Challenges of urban environmental governance. Participation and partnership in Nakuru Municipality, Kenya

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3 External Conditions for Local Partnerships

In this chapter, we explore urban challenges and the political structure, local government and institutional framework for environmental management that provide the context to address these challenges. We also present the legal framework for environmental management and examine the attempts that have been made towards the implementation of Agenda 21.

3.1 Three decades of rapid urban growth

In the 1960s and 1970s, Kenya was experiencing a polarised urban development with Nairobi and Mombasa as the two main cities, with more than half of the urban population (Kiamba, 1994). To counter this trend, the government adopted a regional development strategy, which emphasised the promotion of selected principal urban growth centres (Kiamba, 1994; Obudho, 1994). The national development policy that evolved in 1969 was outlined and became effective in the second national development plan (1970-1974). This plan aimed at the diffusion of population from the two main cities and targeting it to secondary towns by channelling investment and improving their physical infrastructure as well as social amenities. Commenting on this spatial development policy and its implications for urban areas, Obudho (1994) states that:

"the results of the 1969 census showed that Kenya has been relatively successful in diverting urban growth to secondary urban centres, thus promoting regional equity and avoiding excessive population concentration in Nairobi and Mombasa" (Obudho, 1994: 204).

In 1969, the urban population was estimated at 1.8 million (Republic of Kenya, 1981) and by 1989, it had reached 3.9 million. Between 1979 and 1990, the population living in the urban areas in Kenya increased from 15.1 to 18.9% of the total population (Republic of Kenya, 1994 a). The 1999 census interim results show that urbanisation has continued in the country. A total of 9.9 million persons were counted in municipalities, towns and other urban centres that reported a population
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of 2,000 and above (Republic of Kenya, 2001). This is a very rapid increase in the urban population over a very short period: 6 million in a period of only 10 years, implying that there will be a lot of pressure on the existing services in the urban areas. There is therefore a need to re-direct policy to deal with the challenges posed by rapid urbanisation, which is due to a serious waves of rural-urban migration and the deliberate upgrading of rural service centres into town councils. This has resulted in rapid urban changes and the rise of spontaneous slum developments, a dramatic increase in street urchins, unemployment and high rates of crime in most urban centres in the country (Obura, 1996). Table 3.1 and Figure 3.1 shows the proportion of urban population of the total population in Kenya for the years 1979, 1989, 1995 and 2001. The figures referring to 1979 and 1989 are based on censuses, while the 1995 and 2001 figures are estimates.

Table 3.1 Population statistics showing urban population growth

<table>
<thead>
<tr>
<th>Year</th>
<th>Total population (in millions)</th>
<th>Growth rate (%)</th>
<th>Average population density (per km$^2$)</th>
<th>Urban population (in millions)</th>
<th>Total fertility rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1979 (census)</td>
<td>16.2</td>
<td>3.9</td>
<td>26.0</td>
<td>2.3</td>
<td>7.8</td>
</tr>
<tr>
<td>1989 (census)</td>
<td>23.2</td>
<td>3.4</td>
<td>37.0</td>
<td>3.9</td>
<td>6.7</td>
</tr>
<tr>
<td>1995 (estimates)</td>
<td>27.5</td>
<td>2.9</td>
<td>43.0</td>
<td>5.3</td>
<td>5.4</td>
</tr>
<tr>
<td>2001 (projected)</td>
<td>31.9</td>
<td>2.5</td>
<td>49.9</td>
<td>7.4</td>
<td>4.8</td>
</tr>
</tbody>
</table>


Despite the growth centre strategy, the 1979 census showed that the seven main towns in Kenya – Nairobi, Mombasa, Kisumu, Nakuru, Eldoret, Machakos and Meru – still held well over 68% of the country’s total urban population (Obudho, 1994). In the 1980s there was need to redress the seemingly ineffective regional development approach. Attention shifted to focus on diversification of the economies of small-scale and medium-sized towns, in conjunction with rural development and the promotion of non-farm employment activities in rural areas.

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12 The East African Standard of 30 January 2001 reported the preliminary results of the 1999 census. It is not clear why the census considered such centres with a population of 2,000 as urban areas. Recently, in attempts to get political support in some localities, the ruling party (read: “president”) upgraded rural service centres and even urban councils into municipalities without taking into consideration all the necessary factors. This also follows the creation of over 20 districts since the 1990s.

13 Though the figure of 6 million seems improbable to observers, we note that the census covered towns and urban centres with a population of 2,000 people and more, indicating that more urban centres were included in the 1999 census than previously.
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(Barkan and Chege, 1989). This led to the establishment of the District Focus for Rural Development Strategy (DFRD) in 1983, under which the Rural and Trade Production Centres (RTPCs) were instituted. As a result of this, urban centres mushroomed in most parts of the country (Obudho, 1994).

Figure 3.1 Urban population growth versus total population growth

In 1979, there were only three towns with populations of over 100,000 in Kenya and by 1993 the number of such urban centres had increased to six (MCN/Republic of Kenya/UNCHS/ ABOS-BADC, 1999). As noted above, the government, through its successive national development plans, embarked on regional and urban development strategies which were intended to diffuse the population from these principal towns for what Evans (1989) refers to as ‘equitable distribution of resources’ or ‘rural-urban balance’ (Kiamba, 1994). This caused a mushrooming of towns throughout the country and the expansion of existing ones at alarming rates as shown in Table 3.2 (see next page).
Rapid urbanisation is not inherently negative and it can be argued that it has advantages related to the growth of economic activities and increased productivity. Large population can provide the consumer and taxable base to support an efficient local administration with its own cluster of functions ranging from housing, sewerage and drainage, street lighting, ambulance, fire fighting, water supply, street maintenance and, in some cases, primary education and health care. The cause for concern today is the manner in which urbanisation is taking place. There is a range of intertwined forces that work against the above economic development argument: the large populations are largely unskilled labour forces; the municipal councils which started off as colonial institutions were never fundamentally transformed to cater for a growing African urban population and the revenue development and collection machinery has been ineffective and what little is collected tends to be mismanaged (Ichoya, 1997).

Rapid urban growth in Kenya is causing serious strain on the existing urban infrastructure and social services. Urban areas face many environmental problems as a result of uncontrolled and uncoordinated developments including inadequate sanitation, uncollected garbage, pollution of water sources, vehicular pollution, inadequate shelter and overcrowding, indoor air pollution and inadequate drainage. Most of these problems are found in low-income and unplanned settlements, affecting the environmental health of the poor. Regarding water supply in many towns in Kenya, most are experiencing a water supply deficit, amounting to 75,826 m³ in Nairobi, 17,656 m³ in Mombasa, 26,211 m³ in Kisumu and 45,982 m³ Nakuru. Eldoret is the only municipality which has a surplus water supply (see Figure 3.2). Attempts by the government to solve various environmental problems and provide services in urban areas have been inadequate. Apparently, the transformation of towns had not been followed by a corresponding increase in existing facilities and sufficient power for the respective local authorities to effectively handle growth, which
stretched the capacity of the authorities that govern and deliver services in these towns to levels beyond their control. With regard to the institutional arrangements, the local governments, entrusted with the provision of urban basic infrastructure, have been unable to perform their duties as a result of institutional weaknesses, lack of resources and lack of adequate capacities.

Figure 3.2 Coverage of water supplies in selected municipal councils (1995)


The situation will continue unchanged in the future despite the government’s efforts to improve infrastructure and service delivery, as the projected capabilities will not meet the projected needs. To date, government’s efforts directed at solving serious urban environmental problems in Kenya have not mobilised the private sector, non-governmental organisations and community initiatives at the planning and management levels. A wide gap still remains between the needs that are highlighted in policy and the actual implementation and performance of programmes and projects that address environmental issues in urban areas (Mwangi, 1997). The government will have to become more proactive in developing policies that promote the required changes and support local initiatives.

Like most other developing countries, the management and provision of urban basic services in Kenya is assumed to be the responsibility of local government authorities. However, owing to the centralised top-down structure of the govern-
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...ment, this function has remained elusive, at best, and at worst, unattainable as the central bureaucracy constraints local government autonomy in decision-making (Wekwete, 1997). Local authorities' roles and effectiveness in solid waste management has been declining. For instance, in Nairobi, about 1,000 tons of garbage are generated daily. The City Environment Department of Nairobi is only able to collect and dispose of 400 tons of garbage per day. The private sector firms operating in the city are able to collect and dispose of 500 tons daily, leaving 100 tons to accumulate in empty lands and unused roads in the residential areas (Ichoya, 1997). The situation is the same in most other towns. Box 3.1 shows the desperate situation in Mombasa as an example.

In response to the forces of globalisation and other internal and external pressures, Kenya has embarked on decentralisation and economic liberalisation. This process is rapidly transforming secondary towns into critical points of contacts for local, regional, national and global capitalist systems of trade, communication and capital investments. These externally induced phenomena, coupled with rapid internal population growth, have added new responsibilities to local governments that manage these towns on a day-to-day basis, even though they lack the institutional flexibility to address these challenges.

Sustainable development calls for a predictable and transparent framework of rules and institutions for the conduct of private and public business. The ideal outcome is one where local authorities can deploy enough governance capacity to overcome political resistance and other special interests, design and implement appropriate adjustment policies, and sustain the course of economic reform (Ichoya, 1997). The challenge is the reorientation of policies and strategies of municipal management in order to improve the delivery of urban basic services, especially in the low-income areas. Meeting this challenge will require the adoption of appropriate policies aimed at ensuring that community-based organisations (CBOs), non-governmental organisations (NGOs), individual households, the private sector and informal sector are encouraged to participate in environmental management initiatives and contribute to the provision and maintenance of those services.

Existing government policy as depicted in sessional papers, the development plans and the recent Poverty Reduction Strategy Paper acknowledge the roles that can be played by different actors in collaboration with each other and the government, but putting these policies into practice becomes a formidable challenge in Kenya. This is the result of the current government system that is not accountable or responsive to the needs of the majority of the citizens. Most representatives of the state are understandably reluctant to implement some policies that threaten to undercut existing privileges (Post, 2002). In the next sections, we discuss the political environment and
municipal government system in Kenya and the weaknesses that affect policy implementation.

**Box 3.1 Mombasa city managers must tackle garbage**

The hurdles facing our local authorities are a legion and we have no intention to down play them though it must be pointed out that a number of such drawbacks are self-created and might have been well avoided. The malignant thread that courses through all our local authorities, incapacitate them to the point of irrelevance in both planning and service delivery is rooted in the massive numbers they must cater for. Rural poverty and the fallacy that prospects for jobs and thus an economic life line and other opportunities are exclusively out there in our towns and cities has led to a rural-urban migration that has almost crippled the ability of urban planners to cope with the demands. Pictorial evidence of mountains of garbage, spilling onto and cutting off Msimu Kombo Road in Mombasa just behind the council’s parking yard is a stinging indication and a humbling statement of impotence on the part of the city authority’s capacity to cope with garbage and refuse disposal. But since we do not intend to make apologies for the city authority, we will push a side the argument that it is simply overshadowed by the weight of numbers and hence the state of decay. The city reportedly has about 11 refuse collection vehicles. Of these, apparently only three are operational while the rest are in different stages of decay catalysed by neglect and vandals who see in the incapacitated machines parked in the yard as they remove functional parts to fulfil selfish instincts. If Mombasa city fathers want to plead being overwhelmed by numbers and hence inability to cope, then what do they have to say about such obviously self-inflicted damages indicated by the state of refuse collection vehicles? There was a highly visible and even painful campaign as Coastal leaders pushed for the elevation of Mombasa to city status. Kiosks and numerous illegal structures, which were the economic lifelines to hundreds of Kenyans were pulled down to create a facade of order and as aesthetic validation. Seemingly and this is judging from the mounds of refuse which today litter the city, the exercise might have been all in vain. This is a pity for Mombassa has potential to wear a more cheerful and more pleasant face as the short spell of Mayor Najib Balala in 1999 proved. Balala certainly did not come to the then municipal hall with bags of cash. But he had ideas and included these ideas to marshal the goodwill of Mombasa businessmen and residents to contribute to the cleanliness of their town. We need not stress that as a vital gateway to this country and as the nerve centre of the crucial but highly perishable tourism industry, the city cannot afford to allow itself to be drowned in muck. The financial and other resource shortfalls notwithstanding, the city authorities must just do more, think harder and utilise what is available to make the city cleaner. That is the challenge that the city managers must live up to.

Source: *Kenya Times Online Newspaper posted on 19/7/2002*

### 3.2 The political environment

Kenya is a unitary state with political power centred on one dominant figure, the president. It holds a republican constitution adopted in 1964\(^4\) with the president

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\(^{4}\) Currently there is a constitutional review commission involved in collecting and collating views from the public in order to re-write the country’s constitution.
as the head of state. The country has three main organs of government: the executive (the office of the president and the cabinet), the legislature (parliament) and the judiciary (the law courts). As a parliamentary democracy, Kenya adopted a multi-party political system in 1991 with the winning party forming the government. The president of the ruling party appoints ministers to head various government ministries, while the members of parliament from other parties form the opposition. The presidential, parliamentary and local government elections are held simultaneously every 5 years. The country is divided into eight provinces, each of which is headed by a provincial commissioner (PC). The provinces are further divided into districts, headed by the District Commissioners (DCs). The PCs and DCs are appointed directly by the president to assist him in the administration of the country. The districts are further divided into divisions headed by District Officers (DOs). Finally, the divisions are divided into locations and sublocations headed by chiefs and sub-chiefs in a descending order. A Ministry of Local Authorities headed by a cabinet minister has been created to supervise the activities of the local authorities countrywide.

Kenya gained independence from Great Britain in 1963. For the next 15 years the country was led by President Jomo Kenyatta, the foremost leader of the independence movement, and by his political party, the Kenya African National Union (KANU). The Kenyatta government rapidly Africanised the civil service and other public sector appointments in order to consolidate national sovereignty. He also centralised decision-making authority in the Office of the President. From a policy-making standpoint, the most significant political factor in the first years of independence was the concentration of decision-making authority in the central government and, in particular, in the Office of the President (Throup and Hornsby, 1998). Since the president’s ethnic group, the Gikuyu, had been the main beneficiaries of education and employment in the formal sector during the colonial period, they were the logical candidates for appointments to public sector jobs (Barkan, 1994).

In 1969 Kenya became a de facto single-party state (Throup and Hornsby, 1998). Nevertheless, within this single-party framework Kenyan politics was relatively democratic, with parliamentary and presidential elections on a regular five-year cycle, open and competitive primary races at the district level and a high turnover of parliamentary seats. Normally, some two-thirds of sitting members of Parliament and one-third of those holding cabinet posts, were voted out of office at each election, a trend that has continued throughout Kenya’s history.

Kenyatta’s successor, Daniel arap Moi, who took office in 1978 and has been president since then, has maintained, if not increased, the concentration of power in
the executive branch (Ng’ethe and Owino, 1998). Since 1978, a gradual shift in the balance of power began within the ruling party that is reflected in the framework of Kenyan politics to the present day. An unsuccessful coup attempt against the Moi government in 1982 severely disrupted political and economic affairs for a time, but did not weaken the president’s grip on the reins of authority. A constitutional amendment was adopted in 1982 making Kenya a de jure single-party state. In 1988 the constitution was further amended to give the president power to remove members of the Public Service Commission, the Judicial Service Commission, and the law courts, although these provisions were later modified (Barkan, 1994).

President Moi also used his authority to reduce the predominance of civil servants from the Gikuyu tribe, especially in the higher ranks of the public service. His argument was that the Gikuyu domination of institutions was undermining social cohesion and that their replacement, even with less qualified candidates, was necessary to ensure stability in the country. However, this policy had the unfortunate effect of further undermining efficiency in the public sector and, to a degree, replacing one group of rentseekers with another, many of whom lacked the experience to run the organisations they inherited (Throup and Hornsby, 1998). National elections under the single-party regime were held in 1979, 1983, and 1988, but with greater party control over the selection of candidates than in the Kenyatta era. Still, a high rate of turnover of parliamentary seats at each election continued. To further consolidate party control over the election process, the secret ballot was replaced in the 1988 election by a system of queue voting. This proved so unpopular that only 23% of all voters participated. Following a process of nationwide consultations led by the Vice President in 1990, the government decided to give up the queue voting system and to restore the independence of the judiciary.

There was, nevertheless, growing domestic discontent with the political situation, essentially with the monopoly of political power held by KANU, and this culminated in riots in July 1990. The internal pressure for multiparty politics received strong support from the donor community, in particular the then outspoken US ambassador, Smith Hempstone (Hempstone, 1997). The desire to see a democratic system introduced in Kenya was one of the principal reasons for the unanimous decision by the donor community in November 1991 to suspend balance of payments support. While the leaders of the government and of KANU appeared to be adamantly opposed to multi-partyism, a KANU national convention and the all-KANU Parliament took the decision in early December 1991 to amend the constitution to allow for the formation of multiple political parties. Whether this move was made in response to donor pressures or domestic political protests can be endlessly debated; it probably resulted from a combination of forces, but the timing
undoubtedly bore some relationship with the outcome of the November 1991 donor meeting. This constitutional opening led to the first genuine multiparty election in Kenya's history.

The elections were held a year later, on 29 December 1992, following a full year of frantic political campaigning. In the end, President Moi was re-elected with a plurality of 37% of the votes (Throup and Hornsby, 1998). Three reasons account for this:
- the opposition split into three major and several minor parties essentially along ethnic lines,
- the government controlled access to the media and
- KANU had easier access to financial re-sources.

KANU also kept control of the Parliament with an initial margin of 112 seats to 88 (100 elected plus 12 nominated by the president). In the second multiparty election in December 1997, Moi was re-elected with a slightly higher plurality, but KANU\(^{15}\) gained only a narrow majority of parliamentary seats over an even larger number of still-divided opposition parties. In this new era of multiparty politics, the political parties have evolved almost entirely along ethnic lines. The inability of contending opposition factions to unite behind a single candidate, whether for the presidency or for parliamentary seats, has been the primary reason for the ruling party's continued hold on power. Also, personalities have been much more important than ideology or any other set of issues.

Whereas the governing party, KANU, had in the past always captured seats in both the urban wards (councillors) and the constituencies (Members of Parliament), in the two multi-party elections the opposition parties won most of the parliamentary seats in the major urban areas, and took control of most municipal councils, including Nairobi. The new mayors of Nairobi, Nakuru and Kisumu (elected by the sitting councillors) have not been members of the governing party of the country. Political differences between the central government and the newly elected municipal councils soon surfaced, with the Minister of Local Government issuing a series of directives that curtailed the powers of the mayors. For the government, these councils have been a political force to be reckoned with and for the emerging middle-class, the councils should become vehicles by which to achieve a greater measure of local autonomy.

\(^{15}\) The party has now absorbed its junior one year-partner National Development Party (NDP) and held joint elections in March 2002.
Since then, there have been calls for constitutional and legal reforms to separate the legislative and executive arms of the government. With the opening of political dialogue and increasing awareness by citizens of their political and civil rights, there has been growing pressure for a system of government that is more participatory, transparent and accountable, and which promotes an impartial legal system. The mere presence of government is certainly not an automatic cure-all to redress problems arising from the rapid rates of urbanisation. A key element that we need to emphasise here is that of political leadership. Good leadership, a supportive institutional and legal framework and appropriate political will are conditions that will encourage participatory approaches to urban environmental management.

With these changes in the political environment, there has been a sudden rise in environmental NGOs and CBOs, and the civil society has been active in influencing the direction of decisions affecting the urban environment, though with limited success. The civil society organisations and residents in urban areas have also been seeking new ways to improve the living environment and security measures. The civil society organisations have also been involved in protests against land development in public spaces such as parks. The recent protests against the excision of Karura forest near Nairobi and its allocation to politically corrected people show the strength of the civil society organisations. Today, there are various examples of citizens groups coming up to protest and stop private developers grabbing environmentally sensitive areas.

3.2.1 Attempts at decentralisation

The heritage of the British colonial administration was that of a relatively high degree of local autonomy characteristic of the ‘indirect rule’ of British colonial policy. It was under president Kenyatta that nation-building and state planning led to a centralised administration with powerful Provincial and District Commissioners being the ’local arm’ of the Office of the President. The First national development plan (1966-70) set the establishment of decentralised planning as an objective, recommended that the district become the basic unit of planning and stimulated the emergence of the externally funded Special Rural Development programme (1967-77). In spite of these decentralisation initiatives undertaken under Jomo Kenyatta, it was not until under President Moi in 1978, that a more persistent and comprehensive effort towards decentralisation was initiated.

There seems to be some consensus among observers and researchers (e.g Gatheru and Shaw, 1998; Ichoya, 1997) that the policy and strategy laid down in the various documents and policy statements have basically not been implemented and that the outcomes have been a more centralistic and controlling, rather than more decentralised and democratic state. Some do, however, have a more positive view (Kiamba,
1994; Akivaga, et. al., 1985) if not of the actual outcome so far, then of the foundations laid for a more meaningful decentralisation in the future. The District Focus for Rural Development (DFFRD) strategy, for instance, is considered promising in terms of organisational changes, trained manpower, district planning and budgetary procedures. We need to indicate, however, that the ‘district’ encompasses both urban and rural areas, but that the focus in this strategy was more on rural than urban development.

The aim of the DFFRD strategy was to involve the people in identifying and prioritising projects to be undertaken in their areas. This was intended to make planning participatory, and responsive to local needs, with more control over resources and the development process by the people. The District Development Committees (DDCs) were to receive prioritised project proposals from the communities through the location and divisional development committees. This planning machinery is still dominated by sectoral planning which affects spatial planning in terms of resource allocation. The DDCs are chaired by District Commissioners and comprise District Departmental heads, the local Member of Parliament, mayors, chairmen and clerks of the local authorities and parastatal heads. All the development projects of the local authorities, especially the LADPs, are subject to the DDCs decisions. Social dimensions of development were launched in 1994 (Republic of Kenya, 1997) to address the needs of the poor sections of the community adversely affected by structural adjustment programmes and are implemented through the DFFRD strategy.

The District Focus Strategy has turned out to be an increased-control-deconcentration strategy and not a devolution type of decentralisation. There is, however, still a local government structure with local representative bodies and County Councils with borders coinciding with those of districts and municipalities for the urban centres. These local government bodies fall under the Ministry of Local Government and they originally had important functions with respect to primary education, health and roads, including the funding to carry out these tasks. However, at the beginning of the 1970s, the funding of local government decreased, as did the jurisdiction of local authorities. Some observers have, however, pointed out that local government has survived in Kenya despite these adverse conditions (Smoke, 2000; Akivaga, et al.) and that it is possible that local governments could play a larger role in the future through the DDC.

3.3 The municipal government in Kenya: structure and organisation

Local authorities in Kenya form part of what is referred to as the local government system, which is an elaborate system of public administration set up under the Local Government Act, Chapter 265 of the Laws of Kenya. The concept of local authorities was inherited from the British colonial period especially to manage
local issues. The system was, however, weakened and heavily controlled by the centre in the post-independence period, primarily in the name of national unity (Smoke, 2000). As a result, local political mechanisms and incentives to perform are greatly undermined. There have been many attempts during the 1980s and 1990s to re-strengthen local governments. Most of these were donor-driven and were not taken particularly seriously by the national authorities. As a result, the performance of local governments in terms of revenue generation and service delivery deteriorated to very low levels (Smoke, 2000). Local authorities in Kenya provide a system of administration concerned predominantly with the provision of community services within defined local areas. The rural local authority areas normally coincide with district administrative boundaries and are referred to as county councils. In large urban centres, we have either town councils or municipalities, depending on the complexity and size of the area concerned. Municipalities cater for the larger urban centres, including the city of Nairobi. They are corporate bodies with their own assets, staff, budgets and property, and they can sue or be sued (Republic of Kenya, 1998).

These local bodies are expected to submit to the control and supervision of the Ministry of Local Government over matters of policy. Akivaga et al. (1985) describes this relationship as follows:

“Local government authorities are set up to implement central government policies. These policies change from time to time. The central government influences the activities of local authorities from time to time by bringing them in line with new policies, which reflect the needs of the public” Akivaga et al. (1985: 31)

For this reason, the Minister is empowered by the Local Government Act to make orders, directives and rules, so that the purposes and provisions of the Act are better carried out. The Act contains 186 clauses conferring powers on the minister to intervene in the operation of local authorities. The panoply of controls exercised by the central government is formidable. Some of the powers given to the minister are the power to veto the appointment of, or dismiss the mayor or chairpersons; the power to dissolve councils or suspend individual members; approval of budgets, taxes, fees, loans, contracts and individual projects; approval of physical development and land-use plans; approval of development plans for services; approval of laws and by-laws; and audit and reserved power to take over the administration of particular services or to discharge of specific duties (Republic of Kenya, 1998).

The local government system in Kenya comprises four types of local authorities formed under the Local Government Act as amended in 1978, 1979, 1982, 1984,
1988, 1986 and 1998 (Smoke, 2000). These include municipal councils, town councils, county councils and urban councils. The exception to this rule is the City Council of Nairobi, which is governed by a city council that is more independent. Local authorities in Kenya are governed by elected councillors and managed by appointed administrative officers. Each councillor is a member of at least one of the various policy committees such as the finance committee, public works, etc. These committees make fundamental operational decisions through administrative and sectoral departments headed by appointed officers and staffed by salaried and casual employees. The internal structure of local authorities, their functions, powers and scope of responsibility differs from one level to the other (Koti, 2000).

Currently, there are 165 local authorities: 1 city council (Nairobi), 44 municipal councils, 60 county councils, and 60 town councils. All urban councils have been upgraded to town councils in 1998. At the policy level, these councils are managed by a total number of 3,704 councillors (elected and nominated) and employ over 57,000 people, including those hired by the Public Service Commission. The number of local authorities has been increasing rapidly and has somewhat outrun the capacity to administer the local areas effectively because of shortage of personnel and revenue shortfalls. This has also impacted on the supervision and coordination capacity of the ministry of Local Government (Suzuki, 1998). As corporate legal entities, local authorities are perceived to be autonomous and independent. Their independence is compromised, however, by many problems: constant political interference, unplanned and political establishment of additional local authorities, lack of clear strategies for resource mobilisation, deficient financial management, an inordinately close relationship with the provincial administration, and excessive interventionist powers from the central government (Gatheru and Shaw, 1998).

The Ministry of Local Government controls all local authority activities in revenue collection, expenditure, borrowing, staff employment and the decision making process. In addition, the District Commissioner sits in the municipal council as an ex-officio member with veto power. The District Commissioner is the central

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16 Mombasa and Kisumu have recently been upgraded to the city status following recommendations by the Omamo Commission.

17 Information from the offices of the Ministry of Local Authorities, Nairobi.

18 In the year 2000, for example, local authorities countrywide had many wrangles. There were coups and counter coups against mayors and chairmen of various councils and infighting involving civic leaders and officers. A number of local authorities raised public concern throughout the year on issues ranging from political bickering among the civic leaders and officers to deplorable service delivery and workers' protests over delayed salaries.
government representative in the municipal and county councils with the function of explaining the government policy to the councils. The power of the local authorities is seriously compromised by the constant interference of the provincial administration working through government-appointed Provincial Commissioners, District Commissioners and District Officers and chiefs that are primarily loyal to the president and the ruling party (Gatheru and Shaw, 1998; Post, 2002). The state, on its part, has failed to achieve international and national goals aimed at meeting basic needs of the population (United Nations, 1998). As a result, municipal services and infrastructure, which are centrally controlled, have seriously declined due to the mismanagement of financial resources and the lack of skilled human and material resources and maintenance.

3.3.1 Weaknesses of the current local government institutions
Most local authorities have demonstrated inefficiency in the delivery of services, failure to pay staff salaries, lack of expenditure control and inability to manage sources of revenue (Gatheru and Shaw, 1998). This can be attributed to the organisational structure of most local authorities, which comprises councillors in the various committees and the full council meeting as the decision-making organs. Chief officers, led by the Town Clerk, make up the executives of the councils, which are only answerable to the Minister for Local Government. Due to the weaknesses of democratic control within many local authorities, there have been a lot of disagreements between the civic leaders and chief officers, stemming from the fact that councillors19, as policy-makers, have no powers to enforce the decisions passed through council resolutions.20 The management of civic bodies has been poor, forcing the government to intervene.21 The principal reason for failure and non-performance of the councils is linked to the fact that the government-appointed chief officers and the councillors have spent most of the time fighting each other rather than serving the interests of the residents. This, coupled with lack of accountability between the councillors and the chief officers appointed by the Public Service Commission, contributes greatly to the problems afflicting the local authorities.

Civic leaders have pointed out at different forums that, although councils are supposed to operate as independent bodies, the government has usurped most of

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19 Throughout the country, many local government officials and councillors have been involved in corrupt deals, especially acquisition of public land and properties.

20 In Nairobi, Mombasa, Kisumu and Nakuru, for instance, full council meetings are rarely conducted peacefully, as different factions tend to disrupt them.

21 The government has been sending inspection teams to conduct investigations in the councils and change the administrative structures in several civic bodies countrywide.
their powers. They attribute the administrative lapses in the local authorities to the inordinate powers given to chief officers and the Minister for Local Government by the Local Government Act.\textsuperscript{22} For this reason, councillors and the Association of Local Government Authorities of Kenya (ALGAK) have called for amendments to the Act and more autonomy in running civic affairs within their jurisdiction, including budgets, which have to be approved by the Minister. It has been a common phenomenon for civic leaders to dismiss officers with whom they have differences from their offices. Similarly, civic leaders\textsuperscript{23} have staged coups in their councils against mayors and council chairmen, accusing them of various misdeeds, although such action is legally null and void, as the minister has put it occasionally.\textsuperscript{24} 

Apart from the problems commonly shared by local authorities (the Nairobi City Council included), various councils (notably those of Mombasa, Kisumu, Thika, Nakuru, Kakamega and Embu) have had their own unique cases. The overall picture of urban governance in Kenya is in a systemic crisis. Some of the problems affecting these councils, such as the suspension of mayors, are the result of external political interference by Members of Parliament and senior citizens operating within the municipal authorities.\textsuperscript{25} The Local Government Minister has tried to enforce the law, to ensure that wrangles involving mayors, councillors, chief officers and even the workers do not paralyse operations in local authorities. Currently, the Rift-valley Provincial Commissioner (PC) has ordered investigations into the operations of the Municipal Council of Nakuru and a number of chief officers. Some councillors have been arrested and are being questioned on corrupt deals. In principle, the PC, who represents the central government, should not interfere with the running of the council affairs, but he insists that he cannot condone corrupt practices within the province in which the municipality is.

Another issue that is important when discussing local government problems in Kenya has been the inadequate management of finances and funding. Municipalities lack financial independence and often rely for survival on assistance from

\textsuperscript{22} This information is from different sources: discussions with sitting and former councillors in Nakuru and council officers and officials of the Ministry of Local Government

\textsuperscript{23} We need to mention here that most civic leaders have very low educational backgrounds and rarely understand the management of local government functions.

\textsuperscript{24} See Daily Nation, 7 September 2001.

\textsuperscript{25} The Government Sessional Paper No. 12 of 1967 recommended the revitalisation of local authorities with reliable sources of revenue, including grants in aid, because the local authorities were finding it difficult to finance and manage their rapidly growing urban populations. In 1969, the Transfer of Functions Act transferred major services such as primary schools, health services and road maintenance, together with the associated financial resources, to the central government.
the central government. Currently, local authorities are cash-strapped since they don't have the powers to control funds - which are released piecemeal and at the Ministry's convenience. The central government only started sharing its revenue with local authorities through the Local Authorities Transfer Fund (LATIF) and the Road Maintenance Fuel Levy (RMFL) a few years ago. However, civic bodies are not responsible for the use of LATIF proceeds since the treasury controls them. Even on matters such as procurement and tendering, the Local Government Act does not allow local authorities to make their own decisions on, say, the best contractor to hire without approval from the minister. All controls and payments of contracts are also made through the Ministry.

Most of the local authorities lack appropriate capacities and tools to plan and monitor local investment. When the capacity to deliver public services is weak, the prospects for urban sustainable development are poor (Ichoya, 1997). This is due to poor revenue collection and expenditure control, constant deficits, ineffective professional staff who lack the capacity to design and implement policies that generate an enabling environment. But even with the capacities, such initiatives can only succeed when communities participate in setting priorities, planning and implementation. These initiatives will improve their living environments and enhance economic opportunities.

Gatheru and Shaw (1998) suggest that there is clearly need for greater decentralisation of power to the local authorities so as to make them the focal points of development, democratisation and good governance. Kenya has just emerged from an era in which the initiative, the impulse and the driving force behind development was the state (or powerful individuals within the state). Consequently, the considerable initiative and creativity of the people were destroyed by paternalism and patronage. Individuals whose major activities are controlled by a central authority ultimately become increasingly dependent on such authorities and agencies in all spheres of life. The local government should be regarded as the machinery through which the energy of a community is translated into action, whereby a community takes upon itself a certain independent existence for the achievement of common goals and aims.

This means that those who govern at the local level must identify with the communities they serve. They need to have faith in the people and have hope for their community's future, rather than be motivated merely by a perception of their tenure as a way to earn a living (ibid.). Theoretically, the government recognises the significance of empowering local authorities. Since 1986 a number of initiatives have been undertaken to find ways and means of strengthening and empowering local authorities. The Sessional Paper No. 1 of 1986 (Economic Management for Renewed
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Growth), for example, outlined specific policy steps to improve the performance of local authorities (p. 51-54). In 1990 and 1991 there were numerous studies and consultative meetings between the Ministry of Local Government, the World Bank and other donor agencies geared towards finding clear strategies for empowering local authorities.26 The country is currently undertaking a major exercise on constitutional review and a variety of sectoral reforms, including local government and civil service reforms. It becomes critically important at this time that a machinery and modalities be put in place to harmonise the stated recommendations and policy guidelines. The Kenya Local Government Reform Programme will need to address the issues raised.

In sum, we find that, though there are laws that provide for the functions of the local authorities in Kenya, the reality on the ground is different. Urban local authorities exercise limited influence over the urban environments within their jurisdictions, and this can be attributed to the following reasons:
(a) inadequate capacity to carry out some specific functions as physical planning, land valuation and rating environmental impact assessments and monitoring;
(b) lack of autonomy to act independently;
(c) limited resource base;
(d) lack of means to carry out activities; and
(e) the top-down system under which they operate.

All these factors and issues will definitely affect the effective functioning of any partnership that is formed with the local authorities. We contend that, even when the local authorities on their own enter into partnerships with other actors in the areas of their jurisdiction, there are external factors that will affect the functioning of such partnerships. Owing to the unbalanced relationships between the local authorities and the central government, arenas of conflicts between different stakeholders are set in the urban environment (Evans, 1989; Stren, 1992).

While local authorities have been seen as the authority nearer to the people, political and economic power is still controlled by the central government. This affects all the local level initiatives that are started by the local authorities in partnership with other stakeholders. Devolution of development responsibilities and the deconcentration of development activity are essential in creating an enabling environment

26 The Kenya local government finance study of September 1990 by the World Bank and the Report of consultative meetings between the Ministry of local authorities and the local authorities, November 1990-July 1991, made extensive recommendations on how to enhance performance in local authorities. Little has been done to put the recommendations and policy intentions embodied in these documents into action, however. The budget speech for the fiscal year 1997/98 revisits in strong terms the necessity for reforms in the local government and issues further policy guidelines.
for local authorities as key actors in urban environmental management. Administration reform and partnerships formations will remain utopian and cannot have any positive impact on the quality of life of citizens unless the local governments possess the legitimacy, credibility and ability to perform their functions effectively and have appropriate institutional structures in place (Hentic, 1997). In the following section we examine the current efforts directed at strengthening the local authorities in Kenya.

3.3.2 Current efforts to strengthen the local authorities in Kenya

According to Smoke (2000), the government of Kenya has shown commitment to local government reforms in the last two decades. This has been done through the Local Government Reform Programme (LGRP), which is part of the Civil Service Reform Programme. Through the LGRP, the local authorities have been recognised as actors (although sometimes under-emphasized) in the local economy in the bid to improve service delivery. The evidence from this commitment is seen in several government policy documents and instances of legislation, which have emphasised the significance of local authorities. These policy documents include the sessional Paper No. 1 of 1994 on ‘Recovery and Sustainable Development to the year 2010’, the Letter of Sectoral Policy for the Urban Transport Infrastructure Project (UTIP), the National Budget speeches of the 1996, 1997 and 1998 fiscal years, the Omamo Commission Report, 1998 and the Small Towns Development Projects and its Urban Water and Sanitation Project funded by the Society for German Technical Cooperation. To carry out these policy goals and to positively influence their implementation, the government adopted some precise mechanisms, among them the Local Authority Development Programmes (LADP). Through the LADPs, eight pilot towns and their associated county councils were selected to develop and test the reforms. These include Embu, Kakamega, Kisumu, Nakuru, Naivasha, Nyeri, Athi River and Thika. However, all these reforms have remained only on paper and the extent to which they have been implemented and the degree to which local authorities have been empowered to exercise discretion especially in urban development and the provision of services remains questionable.

According to Kenya’s interim Poverty Reduction Strategy Paper (PRSP) 2000-2003, the local government will become an increasingly important focal point for poverty-reducing activity. There are strong links between devolution, accountable local government and the quality of services at the local level. There will be a deliberate shift towards increasing the functional responsibilities of local authorities, by increasing their revenues and strengthening their delivery capacities (Republic of Kenya, 2000). The paper states that the Kenya Local Government Reform Programme will focus on reforming the legal framework of local authorities and
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Reducing the government's role; developing a decentralisation policy; strengthening local government finances through the implementation of revenue-sharing programmes; strengthening local revenue mobilisation capacity; strengthening financial management, accounting, control and audit mechanisms; and developing capacity to deliver services and plan and implement infrastructure projects, using more community-based participatory planning.

The PRSP indicates the government's commitment to allow different actors within the areas controlled by the local authorities (especially the urban areas) to influence some decisions. The government is also committed to enacting legislation for the establishment of a permanent financial and management control board mechanism, which assists in resolving the particular problems of fiscally distressed local authorities. We note, however, that these proposals remain commitments on paper and that they have not been realised in practice. The government continues heavy control over the activities of the local governments. Notwithstanding, it should be noted that the poverty reduction paper outlines a very clear government policy and that it is a good paper to attract donor funding. The actual implementation of these policies is inadequate, however, due to political interference, corruption and lack of commitment on the part of the implementing agencies. As will be discussed later, even as the government was submitting the PRSP with good intentions and commitments, it took over the management of water supply and sanitation services from a company that had been formed in the Municipal council of Nakuru, which is just an example of the level of interference with local authority decisions.

3.3.3 Proposals for strengthening the local authorities in Kenya

For local authorities to achieve autonomy and democratic self-government, the Local Government Act, Chapter 265 of the Laws of Kenya should be totally reviewed. For example, Section 5 of the act confers powers on the minister to establish and extinguish local authorities. In exercising such powers to establish, alter and extinguish local authorities, the minister is not accountable to any institution or to the residents concerned. Such powers should be conferred on a committee appointed by the parliament or the electoral commission. The reduction and redistribution of the powers of the minister will mean that there is reduced political interference with the local authorities and that they can make autonomous decisions.

Local authorities should consider the privatisation of some services, such as cleansing and garbage collection, as a matter of priority. Political appointments must be heavily resisted if local authorities are to regain their credibility. Most of the
local authorities are over-staffed, particularly at the lower cadres. This puts a heavy strain on the authorities' ability to pay. There is need to freeze recruitment of non-essential services staff and offer incentives for early retirement. Local authorities should promote the growth and development of the informal sector as a revenue base, e.g. by licensing many of the hawkers who trade on the streets instead of harassing them (Gatheru and Shaw, 1998). By-laws should be made to protect these traders. In the urban areas, it is important that the local authorities recognise the roles that the informal sector could play, especially in the solid waste management.

3.4 The legal framework for environmental management

There are more than 70 laws and regulations referring to the management and conservation of the environment in Kenya (Jensen, 1997). There was need for a single institution within the legal framework to coordinate the management of environmental resources. At the same time, it was also realised that legislation needed to be reviewed and updated. The drafting of the Environmental Management and Coordination Bill was then started by a group of stakeholders from the public, private and civil society sectors. The United Nations Development Programme (UNDP) and UNEP, under the UNEP/UNDP project 'Environmental Law and Institutions in Africa' provided technical assistance to the legislation process.

Kenya's Environmental Management and Coordination Bill of 1999 received Presidential assent, translating it into an Act on 6 January 2000, and it was gazetted on 14 January 2000. This law is expected to be the strategic planning pillar for Kenya's sustainable environmental management. It establishes an appropriate legal and institutional framework for the management of the environment and natural resources. In the past, planning for development activities has not taken environmental impact assessment (EIA) seriously, due to lack of legal instruments to ensure compliance (Republic of Kenya, 1999). The uncoordinated planning had, inter alia, resulted in poor waste management, too many slums, high poverty levels and unclean production. The new Act harmonises all sectoral Acts and is expected to address the issue of sustainable development, which is critical in recognition of Kenya's policy aimed at becoming industrialised by the year 2020.

The Act embodies the concept of sustainable development, inter- and intragenerational equality, and the 'polluter pays' principle. The Act includes, among other issues, regulations governing fiscal incentives to encourage environmental management; a national land-use policy; environmental management measures with respect to coastal zones, lakes, rivers and wetlands; protection of biological diversity and conservation measures; wildlife conservation and management;
management of waste and air pollution; and regulations with regard to EIA and environmental risk assessment (Republic of Kenya, 1999). The drafting of the Act involved the active participation of the government, universities, industries, NGOs and local communities. The Kenya Association of Manufacturers has played an active role in the process.

The Act establishes the National Environmental Council, the National Environmental Management Authority (NEMA) and the provincial and district environmental committees to monitor pollution and other environmental issues. It also creates an environmental ombudsman or tribunal to handle cases and complains on environmental degradation. The Act gives the Minister for Environment and Natural Resources sweeping powers to safeguard the environment and compels local authorities, industrialists and individuals to seek licenses for waste disposal. Industries and councils must apply for effluent discharge licenses, which can be approved only if an applicant has installed necessary disposal equipment.

Section 28(1), (2) and (3) of the Act establish provincial and district environmental committees. The provincial and district environmental committees are responsible for the proper management of the environment within the province or district where they are appointed. The provincial environmental committee is to consist of the provincial commissioner (the chairman), the provincial director of environment (the secretary), one representative from each ministry at the provincial level and a representative of every local authority whose area of jurisdiction falls wholly or partly within the province. The Minister will also appoint two representatives of farmers or pastoralists from the province, two representatives of the business community operating in the district concerned, two representatives of NGOs and a representative of every regional development authority whose area of jurisdiction falls wholly or partially within the province.

Similarly, every District Environmental Committee\(^27\) (DEC) shall consist of the District Commissioner, who is the Chairman, the district environmental officer, who is the secretary, one representative of the ministries at the district level, a representative of every local authority whose area of jurisdiction falls wholly or partially within the district, four representatives of farmers, women, youth and pastoralists in the district and two representatives of the business community. The committee consists of two representatives of NGOs and two representatives of CBOs engaged in environmental management programmes operating in the district (Republic of Kenya, 1999). This new act therefore provides for popular participation of different actors in the public, private and civil society sectors.

\(^{27}\) These committees are already functional in all the districts.
The main law that governs spatial planning in Kenya is the Physical Planning Act of 1996. It provides the legal basis for the preparation and enforcement of different physical development plans and requirements. The Director of physical planning is responsible for the preparation of all physical development plans in accordance with the Act. The Physical Planning Act empowers the local authorities to regulate and exercise control over physical development decisions and activities. Section 25 of the Act outlines the contents of a development plan, while sections 26, 27 and 28 stipulate the plan preparation process from concentration to approval. The Act calls for a comprehensive planning approach, stressing the need to involve all stakeholders and the general public in the planning process. Once approved, the plan becomes a reference for all development and development control decision-making.

Other laws that relate to planning include those laws that establish and define the roles, functions and operations of planning and development control institutions, such as local authorities, regional development authorities, etc. The Local Government Act (cap 265) provides for the establishment of local authorities as legislative bodies and as key development control agencies, a role further emphasised in the Physical Planning Act. There are laws that provide for the efficient management of land and other key resources such as water and forests. Some of these are the Government Lands Act (Cap. 280), the Trust Land Act (Cap. 288) and so on. There are also laws that provide the framework for the provision, production, operation and maintenance of key utilities and services such as electricity, water, sewerage and roads, with a view to ensuring safe and sustainable living environments. These include the Local Government Act, the Public Health Act and the Adoptive Building and Planning by-laws.

3.5 The institutional framework for environmental planning and management

There are two types of planning that are being undertaken in Kenya. First, there is the development planning that deals mainly with the organisation of various sectors related to social and economic development. Secondly, there is the physical planning that mainly deals with the different aspects of land use and attempts to achieve a rational and efficient spatial organisation of human developmental activities. These two activities are undertaken by different government agencies. Presently, they work independently from each other, as a result of which their outputs may not be integrated, thus disconnecting the spatial and non-spatial aspects of development. Sector-based planning is mainly carried out by the Ministry of Planning and National Development and at two different levels: the national and the regional level. National planning is articulated through the national development plans and various parliamentary sessional papers that are also prepared by this Ministry. At the
regionally, the District Development Office prepares the five-year development plans. The plans incorporate the contributions of key stakeholders, including the private sector and NGOs. Problems are identified at the grassroots level and then debated upwards through a hierarchical committee structure established under the District Focus for Rural Development Strategy. The specific ministries and relevant departments implement the proposals in the plan with the funding from the central government. At the local level, the Ministry of Local Government, through the Urban Development Department, also guides the local authorities in the preparation of the Local Authority Development Plans (LADPs). The aim of the LADPs is to develop medium-term investment plans, which are later turned into development projects. LADPs have been useful in the decentralisation of planning activities and in increasing the local authorities’ capacity to plan the efficient use of their resources. The LADPs have also been used to promote the integration of environmental issues and as such function as a sort of LA 21 programme (see Section 3.6.1).

Spatial planning is the undertaking of the Ministry of Lands and Settlements, with contributions from other related ministries. Like sectoral planning, spatial planning activities are carried out at the national, regional and local levels. The Physical Planning Department in the Ministry is charged with the preparations of physical development plans for all towns in Kenya. It prepares regional physical development plans, structure plans and short-term physical development plans in the country. The department is represented at provincial and district levels. It works closely with local authorities in matters related to physical planning within municipal council boundaries. In its attempts to address environmental considerations in their physical plans, the Department has started an Environmental Planning and Management unit (EMU). The Physical Planning Department was very much involved in the LA 21, especially in the consultative process and the preparation of the Nakuru Strategic Structure Plan that is the only plan of this kind in Kenya at the moment.

Under the country’s planning laws, local authorities may initiate and undertake plan preparation activities. The performance of this role is, however, not clearly explained. The legally sanctioned role of the local authorities is that of implementing the plans and ensuring that the conditions for implementation are met. Under the Local Government Act and the Public Health Act, local authorities have wide-ranging powers to control and guide development in their areas of jurisdiction. The Physical Planning Act (1996) gives local authorities more power regarding the implementation of physical planning proposals and decisions.

However, as noted earlier, most local authorities do not have the technical capacity to play their role effectively due to lack of skilled personnel and an inadequate
enforcement machinery. They frequently rely on the office of the director of Physical Planning to undertake the preparation of physical development plans for their trade and service centres. A key issue appears to be the complexity of the organisational structure and the ambiguity in the division of roles and responsibilities for environmental management between the central and local government. Another issue has been the absence of a coordinating authority. The coordination of environmental conservation and sustainable utilisation of natural resources has been weak, with different institutions generally working in isolation and often creating conflicting policies and programmes.

In order to improve this situation, the government prepared the national development plan for 1994-96 immediately after UNCED in June 1992. The theme for Kenya’s National Plan was ‘Resources Mobilisation for Sustainable Development’ (Republic of Kenya 1994 b). The government was determined to move towards national and local development: i.e. economic, social and environmental sustainable development aimed at securing renewed economic growth with greater self-reliance and improved health, income and living conditions for the majority of Kenyans; and ensuring that the key economic and sectoral policies support development that is sustainable (Jensen, 1997). The national development plan directs all major development activities in Kenya and, since environmental issues have been given such high priority, all ministries are well versed on the ultimate goals.

One of the main steps in the UNCED follow-up process was the adoption of the National Environmental Action Plan (NEAP). This plan aims to provide a broad framework for the coordination of environmental management activities. In the development and review process for this Plan, some 150 people from the government, industry, private sector, NGOs and local communities identified various environmental concerns that were addressed and incorporated in the final proceedings. Nine task forces, whose membership reflected a broad representation of institutions and sectors, including the public sector, the private sector, NGOs and local communities, prepared the plan. This process went through several drafts with an active participatory approach. At the same time, the final report was presented and thoroughly debated at five regional workshops by partners from all levels of society.

Among the recommendations to mitigate the negative environmental impacts are plans to develop standards equivalent to current international standards; to train and educate the industrialists; to form a national policy on the disposal of waste and to establish a national database on environment-related issues. The NEAP recommends the implementation of a national policy based on the principle that no one has the right to pollute the environment and proposes that a strategy should be
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prepared to control pollution by effluents, requiring that all polluting industries have liquid waste treatment facilities. In addition, the NEAP recommends to create incentives to encourage waste treatment and recycling. Apart from recommending enforcement of legislation and a review of the penalty system, it is also recommended that environmental impact assessments become mandatory before any industrial or other project is approved for implementation.

The NEAP also recommends the development of an environmental policy for all local authorities, the provision of adequate waste storage facilities, the promotion of recycling programmes, the involvement of communities in solid waste management and the incorporation of solid waste disposal needs in all future developments. At the district level, all 59 districts have District Development Committees and sub-committees. One of their tasks is to make environmental impact reports. Environment and development issues have not yet, however, been effectively integrated at the planning and management level. Environmental impact assessments have not been implemented as a matter of routine and are often only being carried out when required by donor agencies. Furthermore, the District Development Committees have been criticised for their lack of focus on environmental matters and in most districts, the sub-committees on environment hold a low status.

In 1989, District Environment Officers, under the Ministry of Planning, were posted to all the districts, with training provided by the Ministry of Environment and Natural Resources and the Ministry of Planning. One of the main points of criticism on this arrangement, however, has been that these officers did not have enough knowledge on environmental issues and were therefore not able to adequately integrate environmental issues at the planning and management level. As a result, District Environment Protection Officers, under the Ministry of Environment and Natural Resources, were posted to some districts in 1993. These officers previously worked at ministerial headquarters and have a thorough knowledge of environmental issues.

The five-year national development plan of 1997-2002 stipulates that the local authorities are expected to develop sound urban planning and land development and to efficiently manage and provide urban services. The plan notes that the major constraints in the provision of urban basic facilities are limited institutional capacity in both the central government ministries and local authorities and the inadequate coordination of activities of multiple actors, leading to duplication of efforts. To address these constraints, the government prepared a plan of action in 1995 in con-

28 The Environmental Impact statements (EIS) have not been publicised as required by law. It is hoped that the new Act will enforce this requirement.
sultation with local authorities, the private sector, NGOs, CBOs and other stakeholders in urban areas. The action plan incorporates support programmes for capacity building, enhanced participation of communities and civic engagement. To deal with the problems of lack of institutional capacity at both the central and the local government, the plan states that the public sector will be reorganised to allow the NGOs and communities to fill in institutional gaps. The action plan also recognises the role of the private sector (Republic of Kenya 1997).

3.6 Human settlements and the development of a LA 21 in Kenya

Local authorities were identified as key actors in both the Agenda 21 and the Habitat Agenda as the level of government closest to the people and they had a crucial role in the implementation of the two agendas. In this section we examine how a local agenda and ideals have evolved in Kenya. We first note that there does not exist a national campaign for the adoption of Local Agenda 21. In a study recently released by ICLEI, there are 11 towns that are engaged in LA 21 activities, though we observe that the number is higher if we consider the towns involved with ‘LA 21-type activities’. Kenya was an active participant in the formulation of both the Agenda 21 and the Habitat Agenda.

An analysis of human settlement policy since independence in 1963 indicates a definite attempt towards the creation of a participatory framework in decision-making. Some of the major policies and actions show these attempts: the 1965 sessional paper No. 10 of 1965 on African socialism and its application to planning in Kenya (Republic of Kenya, 1965) and the subsequent 1970-74 and 1974-78 national development plans, which stipulated ways and means of curbing regional development imbalances in order to attain sustainable and equitable development in the country.

With regard to human settlements, the sessional paper No. 10 proposed a ‘Growth Centre Strategy’ of which the main aim was the selection of strategically located centres in different regions of the country, which were to act as magnets for development. The centres were selected on the basis of their administrative, agricultural, tourism and industrial potential, their proximity to the major population centres, the existing infrastructure and the accessibility to services. These centres progressively received additional investment to make them attractive to the growing urban population, thus avoiding excessive concentration of people in the main towns (Mochache, 1998).

In the 1980s, the Growth Centres Strategy was strengthened by implementation of an industrial policy addressing each growth centre. Although most of these activities aimed at employment generation at the lower rank urban levels, they
subconsciously improved rural environment. This is a positive action stipulated in the Agenda 21 and the Habitat Agenda. Through the District Focus for Rural Development (DFFRD) approach, professionals of different disciplines were posted to the district level to join the DDCs in articulating their departmental needs. Important for Agenda 21 implementation was the posting of the District Environmental Officers (DEOs) to the districts to spearhead implementation of the National Environmental Plan (NEAP), to address and make urgent remedial decisions on local environmental problems, and to improve awareness on environmental issues. Subsequently, a 1990 evaluation concluded that the programme had neither coordinated responsibilities nor shifted them to the districts, but instead had developed into an administrative tool to ensure central control. Moreover, the massive expansion of most municipal boundaries has increased demand for infrastructure services due to the inclusion of large low-income rural populations.

The 1984-1988 national development plan which, among other things, devised a framework for localising administration and development, further indicated the need for mobilising domestic and local resources for equitable development. It called upon local communities to strengthen the Harambee effort, which really is the local terminology indicating the pooling of resources for development from both the weak and the strong. Both the Agenda 21 and the Habitat Agenda advocate local action and this fits well in the national aspirations of Kenyans as demonstrated in the national motto of “pulling together for development”. Harambee was popularised by the founding father and the first president of the republic of Kenya, Mzee Jomo Kenyatta. It is a uniquely Kenyan institution, rooted in the African tradition of mutual social responsibility. So intertwined is it with the nation’s history that the word appears on Kenya’s national coat of arms. As an institution, Harambee predates the birth of independent Kenya 38 years ago. In fact, Harambee was integral to the rise of African nationalism: the country’s first President was sent to England on Harambee funds to petition the British Government for the return of African lands. Following independence, Harambee became integrated into the nation’s development strategy, as a form of cost-sharing between the Government and project beneficiaries (the latter initially contributing their labour to road building or water pipe projects and the like). Soon, the communities themselves began to initiate projects such as fundraising for schools and health centres, among other things. However, the passage of time has seen Harambee evolve from a community re-

29 The Harambee movement is the closest approach to partnership initiatives in that it requires people to work together to address a specific felt need. However, the concept has now been misused by politicians and people are apathetic about its relevance. Harambee is both the institution and the act of community fund raising. Harambee normally takes one of two forms: a public or private Harambee.
source mobilisation vehicle to a theatre of political contest. As Harambee projects have proliferated, the projects themselves have become larger. Where the original projects were typically grassroots-oriented (e.g. village polytechnics, dispensaries and primary schools), the institution had been taken over by local elites by the early 1970s. Fundraising for hospitals replaced Harambees for local health centres, post-secondary institutions replaced primary schools as a Harambee priority. What has proved problematic is to institutionalise local and community action in a nation where there are more than 40 ethnic communities, and where 'international culture' has infiltrated the system (Mochache, 1998). Mobilizing local action and collective action in the urban areas remains a formidable task in Kenya.

As clarified in the Sessional Paper No. 1 of 1986 entitled 'Economic Management for Renewed Growth', the government's major goal was to seek ways and means of bringing improved incomes to the poor and those in the rural areas. The Sessional paper recognised the importance of the informal sector, the provision of basic needs to all Kenyans, and the equitable and sustainable management of resources, with land being given top prominence. The structural adjustment programmes (SAPs) of the mid-1980s significantly affected the degree of implementation of the proposals in the sessional paper. Among other things, the SAP significantly reduced the dependence on foreign aid and suggested greater mobilisation and use of local resources. The SAPs, together with the changing political climate towards multi-party democracy, greatly reduced collective action in decision making, as opposition to government mounted. In fact this period saw a significant level of mismanagement of resources, which denied the poor the equity they were meant to have in the share of resources. During the early 1990s, land-use planning also went down with planners concentrating their efforts on carrying out physical development plans (PDPs), which were done only to enable Government land allocation to be transferred to the private sector. This also shows clearly that this is the period when most state-owned land, enterprises, and resources were transferred to private owners, leaving the commissioner of lands and local authorities hardly anything to commit to public use. It is also the period when a level of politically instigated ethnic tensions started emerging, with large groups of rural communities being displaced from their economic activities in the late 1989 and in the early 1990s.

Although Kenya does not have a national campaign for the preparation and adoption of the Local Agenda 21, there have been several initiatives promoting LA 21-type activities. Since 1989, as a result of the intervention of a Dutch-funded Environment and Urban Development Programme, many local authorities were trained and encouraged to integrate environmental issues in their Local Authority Development
Programmes (LADPs). The Urban Development Department has been assisting local authorities to come up with LADPs in all towns in Kenya. The Urban Development Department has been actively involved in the LA 21 process as a partner in the process supporting environmental action groups and conducting a series of workshops. The Green Towns project uses the participatory environmental planning methodology and has assisted in the development of environmental development and action plans in more than 33 towns in Kenya. The end product of a three-day participatory environmental planning workshop attended by participants drawn from the local community, local and district officials, NGOs and CBOs, is a local action plan to be implemented by a voluntary action group. This action plan can be said to be an LA 21-type activity as it attempts to involve all the actors whose cooperation is needed. The programme is implemented through cooperative working relations between the Ministries of Local Authorities and the Ministry of Lands and Settlement, the government training Institute, Mombassa, NGOs and four public Universities. One of the major weaknesses of this approach is that some action groups are not able to influence local development interventions although they have developed area based action plans. There is need for the central government through the Ministry of Local Government to empower these organisations. Some groups like the ones in Malindi, Nanyuki and Elburgon have managed to stop some development projects along environmentally sensitive areas.

3.7 Conclusions

Local authorities constitute one of the most fundamental institutions for development in Kenya. Most of them are, however, in a dysfunctional state. They need to be democratised, professionally managed and empowered in order to function at the optimal level. As they are currently constituted, they are a hindrance to achieving the goals of sustainable development. A number of challenges need to be addressed if the local authorities are to be in a position to effectively address urban environmental management issues. The first challenge starts with the need to review what is ‘urban’ in the national development policy and programmes. A review of many national development plans and other policy documents shows that the focus on urban issues is very weak. The tendency is to focus on sectoral and rural development issues. It is like saying that ‘the urban’ takes care of it’s own. Mainstreaming the challenges of growing urbanisation and responding to urban environmental problems has therefore got to begin at central government levels. This also means addressing the issue of centre-local relationships in terms of decentralisation of resources to the municipal and city levels as a key policy priority. Related to this is

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30 The LADP is a five-year capital expenditure plan containing a programme of infrastructure and investments in selected business enterprises meant to resuscitate the urban economy.
the need to reduce political interference by the central government with the local authority decision-making processes.

The second challenge is at the municipal level, where there is in many cases an urgent need for institutional reform of the traditional sectoral approach to urban development, emphasising the physical facets of the built environment. The sectoral model (which is used by the central government) has severe limitations in dealing with important cross-cutting themes like urban environmental management. The model is technocratic and top-down and does not allow for effective civic participation. The powers given to the Minister by the Local Government Act need to be reduced and a more decentralised approach should be adopted.

The third challenge relates to the need to build the local capacity of municipalities in terms of financial and technical expertise. The challenges of urban environmental management require viable and vibrant municipal governments, which are able to make local decisions. Seeking effective solutions to urban environmental problems calls for establishing close partnerships with community based organisations and the non-governmental sector. In many towns, the lack of coordination has severely hampered effective urban environmental management, because many projects do not learn from each other, and therefore compete with each other and duplicate activities, resulting in a waste of the scarce resources available.

Fourthly, the challenges of local governance call for a major review of methodologies and approaches. A new emphasis is being put on strengthening participatory approaches to urban planning and management, such as community participation, civic awareness and consultations. They all argue for the need to involve the citizens in decision-making, good governance, and to improve the livelihoods of the poor. Experience suggests that there is still a long way to go, that more needs to be done and that there is a need to strike more partnerships at the local and city levels. This is an important aspect that this study focuses on.

Finally, we note that the problem in Kenya is not so much the absence of laws or the lack of a clear policy or legal framework for environmental management, but rather corruption and inadequate capacity to enforce the rules and implement the policies. For example, the local authorities are frequently unable to execute their development control functions given under the Physical Planning Act due to inadequate finances, lack of skilled personnel and inappropriate enforcement machinery. There are also overlaps, as well as inconsistencies, contradictions and outright inadequacies in the laws. Among the main reasons for this are weak administrative structures, the absence of minimum performance standards, inadequate deterrents and incentives, the generally low levels of active and participatory awareness among
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the majority of the population, the preference for short-term gains at the expense of more sustainable alternatives in policy-making, poor planning and gaps and overlaps in the institutional responsibilities which make enforcement difficult. Institutional arrangements need to be reviewed where they are weak and a hindrance to innovative interventions. We have seen that the local authorities are no longer able to provide urban basic services adequately on their own. This has led the municipal authorities to enter into cooperative working relations with non-state organisations. What remains to be studied, analysed and documented are the forms that these collaborative working relations take, how they function, the challenges they face and their eventual outcomes. In the following chapter, we will present the study area and examine its environmental issues, challenges and development options. We will also examine the factors that aggravate the environmental problems and introduce the LA 21 initiatives in the town.