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THE DEVELOPMENT AND ADMINISTRATION  
OF LOCAL GOVERNMENT IN KENYA

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INTRODUCTION:

"The development of a country cannot be effected from the centres; local initiative, local co-ordination of plans, and local democratic control over decisions are also necessary"1.

Accordingly, participation and organisation at the local level is imperative. In simple terms, this is expressed in the following words. "----- there must be an efficient and democratic system of local government, so that our people make their own decisions on the things which affect them directly and so that they are able to recognise their own control community decisions and their own responsibilities for carrying them out. Yet this local control has to be organised in such a manner that the nation is united and working together for common needs and for the maximum development of our society"2.

Basically, the question why local government should be there, revolves about the preceding contention. The need for the existence of local government hinges on population.

Essentially, local government is a function of population increase. With the growing numbers of people, there is need for unity. Communities emerge from this unity and have to have certain modes of regulating their affairs. This is because individual action (at will) may only result in confusion.

From early times, all nations have had a government at the top ----- a central government to control the efforts of the large number of individuals who make up the nation, direct their efforts for the betterment of the community, defend them from foreign enemies, and see that justice is done between one man and another.

The presence of local government is necessary because the central government may not adequately solve local problems. For instance, the central government cannot properly deal with all of the questions concerning water supplies, good streets, drainage, education, markets, roads and bridges and fire protection, to name only a few, important to all local communities, therefore, local government is a necessary instrument whereby citizens may solve problems affecting them locally through communities or boards"3.

ORIGIN OF LOCAL GOVERNMENT

In this country, before the introduction of English local government system many tribes governed themselves. On the advent of <sup>the</sup> British, matters were considered in a country-wide fashion so that all inhabitants could benefit. As a result, a central administration was set up in Nairobi. However, it was still felt that many matters as in England could be settled locally, while others centrally. This gave rise to the upshoot of the local government system which enabled the setting up of councils in the countryside and townships.

The present Kenya system is similar to that in England where it originated. The central government deals with problems affecting the life of the whole community \_\_\_\_\_ either directly or through laid down regulations to guide local authorities, such as, Local Government Regulations. Matters primarily of local interest are left to the local communities/ authorities.

The origin of local government in Kenya can best be understood with regard to its evolution in England and here in Kenya. To begin with, it must be pointed that the present system, indigenous institutions did not suit effective local government. This is because they lacked the ingredients of the colonial needs. A consideration of both reveals only slight differences which essentially may be there because of different levels of civilization at time of comparing them. Turning to the indigenous institutions, there emerges the question, were there any forms of local government before the British came? This question calls for an examination of tribal forms of government before they were superseded by the colonial government machinery.

Among the major tribes, there were some forms of developed local administration. The Kikuyu and Kamba had councils of elders. Though simple, these were the main machineries of administration and administration of justice. Among the Nyanza (then, now Nyanza and Western) tribes, that is Luo and Luhya; the institution had a very marked existence. Chief Mumia was a chief wielding real power long before the British Government took over the country.

And the Luo's had chiefs; the Luo word "Quoth" literally meaning chief, denotes a ruler with religious and political attributes. The Bantu (Luhya) tribes of North Nyanza had a council which they called "Omuhung'ano" with similar judicial and executive powers as the 'Kiama' or 'Njuri' of the Kikuyu and Meru respectively. These councils provided the necessary machinery for ruling the people, both politically and judicially. Mr. Hobley has made this observation.

"These tribal councils are a natural feature of the internal government of well nigh every tribe in Africa but, as may be imagined among people of low culture, devoid of written language and without any fixed constitution, the efficiency of their operation varied according to the political genius of each tribe, or to put it in another way, upon their ability for effective communal action"<sup>4</sup>.

And further that :-

"Councils of elders have for long been part of the indigenous structure of native African Society, but their functions were not so clear-cut as progressive government today endeavouring to make them, for in the older times their duties were mainly judicial and executive actions was intermitted

Hence the tribal councils made up the major administrative machinery and as early as 1897, the work of elders was recognised by the British Government. By Regulation number 48 of that year, and thereafter this became better until the councils of elders became African Courts.<sup>6</sup>

The realisation of this potential administrative ability and the modernisation of Society, made local communities to have a say in the running of their own affairs. This in turn, prompted the need for some institution which could enable smooth administration. It was for these reasons that the Colonial Government decided to introduce the African Local Councils in 1924.

These councils were based on the English model of local government which had developed almost on similar lines, however, it is not necessary to make a historical study of this. It is sufficient to note that in the United Kingdom its development was motivated by the people's needs of being provided with necessary services. That is in the Welfare of the town people. This led to greater development in urban areas than in rural areas. And this has been experienced in Kenya too.

The evolution of local government by contrast, exposes an experimental type of development. In England, when the local services were first introduced about a century ago, they were unknown for they had never existed before, and the Local Authorities led the the way in bringing them in. On the other hand, in Kenya, the Government introduced the services first, and bit by bit handed them to Local Councils as they became more and more competent to manage them"7.

And because of increased involvement in essential services, the Government in England began to give Local Authorities grants, to enable them provide such services. In Kenya, as we shall see later on, Local Authorities were allowed some form of antonomy, but this was not so until after the 1940's. It is quite plain that before this period there was no British Government policy regarding the establishment of elected local authorities. Prevailing Conditions, in individual colonies or territories, influenced the form of local administration that the British colonial administration adopted. Much of what happened between 1900-1940 was influenced by the individual colonial administrations that administered these areas"8.

To have a clear picture of local Government in Kenya, consideration will be made to a separate perusal of the developme and administration. The latter may include reform proposals and suggestions to that effect.

## INITIAL LEGAL DEVELOPMENT

CHAPTER 1:

## LOCAL NATIVE COUNCILS.

Local government as already seen does not mean local authorities alone. It embraces all administration at the local level. Kenya in the pre-colonial period had some form of Indigenous administrative institutions which dealt with community matters. But on the advent of colonialism these could not fit in well with the British idea of administration. Therefore, resort was made to the British mode of local government<sup>19</sup>.

The present local government structure in Kenya is a product of a longer and perhaps more intensive historical experience than in any other former British African colony. Development of the present local government structure began after the passing of the Native Authority ordinance in 1911 and the setting up of the local Native councils. These two developments were necessitated by the course of events. Of notable importance, is the emergent realisation of the need to have the Africans assist in the administration. As early as 1909, Sir, Percy Girouard showed interest in implementing this. He specifically wanted to revitalise traditional authorities and use them in the administration. His efforts led to the Native tribunal rules of 1911-1913. These redefined the Jurisdictions of the native tribunals. In 1912, the Native Authority Act. added executive functions to the courts and provided also that they be Consulted by the administration. This move however, left the chiefs authority intact.

The post-war years were marked with noticeable changes. All these changes derived from the emergence of African political associations. As a result, those concerned with African affairs especially missionaries urged that some method or form of local political representation be created. The reason behind this was that, this could act as a platform for spokesmen of both the younger and older generations.



In recognition, the chief Native commissioner announced the Government's intention to set up local councils as soon as legislation was drafted in 1921, at a 'barazá' at Kisumu.

While this need of catering for African interest continued, in 1920 Kenya became a colony and in 1922 the first member to represent African interests was appointed to the Legislative Council. Two years later the Government introduced to the Legislative Council the Native Authority Bill which was passed and became the Native Authority Ordinance, 1924. This Ordinance is particularly important in the development of local government because it was the birth of the present local government structure in Kenya. It was through it that British principles of local government were imported and legitimated. This Ordinance created the Local Native Councils, while introducing it to the legislature, the Government emphasised that it had introduced it because it (the Government) intended to give Africans a bigger voice in running their own affairs. The Government also anticipated to achieve through it, better co-operation between Africans, the administration and immigrant communities. The members appointed to these councils were charged with the task of speaking for several points of particularity in view of the interest of public opinion. How effective this provision was is an open guess, the much advocated for separate development policy in 1929.

After their formation, Local Native Councils were allowed some form of autonomy. This can easily be seen from the functions they were given. These authorities were empowered to raise money by levying rates. All they were allowed to pass by-laws to regulate certain matters in their areas of jurisdiction. Perhaps it should be pointed out that, the matters to be regulated were not clearly defined, but areas most affected were cattle movement and agricultural development. The District Commissioner was the president because it was quite emphatically recognized that the African was incapable of self-representation. These councils had very wide powers".<sup>10</sup>

They determined policy matters by way of resolution which reflected the views, which were almost invariably approved by the Government and obtained the force of law. Later, an African was elected deputy to the D.C. The tenure of Office of the members was three years after being appointed by the Government on the District Commissioners' recommendations, these were as to the fitness of the members for the job.

Financially, these councils had some form of central control. The Governor in council was required to approve their budgets before they became operative. However, these councils had extensive powers to legislate on almost all matters including the lives of the local community. The list is long but the most important were public health, water supply and agriculture.

The role of the local Native councils did increase greatly in the subsequent years. Consequently they became:-

- (a) Consultative bodies and explained policy decisions in advance.
- (b) agencies of the central government in the Reserves.
- (c) deliberative bodies. "

As deliberative bodies, it has been suggested they led to greater participation in the general life of the colony by the Africans. And because they lacked set ceilings on their powers, they did practically anything.

In spite of this notable start, the councils experienced a rather quite development. However, the initial legal development of local government, the progress made by local Native councils was assessed as satisfactory by the chief Native Commissioner in 1927.

In his own words:

" The work of the Local Native councils, taken as a whole, can now be said to have attained sufficient prominence to be regarded as one of the most important factors of Native Administration. The standard of work of the various councils, however, is still of a widely divergent character in different provinces, and even in certain different districts of the same province. These institutions are in most cases, proving their value to the people as a means of expressing Native public opinion, and to Government as a means of getting to know it." [2 [Emphasis added]

However, inspite of this fair start, Lord Lugard 1929 supported the notion of "separate development which had long lingered in the minds of the 'Boer' farmers in the 'white Highlands'. During their early settlement around 1901, these settlers the majority of whom were from South Africa expected the Government as their host to provide them with roads and military protection from potentially hostile tribes and also to provide them with cheap labour for their farms in the "White Highlands". The central Government was relied on because it was too expensive for them to set up an elaborate local administration. At the same time, this was greatly hampered by the lack of funds and the fact that the settlers took some time to settle and be in closely knit local communities. Not only that, the settlers turned to the central government because they believed that close cooperation with it would give them influence over development of political institutions and policies. Because of this reliance, little attention was given to the development of strong and responsible local administrative institutions. <sup>13</sup>

If the settlers were to be protected from potentially hostile tribes, then there was little chance of a successful local administration being set up with both those they were being protected from and themselves interacting together. Hence it was only natural to have different administrative structures. As a result Africans were isolated from participating in central government politics. It was on this score that 'African Reserves' were created so as to enable strong central government control through provincial commissioners, District commissioners and government appointed local chiefs and headmen. This threw overboard the pre-existing African systems, and replacing them with a new bureaucracy that derived authority from the centre and popular not from local traditional leadership and popular support. Alternately, agreements with the British Government and any indigeous people were regarded only as nothing more than terms of surrender and establishment of no future relationship. <sup>14</sup>

SEPARATE DEVELOPMENT:

Attempts to adopt this mode of development began as early as 1929. As it has ~~hitherto~~ been alluded to, the idea behind this move was that Europeans had in mind developing a "white country". This idea was championed by Lord Lugard. But the idea had before this time been in the stage of conception. Firstly, after the First world war a new awakening arose. There was a realisation of the futility of African military power. Secondly, in 1921 and 1922, new political movements surfaced. There stood for the much needed representation of the African grievances against the repressive and often inhuman elements of colonialism.

This trend of events did not escape the Government. The Government reacted by creating District Advisory councils which were intended to serve as platforms for the Africans to air local political grievances. These were created especially in the densely peopled "African Reserves" in Western and central Kenya.<sup>15</sup>

In 1926, Sir Edward Grigg (the then Governor) appointed Mr. Justice Feethan a south African local government specialist, to review local government in the "white Highlands".<sup>16</sup> Justice Feethan was a firm believer in separate development. It is not surprising that his recommendations were pregnant with these views. These were later supported by Lord Lugard in 1929 and Margery Perham in the early fifties. His commission recommended that a district council be set up in each of the rural districts in the 'white Highlands'. This policy of separate development fell into two heads namely, the European settled Areas and the African Reserves.

THE EUROPEAN SETTLED AREAS:

Before the first world war, no local government body did exist, either statutory executive or otherwise, outside the towns. The only notable pressure groups were the Farmers Associations which were known as the 'peoples' parliament'. These constituted a <sup>and were</sup> consulted by District Commissioners, before any projects were embarked on. These were later overpowered by the District Advisory committees, and subsequently the district committees which were allowed to give the Govern<sup>ment</sup> advise.<sup>17</sup> There were between six and eighteen members to the committee. Their meetings had no fixed times and business was conducted in full council.

Ad hoc committees were appointed to investigate water applications on the spot. Overall, the committees had no statutory functions but their opinions were sought on matters concerning alienation of land (crown Lands), development of townships in the district, issuance of permits, application of certain Laws and collection of taxes.

As already seen, the Feethan Commission confirmed that local govern<sup>ment</sup> should develop in separate compartments. It recommended that District councils be established in Naivasha, Nakuru, Laikipia North Nyeri, Uasin Gishu, Trans Nzoia, Kisumu, Londiani and Nairobi. These councils were to consist of ten to fifteen elected members each nominated by the Governor. One member was to be nominated by any municipal Board set up in the District council Area. The councils too were to have one or two Indian members who were nominated by the Governor. The elected councillors were required to elect three years. One third of the<sup>m</sup> annually and new ones appointed.

The councils were charged with the responsibility of initiating development in public Health, Hospitals and Education. To finance this, they were empowered to raise revenue mainly by way of taxes. But this move was a defeatist one since in the European areas, the Govern/ was required to give all the necessary support financially /<sup>ment</sup> or otherwise. Moreover, there was a general apathy on the part of the Europeans as regards taxes. They did not want to tax themselves.

Immediately after the passing of the Local Govern/ District/<sup>ment</sup> Councils) Ordinance in 1928, Six District councils were set up. These were, Nakuru (7/1/29), Uasin (Gishu (26/1/29). Nairobi (28/2/29), Kisumu-Londiani 28/2/29 (the name was later changed to Nyanza in December 1929), Naivasha (4/3/29) and Trans-Nzoia (28/1/30). The Aberdaire District council was not set up until 3rd January, 1939. This council covered the Laikipia-North Nyeri area. And in 1945, the Machakos District council was amalgamated with that of Nairobi.<sup>18</sup>

In spite of these determined efforts to establish a sound system of local authorities, the results of this experiment were plainly assessed as a sad disappointment.

One reason, already alluded to above, was the refusal of the settlers to rate themselves. This in fact reduced the councils' importance, only to make boards responsible for maintenance of roads but with funds expectedly provided by the central Government. Perhaps, they would have collapsed if the roads were not crucial to the development of the "white Highlands". One observer had described them in 1952 as "not local Government bodies in the strict sense of the term". It was only Nairobi which showed any signs of being on the right foot. In 1946, it introduced a graduated rate on acreage which raised £ 4,275 in its first year.

Up to this time, these councils concerned themselves with matters of interest to the European community only. As such, it is not surprising to see that before the 1939 - 45 war, African interests were overlooked. They may have been taken to be unimportant then, but after the second world war, the 500,000 strong African population (within the councils jurisdiction) necessitated the Governments' action. Strong pressure was exerted before any of the councils would establish Community Centres for them. And this action marked the first direct and genuine recognition of the plight of the genuine African population in the councils of the European settled areas.

On average, the import of these councils on general development was minimal because these councils could not be taken to manage their own affairs separately it was just that in 1945, 97.14% of all European District council finance was provided by the Govern/ grants and/mew military grants. This contrasted with the 1/7 support given to the (European) District councils, <sup>that</sup> only served as agents for Govern/ expenditure (Mew). They were mainly concerned with district roads maintenance and regulation. Another function was regulation of the movement of the labourers stocks as well as ownership in the 'white Highlands'. This function created great political awareness on the Africans and restrengthened the the delusive authority of the European settlers over the Africans. This authority was further enhanced by the Local Govern/ (County Councils)/mew Ordinance in 1952.

This ordinance enhanced the councils power at the centre. It also created a two tier system - higher and lower tiers. These were modelled on the system obtaining in the United Kingdom. At the higher tier were County Council and at the lower were Rural District Councils. These councils dealt with the subdivisions of County Councils areas and Urban District Councils so as to bring townships into the scheme. Each council administered itself independently. On the other hand, second tier systems were not subjected to any control by the county councils. What existed between them was only an opportunity for co-operation. And in the county council. And in most cases both shared executive staff. However, with such impressive names, the councils duties were only limited to roads upkeep. An example is the Nakuru Couty Council in 1954.<sup>20</sup> The other Rural and Urban District Council were only described as a waste of money by the Central Government.<sup>21</sup>

The 1952 ordinance made all the old District Councils, County Councils and by 1961, settled areas had seven councils, that is Nakuru, Nairobi, Naivasha, Abardeire, Nyanza, Kitale and Uasin Gishu. All these were dominated by Europeans and even as late as 1960, Europeans lightly disregard any effort to lessen their control over local Govern. in the settled areas. They maintained that the control of councils should remain with those who made asustained contribution to the services supplied by the Authority concerned.

#### THE 'AFRICAN RESERVES'

It is recognised that from time unmemorial African tribes had just wandered freely over the local land, some setting and spheres of influence. Others kept on wandering. This factor is important in trying to explain the lack of a developed chieftaincy system. However, this harmony of self administration, however crude, was disturbed by the intrusion of the British Administrators. It may be recalled that by 1909 a new system evolved which leaned heavily on the Government appointed chiefs. This was what appeared to be the British way of encouraging recognition of their rule through indirect means.

However, this was the <sup>begin</sup>ning of a noticeable exertion of their power through chiefs. In 1912, the Native Authority ordinance gave the chiefs and councils executive functions. Legal councils were established in 1924 under the provisions of the Native Authority Act. Except as already alluded to above, these councils were of less importance in the colonial view. They were only essentially thought of being nurseries for African political grounding. Also, they were thought of as a means of achieving fair representation of the African interests and expressing African political feelings.

By 1948, membership of 358 elected members to 227 appointed members of whom 132 were chiefs or headmen. Thus between 1926 to 1948 there was a gradual change from nominated membership to elected and openly selected membership.<sup>22</sup> The members that were usually selected were those who had political interests. For instance in the Kikuyu province most members were selected from the Kikuyu Central Association.

The colonial administration from early times, i.e. 1924, used these councils as instruments of political control. This fact was started by the report of the Native Affairs Department, 1924. The report noted that the councils:-

'Should go far towards counteracting any mischievous tendencies which develop in native political societies, for representations made to the Government by the latter in the ordinary course referred to the former in the first instance'.<sup>23</sup>

Mischief alone was not the major concern but the idea was that local Government was the only <sup>place</sup> place Africans could learn how to play politics. The councils were seen as a ladder or bridge; the only one that would link Africans to the land of politics. This conception enjoyed popularity for quite some time. Infact in 1964, the late president Jomo Kenyatta was given advise based on this idea by Sir Phillip Mitchell. He told him (on his return from England) in order for him (Kenyatta) to participate in public affairs, he should:-

'begin by seeking election to the local Native Council of the area where he proposed to live and make a start in local Government'.<sup>24</sup>



In another way, this idea hinged on the fact that African problems were only seen as local ones, whereas they were actually national ones. Therefore, they could only be aired locally. Hence in the 1930's, because of being disillusioned by this, the nationalists either by-passed the councils or were resigned to the idea of hopelessness. Even as a result, genuine problems such as complaints about the oppressive nature of the soil conservation rules could not be solved in the 1930's, 1940's and 1950's.

The original hope that the councils would be appropriate vehicles for the Africans' political interests was thwarted. Consequently after the 1939 - 1945 war, by-laws in certain areas experienced massive nationalist on slaughter. For instance, even before the above period the by-laws had been opposed in 1928, by the Kikuyu Central Association after they purported to abolish female circumcision. And in 1938 some women from Embu protested in Nairobi over the soil conservation rules. To show their wrath, they pulled out the grass they had been ordered to plant as washstops. This did not end the protests, the same year some, 1,500 Kambas comprising of women, men and children, marched 30 miles to Government House (now state house) in Nairobi to demand cessation of a compulsory destocking program being taken by the District Commissioner under Local Native Council by laws, and with funds loaned to the Local Native Council.<sup>25</sup> These legislative actions of Local Native Councils made the council appear as rubber stamps or tools of the District Commissioner especially in the Kamba case.

In spite of these set backs, the councils retained their presumed position. And this was even made easier because the Labour Govern. in the United Kingdom had launched a democratization of all organs of local government. With this expectation, there was hope of a change being at hand. Kenya African Union (KAU) on this basis increasingly gained control of councils in Central Province with the intention of making use of them to advance its already frustrated nationalist aims. As a result of this move there arose collisions between the councils and District Commissioners. The political tensions increased. At the beginning of the Mau Mau emergency, there was an indiscriminate arrest of KAU members. Consequently, members to the councils became only nominated once. These members held Office for an unfixed period.

The District Commissioners ensured that the interest of the districts were only represented by true and proven loyalists. Thus democracy at the local level and autocracy at the centre became uncompromising bedfellows.

One notable fact is that inspite of all these political cross-purposes, development of the LNCS compared favourably with that of their European counter parts. The only areas that could not meet this contrast, were Pastroral areas. Formation of councils in these areas was actually difficult and more or less sporadic. The Turkana LNC was set up in 1928 and abolished in 1932, Samburu in 1936, Kajiado and Narok in 1930 and Tana river 1937. By 1953 there were 24 councils that were handed over to the Ministry of Local Government.

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These councils did not have noticeable effect. It can be suggested that the composition was too elastic to allow this. Also that because they had been thought of as natural successors to the indigenous councils, it was quite difficult to wield any strong powers. One reason was the variable membership in the case of Nyanza Districts, and the higher number of unofficial members ranging between 50 to 60 per council in the Central Province. To limit this, an effort was made early enough to reduce the number to 22 in 1930.

The overall development of these councils was met with enthusiastic response. They were keen on their functions especially Education. But they could not do very much apart from encouraging it because they had no direct control over schools. The councils were only financially concerned with the Education Boards, that is, to run the schools. From their early years, these councils unlike their European counter parts, raised their own money by way of rates. No grants were given to them. Thus their financial status was as varied as their other characteristics. But, in contrast with the European District councils, the local Native councils were more advantageous. They rapidly and willingly assumed major financial responsibilities. On the one hand, councils were encouraged to raise surpluses while on the other hand they were not required to spend or use these surpluses.<sup>26</sup> For instance, by 1949 the surplus balances of councils in Nyanza Province alone had risen to £ 467,176 while in the central Province they were £ 210,231. It was only in 1937 that the councils were allowed to invest in other stock apart from the Post Office and saving Bank alone. Interestingly some council went as far as investing in the United Kingdom. For example, the North Nyanza Council owned most of the City of Birmingham's Tramways and yet complained of its inability to do anything about the communication problem.

The Local Native councils also did control the administration of justice in their respective areas. At first Native Tribunals had a very close relationship with them. These Native Tribunals applied Native law and custom as provided by the Native Courts. Regulations, in 49 1897. However, they were reorganised in 1930 by the Native Tribunals ordinance. From 1955, the Native Tribunals expenditure was required to be shown in the Local Native councils estimates. They were also required to be self supporting. But on average, their importance in connection with Local Native Councils was that Native Tribunals in event became Local Native Councils' source of revenue. Therefore, the Native Tribunals were one source of revenue of the Local Native Councils. From 1958, this function was withdrawn and the African Courts were handed over to the Judicial department thus depriving the Local Native Councils one of their sources of revenue.

The development of the Local Native councils reached its climax in 1951, when they were changed to African District Councils (ADC). This change, significantly introduced the English notions or principle of Local Government. The change also moved them closer to the statutory position long enjoyed by local authorities in the European settled areas. Consequently to this change, African vice-presidents were appointed and they increasingly chaired sessions of the councils. Also African secretaries and Treasurers were appointed. Elections were democratized but with varying methods amongst the district. For instance, in Taita and Machakos the elections were held in open meetings ("barazas" where people stood <sup>behind</sup> a candidate and a physical count was done) but in Kikuyu district, open election <sup>was</sup> prone to abuse by political societies. <sup>27</sup> On the other hand, in Kwale elections were by acclamation and in Nyanza by secret Ballot with the tax register being used as the Voters roll and the tax receipt as the voters card. The African District councils ordinance of 1958, also gave the councils power to appoint committees of their own members to deal with special or general subjects and to delegate its powers, except those of making by-laws and raising the revenue to them. Councils' meetings were open to the press. The press was even allowed access to the minutes of proceedings.

By the amendment of the African District councils/ in 1958, these /Ordinary  
councils became statutory but the collateral or anxillary  
locational Councils did not have recognized<sup>Powers</sup>/. The latter were much  
different because they dealt with grass root cooperation. And  
as such /intimate contact with local communities unlike the  
<sup>WERE thought of as Original Initiators of</sup>  
former. However, the two remained under the Commissioner for  
Local Govern/ after coming under him in 1953, from the chief /ment  
Native Commissioner, who had been responsible ~~with~~ with  
European areas only. In a way, this move brought about a  
likelihood of a merger of the two systems that had existed  
separately since 1929. In 1956 and 1958, two councils were  
split namely, Masai into Narok and Kajiado and North Nyanza  
into Elgon and North Nyanza respectively. By 1958, the African  
District Councils had become county councils.<sup>28</sup>

At the end of 1961, the situation remained virtually unchanged  
even though independence was in sight. But, there was one  
notable change which had taken place after the Ministry's issue  
of a white paper in 1957 and 1958. This paper spelt, ambiguously,  
the relationship between the Government and the African District  
councils. By its provisions and proposals the Government took  
over the profitable African Courts which had been one source of  
revenue to the councils. In spite of these financial handicap the  
councils still remained responsible for financing agricultural  
extension work and Veterinary services. The only encouraging  
factor was that the councils were to become public health  
authorities but they<sup>were</sup> only given <sup>a</sup> 50% grant by the Government.  
They also remained responsible for the financing of Education.

These pre-independence changes brought by this paper only  
created a hand-to month situation for the councils.  
Government grants alone were not sufficient, even the graduated  
block grant scaled on each council's estimates made no difference.  
As a result, <sup>of these</sup> changes, of the individual political advancement of the  
councils' members suffered greatly; same to the Educational and  
health facilities.

Further more, the councils' activities only realised diminishing returns whatever the effort they put in. For example in 1964, the Baringo area council had a deficit of £ 9,143 which was estimated to rise to £12,527 in 1965. Obviously, at this rate no confidence could be held in the councils unless new sources of the revenue were found. To curb this, the council cut down the expenditure on road development by £25,000 and water services by £ 1,00. Nakuru municipal council had<sup>a</sup> similar problem, and, in its case, it was realised that the position could not be salvaged merely by depending on the tax-payer, other sources were to be found.<sup>30</sup>

#### EARLY DEVELOPMENT IN TOWNS

The urban areas unlike the rural areas had ---  
(P.t.o)

a more rapid and smooth development. One major reason was the requirement of essential services such as water supply, disposal of refuse and so on. Secondly, the Urban residents were in a more proximate position to pay for the services rendered.

Our concern in this field will be quite limited to the older and more significant towns than the recent ones. This is because it will be beyond our scope to scrutinize every urban area. It will not only be tedious to do so but to go beyond the purview of the general development of local Govern. Not with standing that fact, it is however incumbent to refer to a few and notably specific areas.

Firstly in the history of urban development, Nairobi has been in the forefront. Its development owes much to its being the headquarters of the Kenya Uganda railway and later as capital. This enabled it to make an early start in urban development in East Africa. Its development goes as far as 1900, when a town committee was set up consisting of three Official and two unofficial members, presided over by the District commissioner with an official members membership, the proportion of official members declined gradually. The principle of election became more widely used. By 1919, Nairobi became a municipality and all government officials were dropped except the District Commissioner who lost his chairmanship to an elected representative.

Representation however may not be taken as representative even though there has been an election particularly when racial sentiments were dictating factors, For instance, the Asian population outnumbered the European population by a 3 to 1 ratio and yet there was no equitable representation. This problem arose very early, in 1920 and even led to the Asian refusal of 4 seats that had been reserved for them in 1918. They also refused to cooperate with the council until its council had been reviewed. Such a review was instituted in 1923 on the secretary of states request. Consequently, in 1924, the commission recommended a council of 5 elected Europeans 4 Indians, one Goan and two official of whom one was in charge of African interests. These two officials being Europeans, ensured European domination but with an acceptable compromise to the Asians.

To remedy the situation, in 1926, the Feetham commission, recommended the setting up of a council consisting of 9 elected Europeans and 6 elected Indians (including one Goan) later the Number was increased to 7. The District commissioner together with two other Govern. officials were also members. These others two, one came from railway while the other one came from Nairobi District council.

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The commission also recommended the division of Nairobi into six Europeans and three Indians wards. The aim was to reduce dissatisfaction from the Indians representatives by introducing communal rolls. As a result, the old information system was abandoned in favour of more formal methods such as the common roll already seen. By 1928, Nairobi was a municipal council under the Local Government (Municipalities) Ordinance which had adopted Feetham's recommendations. At the time its area of 1½ miles radius had trebled Membership also had gone up, now the councils being composed of twenty members and headed by mayor. Other officials of the council such as the Town clerk, Town Engineer and the Treasurer were also appointed but not by the council, but the Governor or subject to his approval. At this time the council could do anything that its English counterparts (in England) could do. The only exception was as concerns education and the police. However, there was one drawback, the Indians members stayed out until 1931, when they came after many inquiries. Five years later, it was agreed that five out of the seven Indians seats, to be elected while the rest nominated. In 1946, Nairobi was given seven strong Aldermanic Bench.

Seen from the trend of development, Nairobi Municipality had been fac- similary with the question participation by the Africans just like any other areas in Kenya African interest were important. But even though the Africans were the majority they were least involved. As we have already seen elsewhere, African interest began bearing meaning only after the 1914-1918 war. Native Locations were set up for this purpose especially that of Pumwani. The Thuku incident of 1922 acted as a further catalyst and in 1923 Native Village councils were set up for Pangani. Subsequently, in 1926, Councillor Campbell set up a local Native council with twenty members. Membership was drawn from eleven tribes so as to avail representation of all interests. The aim not unusually was airing of Native grievances and also has means of communication between Africans (just as the other councils had anticipated. In 1929 the municipal council formed the Native affairs committee to cater for African interests. It was one of the standing committees of council.

All this time African had no voice and the interes were taken care of by Europeans. It was only in 1946, that they began having a voice in council matters. Then two Africans were appointed to the municipal council through pressure from the twenty eight member strong Native Advisory Committee. But occassionally the two African members and the Native advisory committee conflicted because of lack of cooperation. As a result the two were burnded stooges when solving



of the housing problem was difficult.

The Emergency became an obstacle to African participation. The Govern. took over the control of the Municipal council and in turn it set up an administrative system of Chiefs and District officers throughout the city.

The development ~~first=grew=up=as=a~~ of Mombasa is also important. Mombasa first grew up as a port and by 1900 there was already a need for provision of services such as lighting and cleansing. Regulations to this effect were issued the same year by article 45 of the 1897 order in council. In 1903 it became a township. In 1919 an interim committee was appointed to be responsible over the town only on advisory terms. It was composed of twelve members seven Europeans, four Indians and one Arab. This committee was replaced by a municipal Board set up on Feetham's recommendation in 1929 membership was between nineteen and twenty three. The chairman presided over it and was appointed by the Governor. By 1930, the municipal Board had jurisdiction over an area of 21.2 square miles and having an estimated population of 45,000 people whose majority were Africans.

Mombasa development was a less eventful one as compared to that of Nairobi. There were no political hurdles, and in 1936 the first elective principle was applied to five of the seven Indian seats. Appointment to the seven European seats was on informal elections "in the Club" until 1947.

African interests on the other hand were represented to the District commissioner this was some sort of direct representation which was the first of its kind in British East Africa. In 1945 a Native Advisory council and an African was made one of the Government nominees. This was a year a head of Nairobi. A second African was appointed in 1948 and the same year Arabs held elections for their seat.

In 1949, the municipal Board was reconstituted with an appointed chairman. It was composed of seven Europeans (3 elected and 4 nominated) seven Indians (all elected) two Arabs, two Africans one port member and up to four Government nominees.

#### OTHER URBAN DEVELOPMENT.

It is perhaps difficult to state emphatically the achievements in terms of local Government development as regards these areas. Much of their development is in no way different from that of Mombasa and Nairobi except that the two have longer historical backgrounds.

Available sources show that by 1930, 77 Townships were legally recognised as existing. It is in fact doubtful as to the truth of this high numbers because many of them were only collection of shanties under the name town. However, this did not indicate a rapid Urban development (even at present such a number townships is improper). Legal recognition of some of the townships was made under the tidying up ordinance, which established twenty four townships. Amongst them were Mombasa Nakuru and Eldoret into municipalities. Muithaiga Eastleigh and Nairobi townships were merged into Nairobi municipality. In all the township, the District commissioner was the statutory head of the authority. He had an advisory committee to help him.

Township committees were established in Kisumu in 1904, Nakuru Naivasha in 1908. Feetham reports of their existence in 1926 at Nakuru Eldoret, Kitale, Kisumu, Nyeri, Nanyuki and Thika. In 1941 Kisumu and Kitale became municipalities.

African representation in the municipalities followed the Nairobi example of advisory councils with Europeans dominations. This was heightened by the presence of many Europeans in the Towns who in most cases wanted high quality services. Eldoret is just but one example. Here an African became a member of municipal Board in 1946 (at the same time with Nairobi) and the following year two Africans were appointed to municipal Board of Kisumu, Eldoret and Nakuru. Kitale followed suit in 1948. However, the development was not as smooth as that of Mombasa. It was marked with adherence to Feethams' principles of segregated development, especially the planing of residential areas. In these municipalities, too there were advisory councils which assisted in the administration. These had been formed in Nakuru in 1947, Kisumu in 1948 and in Eldoret it was first proposed in 1946.

As earlier suggested, development generally was supposed to be autonomous but in practice this was not so. Feetham recommended the setting up of two standing committees in 1930 to enable central control local authorities between 1930 and 1939 there was a period of democracy. Resumption was made in 1939 with the Govern. Officer being appointed as a member. And in 1953, the Ministry took over the control of African District councils. Whether this central control was effective to the requirements of the Govern. is an open matter. What can be said is that central control was sufficiently assured by the Government's appointment of members to the councils. Today this method is still used and it appears to work.

THE POST-INDEPENDENCE DEVELOPMENT

Independence marked the merger of the two systems of local government which had developed separately under the separate development policy during the colonial era.<sup>31</sup>

Before independence, local government was not rationalised but with independence, new regulations spelt out a uniform structure of local authorities for the whole country.

This new move was in accordance with the Independence Constitution.<sup>31(a)</sup> The Constitution anticipated both a "strong central government", and "strong regional governments". And by its provisions several functions from both the central government and local authorities were transferred to the newly created regional governments. Schedule II of the constitution sought to divide important subjects like education, agriculture and planning at various levels and vested them in different governments.

Local government fell within the competence of the Regions. Its set up was determined by the constitution. This included the electoral laws, but, the local authorities were left without much legislative and executing powers. These powers were vested in the Regional Assemblies.<sup>32</sup> For instance, the Regional Assembly had the general power to make laws with respect to local government within the Region. Specifically, the Assembly had power to determine which areas within the Region should constitute local government authority areas; what category of local authority they should constitute and how they should be divided into electoral areas.

The exercise of these functions was to be in accordance with the recommendations of commissions of inquiry set up to examine the draft orders made by the Assembly.<sup>33</sup> The Assembly had certain functions in relation to local government finance.<sup>34</sup> As regards this latter function, Ghai has summarised it thus:

"The taxation from the licensing of motor vehicles and drivers, though determined by parliament, was collected by the regional authorities and formed part of their revenue. The Regional Assembly had certain independent powers of taxation - graduated personal tax, and Poll tax (up to a maximum decided by parliament) land tax, entertainment tax and royalties in respect of common minerals. The collection of these taxes was the responsibility of the local government authorities within the Region (to whom they also belonged), except that the Regional Assembly had powers of prescription in relation to this revenue".<sup>35</sup>

The revenue so collected was used in the running of the local government affairs. However, although these authorities had constitutional rights to collect revenue, they only had small taxation and collecting rights or powers. Most of the powers due to them were usurped by the Regional Assemblies which exercised these independent taxing powers on behalf of the local authorities. A further limitation was that, two of the most productive of these, the graduated personal tax and the poll tax, were subject to the maximum figure determined by the central Government. The reason for this was that, there was a need of having necessary safeguards to

prevent it from overlapping with the East African Common Services Organisation Operated Tax. Also because of this co-operation with the East African Common Services Organisation, it would have been impracticable to vest taxing powers in authorities other than central ones. This move tended towards giving local authorities some measure of autonomy.

But these constitutional provisions were not without problems. Four problems arose and had to be faced by the ministry officials. Specifically these were:-

(a) Local Government boundaries had to be redrawn to conform with regions and to eradicate racial boundaries created in 1919 by the separate development policy.

(b) A new democratic membership for all councils was to be constituted - thus abolishing racial electoral rolls; rules

(c) a uniform local government Code was to be established to replace separate ordinances for African District councils and County Council areas; and

(d) a special relationship was to be evolved with the Nairobi City Council. This new development resulted from the fact that local government was to become a function of the Regional Assemblies under the constitution. However, this task was made even more difficult by the KANU - KADU tussle over Regionalism between 1962 and 1964. This problem was however solved by the constitutional amendments of 1964.

The amended constitution removed the provisions which had entrenched local government in it, and in its stead, local government was given only a brief and generalised treatment. The present structure of the councils is as

stipulated in the 1963 Local Government Regulations.<sup>36</sup> These regulations set out the pattern, Membership and the administration of the councils. The new pattern as set out by them comprised of Municipalities, Urban Councils and County Councils. Under this amended Constitution, the Central Ministry of Local Government took complete control of all local authorities. As a result, the Provincial Administration was denied the opportunity to exercise direct control over local government. And with the abolition of Regions at the end of 1964, all powers over local government were transferred to the ministry of Local Government with nothing left to the Provincial Administration, although District Commissioners continued to be nominated Members of all Municipal and County Councils.

Early in 1965, District Commissioners were made Collectors of Graduated Personal Tax in the County Council areas. This position was subsequently legalised in 1966 by the Graduated Personal Tax Act. Nevertheless, the Provincial Administration still remained impotent as regards control over local authorities. By then, the pattern of local government was comprised of three tiers, namely, Municipal councils (these were seven) and county councils (thirty three in number) forming the first tier; Urban councils (17) and Area Councils (60) forming the Second tier; and Local Councils under Municipal Councils, Urban Councils and Area councils comprising the third tier. However, this third tier councils were abolished in 1968.<sup>37</sup> The demarcation of most Municipal and County councils coincided with the areas of Government administrative districts. But there were

a few exceptions in Central Rift and Sirikwa County Councils - which covered areas of two and five districts respectively. On the other hand, Municipalities of Nakuru, Eldoret, Kisumu, Kitale and Thika were just parts of larger districts.

With regard to this tier systems, it should be noted that the Second tier bore no uniformity in Kenya. As concerns Municipalities, only Mombasa and Nairobi had local councils. To that effect only two local councils existed. In Nairobi, there was only that of Dagoretti, which had been taken away from Kiambu County council. And in the councils many main towns are Urban Councils. This second tier pattern has in many cases followed the pre-independence (1963) pattern of second tier local government. In the more recent county councils there are no second tier councils. Therefore, these have become all purposes authorities like the Municipalities.

As earlier mentioned, the Local Government Regulations, 1963, regulated the constitution of all local authorities. These regulations clearly provide for membership of local authorities; <sup>38</sup> officers of Local Authorities; <sup>39</sup> Powers of local authorities; <sup>40</sup> relationship between officers and Members of local authorities; the committee system; <sup>41</sup> by-laws and relationship between the government and local government.

Up to 1968, the situation remained virtually without much important development. Nevertheless, there was a marked financial crisis in the councils. As we may remember, the only significant source of revenue for the councils was taxes. This in effect were quite <sup>in</sup> insufficient and <sup>mode of the</sup> modeso the collection system itself was poor. Thus in addition to

meagre

the insufficiency, the meagre collections even worsened the situation. However, to uplift this sorry state of financial affairs there were other sources of revenue. But first, let us see the composition of the tax system. Briefly, local taxation was regarded as the paramount source of revenue. The taxes fell under various heads, namely graduated personal tax, rates, poll taxes and cesses on certain agricultural produce. Supplementary to the taxes were licences. These comprised of licences on ownership or use of bicycles and other minor possessions as well as a means of control over trades, occupations - in the form of rents. Also, fees and charges for services such as water bills etc., were a source of revenue. Miscellaneous income was another source. This could be either from within the council's area or from outside and was based mainly on interest on investments. Finally, inspite of their autonomy the local authorities enjoyed, the government also took a keen interest in their affairs. And to ensure that they were getting on well with their affairs it gave them grants for their finance.<sup>42</sup>

NEW CHANGES:

From independence to 1968, local government experienced what we may call a period of transition. It was within this period that all theories as regards the development and administration of local government were put into practice. First, it was anticipated that the local government structure should be such that would be of meaning to independent Kenya. Because of this, the position of local government was entrenched in the independence constitution. But time proved this effort a source of confusion rather than of any importance. This effort was further rendered useless by the



KANU/KADU struggles. However, with KANU's assumption of a tighter hold on the government, the situation had a facelift. Of course, it took time to have more palatable solutions to this problem. New provisions were made with a view to have a much improved and feasible system. Though determined effort was put towards this goal, problems still prevailed in many ways. The most outstanding of these was finance. Almost all local authorities were victims of this predicament - lack of sufficient funds to finance their budgets.

It was in this light that the Government seriously started persuing the "Report of Local Government Commission of Inquiry of 1966. In 1968 parliament started debating these problems, and specifically during the Ministry's budget vote. The Minister during the debate mentioned the concern his ministry had over the local authorities. In particular as pointed out by the Hardacre Report of 1967<sup>43</sup>. He explained too that his ministry had not acted promptly because it needed census details and as such had postponed the review of this Report until 1970. However, the Minister admitted that some of the problems the councils faced were not self created, they were a result of government policy. He said;

"Policy decisions have been made by Governments placing greatly increased financial commitments upon local authorities. Expansion has been too rapid in relation to financial capacity. Education is the prime example. Between 1964 and 1968, expenditure rose from £5 Million to £8.3 Million or about 15 % per annum. Sir, Government

received a directive that Medical services should be provided free and this has had the two fold effect, of reducing revenue and simultaneously substantially increasing the demand for medical services.

Grants for secondary roads have not been reassessed for ten years and are only fifty per cent of the actual cost of road maintenance. The graduated personal tax has proved to be an unreliable source of revenue to local authorities. The lower rate of tax was first introduced without compensation and is now to be abolished. The assessment of collection of this tax is the responsibility of the Provincial Administration, and yet the County councils are frequently criticised for their fore collection."<sup>44</sup>

Therefore, it is no wonder that with this realisation the Government had to make an effort to salvage county councils as well as other councils from being targets of inefficiency and undue criticism. On that footing, the Minister appealed to the Government to increase grants to the local authorities so that they could keep abreast in the supply of services with the demand. He further gave an example of delay in the payment of teachers salaries because of lack of funds. However, inspite of this defence of local authorities, the Minister also pointed out the fact that whereas there were efficient councils, others had been inefficient. This inefficiency was caused by mismanagement and lack of financial control. This, the minister said, was a result of incompetent staff, dereliction of duty, failure to collect revenues, failure to keep accounts

and failure to maintain financial control.

To bring the matter under control, a move we feel was quite necessary, the minister told the house that his Ministry was working a programme for training of staff. In 1968, seven graduates had been given on the job training and were to replace the expatriates. Also a further direct intake students had been under training at the Kenya Institute of Administration in accounting. And finally, that the Ministry had seconded 15 members of staff to county councils to undertake accounting duties and the cost of these duties was to be reimbursed by the councils.<sup>44(a)</sup>

The ministry's efforts on these lines were aimed at remedying the position of local authorities, which by this time were in a mess. In line with the Minister's statement, parliament passed an Act which effected the transfer of some of the services from local government to Central Government. This Act empowered the President to transfer education, public health, roads and graduated personal tax to the Government. Further, the President was empowered to amend the Exchequer and Audit Act and the Local Government Regulations, where necessary, to transfer to the controller and Auditor-General the auditing of the accounts of local authorities. This Act expired on 31st March, 1970 after effecting the transfer.<sup>45</sup>

In terms of significant changes, this transfer apparently is the only one up to the present time. Though, it eased or released local authorities from their biggest problem, it had disastrous effects as a result. The functions so transferred did take away one of the most important sources of revenue.

In the event that local authorities - mainly rural - became weak. This is because up to 1969 graduated personal tax, school fees and grants accounted for 80% of their revenue. Consequently, this transfer made the local authorities to plunge into more financial doldrums. Their only sources of revenue were limited to grants, plot rentals, occupational licences, market fees (barter fees) bicycle licences, water rates, poll rates and other related sources.

In subsequent years, the position showed no improvements, it continued to deteriorate. For instance, from 1970 onwards, the condition continued to worsen and in 1972 only 9 out of 38 councils showed small surpluses. By 1974, only seven had surpluses. The aggregate deficit on the other hand, was increasing. For example, in 1975 Busia was unable to pay staff for 9 months.

From this exposition, we see as a fact that, the position of local government is steadily declining. But this is mainly the case with rural local authorities. It appears that the Municipal councils are in a better position because they still have some of the more promising sources of revenue unlike their rural kin. Furthermore, these municipalities have been given preferential treatment especially as regards obtaining of loans from the Local Government Loan Authority. They have been preferred because they are in a more promising position of repaying back the loans.

However, though the performance of the local authorities is low keyed, we cannot dismiss them as obstacles to development. What we need to do is to make them more viable. The only likely way is to give them more financial backing as well as qualified staff. This will add life to them. We shall see the crux of this suggestion in the subsequent chapters.

In the preceding chapters we have concerned ourselves with the general development of local government in the pre-independence period and after. What we shall embark on now is the administrative side of local government. However, this is not essentially a definitional endeavour but more or less an analysis of the role local government has or can play in development.

In this chapter our immediate concern is limited to the colonial period. Besides, we shall also try to define what administration embraces and specifically relate it to the pre-independence period. That is, we shall link this historical development with our definition and furthermore see what administrative principles emerged and how they were put into use during the development of local government.

To begin with, we have to submit that there is no clear cut definition of the term administration. Consequently we shall try to define it by way of the end result or what happens in the administrative process. That aside, attempts have been made in an effort to have a general understanding of what administration entails. Such an effort has been made by Mr. Ripley<sup>46</sup>. He understands administration to be having the following characteristics. That, "it is concerned with the task of co-ordination." To him, a normal pre-occupation of an administrator. "is arranging the human and material resources for the various operatives playing their part in maintaining activity". This type of activity is common to public and private administration. If we adopt this functional approach to administration, then, what is its relevance to local government in Kenya? Perhaps, this will be more lucid if we limit ourselves to administrative development in stages. In this chapter however, we are specifically concerned with the period prior to independence. We shall continue with our second and last stage in the post independence period, which is dealt with in the next chapter.

EARLY EFFORTS

In the first chapter of this dissertation, we saw that the whole process of the present administration of local government came into existence during the 1914 - 1918 war period. Before then, there were no local government bodies in existence. It was only during the war that advisory committees of local residents started being involved in the colonial administration. These cooperated with the District commissioners in the administration of the Registration of persons ordinance, 1915. The exercise was successful and in 1917, sir Edward Northey regrouped administrative districts to give effect to his separate development policy. He set up District committees in all European Districts. These functioned as advisory bodies to the government.<sup>47</sup> But much of what we see today by way of the administrative process of local government emerged in 1926 when a commission under Judge Feetham was set up to investigate the local government sphere. The following year, the commission made recommendations which were given legal effect and created the system that operated until independence. This system that was simply borrowed from the British idea of local government.

District councils and committees were set up in the European settled Areas. These were consultative in nature. On the other hand, local councils were set up in the African Reserves. Both these institutions served as agents of the central government. The District councils set up in non-African areas were given power to elect their own chairman and also could appoint their own officers. These councils took over the responsibility of District committees and Road Boards. They had power to levy a rate. On the other hand, Local Authorities were unwilling to levy rates and as a result remained, mainly, road authorities responsible for District Road Maintenance in their areas. These local authorities were composed of the District commissioners

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by delegated authority of the governor, councillors first among the chiefs. Later the members were popularly elected. By 1948 elected members became the majority.<sup>48</sup>

With regard to local councils, their structure and functional machinery were contained into the 1924 Native Authority ordinance that legally established them. The District committees on the other hand were set up in 1919 in European districts to give effect to sir Edward Northey's policy to separate racial development and administration. These committees had no statutory or executive functions.<sup>49</sup> They only advised the colonial government on matters concerning land alienation, development of towns in the districts issue of permits, application of certain laws and collection of taxes. The committees became District councils in 1928, these District councils were composed of 10 - 15 elected members, and one nominated member. The councillors could elect the chairman.<sup>50</sup> The functions of these District councils were to raise revenue and to initiate development in public health hospitals and education.<sup>51</sup> This was laid down in the local government (District Councils) ordinances 1928. The ordinances also laid down the form of administration of urban and rural areas in the Highlands. Up to 1953, the District councils kept road systems and handled rural affairs. There were also municipal Boards in the non-native areas that did function on similar lines as District Councils.

It is important to note that the pre-independence local government administration was concerned with welfare and good government. First, the colonial government on the native inhabitants. This was in respect of matters affecting the provision maintenance and regulation of:-

- (a) (i) Food and water supplies
- (ii) Forest
- (iii) Outspans

- 5 T
- ( v ) Roads, bridges and culverts
  - ( b ) Public health
  - ( c ) the recruitment of labour - able bodied adult males for any purpose.<sup>52</sup>

The above provisions marked the first administrative provisions as regards local government. To make them operative the local Native councils were set up. These were composed of the District commissioner with headmen and other natives appointed by the government. The District commissioner was the president of these local Native councils and in his absence the Assistant District commissioner presided.

The local Native councils were also concerned with the use of land, education, markets and market dues, agriculture and livestock. To enable them meet these requirements they were given powers of imposing rates.<sup>53</sup> However, all their activities were subject to the Governor's supervisor. Therefore, the provisions of this ordinance gave effect to the colonial government's idea of an administrative machinery that was charged with the supervision of the tribal communities, the Maintenance of law and order, the assessment and collection of Native tax the provision of local government services and the establishment of tribunals. In general, the councils were a valuable means for the government to consult public opinion. But, on the whole they proved to be a sad disappointment as far as their original concern of providing services was. One major defect was the misapprehension of native administration principles. The understanding of native administration in the colonies did have a different meaning altogether from that understood in Britain. In the colonies, it was understood to be the supervising and controlling authority over native administrations, whereas in Britain it was understood to mean local government bodies.



Therefore, up to 1950, in Kenya the apparent understanding was the ringling of the two, but with an inclination towards the British view.

Notwithstanding these defects in their functioning, the Councils did play some notable roles in local government. For instance, the Advisory councils or committees - were useful to the government officers in advising on administration matters from the African view point. The native tribunals also played a similar role. The local authorities on the whole gave representation to the people under them and especially those who paid rates, dues and other taxes.

THE NEW PATTERN

The councils became much more effective as a valuable means of public opinion for the government after the passing of the county councils ordinances in 1952. As a result considerable development ensued.<sup>55</sup>

This ordinance brought into play new local Government structure based broadly upon a county council two tier system following the English pattern. To this, however, were variations suitable to bring the pattern in line with local conditions. The District councils that existed were made responsible for preparing a scheme for county administration including any Township or Trading Centres within the districts. The whole district council was then to become an administrative county under the control of a county council. This was to be further divided into Urban and rural districts areas, each with its own council. Thus the latter two Urban and Rural Councils formed the second tier with their own authority and not under the control of county councils. But as many links as possible were provided for the cooperation and co-ordination between the two types of authority. And more often than not they shared executive staff.

This change only enhanced the political power of the councils at the centre but did not make them more functional. They only

acquired impressive names and still functioned only as road maintainers.

Membership to these councils remained European dominated. Not more than two thirds of the members of the county councils were elected Europeans, the rest being made up of councillors nominated by the county Districts, a representative of the Government and any municipal authority within the area and not more than three councillors nominated by the Minister such membership obviously depicts the idea that the functions of the county councils were limited to the European interests which were given Government approval. Urban District councils on the other hand, had wholly or partly nominated members who included non-European members. The non-European members were to cater for the interests of non-Europeans.

The councils and common staff and even one set of accounts. The accounts were kept for the whole county, with one county fund and one county rate although the county Districts had control of their finance. County councils assumed responsibility for county roads many had delegated powers from the road authority for the maintenance of main roads. They were also responsible for public health, planning and some educational functions previously carried out by district councils. They could build and maintain schools, provide transport services, and establish community centres.

County councils could assume powers generally available to municipalities if such powers were not conferred on county councils. These were in respect of sanitation and building controls. The finance required for these functions was obtained by way of rates as well as government grants.

The change in the structure brought about by the passing of the 1952 county councils ordinance, however, did not change the administrative principles adopted in local Government administration. The framework for a decade or so up to independence remained a two separate system structures first, there were the municipal councils in the main towns and county councils in the former "settled" areas.

Secondly, there were the African District councils throughout the rest of the country where local authorities had been created. These two systems had many differences in many respects. They differed mainly on membership, the law governing them, services taxes and Government control.

However, with the approach of independence, it was realised that a unified structure was necessary. Efforts towards this goal were made. New constitutions became desirable, as well as new elections and a new franchise. At the same time, it was the Government policy that the whole country be covered by local authorities. Therefore, it was necessary to establish local authorities where there were none in existence. The Government also made sure that local authorities were given constitutional safeguards. This it did in the independence constitution. Provisions relating to local government were entrenched in the constitution.

On the whole, administration of local government was not autonomous as originally anticipated. The councils had to rely very much on the Government also exercised some central control over the councils. This began when two standing committees were set up to give effect to Mr. Justice Feetham's recommendations in 1930. To ensure this the Government nominated as well as appointed members to the councils. And from 1953 the Ministry took over the control especially of African District councils. A similar system of Government control was carried over to the post independence period but with slight modifications as we shall see in the next chapter.

## CHAPTER 4

### ADMINISTRATION OF LOCAL GOVERNMENT AFTER INDEPENDENCE \*

The administration of local government took a new turn with independence. With independence, provisions concerning it were entrenched in the constitution. This was because the independence (Majimbo) constitution sought to give both a "strong central governments and strong regional governments".<sup>57</sup> Several functions were transferred from both the central government and local authorities to the newly created regional governments. This transfer of functions, however, had one significant effect on the control and powers the district commissioners had over local authorities. This new move took away this control over local authorities and vested it in the newly created regional governments.

Apart from Nairobi, all other local authorities came under the administration of the regional governments. Being the capital of the proposed federation, Nairobi was directly administered by the Ministry of Local Government. This was carried out by way of a special committee of the Senate, "the Nairobi Standing Committee". The committee was further charged with the responsibility of advising the minister.

The structure of local authorities inspite of the new administrative charges, remained based on the two tier system which was created in 1952 by the County Councils Ordinance. The main difference between the two upper tier authorities was that the first class authorities appointed their own chairman while the other authorities had their chairman appointed by the respective Regional Assembly. On the other hand, the lower tier which comprised urban and rural councils were responsible for their administrative units within a county.<sup>58</sup>

#### NEW REGULATIONS

The post-independence administration of local government was set out in the Local Government Regulations, 1963.<sup>59</sup> The regulations also provided for the membership of the councils.<sup>60</sup>

In general, they stipulated that two thirds of each local authority be elected by voters. The minister could appoint additional councillors to represent the central government and any Nairobi based organisation with special interests such as the East African Railways. The Regional Assembly as well, could appoint members to all their local authorities to represent the regional administration and any special interests.

Within the few months after independence there was a lot of hustle and tussle that, the KANU - KADU coalition government was unable to lay down clear guidelines for the local government bodies. This prevented the Ministry of Local Government from effecting the devolution of power to the regions. It was then further made difficult by KANU'S taking over of the control of the central government after an winning electoral victory over KADU in June 1963. This halted any further decentralisation. After the dissolution of KADU in 1964, the Regional Assemblies were stripped off their powers. And also when the Republican Constitution became operative, all the constitutional provisions relating to local authorities were thrown overboard. The new constitution did not expressly provide for these councils as its predecessor.

As a result of this constitutional development, it was found necessary to rethink over the general position local government. The government in response to this need, appointed the Hardacre Commission in 1965. This commission was chaired by W.S. Hardacre and was to review the structure, composition and functions of local authorities and their relationship with the central government. The commission's recommendations had a strong inclination towards greater control of local authorities by the Ministry of Local Government. This was necessary to ensure co-ordination of all local government matters, fair allocation of staff and finance, and the establishment of ties between local authorities and Parliament.

The commission stated:

"To meet the responsibility allocated by Parliament to the Ministry of Local Government, the Ministry must, and must be expected to be, the real control and co-ordinating body for all matters pertaining to local government and its [Emphasis mine] requirements". 61

It further recommended that the minister should have the power to dissolve an authority if it mismanaged its affairs. And a commission was to be appointed in its place to operate for two years.

To prove that the government took the commission's work seriously, it had in the previous year started making fundamental changes in the local government structure. The Ministry had in 1964 taken over the control of the audit of local government accounts. In addition, the Minister regained the powers which had been given under the Independence Constitution to the Regions. Councils were ordered to submit their estimates to the Minister who had the discretion to approve or reject them.<sup>62</sup>

#### ORGANISATION

On the organisation of local authorities the Hardegre Commission recommended that rural and urban authorities should where necessary establish joint committees for running services mutually beneficial to both of them. Thus the commission saw a need for closer co-operation. This in a way was beneficial in that it allowed correction of administrative errors as well opening for exchange of labour skills. The commission also suggested that boundaries of Municipalities be generously drawn so as to extend the quality of urban life to include shanty - towns and dormitory settlements on the peripheries of Municipal areas. It also vaguely proposed that a review of local government areas was desirable for more economic administration. But it laid down no guidelines for such a review.

However, the commission came up with one important finding. It suggested that the efficiency of local authorities depended much on the level of literacy of their members. At the time of its inquiry it was found that a good number of councillors were either illiterate or semi-literate. And as such it pointed emphatically that councillors must have a high enough degree of literacy and proficiency in English to fully participate in the deliberation and business of their authorities. Without this there was an obvious difficulty in communication among the members. At the same time, it was cumbersome to have the minutes published in different languages. But the efforts to ease this problem previously should not be disregarded.

The government had tried to maintain a certain level of literacy among the councillors. It had set out in the Local Government Regulations, 1963, a minimum requirement for qualifying as a councillor to be literate.<sup>63</sup> However, this has in some cases been made difficult to implement by pressure from councillors. And even in 1979, President Daniel Arap Moi waived the requirement that knowledge of English be the determining factor for standing for election in the councils. Instead he suggested it was sufficient if a person was proficient in Kiswahili and had leadership qualities.<sup>64</sup> The effect of this requirement and its impact on the efficiency of both the councillors and the councils in their functions, is yet to be seen.

#### LABOUR

Concerning labour administration, there was no clear cut policy. In the first instance, division of responsibilities was quite unclear. This was mainly witnessed in the fields of education and public health. To make matters worse, lack of sufficient finance created considerable obstacles in the provision of these services. This weakness was largely a result of too much dependence on the central government by local authorities. Government grants were taken to be the biggest source of finance. Therefore, this dependence weakened local authorities' sense of self-government and consequently made central control unavoidable, even though the government did not want total control.

The councils run their functions by way of committees. These committees discuss matters relating to council functioning and make recommendations to the full council for adoption. Controversial issues are referred back to appropriate committees or are discussed by the whole council in meeting. In this way councillors are involved in the whole process of policy formulation and decision making quite unlike parliamentary back benchers who are as far removed from the cabinet as the general public.

From the outside, this committee system appears to give the impression that local government servants are subjected to pressure from councillors. However, the influence of councillors over local government servants or vice versa varies from council to council. On the contrary, this has been taken to be an opportunity whereby council officers and councillors could interact sufficiently and thus foster greater mutual understanding.<sup>65</sup>

This is the essence of "local self-government". In spite of this democratic exercise lack of finance has given proper functioning of local authorities a hard time. There have been perpetual financial crises. On this particular issue the Hardacre Commission was unable to suggest an appropriate remedy. It only made the suggestion that the Ministry should post senior civil servants to assist the councils where necessary. Further, that the Ministry should retain the power to approve estimates, to supervise expenditure and to order the auditing of accounts. In 1965 when, by the Republican Constitution, the central government took over most of the constitutional functions and powers of the regional governments, the regional agent - now District Commissioner - resumed powers of veto over any decisions of the local authorities in his area which he judged inconsistent with central government policy. The district commissioners, provincial commissioners and nominated councillors give government representation on the councils. This is also seen to be one way of central government control over local authorities.

#### FINANCE

This is one area which has been a thorny issue in the administration of local authorities.

From independence and before, financial problems have been the main hinderance to the proper functioning of local authorities.

The authorities had been charged with the responsibility of providing services such as education, roads, tax collection and public health. but due to insufficient finance and lack of qualified staff these were not satisfactorily provided. Efforts to remedy this were made by establishing the Local Government Loans Authority from pre-independence days but as already seen incompetence among staff made any headway difficult.

The final efforts to salvage councils from this financial tragedy were made in 1969. The government introduced the Transfer of Functions Bill in October, 1969 in Parliament. This bill was concerned with the transfer of three basic services to the central government Ministries. These were primary education, health and secondary road maintenance. 67



The members' debate on this bill clearly exposed the financial position of local authorities. It was revealed that, as at November, 1969, the only sources of revenue to county councils were school fees, licences and GPT. Obviously, these alone were not even sufficient to pay teachers' salaries. In fact, in Bungoma District for instance, teachers were unable to get their August pay until a loan was obtained from the government. Consequently, it is not strange to find that these teachers, in order to expose their frustration, had to break into the Bungoma County Council Offices.<sup>68</sup>

This Bill finally effected the transfer of these services in 1971. The Bill, as such, was taken to be of importance to the councils. On the one hand, it was one way of relieving the councils from the financial burden they had trying to provide the services. On the other hand, this Bill salvaged the the councils from becoming bankrupt. We should here see the Transfer of Functions Act to have relieved local authorities from constant blame but at the same time, it could be inferred that, this move by the government, only maimed the councils. Today, these councils -- except Municipal and City Councils -- serve no valuable purpose. We can only take consolation in the fact that they act as "nurseries for political enthusiasts", and, may be, a few other functions such as maintenance of markets and issuing of trading licences.

Moreover, their composition is such that proper functioning is difficult. That is, most of the councillors are of poor academic level and even not skilled. Therefore, proper administration is next to impossible. But with the presence of qualified staff and in some cases the presence of nominated members -- who may be skilled -- this sad state should be brought.

SUMMARY AND CONCLUSION

Local government, generally has been seen as a relief on the load of functions on the central Government. It has been seen too, to be in a position that is better placed to give adequate services than the central government. It has been further seen, to be a sphere of training of political responsibility and also as of training public representatives for the wider spheres of government.

These qualities have been attributed to local government generally, but, do they exist everywhere where local government has been adopted? All through the preceding chapters we have seen what may be called merits and demerits of local government. But before we can look at them more closely let us again refer back to the initial intentions for creating local government. Of outstanding importance was the need to establish some form of local political representation. This was to act as a platform for spokesmen of both the younger and older generations - an organ representing their interests. Therefore, it was believed that establishment of local councils would create a forum for representing African interests.

But as time went by, this need was overtaken by the Government's wish to establish local councils that were more welfare prove than those existing which were more or less administrative. In 1924, British principles of local government were introduced through the Native Authority Ordinance. The ordinance provided for the creation of local native councils that were responsible for catering for the people's welfare as well as advising the Government.

But from the time these councils were created and charged with those responsibilities up to the time of independence, not much can be said to have been achieved. On the one hand, the services anticipated - from the councils created for this purpose - were far from being satisfactory. The reasons for this poor performance were mainly lack of finance and skilled manpower. However, we cannot definitely brand local government having achieved nothing. Notably, it achieved one purpose. This was the idea that local government was one way of practising administration. Also serving as a training ground for African Politicians. This particular aspect did not only exist in the period before independence but is even seen today. At present the Kenya Parliament has a number of members who were previously Councilors. <sup>69</sup>

The Post-independence era, however, has not had much head way in making local government institutions worth existing. Although, the central government has tried to assist these institutions as much as possible only some of them have been promising. The government has also tried to make the councils self-governing but, it appears, this objective is still out of reach. Some quarters have tried to explain this position from two angles. one being that the poor performance is a

consequence of the historical close supervision and control of these institutions by the centre.<sup>70</sup> Secondly, that inspite of this poor performance, the existence of local government is necessary because the central government may not adequately solve local problems.

PROBLEM SOURCES:

Now and then, the scape-goat for the poor performance, has been mainly lack of funds and lack of skilled labour. But we may further add that it is also because of development local councils on a misunderstood notion of local government.<sup>71</sup>

Also, because of the over-reliance on the central government to provide funds, which originated from the belief of the Boer farmers, that as guests of the colonial government, it was supposed to provide funds both for their own needs as well as setting up local institutions to assist them in their farming.

The labour problem falls into two heads: First, as concerns actual skill of the councillors and council officers and second, as concerns powers of councillors as well as their abilities. On this particular issue, it has been suggested that the councillors power is little with regard to dealing with problems affecting areas they represent and to make authoritative allocations. Furthermore, these elected councillors politically serve ~~as~~<sup>as</sup> representatives of their constituents to, rather than from the government. This is a big handicap to them in the eyes of their constituents who expect them to solve all problems. Thus this makes the councillors feel that they are unable to solve problems presented to them however important. But in contrast, a nominated councillor is better placed and has a more active role.

Even though, the authorities may determine their own policies, their operation is hampered by the lack of funds. Therefore,

the councils have to rely on the government. This puts them in hopelessly weak position. The only worthwhile authorities are those in urban areas. These have wide sources of revenue unlike their rural sisters. Another related problem is the lack of skilled manpower. It can be recalled that in the preceding chapters we have seen that financial mismanagement has been one of the major causes of poor performance of the local authorities. It has even led to lack of devotion among the councillors. The apparent contractual nature of the councillors' job has made people vie for such posts only for personal gains. Lack of education is also another contributory factor. It hinders proper debate among the councillors.<sup>72</sup>

#### REFORMS ATTEMPTED:

Realising the finance problem experienced by local authorities the minister responsible agreed the councils' poor performance was so because of the poverty they had. He further added that the council's inability to secure and retain qualified financial officers as a contributory factor.<sup>72</sup> To ease this the government made available accountants auditors to centrally handle the finances of authorities. This is mainly done in the form of audits of the authorities accounts.

Another effort was that of transferring of ~~some of the~~ functions entrusted to the local authorities to the central government in 1971.<sup>73</sup> At the moment only municipalities, city and town councils still perform some or all of the functions transferred. At the time of this transfer, it was anticipated that this was only to be a temporary measure and these services would be returned to the local authorities once they became sufficiently strong, financially and administratively. However, this move can not in any way be termed revolutionary in that even before it was initiated, the ministries of the central

government had indirectly controlled these service functions.

Furthermore, the centralisation of the three basic services - primary education, health and secondary road maintenance - was no guarantee that they would be more efficiently performed than previously. Within a decade's time since, there has been some sort of improvement in the provision of those services but there has been, too, less responsiveness by the government to public needs and demands in these critical service areas. This has been mainly evidenced in health and road maintenance. Education has enjoyed preference since it is considered the most pressing need.<sup>74</sup>

#### SUGGESTIONS:

Through this dissertation, we have seen efforts that have been made since the establishment of the local authorities up to the present time. We have seen also the performance of these local authorities, and specifically their merits and demerits. Herenow, we conclude with some suggestions which we feel may highlight some improvement in the functioning of local authorities.

First of all, we believe that the functioning of the local authorities can be improved if efforts are made to train the staff of the local authorities. Alternatively, to alleviate this problem, more qualified staff should be allowed to serve on the councils. More financial resources should be generated to ease their financial problems.

The sources of revenue now open to most councils, especially, county councils are not even sufficient to enable them to carry out their functions. We don't believe the financial status of the local authorities underwent any facelift because of the transfer of functions. Instead this move only made them crippled functionwise and to be extensions of the

government.

We may recall that the councils from the start were expected to formulate their own policies and make their own decisions, but throughout their lives they have been implementing the policies of the central government instead. This particular aspect has rendered them historically reliant on central Government and also to be under close supervision by the central Government. The transfer of functions is evidence of central government dominace over local authorities.

Another area worth considering is the issue of allegiances the council officers. There is the problem of divided loyalties allegiances and responsibilities. They are directly responsible to the Town Clerk or Clerk to council and are generally accountable to the councils which appoint them. And the Town Clerk is responsible to the ministry of Local Government. Thus it is not uncommon to find the officer evaluating a proposed course of action, in terms of the anticipated response, not of the council but of the centre. This obviously frustrates the councillors who believe they should make decisions. Therefore, it is not unlike to have rifts between the councillors and the clerks of the councils.

In some cases the councils' officers being administrators. They complain of inefficiency brought about by politics. Infact the council officers believe they would be able to run the authorities more smoothly if there were no politics and politicians at all. This state of affairs is quite evident in Kenya as witnessed in the recent Nairobi City Council crisis.<sup>75</sup>

We further, doubt whether the system of appointment of council officers would make the Local Authorities defend their existence. But with the recently passed Local Government staff

commission it is hoped that the performance will improve. whether this is desirable or not is a matter of fact, but we are more interested in co-relation between the ministry and local authorities so as to have sound development plans and national goals. Because, to say that local authorities serve no useful purpose

May not be a fair assessment, since, "Local authorities are important to any nation for at least two reasons: They provide immediate services to citizens and also service as training grounds for national leadership. (Emphasis added).

Unfortunately, local authorities in Kenya have done rather poorly on both counts".<sup>76</sup>

REFERENCES: FOOTNOTES

1. Joel Samoff, Local Politics and the structure of Power, (University of Wisconsin Press) 1974, P. 103
2. Nyerere J.K. Socialism and Rural Development (Dar-es-salaam) 1967, Government Printer. P. 11.
3. La Fontaine, S.H., and J.H. Mower, Local Government in Kenya Nairobi, 1955 PP. 1 - 5 .
4. Hobley C.W., Kenya from Chartered company to Crown Colony. 1927 London, HF and Witherby . P. 161.
5. Ibid P. 310.
6. Sir Percy Girouard after his Nigeria experiences, was interested in relatising traditional authorities.
7. La fontaine, Supra at P. 6.
8. Walter Oyugi, Local Government and Development in Kenya, Dept. of Government, University of Naironi and IDS Sussex University, 1978, P. 13.
12. The initial idea of separate development had been articulated by Sir Edward Northey in 1919 when he reorganised the administrative districts to give effect to this policy.
17. Report of the Local Government Commission, 1961, Vol. I p. 14
18. Consideration for Local Government
19. Annual Report, 1967
20. Report of the Commissioner for Local Government - 1974
21. Plan for success, published by the Kenyan Government (Nairobi) p. 20.
22. Excerpt to the Journal of African Administration, July, 1959, p. 11
23. Native Affairs Department, Annual Report, 1954, p. 11 Sir Phillip Mitchell.
24. Sir Phillip Mitchell, African After six years (London, 1954), p. 199.
25. Report on Native Affairs, 1935, p. 15
26. 1960 Annual Report, 1960, p. 38
27. Report on the Development of the Native Areas - 1951 (Nairobi) p. 11

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CHAPTER 1

9. M.N. Evans, Local Government in the African Areas of Kenya, July 1975, Journal of African Administration, P.123. "Kenya lacked strongly developed organs of traditional govt. Prior to the advent of British rule and for that reason the ADCs are entirely Statutory Creations. Such tribal organization as existed was, for the most part, confined to informal gatherings of elders and the office of hereditary Chief, was with one or two exceptions, unknown.
10. Ghai and McAuslan, Public law and political change in Kenya (Nairobi) 1970, Oxford University Press pp.62-63.
11. The Central Government delegated powers to them as well as giving them a voice in matters directly affecting or concerning them.
12. Annual Report, 1927
13. Thomas Mulusa, Central Government and Local Authorities, in Development Administration - The Kenyan Experience, edited by Covan Hyden, R. Jackson and J. Okumu, 1970, Oxford University Press, p.223 ff.
14. Ole Njogo & Others V. Attorney - General of the E.A. Protectorate (1914) 5 E.A.L.R. 70; Supra, foot note 10 - pp. 20 - 22.
15. The DACs (District Advisory Councils) like District Committees had no statutory powers but members were nominated by the Administrations. Obviously, this ensured sufficient control by the Government in their affairs. Essentially, these Councils were expected to act as 'shock' absorbers' for the Central Government when confronted with local political grievances. The DACs were changed to Local Native Councils in 1924.
16. The initial idea of separate development had been enunciated by Sir Edward Northey in 1919 when he regrouped the administrative District to give effect to this policy.
17. Report of the Local Government Commission, 1927, Vol.11 p. 14
18. Commissioner for Local Government.
19. Annual Report, 1947.
20. Report of the Commissioner for Local Government - 1954
21. Plan for success, (Published by the New Kenya Party N.D.) p.20.
22. Supplement to the Journal of African Administration, July, 1952, p.33
23. Native Affairs Department, Annual Report, 1924, p.3  
Sir Phillip Mitchell.
24. Sir Phillip Mitchell, African After thoughts (London, 1954), p.259.
25. Report on Native Affairs, 1938, p. 18
26. HAD Annual Report, 1928, p. 38
27. S.H. La Fontaine & J.H. Mower, Nairobi, 1955, p. 21n Kenya - HS Origins and development, (Hague Press, Nairobi)

27. A. Phillips, Report on Native Tribunals Govt. Printer, Nairobi, n.d.) B.8.

28. M. N. Evans, Local Government in the African Areas of Kenya; Journal African Administration, July, 1955, P.126

29. After the formation of County Councils that year, the Advisory standing Committee that had been formed in 1942, went into voluntary liquidation. Because of the responsibility of its members, the Governor was persuaded to nominate an African to the Leg Co. in 1944.

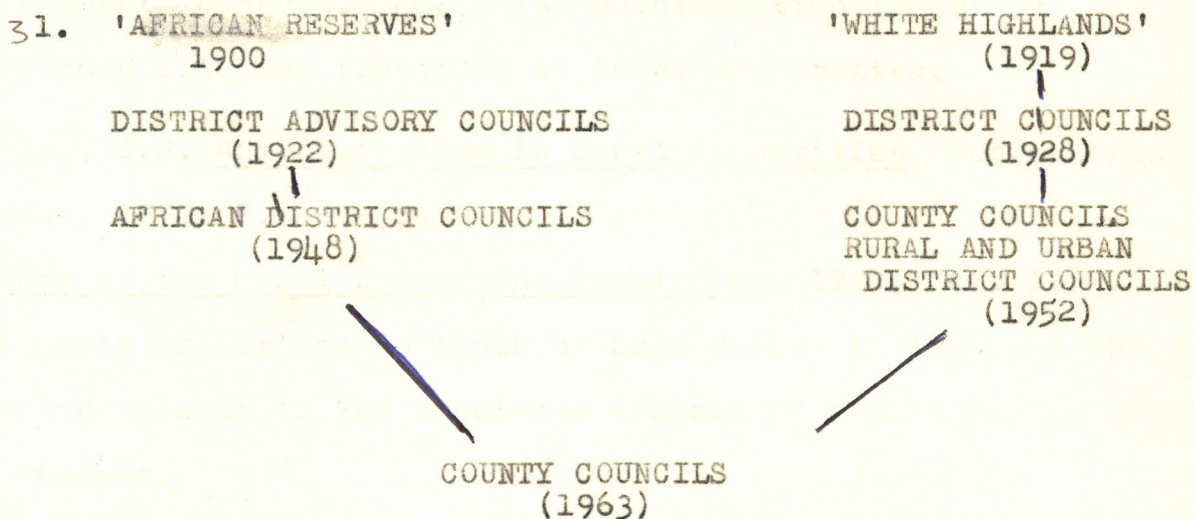
30. E. A. Standards, 19th and 5th November 1964, PP.5.

30(a) S. H. La Fontaine & J. H. Mower supra note 6, P. 20 ff.

11. This chart included all the...  
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Chapter 2

References:



This chart excludes cities and Municipalities.

- 31<sup>a</sup> Statutory Instrument 791/1963.
- 32 Chapter 13 of the Independence Constitution.
- 45 Y. P. Ghai and J.P.W.B. MCAUSLAN, Public Law and Political change in Kenya, Oxford University Press, Nairobi, 1970
- 33 Section 237, 2 Supra . . . . .
- 34<sup>a</sup> Section 236, 2 Supra . . . . .
- 35 Section 143, 2 Supra . . . . .
- 36 Legal Notice No. 256 of 30th April 1963.
- 37 Local Councils (Third tier) abolishment - Sessional Paper No. 12 of 1967.
- 38 Local Government Regulations 26 and 39, 89 etc.
- 39 Local Government Regulation 107 to 142.
- 41 Local Government Regulations 92, 92A.
- 42 Gertzel, C.J. Government and Politics in Kenya: A nation Building text - E.A.P.H. Nairobi, 1969, pp 387 - 438.
- 40 Local Government Regulations 145 to 167.
- 43 The Hardacre Commission had been appointed to review the structure, composition, and functions of local authorities and their relationship with the Central government.
- 44 Kenya National Assembly Reports Vol. 18, 1969 Col. 367 - 368.
- 44<sup>a</sup> Ibid, Col. 368 ff.
- 45 Act No. 20 of 1969, Section 2(1) and (2).

A - The type of administration envisaged is that which by definition covers the operation and control of the local authorities which of course comprise the only form of local Government in Kenya. Thus, this administration is mainly concerned with the functions of local authorities.

46. Ripley, B.J. Administration in Local Authorities, Butterworths, London, 1970. P. 3.- 5.
47. Report of the Local Government Commission, 1927, Vol. 11 P. 14.
48. The whole proportion as given by Lord Hailey in 1948 was 358 elected members to 227 appointed members of whom 132 were chiefs or headmen.
49. Supplement to the Journal of African Administration, July 1952, P. 33
50. CARSON, J.B. Administration of Kenya Colony and Protectorate, The Highway Press Nairobi, 1953, P. 7.
51. Ibid, P. 14.
52. The Native Authority (Amendment) Ordinance, 1924, section 6 (1)
53. Ibid, 5.7
54. LORD HAILEY, Native Administration in the British Territories in Africa, Journal of African Administration, 1951 Vol. 3 no. 2, P.59.
55. The councils failed to provide the necessary services to uplift the welfare of the people, as well as providing good Government.

REFERENCES

Post -- Independence Admin. of Local Government.

References

57. Statutory Instruments, 1963, No. 791 (East Africa: The Kenya Order -- in Council 1963, Chapters V, VI and VII).
58. The structure has been already adequately dealt with in the preceding chapters. Some districts, especially in Western Kenya, this lower tier was comprised of locational councils in the rural areas. These were abolished in 1968.
59. L.N. NO. 256 of 30th April, 1963.
60. I bid Section 39
61. Local Government Commission of Inquiry, 1965, Report, P.7.
62. L.N. No. 191 of 1964.
63. Local Government Regulations, 1963
64. Daily Nation 27th September, 1979, P.1
65. This development has been quite evident in the Nairobi City Council, from the time Mr. Kahara was elected Mayor. Now and then, there have been conflicts between council officers and councillors. These have culminated at times in councillors suspending council officers.
66. C. Gertzel, M. Goldschmidt and D. Rothchild (eds.) Government and Politics in Kenya (Nairobi, E.A.F.H., 1969), PP.383 - 437.
67. Hansard, 1969, Vol. 18 Col. 1435ff.
68. I bid, Col. 1442.

CONCLUSION: Reforms and suggestions

69. There are four ex-mayors in the present parliament who were elected in the 1979 General Elections. One of them is a Minister for Urban Development and Housing. The four are ex-mayors of Nairobi, Mombasa, Kisumu and Kitale.
70. Development Administration: The Kenya Experience; Oxford University Press, Nairobi, 1970, P. 324
71. See Note 10 in chapter 3.
72. Samoff, Joel, Local Politics and the structure of Power; University of Wisconsin Press, 1974.
73. Local Government (Transfer of functions) Bill  
Vol. 18 Col. 1435ff.
74. See Note 2, supra, P. 251.
75. The crisis in the Nairobi city council was sparked off by the Council's Medical Officer's, Dr. Mugo, suspension. This was overruled by the Minister of Local Government. A few months later, the Town Clerk was suspended but refused to acknowledge the suspension, and in turn suspended his deputy, who had been appointed to act in his place during the Town Clerk's suspension. This trend of events gave rise to much squabbling and heated arguments, that culminated in in directives being issued for them to stop. Such directives emanated even from the president himself.
76. Sunday Nation, December 16th, 1979, P. 6