

UCLG COUNTRY PROFILES

Republic of Kenya

(Jamhuri ya Kenya)



Capital: Nairobi

Inhabitants: 31.138.735 (2007)

Area: 580.367 km²

1. Introduction



Kenya is a sovereign state, which gained independence from the UK in 1963. It lies along the Equator on the Eastern Coast of Africa, bordered by Tanzania to the South, Uganda to the West, Sudan and Ethiopia to the North, and Somalia to the East. It has an estimated population of 34 million in a land area of 580,370 sq km. The others indicators are in the table below.

Kenya followed a one party rule after independence but returned to multi-party democracy with the national elections of 1992. The national assembly has 222 members of which 210 are directly elected from single member constituencies while the remaining 12 members are appointed by the President from nominations by the political parties and coalitions in proportion to their share of the national vote. The Attorney General and the speaker of the national assembly – who is appointed by the majority party, are ex-officio members of the national assembly. Members of the national assembly are elected for a five-year term.

The President is directly elected for a five-year term and must secure a simple majority of at least 25 per cent of the

Table 1 : General Data on Kenya

Human Development	Human Development Index	0,488
	Total GDP (mil \$US)	34 847
	GDP per capita (\$US)	1075
	Annual Growth (2001)	3,1%
	Life Expectancy	47,0
	Literacy (%)	Men : 90%
		Women : 78,9%
Decentralization	Access to Internet per 1.000 inh.)	12,70
	Communalized Population	100%
	Average Communal area	
	Urban Population	39,4
	Political system	Presidential
	Regime	Unitarian



votes cast in at least five of the seven provinces and the capital – Nairobi. The President appoints the Vice President and the other members of cabinet from amongst the members of the national assembly.

For administrative purposes, the country is divided into 7 provinces plus the capital city – Nairobi. The provinces are further divided into 69 districts, which are in turn divided into divisions, locations and sub-locations. There are 175 local authorities including 67 county councils, 44 municipal councils, 64 town councils, and three city councils (Nairobi, Mombasa, and Kisumu). The Local Government Act, Chapter 265 of the laws of Kenya, which was enacted in 1977 and has had various amendments, today provides for the operations of local authorities. Other Acts of parliament impact directly on the operations LAs.

Kenya has introduced various market-oriented reforms in public sector management since the 1960s. On the local government front, there have been various attempts. The Omamo Commission of inquiry on local government in 1996 for example, pointed to the large number of small and non-viable local authorities. However this problem was not dealt with at the time. In the late 1990s, the World Bank established and funded the Kenya Local Government Reform Programme, which has been continuing to date through donor funding.

2. Territorial structure

The state of Kenya is divided into eight administrative provinces, which are further divided into 71 plus districts, then divisions, locations and sub-locations. The sub-locations are further divided into informal units (villages), which are recognized by government administrators as units for planning and participation in

civic affairs. The local government/authorities in Kenya are 175 and divided into four types:

- the City Council of Nairobi which is the capital of Kenya and international meeting place;
- the municipal councils are generally the provincial and district Headquarters although some district Headquarters are still town councils; there are 44 municipalities in Kenya and their civic heads are mayors while the chief administrative officers are town clerks;
- county councils are basically rural and represent the administrative districts except Kuria and Mombasa municipalities, which cover administrative district of similar names: the County Councils are 67 in number, their civic heads are chairpersons and the chief administrative officers are clerks to county;
- town councils are generally townships with populations ranging between 12,000 and 100,000 and they generally form headquarters of administrative divisions: they are 64 in number and their civic heads are chairpersons while the Town Clerks head the administration.

Table 2: Territorial structure

Territorial Division		Local Gov.	Constituency
Name	No.		
City councils	3	Yes	No
Municipal councils	43	Yes	No
Town councils	62	Yes	No
County councils	67	Yes	Yes
Municipal division	34	No	Yes
Parish/ward	5.225	No	Yes
Village	44.402	No	Yes



3. Institutions and local Democracy

The table below summarises the structure of local institutions on a sample of local authorities.

The Electoral system for local authority leaders in Kenya follows party lines. This means that every registered political party in a Ward (the electoral unit) is expected to field a candidate to be elected as the Councillor of the Ward. Currently there are 6 main political parties in Kenya including: NARC, ODM, NARC Kenya, KANU, FORD Kenya, and LDP.

The mayor or Chairman is selected by councillors from themselves. The council is the main policy making body, supported by statutory committees which deliberate on policies before they are taken to a meeting of full council for approval. The mayor, the executive, and the councillor are working with those employments. Recruitment and appointment in Kenya for junior staff is done by the LG while for the senior staff is done by the Public Service Commission (PSC). Employment for both junior and senior staff is by the LG whereas transfers are not applicable for the junior staff but are done by the PSC for the senior staff. Performance appraisal on the other hand, is done by the clerks and supervisors for the juniors while for the seniors are done by the province/PSC and MOLG (Ministry of Local Government).

Salaries, benefits and incentives for both the juniors and the seniors are done by the ALGE (Association of local government employees) and unions whereas the training for both the staffs is done by the LGs/MOLG. Discipline on the other hand for the juniors are done by the clerks while for the seniors by PSC/MOLG. Terminations for the juniors are done by the LGs while PSC/MOLG for the seniors. The staff at HLGs (higher local governments) is in finance, administration and works while in the LLGs (lower local governments) they are not applicable.

Vacancies are significant in all senior positions in most areas and functions. Issues of LG structures are bloated lower staff and instability, since there are very frequent transfers. Salaries are higher in LG than CG while the local incentives and variation in salaries are bigger in LGs, but the payments are not timely at all. Pensions have been problematic with LG because of contributions. The councillor staff conflicts are there and there are no pay reforms so far. Level of capacity building in Kenya is quite low. Main modalities of Capacity Building are LG own contributions and are discrete projects. In Kenya, senior staff in local authorities can be transferred between local authorities, and to and from central government line ministries. The only staffs that can not be transferred are junior staffs who are employed by the local authorities

Table 2 : Institutions of Local Democracy

LOCAL AUTHORITY	Municipal Council			Local Executive				
	Voting Mode	Term Duration	No. of Election Rounds	Way of Appointment	Mayor	Collegial	No. of Election Rounds	Mistrust Vote
Nairobi CC	Majority	5 years	2	Election	Mayor	Yes	3	Yes
Kisumu MC	Majority	5 years	2	Election	Mayor	Yes	3	Yes
Kakamega MC	Majority	5 years	2	Election	Mayor	Yes	3	Yes
Ahero TC	Majority	5 years	2	Election	Chairperson	Yes	3	Yes
Ugunja TC	Majority	5 years	2	Election	Chairperson	Yes	3	Yes



themselves. This entire staff is working in the supervision of the ministry for local government. This ministry supervises the activities of local government authorities. In this way Local government authorities are accountable to this central government line ministry for what they do. In case on non-performance or poor performance the minister for local government has powers to abolish the council and appoint a commission. He can also transfer the chief officers and bring in new ones. However, a system of downward accountability for the elected officials to account for their performance to those who elected them does not exist.

Transparency does exist in that issues are discussed in a transparent manner in council and committee meetings. Members of the public can participate and are allowed to participate in full council meetings as observers.

In Kenya there is yet no policy and legislative framework for the participation of the civil society and the private sector in the management of municipal affairs. Civil society organizations are neither members of the Council nor the statutory committees of a local authority. This picture is rapidly changing with the current local government reforms, but their participation is yet to be formalized.

4. Local Staff

The following table summarises the situation of local government employment in a sample of higher local authorities; this does not necessarily reflects the situation of lower local authorities. It has to be noticed that all personnel are State civil servants.

The Human Resource Development trend in the LAs is bottom heavy employment structure with narrow apex of senior and

middle level staff and over-stretched employment base of semi and unskilled labour; and while senior positions are very few the number of unskilled workers is grossly inflated. As a result, this labour force lacks the necessary guidance; is under-used; and eats heavily into the tight budget of the LAs. Salaries and wages exceed normal standards of service organizations and claim a share of up to 60% -65% of the actual budget. All LA staff are civil servants employed by the Public Service Commission, PSC. This can be explained in terms of failure of councilors and officers to carry out employment based on need. The Public Service Commission employs local Government staff in Top and Middle Management – salary scales 1-9 while LAs through delegated Authority by PSC employ scales 10-20.

There is high rate of vacancies in senior positions in the small town councils including failure to attract and retain qualified and committed staff. Substantial numbers of junior officers are acting in positions of senior officers for long periods, something which is demoralizing and contributes to apathy and misconduct. The working environment in LAs is insecure and unattractive and the existing system of staff appraisals is not orientated towards the needs of service organizations; does not reflect the issue of training needs assessment for different gender, age and skills groups. The training information is not available at the level of local authorities and the training approach is supply driven, erratic incidental and follows the pattern of a patchwork.

The LAs in general have no sufficient budget allocation for training and do not generate their own revenue for training. Most of them have no training policy of their own. There is no institution in Kenya specifically providing local government training.



5. The relations between central government and local government

Local authorities in Kenya are semi autonomous legal entities with administrative and legal powers delegated by the central government under the Local Government Act. The Act empowers the minister of local government to approve local authority revenue sources, budgets, and to dissolve a council and appoint a commission if it is not justified. The public service commission – a central government body determines the appointment of local authority senior staff. Although councillors are elected, they are not autonomous. If the central government does not control, it appoints a person to do the essential work. Central government oversight and control in Kenya is very strong at all levels down to provinces, districts and locations. The ministry is required to ensure that local authorities have the instructional and policy framework systems and capacity to effectively provide the required local services in a responsive, efficient accountable and transparent manner.

The Association of local government of Kenya (ALGAK) plays a lobbying and advocacy role for local authorities. It has staff strength of 10 people and annual budget of 200,000 USD while the remaining comes from the donors. Its impact on reforms is limited but increasing

systems to assist them in this endeavour. Local authorities at the moment are not yet able to collect 50% of their local revenues, implying that if all revenue was collected most of them would be in surplus.

The ministry of local government in collaboration with the ministries of Finance and other central level ministries has been undertaking various reforms focused on improving the intergovernmental fiscal structure, enhancing local financial management, strengthening citizen participatory planning.

To enable local authorities to provide the services and facilities as required by the Local Government Act, the Government established the Local Authority Transfer Fund (LATIF) through an Act of Parliament (LATF Act no: 8 of 1988). LATIF is a block grant that provides supplementary funds to local authority budgets. These mechanism transfers 5% of the national income tax to all local authorities in Kenya based on an objective formula basis. LATIF transfers account for 25% of total local government revenues and support local expenditures such as personnel, operations, maintenance, capital projects and debt resolution.

In addition to the LATIF block grant funds, the Government also provides a portion of the Road maintenance Levy Fund (RMLF) directly to some local authorities as earmarked grants for road maintenance

6. Local finances

The local generated revenue is important, but not sufficient to solve the entire local problem. Indeed, the transfer of fund from central to local government is enhanced but not automatic.

Local government authorities are yet to identify and collect all their local revenues. A number of local authorities have put in place various strategies including GIS

7. Local Proficiencies

Local government in Kenya is not yet seen as a separate sphere of government. In this regard, the transfer of competences from central to local governments has not actually taken place in Kenya. The appointment of senior staff is done by central government. Local Authorities have no powers to hire and fire senior staff. Central government, through the Minister



for local government, has to approve local authority budgets.

Spatial planning powers and functions have little been decentralized in Kenya. The physical planning Act No 6 of 1996 vests most of spatial planning powers in the ministries responsible for Local

Government, and Lands and Housing.

Some spatial planning powers are also centrally vested in the ministry responsible for Environment. In this regard local authorities are mainly charged with plan implementation, and enforcement of development control.

Table 3 : Local proficiencies

Areas	Attributions	Effectiveness	Obstacles to Competencies Transfer
Local Access Roads	<i>LAs better placed to Identify need</i>	<i>Not very effective</i>	<i>Budgetary Constraints Kenya Roads Board has ultimate authority on roads Roads maintenance grants arbitrarily given to some local authorities</i>
Local Government staff	<i>All paid by Local authorities</i>	<i>Not very effective</i>	<i>Senior staff employed directly by Public Service Commission – divided loyalty between employer and salary payer. Training decided by Ministry, ALGAK and Partners without TNA and involving LAs .</i>
Citizen Participation	<i>LAs are the Governments closest to the people</i>	<i>Fairly effective</i>	<i>LAs are tax collectors Ineffective communication between LAs and citizens Apathy Lack of transparency Unsupportive policies from Central Government</i>
Decentralization	<i>LAs' proximity to the people allows them intimate and effective interaction</i>	<i>Not fairly effective</i>	<i>Lack of decentrali-zation policy No distinct division in functions of CG and LAs No autonomy</i>
Constituency Development Fund	<i>LAs are formal and structured government institutions which are audited Can sue and can be sued Responsive to citizens</i>	<i>Not involved nor effectively represented</i>	<i>CDF although meant for community development, MPs take it as personal money and plan its use in variance with the formal participatory planning of the LAs</i>
Inter-governmental fiscal transfers	<i>Service delivery at the grass roots</i>	<i>Not sufficient</i>	<i>Only LATF is predictable and distributed equitably Other grants like road maintenance levy are distributed at the discretion of KRB</i>
Land Use Planning and Management	<i>Mandate for Development Planning and Control</i>	<i>Not very effective</i>	<i>Most land privately owned Owners not willing to allow strangers to plan the use of their private asset Urban population increase is a challenge to land use planning</i>



8. Conclusion

The Local Government Reform Programme (LGRP) initiated by the World Bank in late 1990 has made it possible for some service delivery functions to be decentralised to local government authorities and the revenue base of local government has expanded. The LATIF block grant has increased the viability of local government authorities. However a proper legislation to support these reforms is yet to be enacted. But the implementation policy is to have real devolution of powers and functions to local authorities. The Local Government Act, Chapter 265, of the laws of Kenya, which was enacted in 1977 and it is still in force with various amendments over the years needs to be repealed to allow for real devolution of powers and functions to local government authorities.

The short or long term project in Kenya for local government is to enhance the viability of local authorities. Increasing their revenue sources, and enacting a proper legislation (including a review of the Constitution) which supports their existence as discrete spheres of governance local government would guarantee the decentralisation process in Kenya.

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