extra-ordinary inspection report concluded that many of these recommendations were never implemented (GoK/Rweria report 2004a). The Kenya Anti Corruption Commission did not find much improvement either (KACC 2007).

Another potential road to bridge and finance the service delivery gap has been the outsourcing of service delivery through partnerships with the private sector and civil society. A number of public-private partnerships have been initiated in the last decade, among others in the fields of street lighting (with ‘Adopt a Light’), garbage collection³⁶ and water supply and sewerage (see also Photos 5.3 and 5.4). Partnerships with community groups have been limited (UN
The metropolitan institutional context

Habitat 2006). Adoption of partnership approaches have faced major challenges as a coherent framework for private sector participation and public-private partnerships in service delivery was lacking (UN Habitat 2006); moreover implementation of public-private partnerships is often accompanied by corruption.37

Another potential road to bring the provision of essential services closer to residents and overcome the intermingling of councillors in administrative issues has been through decentralisation and opening of departmental offices at ward level through the decentralisation programme of the Ministry of Local Government in conjunction with CCN which started in January 2003. The programme intended to deploy about 5,500 staff to the wards, with each ward being allocated 100 staff members. 55 ward and 8 divisional offices were identified as the first step towards implementation of the programme (CCN website, consulted December 2009). The programme aimed to ensure that each and every department was fully represented in every ward, and eventually both senior and junior officers were planned at divisional and ward levels (Mitullah 2006b; based on CCN 2004). By February 2004, the decentralisation programme was in different stages, with 13 ward offices fully completed, 41 partially completed, 3 constructions commenced, 2 renovations commenced, while in 4 wards construction had not yet started (Mitullah 2006b; based on CCN 2004). Mitullah (2006b) indicates that councillors have been against the decentralisation plan and that the programme has not dealt with issues of overlapping roles and responsibilities and conflicts between civic leader and administrators, which may be transferred to ward level. In addition, the decentralisation plan has not yet been translated into policy and law and the eventual results will be strongly influenced by the concrete form of the Ministry of Nairobi Metropolitan Development (MoNMD) and the final

\[\text{Photos 5.3 and 5.4: Public-private partnerships in Nairobi in street lighting through ‘Adopt a light’ mechanism}\]

\[\text{Source: author.}\]
outcome of the constitutional review process with regard to the issue of decentralisation.

Another pathway for CCN to provide adequate service delivery is through inclusion in the ‘Results for Kenyans’ programme of the Ministry for Public Sector Reform & Performance Contracting (PSR&PC), Prime Minister’s Office. Osiche (2008, based on Ogot 2007) indicates that this was a corollary for unlocking the World Bank funded multi-million US dollar Kenya Municipal Programme, by piloting the Rapid Results Approach (RRA) and the preparation of Terms of Reference for the within a record 22 days in December 2005. This also influenced the formulation of the CCN Strategic Plan 2006-2010. Recently the ‘fifth wave of the Rapid Results Initiative (RRI)’, which consists of 100 days implementation for results within 14 service delivery areas, has been implemented in Nairobi from 17 June to 24 September 2009 (CCN website, December 2009). Challenges of RRA implementation, among others, are mentioned (Osiche 2008):

- The largely centralised character of RRI methodology for reform;
- Limitation of line agencies to develop result-based competencies and reinforcement of process-based organisational incentives and insularity through centralised way of implementation;
- Lack of guarantee for leadership styles necessary for implementation versus traditional rigid vertical council ethos, and reinforcement of implementing role rather than policy-making role of councillors;
- Treatment of symptoms rather than underlying causes of corruption and inefficiencies in revenue collection.

The effects of the Rapid Results Initiative (RRI) on the outcomes of the Local Authorities Service Delivery Action Plans (LASDAP) in Nairobi will be discussed in chapter 8. In 2005 CCN formulated an institutional and financial recovery strategy, focusing on enhancing efficiency in capturing existing and new sources of revenue (CCN 2005). CCN procurement procedures are also in line with the Public Procurement and Disposal Bill of June 2003 and the amended version of December 2004, to harmonise procurement procedures and ensure transparency, fairness and accountability in the procurement process (CGD 2005).

Finally, Mitullah (2006b) mentions that several suggestions with regard to the political system have been made to overcome poor performance. These include making higher level education mandatory for councillors running in LA elections, direct elections for the position as Mayor, and - as formulated in the Draft Preliminary Bill on the Local Government Act Cap 265 - the possession of a degree, at least ten years management experience in public and/or private sector and integrity for the Mayor. Mitullah (2006b) quite rightly points out
that ‘while these suggestions are useful, the lack of commitment and integrity seems to be the major bottleneck facing the council’. Councillors predominantly view themselves in terms of doing residents a favour, rather than in terms of responsibility to residents for adequate service delivery.

5.5. Local policies and institutions in business affecting poverty and inequality

Policies and institutions with regard to business and poverty

HBEAs and/or MSEs are accommodated and constrained by formal rules with regard to registration/licenses, taxes, public health, environment and public order. Compliance of informal businesses to these rules often varies according to the level of input of assets from formal sources (government incentives, formal financial services) and whether the owner has a business- or livelihood orientation. Generally, the regulations mainly concern the control of businesses, rather than facilitating development of the urban economy.

Although there are business licensing and registration reform policies, businesses at the local level often remain constrained by local enforcement procedures. At the local level, single business permits are often not de-linked from other licenses. Although a large share of informal businesses operate without licenses (Mitullah 2006). Licensing provisions give the responsible officers wide discretionary powers to grant, revoke, cancel or renew licenses. These powers are often implemented inappropriately, at the cost to businesses, resulting in uncertainty, wasted time, and expenditures in form of bribes. Mullei & Bokea (1999) observe that the manner in which licensing provisions are enforced in Kenya, creates a major disincentive to investment. This is reflected in the violation of property rights of entrepreneurs by trade licensing enforcement officers, and the harassment and bribery of street traders by police and Local Authority officers. Most MSEs are referred to as ‘informal’ businesses (UNDP 2006). To take advantage of government incentives and access formal financial services, businesses until recently however needed to be registered. Table 5.7 shows an overview of the regulatory requirements for some types of MSEs in Kenya.
### Table 5.7: Regulatory requirements for MSEs in Kenya

<table>
<thead>
<tr>
<th>Requirement</th>
<th>How often (frequency)</th>
<th>Business applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hawking</td>
<td>License given on production of: -Identity card -Certificate of good conduct -Daily fee of Ksh 25 -Hawking to be done on designed areas</td>
<td>Every year</td>
</tr>
<tr>
<td>Bulk agro business (including vegetables, fruits, grains, tomatoes, potatoes)</td>
<td>-License -Daily fee of Ksh 100 -Operation in designated markets in cities or towns (Wakulima market in Nairobi)</td>
<td>Every year or Every time one sells from the markets</td>
</tr>
<tr>
<td>Jua Kali products (including motor mechanic, engineering, manufacturing industries)</td>
<td>- SBP -Fee -One operates in designated area, or in, Jua Kali sheds</td>
<td>Every year or Monthly fee Ksh 200 or weekly Ksh 50</td>
</tr>
<tr>
<td>Paper &amp; paper products, printing &amp; publishing</td>
<td>SBP given on production: - Physical address - Certificate of good conduct</td>
<td>Every year</td>
</tr>
<tr>
<td>Textile, wearing apparels &amp; leather product shops</td>
<td>SBP given on production: -Physical address</td>
<td>Every year</td>
</tr>
<tr>
<td>Wood, wood products and carpentry</td>
<td>SBP</td>
<td>Every year</td>
</tr>
<tr>
<td>Whole sale &amp; retail trade</td>
<td>SBP</td>
<td>Every year</td>
</tr>
<tr>
<td>Restaurants and hotels</td>
<td>SBP</td>
<td>Every year</td>
</tr>
<tr>
<td>Textile and tailoring</td>
<td>SBP</td>
<td>Every year</td>
</tr>
<tr>
<td>Textile and tailoring</td>
<td>Trade License</td>
<td>Every year</td>
</tr>
<tr>
<td>Meat and meat products</td>
<td>SBP</td>
<td>Every year</td>
</tr>
<tr>
<td>Live animals</td>
<td>Fee of Ksh 50</td>
<td>On entry to the designated market areas</td>
</tr>
<tr>
<td>Transport and communication (matatu business)</td>
<td>Fee of Ksh 70 -Transport Business License -Certificate of good conduct -Road license -Insurance -Root number</td>
<td>Daily or Every year</td>
</tr>
<tr>
<td>Real estate and businesses services, brokers, auctioneers</td>
<td>SBP issued on provision of location details</td>
<td>Every year</td>
</tr>
<tr>
<td>Handicrafts and carvings</td>
<td>Trading License -Fee of Ksh 100</td>
<td>Every year</td>
</tr>
</tbody>
</table>
The legal situation on HMEs in urban agriculture is unclear, with most urban dwellers assuming it is illegal (Ayata, Kibata, Lee-Smith, Njenga & Rege 2004). However, a close look at the Local Government and Public Health Acts, as well as the Nairobi Bylaws, indicates that urban farming may be practiced under certain restrictions. Under the Local Government Act (Cap. 265), local authorities in Kenya have the power (under Section 201) to enforce bylaws to: maintain residents’ health, safety and well-being; maintain good rule and government in the area; prevent and suppress nuisance; and control, regulate, prohibit or compel any act they are empowered to perform. CCN has used these powers to enact bylaws that prohibit cultivation on public streets and keeping livestock that create a nuisance. Section 144 (c) of the Local Government Act also prohibits cultivation by unauthorized persons on land that is not occupied or enclosed, or land belonging to private persons, government and local authorities. Section 155 (b) of the same act, however, allows for agricultural and livestock undertakings and the provision of services to them. In doing this, it refers to the Animal Diseases Act regarding the prevention of the outbreak and spread of disease. Section 155 (c) also provides for the planting of famine relief crops by persons to support themselves in any part of the country where there is likely to be a shortage of foodstuffs. The Public Health Act (Cap 242) in Section 157 (1) empowers the Minister of Health to prohibit cultivation or irrigation within and around townships.

Amidst the uncertainty however, farming activities have continued to thrive in urban centres in Kenya often with little regard for associated health issues such as contamination from pathogens and toxic materials among the waste materials used in farming systems and disease transmission from animals kept in unhygienic conditions. Experiences gained from other cities of the world where urban and peri-urban agriculture is legalized and is better regulated indicate the beneficial effect of farming in cities in providing better nutrition, poverty alleviation and employment creation. Recently there is a shift from ignorance by urban planners and interpreting urban agriculture as insignificant cultural practice adopted from rural life to a potential livelihood strategy for survival. More accommodating policies for urban agriculture in Nairobi might become reality, especially in the context of the current food crisis and the current extreme rise of inflation rates in urban areas.

Policy guidelines in the fields of employment and poverty need to address the integration of urban and peri-urban farming in urban economic and physical

planning, the lack of institutions dealing with UPA and the coordination of institutions under whose mandates it falls by deaffect, recognition of UPA as an urban industry and its underutilised resources for waste management as a potential source for income generation, and provision of credit facilities, extension service and advice (Ayata et al. 2004). Other policy guidelines are needed in the fields of health issues and waste management (risk management, disease prevention, waste management), household nutrition, land use management and physical planning, legislation and governance framework. HBEAs and community groups in solid waste management partly face the same legal regulations on public health as those in urban agriculture. In addition these initiatives need to comply with environmental regulations and CCN bylaws concerning the production of noise, smell and environmental hazards. HBEAs in food preparation and restaurants need to comply with a large number of standards and regulations with regard to public health. Licenses on food have through the years faced recurrent hindrances of public health regulations, though inspection/enforcement of rules is limited.

Created by the colonial administration, the General Nuisance Bylaw allows city inspectorate officers to arrest anyone deemed to be creating ‘general nuisance’ in public spaces. This bylaw especially constrains hawkers and/or street vendors, as city inspectors use it to harass street vendors who have and have not paid their daily license. The City of Nairobi Hawkers bylaws 2007 especially restricts unlicensed hawking and buying from hawkers, negotiating, and inducing or bargaining hawked goods in non-designated areas (CCN, website consulted November 2009). This bylaw often overrules the more specific City of Nairobi Hawkers bylaws 2007 providing for street vending on condition of payment of daily or yearly license fee. Between 1980 and 2005 seven relocation attempts for hawking have been undertaken by CCN. The latest attempt concerns the new Muthurwa Market for hawkers at a cost of $14.3 million and will most likely also fail to achieve the government’s aim to remove hawkers from the CBD. These locations have lower pedestrian traffic and/or customers with lower purchasing power than in the CBD. In addition there is limited space for the increasing numbers of hawkers and the relatively high entrance fee of Ksh 100, vis-à-vis the expected fall in sales from relocating (Bankelele 2008). Other business operation related policies and institutions at the local level also often constrain operations of HBEAs and MSEs of the poor. Consequently, there have been recurring skirmishes between CCN askaris and hawkers over access to the Central Business District. Despite the intention of the government towards an inclusive city, it remains reluctant to allocate vending sites or zones within the CBD (Mitullah 2006a). The choice of CCN to deal with hawkers through the control department, indicates the primary attention for control rather than urban economy by CCN. The micro-finance environment in Nairobi has been thriving, though generally
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not providing access for the poorest households and businesses, as interest rates are often too high and loan amounts too large. Micro-finance institutions offer a way to access finance, though their interest rates are often still too high for the poor. Examples of these are Kenya Women Finance Trust, Faulu Kenya, Small and Micro Enterprise Programme (SMEP). Some, however, provide opportunities that are more convenient to the poor, by including the possibility of small loans, flexible repayment terms and inclusion of health insurance that meets needs at both sides. Examples of this category of support organisations are Jamii Bora and Akiba Mashinani. ROSCAs of the poor themselves form the major alternative for the poor, whether or not assisted by micro-finance support organisations.

Inclusive spaces for dialogue with the private business sector have emerged and grown in the last decade, though initially mainly for formal businesses and at the level of implementation of services. The Nairobi Central Business District Association (NCBDA) was founded in 1997 to halt deterioration of the CDB (Makhoka 2006). It grew to an association of about 80 major member corporations of hotels, insurance companies, banks and other service providers. After a long period of resistance from the government, NCBDA and CCN in 2000 eventually signed a MoU for a public-private partnership on the provision of plans, services and their funding by NCBDA and the political decision-making and approval of plans by CCN. The agreement distinguished between two spatial areas - the ‘inner core of the CBD’ and ‘the CBD and its environs’-, whereby the latter was not demarcated clearly and interpreted freely to include the entire space within the boundaries of the City of Nairobi (Anyumba 2003, based on Kamunyori 2007). Major projects in NCBDA’s early years (2000-2002) were the rehabilitation of public toilets, improvement of garbage disposal (litter bins spread across CBD), community policing (pilot in Ruai) and establishment of police information centers, beautification (more than five roundabouts), and street lighting rehabilitation. After initial successes, the scope was partly expanded to urban regeneration at the city level, addressing issues like urban governance, participatory decision-making, social-economic and environmental aspects and urban infrastructure (Makhoka 2006) - with donor support of Ford Foundation, UNDP and Cordaid (on capacity building), among others.

The NCBDA slowly grew dormant in this period. With the new Kenyan regime’s strong focus on private sector development and integration of the formal and informal sector for economic development, there was also a shift in attitude of NCBDA towards the informal sector and an increased emphasis on joint policy advocacy, moving beyond the traditional symbiotic relation in economic terms. Up to then efforts to invite the informal private sector to the association had failed because of distrust and poor functioning of the few
informal sector associations in existence (Makhoka 2006; Mitullah 2003b). Under the umbrella of the USAID funded ‘Appropriate Governance for Informal Training Programme’ (September 2003 - December 2005), NCBDA carried out a survey on informal traders in Nairobi. In addition, it organised a series of seminars for large groups of informal traders aimed at helping them organise themselves into an umbrella association, in particular Nairobi Informal Sector Consultative Forum/Confederation (NISCOF), and providing them with skills to lobby effectively for their rights in policy making. NISCOF was simultaneously invited in the Kenya Private Sector Alliance (KEPSA). Furthermore, an exchange trip was organised for individuals drawn from the Ministry of Local Government, CCN, the private sector and NCBDA to learn about how South African cities have dealt with the issue of informal trading (NCBDA 2005). Recently, NCBDA’s vision for Nairobi was reformulated as ‘The 25-hour city economy, Choice of Africa, Clean, Safe Secure and Vibrant’ and strategies further sharpened towards policy advocacy and exploration of public-private partnerships in essential service provisions (GoK 2008a). Despite the more collaborative atmosphere, the results of this increased dialogue still remain to be seen, especially with regard to women, as these spaces for policy making are often male dominated.

5.6. Local policies and institutions in land, tenure and housing affecting poverty and inequality

CCN (and the country as a whole) lacks clear and specific policies for housing, land use planning and land management (Syagga et al. 2001). This makes a coherent and clear division of land difficult. The subdivision of land in freehold areas within municipalities is however a responsibility of the local authorities and follows formal procedures as indicated in figure 5.2.

Besides the number of steps through which a subdivision application must pass, various costs must be borne by the applicant, in the form of fees payable to the EMC, the Land Control Board and government departments, as well as professional fees. Ideally, the following requirements should be met for a subdivision application to be approved: 1) Copy of the title deed or certificate of lease presented as proof of ownership; 2) Four copies of the proposed subdivision plan provided; 3) A public purpose plot of 4 per cent of any land being subdivided with an area of 5 acres (2.2 ha) or more set aside; 4) A rate clearance certificate provided; 5) A sketch site plan from the Department of Physical Planning duly signed and stamped (for the purpose of identifying the location of plots that are not registered). The overall procedure is long and costly.
Figure 5.2: Procedures for the subdivision of freehold land

Local authority
The applicant/developer shall apply for permission to develop land using form PPA 1 supplied by the local authority within whose boundaries his/her land is located.

Registered physical planner
The applicant/developer shall then approach a registered physical planner or the District Physical Planner, who will prepare a subdivision scheme.

District physical planning officer
The applicant (or his agent) shall then submit the subdivision scheme to the district physical planning officer for scrutiny and recommendation for approval by the local authority.

Land board
The developer shall seek consent to subdivide from the local land control board.

Local authority
The applicant shall then submit the subdivision scheme proposal, together with a duly filled application for development permission form, the consent of the land board and where necessary an environmental impact assessment report to the relevant local authority for consideration for approval. In considering the application the local authority may circulate the subdivision proposal to officers in charge of the following departments:

- Agriculture
- Land
- Water
- Forests
- Livestock
- Architecture
- Road
- Other

The local authority will then approve, refuse to approve or defer the development permission and notify the applicant of the same.

Liason committee or high court
If the local authority refuses to approve the scheme the applicant may appeal against this decision to the Municipal, District or National Liaison Committees or to the High Court.

Further action
The applicant upon being granted permission may proceed to carry out further transactions on the said land e.g. survey, registration, transfer, further development, etc.

Chapter 5

The local authority requires the owner to provide infrastructure, for which the council takes on maintenance responsibilities, before a subdivision of privately owned land is approved. In practice, this does not happen due to the costs involved and, in most cases, infrastructure provision is left to the buyers. A large farm may first be formally subdivided and its ‘smallholdings’ sold. Subsequent subdivisions may or may not satisfy official procedures. Many sellers circumvent the process and subdivide and sell their land informally.

The majority of house-owners in the informal settlements have some form of quasi-legal tenure through letters of allotment from Chiefs or through agreements with land owners on private land (Syagga et al. 2001). In some settlements, such as Mitumba near Wilson Airport (included in chapter 7), there is pure squatting with residents having no rights (Gitau 2000). TOLs permit allottees to use vacant public land on a temporary basis on the condition that the allottee does not erect the permanent structures on the plot without permission. These are granted by the Central Government and can be terminated at short notice. In 1999 CCN also introduced TOLs to promote investment in small businesses and the efficient and productive use of idle public land in strategic locations like street intersections, road reserves in high density neighbourhoods and open land on the urban fringe (Yahya 2002). Licenses are allocated annually on a renewable basis for a land rent, and entitle licensees to construct semi-permanent structures. Typical uses include pavement restaurants and kiosks as well as street food vendors, open air garages and furniture shops. Some people also live on their sites. Among the advantages of the system is the simplicity of the administrative procedures (no surveys are involved), payment is spread over the year, building standards are flexible, and the public authorities retain control of the land (Yahya 2002). In 1999, about a third of the 1,924 applications were approved by CCN (Yahya 2002).

Civil society in Nairobi predominantly focuses on access to land and shelter at the implementation level. A major channel is through collective savings of residents. Savings and Credit Cooperatives Organisations (SACCOs) are the major form of savings groups, with more than 200 SACCOs in 1989 and loans to members of around Ksh 7.5 billion (Syagga et al. 2001). They mainly cater for middle and upper-low income groups in formal employment (ibid.). Since 1970 National Housing Cooperative Union (NACHU) facilitates and supports cooperative schemes, of which about 45 percent for low income. Up to 2001 members of four cooperatives in Nairobi were supported (ibid.). Muungano wa Wanavijiji or Federation of Slum Dwellers was established in 1996, influenced by slum dweller federations from India and South Africa. Its base is local saving groups or ‘saving schemes that provide a community structure for internal governance and housing initiatives’ (Weru 2004). By 2002 there were
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54 savings schemes with 43 bank accounts (ibid.). The grassroots federation has developed 100 savings groups in 60 settlements with a membership of 10,000 people in at least eight Kenyan towns (ibid.), though predominantly in Nairobi. Since 2000 Muungano is supported by the non-governmental organisation Pamoja Trust, member of the Shack/Slum Dwellers International (SDI) network of slum federations and NGO and also the Kenyan partner of Homeless International. Muungano and Pamoja Trust seek to improve housing and both through regularisation and upgrading of the settlements in which urban poor groups currently live (including getting tenure of the land they occupy) and through new land tenure projects. Especially, the aim for negotiated development over getting tenure of the land they occupy in concrete programmes is characteristic for the innovative approach of Pamoja Trust that became possible with the increasing space for partnerships and negotiation with the government in the early 2000s. Recently Muungano and Pamoja Trust have restructured operations and established the Akiba Mashinani (i.e. ‘grassroots savings’) Trust Fund to lend to local savings schemes. A World Bank related study indicated the need for regulating the Nairobi housing market and upscaling or extending the negotiated development approach of Muungano and Pamoja Trust in order to fill the ‘high-price low-quality trap’ in Nairobi (Gulyani & Talukdar 2008).

Civil society in Nairobi has traditionally always strongly focused on housing rights issues, especially to fight demolitions and the constant threat of evictions for slum residents and provide secure tenure within the boundaries of Nairobi. Key civil society actors have been the NGOs Kituo cha Sheria, Shelter Forum, and later Pamoja Trust. Kituo Cha Sheria (literally meaning ‘Centre for Justice’) was founded in 1973 as a legal and human rights organisation that undertook public interest litigation on behalf of low-income communities threatened with unlawful eviction (Weru 2004). Shelter Forum was established in 1990 as a (national) coalition of organisations and individuals, with a membership of 600 professionals, development workers, self-help and community groups (Makokha 2006). It brings together the key players who through collective action facilitate access to affordable decent shelter for vulnerable groups. Shelter Forum is also active in network and policy formulation, for example with regard to the process of formulating a new housing policy since the late 1990s and as a member of the thematic working group on ‘urban land, environment and infrastructure’ for the formulation of the draft national Lands Policy (Makhoka 2006). Moreover, civil society organisations negotiated a (temporary) ban against demolitions and evictions through NISCC in 1997. The more recent NGO Coalition Against Forced Evictions is linked to the international coalition of the Centre on Housing Rights and Evictions (COHRE). It includes members like Kituo Cha Sheria, Pamoja Trust, Maji na Ufanisi (Water and Development), African Network for
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5.7. Conclusions

This chapter analysed the opportunities and constraints of the metropolitan institutional context and structures for individually claimed spaces, collectively claimed spaces and invited spaces. The influence on the processes and impacts of the selected spaces will be discussed in further detail in the subsequent chapters.

Individually claimed spaces of social, organisational and political relations and/or individual household pathways are heavily constrained through the lack of basic services delivered by the City Council of Nairobi. Systematic political and administrative dominance of central government over local government, ineffective and inefficient bureaucracy, and heavy corruption have largely restricted local government authority, resources and capacity for adequate service delivery. Privatisation of service delivery through public-private partnerships shows mixed results and often ends-up in uncontrolled growth of private companies delivering services on a supplier-buyer basis and weak or absent regulatory frameworks. Metropolitan bylaws mostly lack an enabling approach and often contradict the recent increasingly accommodating national level regulatory frameworks for private sector development, business and employment.

Collectively claimed spaces by civil society are one of the few ways through which the poor can gain secure access to land and tenure. Absence of accommodating land and housing policies and regulations, land grabbing and corrupt practices, and heavy commercialisation of Nairobi’s unregulated housing market, have left the poor largely dependent on renting in informal settlements or slums. The high demand and low supply of housing has led to a ‘high-price low-quality’ trap for which the poor have to spend a large share of their limited resources. Alternatively, the poor seek access to land and tenure through collective negotiations over land by the Kenyan Homeless International Federation with government and other stakeholders. An example are the recently increased claimed spaces around upgrading linked to agreements between the national government and UN-Habitat, and in line with international MDG 7 to reduce the proportion of urban population living in slums by 2020. Limitations of these upgrading programmes are however that the formula of formulating accommodating policies alongside implementation
The metropolitan institutional context

of pilot cases, such as KENSUP in the slums of Kibera, has failed so far. Other potential negative aspects of upgrading have been high costs of housing, sale of upgraded units by the poor or planning of middle-income standards in advance. Another major alternative for the poor to seek access to land and tenure is through collectively claimed spaces by land buying cooperatives, trusts and societies. The advantage is that through this mechanism the poor can potentially gain secure access to land and tenure through the private market. The potential disadvantages are that the mechanism has been predominantly used by commercial land buying companies and Savings and Credit Cooperatives Organisations (SACCOs) at prices affordable only to middle and middle-low income households. Earlier experiences of the poor, especially in the context of resettlement, often ended up in sales of plots and structures by the poor - dependent on the form and property rights - and faced a lack of infrastructure and other facilities. Other constraining factors are the long and costly land registration procedures, and the limited accessibility of housing finance for the poor.

Invited spaces at local level have increased through the initiation of devolved funds since the 1990s. These spaces are however constrained by national and metropolitan informal political practices of patronage, clientelism and corruption. The difference in political culture between opposition and ruling party at the time of introduction of multi-party elections, did not sustain long. The recent increasingly accommodating national regulatory framework for private sector development, business and employment also opens some invited spaces for consultative policy-making at the metropolitan level. These spaces primarily include formal private sector alliances, though increasingly include informal sector alliances through direct and/or indirect representation. To make effective governance through invited spaces work, it is important to deal with underlying causes of misperformance rather than treating symptoms, and to materialise transformations in commitment and integrity.
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Notes

1 Other spontaneous and organic cities, reflecting the make-up of the country at large, are Johannesburg and Lagos. Cities that are built on or around older settlements are amongst others Accra and Duala. Examples of cities with migrant communities who have lived there for years are Addis Ababa regarding Eritreans, Asmara regarding Ethiopians, South African cities regarding Nigerians, Angolans, Congolese. Finally, examples of residentially segregated cities resembling an ethnic cauldron and a ‘divided nation’ are Brazaville and Abidjan (AEGIS 2006).


3 The dividing line between informal settlements and other residential areas coincides with differences in geographic and climatic characteristics (Amis 1996).

4 By 1902, the reservation of areas for European settlement had been adopted and all of the western part of Nairobi was allocated for Europeans. This explains why the western and northern parts of the city are still in the hands of private individuals (Obudho 1997).

5 Using a more stringent definition of slums and the metropolitan city’s boundaries, CBS estimated the slum population in the 1999 national census at 30% or 0.64 million (0.81 million if corrected for population growth rate of 4.85% per year) (Gulyani 2006; Gulyani & Talukdar 2008; see also World Bank 2008).

6 Another study estimated the relative proportion of indigenous population of Nairobi as: Kikuyu (32 percent), Luo (18 percent), Luhya (16 percent), Kamba (13 percent) (Oxfam 2009, based on Practical Action 2004).

7 The displacement of indigenous populations from high potential areas by the application of the Crown Lands Ordinances (1902 and 1915) and the practice of residential segregation created squatters in the White Highlands and urban centres. The implementation of the Vagrancy Act of 1922 restricted the movement of indigenous people outside native reserves (Macharia 1996) and a policy on demolition of any unauthorised structures under the Public Health Act regulated informal land development in urban centres, especially Nairobi.

8 The figures for the number of informal settlements in Nairobi over the years are conflicting: 50 (NCC-NCCK 1971), 78 (NACHU 1990), 36 (Matrix 1993) and 133 (Ngau 1995) (Syagga et.al. 2001).

9 The 1990s were marked by massive evictions from slums, not as part of development programmes, but merely as a result of land disputes (Huchzermeyer & Omenya 2006). Occupied land was allocated by the ruling party to ‘reward political loyalty’ (Olima 1997) and with an increasing politicisation of ethnicity, ethnic land conflicts emerged (COHRE 2006). A 1997 moratorium on demolitions by NISCC was only temporarily respected. With the change of regime in 2002, there was a strong sense of urgency that the abuses and excesses of the previous regime headed by Moi had to be reversed. From February 2004 the emphasis shifted however to evictions with the ostensible purpose of reclaiming all riparian, railway and road reserves that had been encroached upon. State corporations also indicated that all households built within the periphery of safety must be pulled down. The announced evictions affected slums in five of Nairobi’s eight divisions. The planned evictions related to the suspended construction of a road bypass through Kibera, remain pending (COHRE 2006; Pamoja Trust 2009). In the absence of a law and comprehensive national eviction guidelines that comply with international human rights standards, forced evictions are likely to continue (Amnesty International 2009).

10 This reflects the shift from petty-subsistence and petty-bourgeois to petty-capitalist landlords. The subsistence landlord has only one house and predominantly uses it for self-
consumption of its use-value, while the partial conversion into exchange-value by renting rooms is part of a survival strategy not of a deliberate move. The petty-bourgeois landlord owns one house only but unlike the subsistence landlord produces rental accommodation in order to generate additional income. Income from rental housing is used to repay loans, purchase consumer durables, or accumulate savings for house improvements. The aim is to improve the household’s quality of life. The petty-capitalist landlord owns more than one property and produces rental units in order to expand and reproduce capital in the form of landed property. Rental units are provided for their exchange value (Kumar 1996).

11 4.8 percent of slum households are ‘resident landlords’. The vast majority of structure owners are hence ‘absentee landlords’(World Bank 2006).

12 Chiefs and elders have been known to derive a considerable income from allocating public land in slums and low-income settlements to put up low-income structures for rent (UN-Habitat 2006).

13 The term ‘Nubian’, the common name for these Sudanese descendants, is a misnomer. It arose out of their need to portray themselves as a distinct group after independence, and has no reference to the 14th century Christian Kingdom of Nubia (Lamba 2005).

14 From October 1952 to December 1959 Kenya was under a State of Emergency, arising from the ‘Mau Mau’ or Kenya Land Freedom Army movement insurgency against British colonial rule in general and its land policies in particular. This rebellion took place almost exclusively in the highlands of central Kenya among the Kikuyu people. The governor requested and obtained British and African Troops, including the King’s African Rifles. The capture of the Mau Mau leader Dedan Kamathi in October 1956 signified the ultimate defeat of the Mau Mau and essentially ended the military offensive (Lamba 2005).

15 See Polese (2005/6) and Taylor (2006) for debate on measurement of cities’ contributions to the GDP and on attribution of economic growth to national states by Polese and attribution of expansion of economic life to (inter)national groups of cities in the Jacobian tradition by Taylor. See Duranton (2008), for the initial suggestion of the continued aim to raise within-city efficiency in combination with reduction of obstacles for reallocation of factors across cities for productivity and economic growth in developing countries.

16 Manufacturing in Nairobi consists of many small and medium-sized industries. These include industries manufacturing steel products, plastic goods, soaps, flour, vegetable oil, canned fruit and fruit juice, horticulture, and dairy and poultry farming. Bulk trading of Kenyan coffee (the Kenyan coffee auction) also takes place weekly at the Nairobi Coffee Exchange. Although Nairobi trade is based on an agricultural economy, the most vibrant industry is the service-based industry with Business Process Outsourcing (BPO) as the latest entrant into the market. The service industry contributes 59.2 percent of Nairobi’s GDP as compared to 24 percent from agriculture, followed next by the manufacturing industry (McCormick et al. 2002).

17 A recent NCBDA survey indicated for example that for most businesses in the CBD the Council provides collection services at a monthly fee of Ksh 5,000. The managers of the hotels said they were satisfied with the quality of services provided by the Council. About 80% of restaurants in the CBD that the team visited had however made arrangements with peri-urban pig and dairy farmers or pet owners to collect their waste for animal food. The hotels were however not informed on sites/places the collectors disposed off any left-overs that they did not feed to their animals.

18 International companies and organisations that moved to Upper Hill include Citibank (2007), Coca Cola, World Bank, International Finance Cooperation (the private sector arm of World Bank), and PriceWaterhouseCoopers. Other international companies with regional headquarters in Nairobi include General Electric, Toyota, Goodyear, Young & Rubicam, Google, Siemens, Zain, Cisco Systems (Business Daily 2007; Press Media Wire 2008). The CBD currently especially houses (multi-)national banks (a.o. Barclays, I&M, Standard Chartered, Equity Bank, Kenya Commercial Bank, National Bank, Co-operative Bank, and
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CFC Stanbic Bank), government offices and high end international hotels (a.o. Hilton Nairobi, Serena Nairobi, The Stanley). The CBD is characterised by a skyline of skyscrapers, due to a construction boom after independence and another construction boom in the late 1990s and early 2000s. Most skyscrapers (Times Tower, Kenyatta International Conference Centre, NSSF Building, I&M Bank Tower, Government Office Conference Hall) are the headquarters of businesses and corporations.

19 The corresponding figures for decrease in wage employment were 73 percent in 1989 and 60 percent in 1999.

20 KIPPRA estimated the unemployment rate for persons between 15 and 64 years in Nairobi to have declined from 23.9 percent in 1998/1999 to 16 percent in 2005/2006 (Wambugu, Munga & Onsumu 2009, based on CBS 2003 and GoK 2008a).

21 Unemployment of youth is held to be one of the key factors behind the increasing levels of insecurity and violence in the informal settlements. The post-election violence of early 2008 is seen as a manifestation of this.

22 The average annual inflation rate rose from 2.0 percent in 2002, to 9.8 percent in 2003, to 11.6 percent in 2004, 10.3 percent in 2005, 14.5 percent in 2006, 9.8 percent in 2007 to 26.2 percent in 2008. This was the highest inflation rate since 1994, when it reached 24.4 percent. Underlying inflation, which excludes food commodities, rose from 5.7 percent in 2007 to 11.1 percent in 2008. The rise in inflation was caused by the high food and fuel prices during the period under review (GoK 2009).

23 The Local Government Act of 1984 further increased the power of central government, by making appointment of heads of departments and numerous actions – including raising revenue – subject to approval by the Minister of Local Government.

24 CCN has been dissolved various times, ‘ostensibly for centre driven audits and inspections’ (Osiche 2008; Rweria 2004).

25 The KACC (2007) report indicates that CCN generates revenues of approximately Kshs 5 million per year from various sources, namely: 1) Intergovernmental transfers and grants; 2) Education facilities through hire of school premises and grounds; 3) City Inspectorate Department through training, impounding, etc; 4) Department of Environment through the hire of parks, open spaces, dustbins, films, boats, etc; 5) Public Health Department through inoculations, mortuary and cemetery fee, vermon control fee, ambulance, maternity fee and cost sharing at clinics, etc; 6) Engineering department through parking fee, construction site board, road works and stormwater drainage fee, fire services and advertising on road reserves; 7) City Planning Department through survey fees, building plan fees, lease extension and advertising; 8) Housing Development Department through eviction fee, building plans, rates and mortgage repayments; 9) Town Clerk’s Office through the hire of Halls, rent from trading establishments and City Hall Annex; 10) Social Services and Housing Department through gate collections at stadiums, rents from housing, market access, shops and halls.

26 Whilst the city contributes about 50% of the GDP, it only receives approximately Kshs 1 billion through LATF and RMLF, less than a half percent of domestic revenues (CCN 2006). The minister of Local Government recently indicated that Nairobi receives 23% of national resources (Nation 2009).

27 The crude death rate for CCN gradually increased from 1% in 2001 to 1.4% in 2004. The aggregate HIV/AIDS related costs in percentages of the wage bill were projected to increase from 2.2% in 2006 to 2.7% in 2010. Cost figures for CCN more than double the figures for Kampala (Uganda) and Ilala (Tanzania/Dar es Salaam) councils, which stay almost stable (Sarzin 2006).

28 Especially the court case over payment of 2002 land rates on the basis of the 2001 revised Draft Valuation Roll, which was meant replace the 1982 valuation roll - which legally should have been renewed every 5 year - and to raise the CCN revenue income. The 2001 Draft Valuation Roll proposed an increase in base value of almost 50 times for residential
plots and of 500 times for commercial plots, while the council proposed a general rate levy of 1%, with 0.4% remission for residential plots (effective 0.6%). This levy, while remaining at less than 4%, would have resulted in 100% increase in actual payments for residential plots and nearly 400 percent for commercial plots compared to 2001 payments (Rihal 2004).

Overall, CCN workforce increased from 17,000 to 20,048 between 1995 and 2000 (Ikiara, Karanja & Davies 2006) and decreased to around 13,000 in 2006 (CCN 2006; Sarzin 2006). CCN staff numbers are divided into: Education and Health (24%); Bylaw enforcement and prosecution of offenders (23%); Cleaning (20%), Engineering, planning and housing development (15%) (UN-Habitat 2006).

These figures exclude primary and secondary school teachers, who are employees of the central government.

Appointment, promotion, disciplining and discharging of senior level personnel in scale 1-9 is attributed to the Public Service Commission (PSC) and for other personnel in scale 10-22 to the council (KACC 2007).

In 2008 CCN had however moved out of the Kenya Bribery Index, partly indicating limitations in measuring methodology.

The Rweria report points out the weak legal capacity within CCN with no Legal Department and two understaffed legal sections on conveyance (1 lawyer) and litigation (2 lawyers) under the Town Clerks Department. Corruption and fraud involving external lawyers and council officers cost the council huge financial loss: external lawyers costed the council 60% of court cases, pending bills on courts awards amounted to Ksh 815 million, cases are delayed in court for unreasonable many years, and lawyers do not take any action to have them prosecuted or dismissed; moreover, corrupt consent judgements in courts are arranged by council officers in collusion with the plaintiffs and/or their lawyers. In addition, external lawyers in collusion with council officers have been paid exaggerated legal fees, with a total of pending bills on legal fees of over Ksh 500 million and the council paying more than Ksh 50 million a year. Other external lawyers have been collecting rates on behalf of CCN and not remitting the same, which amounts to stealing clients money. The Rweria report therefore recommended the establishment of a strong legal department and gradual restriction of the use of external lawyers to very special cases (GoK/Rweria report 2004).

City authorities also have an influence in the events taking place within informal settlements, both negatively and positively. They determine whether a settlement stays in situ or is demolished and influence economic activities undertaken within the settlements.

The Nairobi Interim Oversight Board was proposed in the Mbogua report in 2000, and is often referred to as covering the period of 2000 to 2003, but it still took until August 2003 until it was formally established as there was strong opposition of a group of councillors who seeked seeked clarification on the board’s legal standings kept NIOB from being fully operational at least until 2003 and limited its effects (see also DFID 2003).

A first attempt to privatisate garbage collection to a single Italian private company ‘Jacorossi Impresse’ in 2004 failed, after opposition of ministers and councillors against a MoU with the Ministry of Local Government. A second attempt, tendering contracts to 10 different companies, is currently ongoing. This comes as bad news to the private companies contracted by estate managers and individual households to fill the gap in CCN services, as residents are to pay the fees directly to the ten garbage collectors (Business Daily 2010). Karanja (2005) identified about 60 private companies providing solid waste collection and disposal services in Nairobi, operating without any regulation, monitoring or supervision by CCN (Karanja 2005).

The 2000 Mbogua report indicates that whichever provision of services were privatised, they are operated by cartels involving groups of councillors, council officers and their associates (see GoK/Rweria report 2004a).
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38 Under the Strategic Plan for 2006-2010 the City Council has set for itself numerous strategic objectives which it expects to fulfill under the seven areas of focus (key result areas): rationalization of the legal framework; change management and capacity building and responsive systems; resource mobilisation and improved financial management; partnerships with stakeholders and image building; decentralisation of service delivery; management of the City’s development; results-based management for improved service delivery (CCN 2006).

39 The Public Procurement Proposal Bill amongst others provides three oversight organs to ensure harmonisation of procurement procedures and that all public entities follow the same rules and procedures. These organs are the Public Procurement Oversight Authority, the Public Procurement Oversight Advisory Board, and the Review Board (CGD 2005).

40 Residents contravening these bylaws shall be liable to conviction to a fine not less than Ksh 10,000 or 9 months imprisonment (CCN website, consulted November 2009).

41 After two days of heavy protests and riots over relocation of hawker and street vendors to Muthurwa market and following a petition by the hawker to the Minister of Local Government saying that the initial fee was too high for the size of stall available, the daily fee for Muthurwa market was adjusted to Ksh 50 (KBS 2008).

42 Other NCBDA projects were CCTV camera installation on Moi Avenue, City Hall Way and Tom Mboya Street; beautification of Market Street and Mama Ngina Street; numbering of buildings in partnership with the Office of Public Communications; Road markings and pedestrian crossings (NCBDA website http://ncbda-kenya.org/achieve.php, consulted November 2009).

43 Kamunyori (2007) mentions also the more specific reasons of the realisation of the relation between the rise in petty crime and the times city inspectors tried to keep street vendors away from the CBD, as well as avoidance of the prevailing image of an elite-institution.

44 Mitullah (2004) indicates that before no agreements were possible because of fragmentation of associations and being played out against one another, through mere representation and listening, rather than negotiating.

45 After completion of the NCBDA/USAID programme, the incubation of NISCOF was continued for 3 years by the small business-led Corporate Renewal Centre (CRC) (Kamunyori 2007).