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**‘The dilemma of councillors’:
The history of local government in
Kenya, c. 1945 – 2010**

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Thesis submitted for the degree of Doctor of Philosophy
Department of History
Durham University

2016

Abstract

This thesis examines the history of local government in Kenya from the late-colonial period up to the passage of Kenya's new constitution in 2010. The development of local government was a hallmark of the Colonial Office's policy for Africa in the post-war period. In spite of this, scholarship on post-colonial Kenya has tended to overlook local authorities. The 2010 constitution devolves power to forty-seven new county governments; in light of this, this thesis considers how the local state has historically functioned in practice. In doing so, it contributes to the literature on decentralisation, neo-patrimonialism and the state in Africa. Historiography of modern Kenya has focused on elite politics and the political dynamics within the highly centralised state. The prevailing narrative of local government in Kenya has been a story of formal decline. By reading the narrative of the Kenyan state from the bottom up, this thesis explores the development of competing ideas of government in Kenya, and the way this has shaped the practices of state institutions and those who hold local office. It draws on three case study councils - Nakuru Municipal, Kilifi and Kakamega County Councils - to critique the popular depiction of corrupt and self-serving local leaders. Contrary to this, the moral world of councillors is presented as one that was full of challenging and competing demands yet was not devoid of an ethos of civic responsibility. Despite the many financial and institutional weaknesses of local authorities, councillors retained a level of legitimacy within their communities through their roles as patrons and clients in local and national political networks. The thesis thus explores the interplay between 'elite' and 'deep' politics, arguing that the pressure on politicians to distribute patronage and provide welfare support was particularly acute for councillors. By examining these pressures, this thesis studies the tension between official policy and the everyday practices of local government.

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Abbreviations

| | |
|----------|--|
| ABF | Agricultural Betterment Fund |
| ADC | African District Council |
| ALGAK | Association of Local Government Authorities of Kenya |
| CDA | Coast Development Authority |
| CDF | Constituency Development Fund |
| CKRC | Constitution of Kenya Review Commission |
| CO | Colonial Office |
| DC | District Commissioner |
| DDC | District Development Committee |
| DFRD | District Focus for Rural Development |
| DO | District Officer |
| DP | Democratic Party |
| FORD | Forum for the Restoration of Democracy |
| GEMA | Gikuyu, Embu, and Meru Association |
| GPT | Graduated Personal Tax |
| IMF | International Monetary Fund |
| JAA | Journal of African Administration |
| JAH | Journal of African History |
| JEAS | Journal of Eastern African Studies |
| JICH | Journal of Imperial and Commonwealth History |
| JOMAS | Journal of Modern African Studies |
| KADU | Kenya African Democratic Union |
| KAMATUSA | Kalenjin, Maasai, Turkana, Samburu |
| KANU | Kenya African National Union |
| KCC | Kilifi County Council |
| KMGCC | Kakamega County Council |
| KLGRP | Kenya Local Government Reform Programme |
| KLGWU | Kenya Local Government Workers' Union |
| KNA | Kenya National Archives |
| KPU | Kenya People's Union |
| LASDAP | Local Authority Service Delivery Plan |
| LATF | Local Authority Transfer Fund |
| LNC | Local Native Council |
| MCA | Member of County Assembly |
| MP | Member of Parliament |
| NARC | National Rainbow Coalition |
| NDEFFO | Nakuru District Ex-Freedom Fighters' Organisation |
| NMC | Nakuru Municipal Council |
| ODM | Orange Democratic Party |
| PC | Provincial Commissioner |
| PLGP | Progressive Local Government Party |
| PNU | Party of National Unity |
| PSC | Public Service Commission |
| ROAPE | Review of African Political Economy |
| TNA | The National Archives (UK) |

Glossary & Currency

KiSwahili

Askari

Baraza

Harambee

Maendeleo

Maendeleo ya Wanawake

Majimbo/Majimboism

Mashinani

Mwananchi/Wananchi

Nyayo

Tembo

Uhuru

English

Tribal policeman, guard

Public meeting, council

Expression meaning 'Let's pull together', also self-help, fundraising event.

Development, progress

Development for Women Organisation

Regions/regionalism

Grassroots

Citizen/s

Footsteps; motto of President Daniel arap Moi.

Palm wine

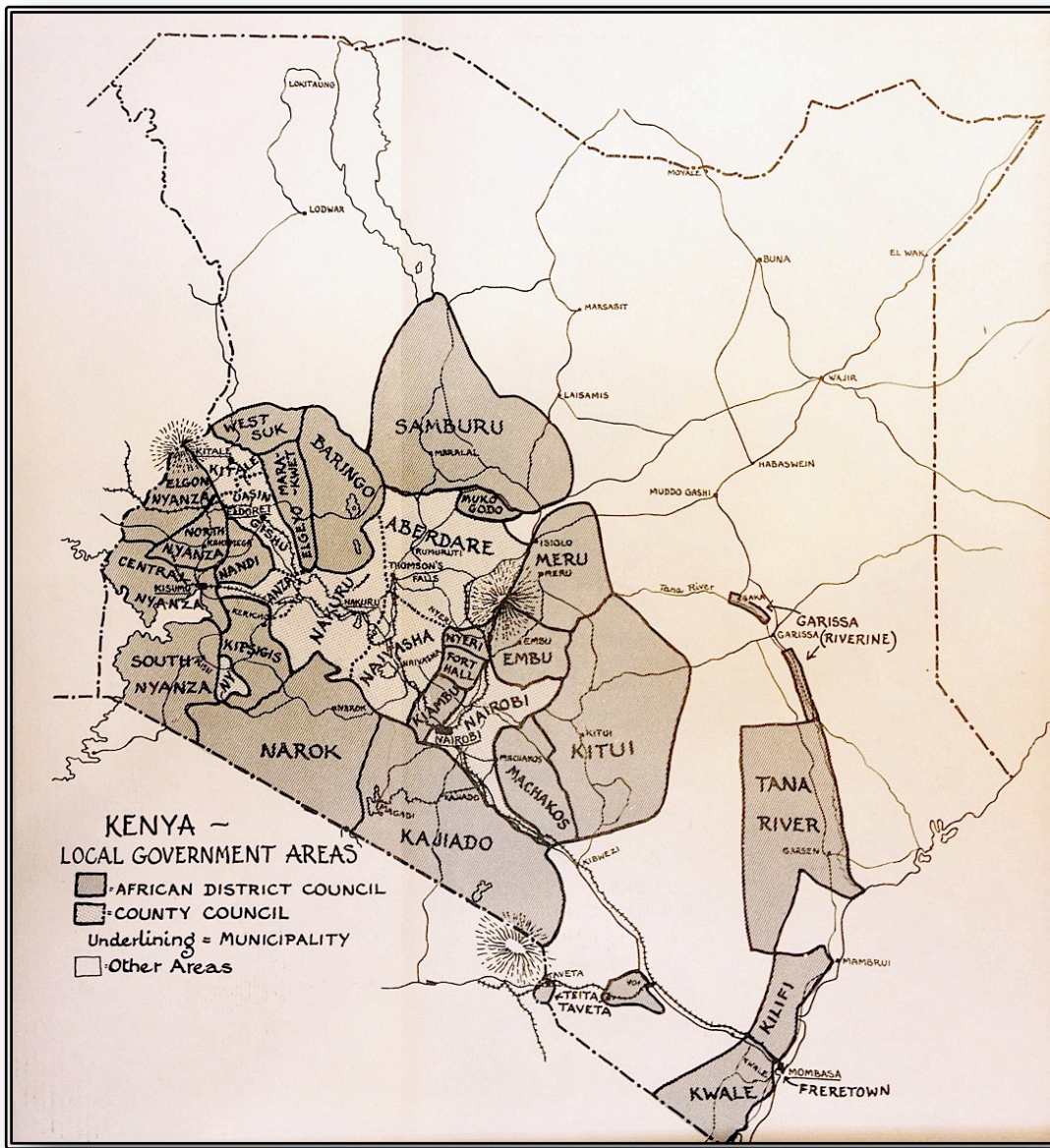
Freedom, independence

Note on currency:

Twenty Kenyan shillings (20 KSH) equals one Kenyan Pound (K£1). For much of the period studied in this thesis, one Kenyan pound was roughly equivalent to one British pound sterling.

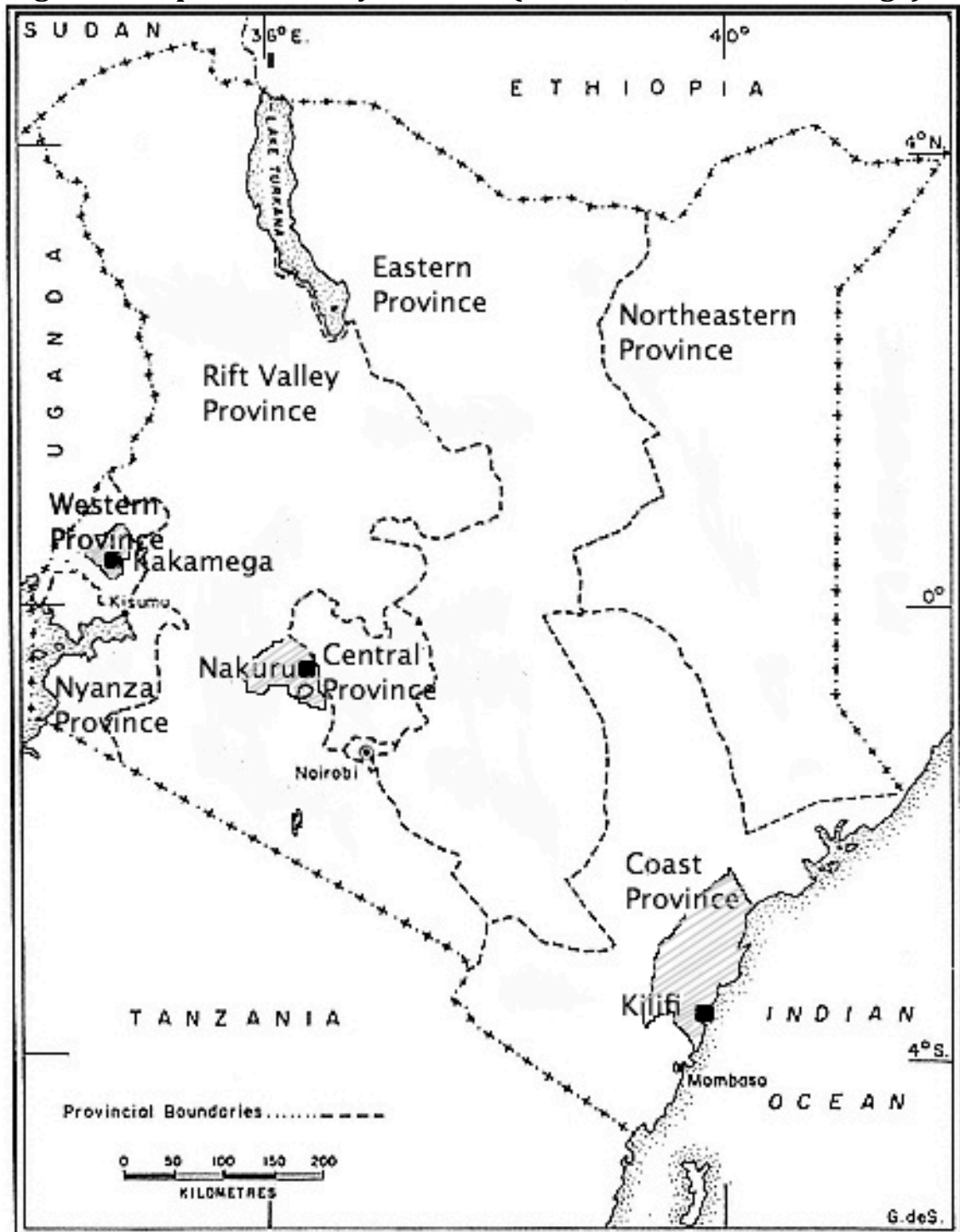
Maps

Figure 1: Map of Kenyan local government areas in 1958.



Source: A. St J. J. Hannigan, *What is Local Government?* (Nairobi, 1958).

Figure 2: Map of case study locations (Nakuru, Kilifi and Kakamega).



Source: adapted from David Leonard, *African Successes: Four Public Managers of Kenyan Rural Development* (Berkeley, 1991), p. xx.

Statement of Copyright

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Acknowledgements

There are many people and institutions whose support has made this thesis possible. In each of my case study sites, research assistants provided invaluable expertise and support. Without the thoughtful engagement, constant enthusiasm and practical guidance offered by Katana Nyanje in Kilifi; Angela Gachihi in Nakuru; and Alfred Anangwe in Kakamega, the histories presented in this study would be much the poorer. They all helped me understand and navigate the different contexts we were working in, making the experience decidedly more enjoyable and productive. Furthermore I must gratefully acknowledge their contribution to the transcription and translation of some of the interviews we conducted. I would also like to thank all the councillors who generously spared their time and memories with me. I have tried to faithfully represent their experiences and recollections; but of course, any mistakes and omissions are mine alone.

Kenya's Ministry of Technology and Higher Education kindly allowed me to conduct this research. I am grateful to all the staff at the Kenya National Archives in Nairobi, Nakuru and Kakamega. The Nakuru County Government, and in particular the Registry, patiently allowed me to use their archives. Similar thanks are owed to Kilifi County Government and Saidi Unda, the clerk of Kilifi County Council who made available an extensive collection of council records, and provided me with a space to work.

Research in Kilifi was conducted with the support of a British Institute in Eastern Africa grant. Whilst in Kenya, the BIEA served as a welcome home from home; I benefitted immensely from the connections I made there and conversations I had with a diverse group of scholars. The support and friendship of all the BIEA attaches and other researchers helped keep me motivated. Dane Degenstein was especially helpful providing an extra pair of hands and eyes in the archives when my time in Nairobi had nearly run out. All of the staff at the BIEA were quick to offer guidance and assistance with all issues I encountered, big and small.

I am grateful to the Arts and Humanities Research Council and the Foreign and Commonwealth Office for supporting this project. The friendship and guidance of my colleagues in the Africa Research Group greatly enriched this process. Despite the often fleeting nature of my visits to Durham, the University's Department of History has been incredibly supportive throughout. Dr Cherry Leonardi and Dr

Cedric Barnes have both been attentive supervisors, generous in their time and always quick to help.

My friends and family have been hugely supportive and encouraging over the past four years. I am particularly appreciative of the help provided by my proof-reader and patron, Alasdair O'Hare. His company made researching and writing this thesis a great adventure. Without the love and support of my parents, Susie and Tony, I would never have reached this point. You have borne my absences (and poverty) gracefully, and been with me at every turn.

Most of all, I am grateful for the unfailing advice and guidance that my supervisor Professor Justin Willis has offered. I count myself incredibly fortunate to have received such consistent engagement that has so often brought clarity to my confusion. Justin's patience, close attention and constant encouragement made this process far less tortuous and indeed more enjoyable than I ever anticipated.

Introduction

In 2001, Kenya's leading newspaper, the *Daily Nation* called for the abolition of local government:

From Mombasa to Busia, Mandera to Loitokitok, the councils... are a study in failure, an experiment in democracy that went miserably wrong...If something is not working for forty years, you do not try to repair it. Local authorities are an expensive experiment we should now end. As those bruisers brawl it out choosing mayors - how else could they have an election? - this country could start thinking how it could do itself a big favour. It could get rid of this superfluous and useless form of bureaucracy. Put the councillors out of work.¹

The article presented the 'failure' of local government as primarily the fault of those who occupied local office. The system was not bad; the councillors were. 'Masquerading as grassroots leaders', Kenya's councillors were not 'public servants', but 'thieves, miscreants, fraudsters and embezzlers', whose only 'claim to fame', was their 'intellectual vacuity', 'proclivity to violence', and 'appetite for power'.² Twelve years after this article was published, Kenya's forty - or more accurately - eighty year experiment with British local government was abandoned. Councillors were put 'out of work', and local government was replaced by a more 'ambitious and rigorous experiment in democratic decentralisation'.³ This experiment came into effect at the general elections of March 2013, the first held under a new constitution. The constitution has devolved power to forty-seven newly created county governments, which consist of a county executive (governor, deputy and executive committee) and county assembly. Like councillors, Members of County Assemblies (MCAs) are elected to represent their wards within county governments. Since taking office, MCAs have been characterised by the press in much the same way as their local government predecessors were. The *Star* wrote in August 2014 that '[w]hen MCAs replaced the old councillor system... Kenyans

¹ Kwamchetsi Makokha, 'These mayors should be our last', *Daily Nation*, 6 July 2001, p. 8.

² Ibid.

³ Rotimi Subera 'Federalism and decentralization', in Nic Cheeseman, David Anderson & Andrea Scheibler (eds.), *Routledge Handbook of African Politics* (London, 2013), pp. 24- 36, p. 32.

heaved a collective sigh of relief. To their horror, the councillors have merely morphed into the MCAs'.⁴

The persistently negatively portrayal of Kenya's 'grassroots leaders' is difficult to understand given the historical and contemporary importance of decentralisation in Kenyan political debate. Since the late-colonial period, debate over the relative merits of centralised and decentralised political systems has periodically recurred. The arguments for decentralisation have been framed differently over the years, but the idea of bringing government 'closer to the people' has always enjoyed wide popular support. But what exactly does it mean to bring 'government' to the 'people'? This thesis considers this question by examining the institutions, ideas and individuals that together made up the local government system in Kenya. The final abolition of local authorities represented the end of an idea of local government – developed in the colonial period – that had remained remarkably powerful, at least rhetorically if not in practice, since independence. The system brought in to replace it can only be fully understood in reference to longer processes of contestation over what local leaders should provide, and how resources should be generated and distributed nationally and locally.

Despite being part of the state's architecture since the mid-1920s, the significance of local authorities has not been comprehensively addressed in the literature. By overlooking local government, scholars of Kenya have missed an opportunity to explore how local debates over what is expected of 'the state', relate to macro processes of political change. This thesis argues that by examining the experience of local authorities, it is possible to more fully appreciate how competing expectations of 'the state' and 'the government' have emerged in Kenya, and how state practice has evolved to meet those expectations and norms. Furthermore, the history of local government, it is argued, provides an alternative view into Kenya's post-independence experience to that prevalent in much of the literature. Scholars of Kenya have tended to ascribe considerable power to 'the state', and at times have seemingly conflated 'the state' with the political leadership.⁵ Consequently Kenya's post-independence political history is read, first

⁴ Matt Gathigira, 'MCAs smear investment destination credentials', *The Star*, 31 July 2014, retrieved from <http://allafrica.com/stories/201408010496.html>, last accessed 20 August 2015.

⁵ For example see David Throup, 'The construction and destruction of the Kenyatta state', in Michael Schatzberg (ed.), *The Political Economy of Kenya* (New York, 1987), pp. 33-74.

and foremost, as a function of elite agency. Yet when politics is viewed from the vantage point of local authorities, the tension between a bureaucratic ideal of government, and a neo-patrimonial reality emerges less as solely a product of elite interest. By focusing in particular on councillors, this thesis uses local office holders to explore some of the consequences – for individuals and institutions – of having government close to the people; of having elected leaders, drawn from, and living amongst, those they represent. The most publicised consequence, ‘corruption’, has not been the subject of as much scholarly critique in Kenya as in other African contexts. The search for a ‘moral economy of corruption’ has for too long been denied due a prevailing popular and academic narrative that ascribes many of Kenya’s intractable political problems to the corrupt actions of its historical governing elite.⁶ Yet when viewed from the ‘bottom-up’, corruption – or neo-patrimonialism – emerges as less a function of individual self-interest and more as a response to weak institutional capacity, and great public demand for local services. Furthermore, an examination of the irregular, practical norms in local authorities can shed light on the existence of contradictory expectations of government and elected leaders. As Kenya transitions to devolved government, there is an urgent need to explore how and why certain informal norms developed in local authorities, in order to understand why such practices are being reproduced by MCAs despite them operating in a vastly improved devolved system.

In historicising the process that led to the passage of the new constitution, few scholars discuss local government. Instead when considering the background to the debate over devolution, most focus on Kenya’s independence ‘*majimbo*’ (regions) constitution which was structured around seven freshly created regional authorities.⁷ The regional provisions in the independence constitution were drafted a year before independence in 1963 after appeals from members of the minority Kenya African Democratic Union (KADU) party which was composed mainly of the

⁶ The notion of a ‘moral economy of corruption’ was first developed by Jean-Pierre Olivier de Sardan in ‘A moral economy of corruption in Africa?’, *JOMAS*, 37:1 (1999), pp. 25-52. For a popular account of the role of corruption in Kenyan politics see Michela Wrong, *It’s Our Turn to Eat: The Story of a Kenyan Whistle-blower* (New York, 2009).

⁷ See for example: John Harbeson, ‘Kenya’s 2013 elections’, *African Studies Review*, 57: 1 (2014), pp. 197-207; Fred Otieno, ‘Kenya: Devolution and prospects for peace’, *Horn of Africa Bulletin - Life & Peace Institute*, November- December 2014, accessed online at: <http://life-peace.org/hab/devolution-and-prospects-for-peace>; ‘At last, devolution comes home’, *New African*, 14 November 2011, accessed online at: <http://newafricanmagazine.com/at-last-genuine-devolution-comes-home>.

'smaller' tribes, and had the support of key settler politicians.⁸ Their hopes that regionalism would protect ethnic minorities in a state dominated by the Luo and Kikuyu politicians were dashed when the Kenya African National Union (KANU) party won the May 1963 election in a landslide.⁹ Always opposed to regionalism, Kenyatta's government denied the regions funds and functions in the months following internal self-government.¹⁰ After KADU's members dissolved the party in November 1964, the fate of the regions was sealed; regional authorities were swiftly disbanded.¹¹

Many studies assume that substantive debate over devolution did not resume in Kenya until the early 1990s as part of the return to multi-partyism.¹² In such analyses, after the brief experiment in decentralisation was abandoned, the state returned to its highly centralised structure, whereby considerable power was vested in the executive. Understanding this structure has been an enduring concern for scholars of the Kenyan state.¹³ In 2006, Branch and Cheeseman outlined a narrative and theory of this structure and system, proposing that in the last decade of independence, and throughout Kenyatta's presidency (1963-78) Kenya was ruled as a 'bureaucratic-executive state'.¹⁴ They see this category as a subset of a more general type of state 'history' in Africa, namely that of 'centralised-authoritarian' regimes.¹⁵ These, Chris Allen explains, were distinguishable in the post-independence era by four common features: 'the retention of clientelism'; 'the centralisation of power in an executive presidency'; 'the displacement of the party...by a bureaucracy answerable to the presidency'; and 'the downgrading of representative institutions...within the political system.'¹⁶ Branch and Cheeseman

⁸ Keith Kyle, *The Politics of the Independence of Kenya* (London, 1997), pp. 138-147.

⁹ David Anderson, 'Majimboism: The troubled history of an idea', in Daniel Branch, Nic Cheeseman and Leigh Gardner (eds.), *Our turn to Eat: Politics in Kenya Since 1950* (Berlin, 2010), pp. 23-52.

¹⁰ Charles Hornsby, *Kenya: A History Since Independence* (London, 2012), pp. 85-86.

¹¹ *Ibid.*, pp. 94-96.

¹² For example see: Yash Ghai, 'Devolution: Restructuring the Kenyan State', *JEAS*, 2:2 (2008), pp. 211-226; Gabrielle Lynch, *I Say to You: Ethnic Politics and the Kalenjin in Kenya* (London, 2011), pp. 65-67, pp. 157-50; Angelique Haugerud, *The Culture of Politics in Modern Kenya* (Cambridge, 1995), p. 41. Anderson, 'Majimboism'.

¹³ Gertz, *The Politics of Independent Kenya* (Evanston, 1970); Mordechai Tamarkin, 'The roots of political stability in Kenya', *African Affairs*, 77: 208 (1978), pp. 297-320.

¹⁴ Daniel Branch and Nic Cheeseman, 'The politics of control in Kenya: Understanding the bureaucratic-executive state, 1952-78', *ROAPE*, 33:107 (2006), pp. 11-31.

¹⁵ *Ibid.*

¹⁶ Chris Allen, 'Understanding African politics', *ROAPE*, 22:65 (1995), pp. 301-320.

refine this analysis, by shifting the focus from post-independence policies, to pre-independence processes of ‘institution building and class formation’.¹⁷ Their contribution is more a synthesis of the literature, than a corrective to it. It draws on early studies of the Kenyan state and combines these with insights on the colonial economy and class formation from scholars writing mainly in the 1970s, with more recent attempts to deconstruct the colonial experience, and the colonial state.¹⁸ In doing so, a very convincing portrait is offered which explains the historical development of a highly effective structure of control during the late-colonial period, which continued to appeal to political leaders after the bureaucratic-executive state’s heyday under Jomo Kenyatta.

Yet by focusing on the continuities and sheer effectiveness of this system, the authors present the triumph of a highly centralised political system as somehow a *fait accompli*. This is most evident in their treatment of the regional independence constitution. Whilst they acknowledge that ‘the immediate pre and post-independence periods...saw a battle over the centralisation of authority within the Kenyan state’, that this battle was swiftly ‘overcome’ and indeed conclusively won by the executive and the administration appears not in dispute.¹⁹ This portrayal, although not unique to Branch and Cheeseman, is problematic.²⁰ It suggests that debates about decentralisation began in the years immediately before independence and ended soon after, and that the scope of these debates did not extend beyond the regional provisions in the constitution. This thesis argues that by broadening both the scope and period of analysis, a slightly more contradictory picture of the centralising state comes in to view, and if focus is shifted from the short-lived regional constitution to local government, a different set of questions emerge. Unlike regional authorities, Kenya’s local councils were not created on the eve of independence. Local authorities had existed in parts of colonial Kenya since

¹⁷ Branch and Cheeseman, ‘The politics of control’, p. 28.

¹⁸ Cherry Gertzel provided the first contribution on state-centralisation after independence in *The Politics of Independent Kenya*. Debate over Kenya’s post-colonial economy were prompted by Colin Leys, *Underdevelopment in Kenya* (London, 1974); for an overview of this debate see Rafael Kaplinsky, ‘Capitalist accumulation in the periphery: The Kenyan case re-examined’, *ROAPE*, 7:17 (1980), pp. 83-105. On the colonial state see Bruce Berman, *Control & Crisis in Colonial Kenya: The Dialectic of Domination* (London, 1990).

¹⁹ Branch and Cheeseman, ‘The politics of control’, p. 22.

²⁰ See also David Anderson, ‘“Yours in struggle for majimbo”: Nationalism and the party politics of decolonization in Kenya, 1955-64’, *Journal of Contemporary History*, 40:3 (2005), pp. 547-564.

the mid-1920s. This thesis asks why a policy of British-style local government was adopted in colonial Kenya and how the uncertain survival of this system – and its final replacement – should be understood. It does so through studying both the institutions of local government and the people who operated them. It examines official policy and state practice, and how this changed from the late-colonial period, up to 2010. During this eighty year period, there were times of ‘drama and intrigues’ in local government policy and practice, as well as periods of ‘general morass’, when councils were widely regarded as inconsequential both as public service providers and as political platforms.²¹ Yet the cases presented in this thesis confirm the importance of looking beyond the formal confines of council offices to appreciate the full extent of councillors’ roles in local service delivery and political representation.

This introductory chapter begins by setting out the main contributions to the study of local government in colonial Kenya, before examining how the story of local authorities features in the prevailing academic narrative of Kenya’s post-independence political history. This is followed by a discussion of how the Kenya literature relates to broader debates about the state in Africa, before considering some of the more recent scholarly inquiries into local governance, corruption, and the local state. The last part of the chapter sets out the cases, sources and structure of the thesis.

Local government in colonial Kenya & Africa

In a speech made in 1976, Kenya’s then Minister for Local Government, Robert Matano, suggested that the country’s local government system had been set up by statute at independence.²² Matano made no reference to the existence of councils before 1963, stating instead that local authorities were established by KANU ‘not only to fill the void created by the destruction of our traditional institutions, but also to form an essential political link between the people and the government’.²³ This was rather a striking omission on Matano’s part. Indeed, some have argued

²¹ Walter Oyugi, ‘Local government in Kenya: A case of institutional decline’, in Philip Mawhood (ed.), *Local Government in the Third World: The Experience of Tropical Africa* (Chichester: Wiley, 1983), pp. 107-140, p. 107; Roger Southall and Geoffrey Wood, ‘Local government and the return to multi-partyism in Kenya’, *African Affairs*, 95:381 (1996), pp. 501-527, p. 515.

²² Robert Matano speech ‘The challenge of Local Government’, reproduced in *Weekly Review*, 30 August 1976, pp. 4-5, p. 4.

²³ Ibid.

that that 'the history of local government is perhaps as old as modern Kenya itself.'²⁴ This statement, made by Walter Oyugi in 1983 traced the origins of local government to the very beginnings of colonial administration. But for the purposes of this thesis, the origins of local government are identified by the establishment of formally recognised councils, which occurred in different places at different times in colonial Kenya. After the Second World War, local government 'absorbed an extraordinarily high proportion of the energies' of British colonial officials in London and in Africa.²⁵ The development of an 'efficient and democratic system of local government' was a hallmark of post-war imperial policy.²⁶ In Kenya, and across colonial British Africa, the aim was to 'modernise' native authorities so that they could become more akin to British local government, and capable of playing a dynamic role in the economic development of their areas and political education of their members.²⁷ Writing in 1964, Ronald Wraith, a former member of the Colonial Local Government Advisory Panel admitted that 'with the advantage of hindsight, it is remarkable what a parochial view was taken of the possible ways in which the old native authorities could be modernised'.²⁸ Yet however 'parochial', the impact of this policy, and the legacy it left must be considered if the story of local authorities after independence is to be fully contextualised.

Neighbouring Uganda's Ministry of Local Government, Mahmood Mamdani argues, acted like 'a state within a state...the ministry for the peasants...the heart of the colonial state.'²⁹ Historical inquiry into this 'heart of the colonial state' has tended to be directed towards case studies, rather than comparative or thematic expositions. Thus, scholars have explored the establishment of local government

²⁴ Oyugi, 'Local government in Kenya', p. 107.

²⁵ Ronald Wraith, *Local Government in West Africa* (London, 1964), p. 181.

²⁶ Ursula Hicks, *Development from Below: Local Government and Finances in Developing Countries of the Commonwealth* (London, 1961), pp. 1-9, p.4.

²⁷ Ibid.

²⁸ Wraith, *Local Government in West Africa*, p. 178.

²⁹ Mahmood Mamdani, 'Political identity, citizenship and ethnicity in post-colonial Africa', keynote address presented at New Frontiers of Social Policy Conference, Arusha, Tanzania, December 12-15, 2005).

systems in different parts of British Africa, including in Tanganyika and Sudan.³⁰ These works demonstrate the sheer range of questions that can productively be considered through studying colonial local authorities. In regards to Kenya, despite Donald Schilling's concern that local councils could be 'overlooked' by historians, this has generally not been the case.³¹ Although few identify local councils as the 'heart of the colonial state', their existence – if not significance – is widely acknowledged in the literature.

Arguably the defining feature of local government in Kenya, at least before 1950, was that it evolved in an *ad hoc* way in response to local circumstances. Different systems of local administration were applied to the rural districts designated for Africans in the 'Native Reserves', and for Europeans in the 'Scheduled Areas'. Legislation was passed to formalise the creation of Local Native Councils (LNCs) in some reserves in 1924, and European District Councils in the so-called 'White Highlands' in 1928.³² The experiences of urban and rural councils were also quite distinct; the Nairobi Municipal Council was established in 1919, and in other towns shortly after.³³ Central government direction and control over these bodies was limited in the inter-war period. From the late 1940s this started to change in response to then Colonial Secretary Arthur Creech-Jones' 'famous circular despatch' of 1947.³⁴ Creech-Jones instructed governors across the continent that the development of 'efficient and democratic local government' in Africa was of primary importance to the Colonial Office.³⁵ In 1950 legislation was passed to transform LNCs into African District Councils (ADCs) with 'expanded authority and

³⁰ Andreas Eckert, "A showcase for experiments": Local government reforms in colonial Tanzania, 1940s and 1950s', *Afrika Spectrum*, 34:2 (1999), pp. 213–235; Rohland Schuknecht, *British Colonial Development Policy After the Second World War: The Case of Sukumaland, Tanganyika* (London, 2010), pp. 111–126; Chris Vaughan, 'Reinventing the wheel? Local government and neo-traditional authority in late-colonial northern Sudan', *International Journal of African Historical Studies*, 43:2 (2010), pp. 255–278; Justin Willis, 'Tribal gatherings: Colonial spectacle, native administration and local government in condominium Sudan', *Past and Present*, 211:1 (2011), pp. 243–268.

³¹ Donald Schilling, 'Local Native Councils and the politics of education in Kenya, 1925–1939', *The International Journal of African Historical Studies*, 9:2 (1976), pp. 218–247, p. 220.

³² Native Authority (Amendment) Ordinance 1924; Local Government (District Councils) Ordinance, 1928.

³³ Herbert Werlin, *Governing an African City: A Study of Nairobi* (New York, 1974), pp. 41–43.

³⁴ John Cell, 'On the eve of decolonization: The Colonial Office's plans for the transfer of power in Africa, 1947', *JICH*, 8:3 (1980), pp. 235–257, p. 235.

³⁵ R. D. Pearce, *The Turning Points in Africa: British Colonial Policy, 1938–48* (London, 1982), pp. 141–159.

responsibility'.³⁶ Two years later, European District Councils were refashioned into British-style County Councils. These different streams of local government had 'no connection with each other' until independence.³⁷ On account of this, research into colonial councils has tended to follow these same divisions. Most studies have focused on local government in the reserves. Scholars have debated the 'political intentions' and political ramifications of LNCs, and the enhanced objectives of the post-war reforms.³⁸ Councils themselves have been examined as sites of collaboration and contestation, which offered opportunities to their members but also constrained them.³⁹ The welfare and development programmes of councils, and their taxation regimes have been explored.⁴⁰ And the records of local councils have also been used by historians to understand how Africans debated processes of social and economic change.⁴¹

Most scholars agree that initially, colonial authorities aimed through local government to co-opt the growing number of mission-educated men, and prevent the development of national political organisations.⁴² In this way, the creation of LNCs 'deliberately fragmented African political organisation'.⁴³ There is less consensus in the literature on whether LNCs were in any way participatory and democratic, or whether they only served as advisory bodies. The fact that district commissioners, as the presidents of LNCs, could veto any decision passed by members, according to Oyugi reveals that 'as political entities they did not count'.⁴⁴

³⁶ Berman, *Control & Crisis*, p. 312.

³⁷ Hicks, *Development from Below*, p. 125.

³⁸ On the original 'political intentions', and post-war reforms see Berman, *Control and Crisis*, pp. 216-218, pp. 309-312.

³⁹ Gavin Kitching, *Class and Economic Change in Kenya: The Making of an African Petite Bourgeoisie 1905-1970* (New Haven, 1980), pp. 188- 199.

⁴⁰ Schilling, 'Local Native Councils'; Leigh Gardner, *Taxing Colonial Africa: The Political Economy of British Imperialism* (Oxford, 2012), pp. 161-191.

⁴¹ Louise Thomas, 'Imperial concerns and "Women's Affairs": State efforts to regulate clitoridectomy and eradicate abortion in Meru, Kenya, c. 1910-1950', *JAH*, 39:1 (1998), pp. 121-145; Priscilla Shilaro, *A Failed Eldorado: Colonial Capitalism, Rural Industrialization, African Land Rights in Kenya, and the Kakamega Gold Rush, 1930-1952* (Plymouth, 2008), pp. 114-131, pp. 210-216.

⁴² Kitching, *Class and Economic Change in Kenya*, p. 188; John Lonsdale, 'Some origins of nationalism in East Africa', *JAH*, 9:1 (1968), pp. 119-146; Bruce Berman, 'Bureaucracy & incumbent violence: Colonial administration & the origins of the 'Mau Mau' emergency', in Berman & Lonsdale *Unhappy Valley: Conflict in Kenya & Africa* (London, 1992), vol. 2., pp. 227-264, p. 247.

⁴³ John Lonsdale, 'The moral economy of Mau Mau', in John Lonsdale and Bruce Berman, *Unhappy Valley: Conflict in Kenya & Africa* (London, 1992), vol. 2., pp. 466-68.

⁴⁴ Oyugi, 'Local government in Kenya', p. 114.

Yet Lonsdale notes, regardless of the restrictions placed on members, LNCs were still, for many years, 'the most democratic form of local government in British Africa'.⁴⁵ Bruce Berman discusses changes to election procedures in the post-war period, and Lynn Thomas' writes that '[r]eports of crowds of men gathering to participate in LNC 'elections' and to witness LNC proceedings suggest that some in Meru embraced the performative, if not the substantive, aspects of LNC work.'⁴⁶ Yet the exact ways in which electoral practices changed, and the way these were engaged with could still be better understood.

Few share Oginga Odinga's view of councils as simply the 'shield with which the government protected itself from the people'.⁴⁷ Indeed most accounts acknowledge that multiple objectives were attached to the policy of local government, and that these aims changed over time. The impact of the reforms introduced from 1950 are unclear. Berman suggests that 'the educative function of local government faded' after the African District Council Ordinance of 1950, and that the functions and budgets of councils became far more complex.⁴⁸ For Patricia Stamp, the contradictions inherent in the local government project became even more apparent in the 1950s.⁴⁹ She suggests that the colonial government intended local councils to serve as both instruments of control and functional, democratic institutions. Chapter one of this thesis considers further the significance of Creech-Jones' despatch for local councils in Kenya. Using source material from the Colonial Office, the Secretariat in Nairobi, and councils themselves, it examines how officials interpreted and implemented the 'new policy'. By looking in greater detail at how councils and the local government system changed in the late-colonial period, it is possible to more accurately understand the context in which post-independence reforms were negotiated.

Compared with the literature on LNCs and ADCs, the study of councils in the 'White Highlands' has been far more limited. This reflects the reality that most settlers exhibited little interest in participating in local government until the final

⁴⁵ John Lonsdale, 'The moral economy of Mau Mau: The problem', in John Lonsdale and Bruce Berman, *Unhappy Valley: Conflict in Kenya & Africa vol. 2* (London, 1992), pp. 265-314, p. 272.

⁴⁶ Berman, *Control & Crisis*, p. 311; Lynn Thomas, 'Imperial concerns'.

⁴⁷ Oginga Odinga, *Not yet Uhuru: An autobiography of Odinga Odinga* (London, 1967), p. 92.

⁴⁸ Berman, *Control & Crisis*, p. 312.

⁴⁹ Patricia Stamp, 'Local government in Kenya: Ideology and political practice, 1895-1974', *African Studies Review*, 29:4 (1986), pp. 17-42.

days of colonial rule. Urban local government has been similarly overlooked by scholars. This corresponds with John Lonsdale's observation that 'colonial Kenya's historians have hitherto paid more attention to its rural political economies than its urban social histories'.⁵⁰ Knowledge of municipal governance has thus mainly been produced by scholars interested in the way ideas about the provision of African welfare services in towns, specifically that of housing shifted in the decade before independence.⁵¹ Scholars have mainly focused on Nairobi and Mombasa; indeed the paucity of research into other provincial towns makes it difficult to draw any conclusions about urban government or town life in colonial Kenya outside of the capital and the port city.⁵² For this reason, the case of Nakuru Municipal Council is examined in this thesis to broaden scholarly understanding of processes of change in towns in the late-colonial period and the legacies these left for post-independence local governments.

Alongside the development of 'efficient, democratic local government', the late-colonial period also saw a rapid expansion in the size and strength of the provincial administration; a generalised branch of the civil service structured around a hierarchy of administrators, controlled by the governor.⁵³ Provincial commissioners, district commissioners and chiefs were used to penetrate 'all corners of the country'.⁵⁴ In the post-war period there was a tension between the policy of modern local government and the interests of the administration; naturally conservative and resistant to change.⁵⁵ The declaration of a State of Emergency in 1952 served to reaffirm the position of the provincial administration.

⁵⁰ John Lonsdale, 'Town life in colonial Kenya', *Azania: Archaeological Research in Africa*, 36-37:1 (2001), pp. 206-222, p. 206.

⁵¹ David Anderson, 'Corruption at City Hall: African housing and urban development in colonial Nairobi', *Azania: Archaeological Research in Africa*, 36-37:1 (2001), pp. 138-154; Richard Harris, 'From trusteeship to development: How class and gender complicated Kenya's housing policy, 1939-1963', *Journal of Historical Geography*, 34 (2008), pp. 311-337; Janet Seeley, 'Social welfare in a Kenyan town: Policy and practice, 1902-1985', *African Affairs*, 86:345 (1987), pp. 541-566.

⁵² For Nairobi see Werlin, *Governing an African City*, pp. 37-67; and Marc Howard Ross, *Grass Roots in an African City: Political Behavior in Nairobi* (Cambridge, Mass., 1975), pp. 18-38. For Mombasa see Justin Willis *Mombasa, the Swahili, and the Making of the Mijikenda* (Oxford, 1993), pp. 145-160. Frederick Cooper, *On the African Waterfront: Urban Disorder and the Transformation of Work in Colonial Mombasa* (New Haven, 1987). With the exception of Werlin, none of these volumes explicitly address municipal governance in their discussions.

⁵³ Daniel Branch, *Defeating Mau Mau, creating Kenya: Counterinsurgency, Civil War and Decolonization* (New York, 2009), pp. 165-173.

⁵⁴ Tamarkin, 'The roots of political stability', p. 305.

⁵⁵ Berman, *Control & Crisis*, pp. 309-322.

Over the next few years, the provincial administration became a 'powerful, sophisticated, and centralised machine'.⁵⁶ This machine 'played a crucial part in the centralisation of power' in the executive after independence, giving Kenyatta 'a position very much akin' to that of the colonial governor.⁵⁷ Writing on the eve of Kenyatta's death in 1978, Mordechai Tamarkin suggested that Kenyatta's decision to use the civil service rather than the nationalist party - KANU - as his 'agency of control and social and political mobilization', was 'the most outstanding and characteristic feature of the Kenyan regime'.⁵⁸

Taken together, a rather incomplete picture emerges of the development and experience of local government in colonial Kenya. Thus this thesis offers further insights and analysis of the government's intentions towards local councils after 1947, and how this worked out in practice. Notwithstanding regional, and rural-urban variations, it is clear that by 1963 local councils had played an important role in the lives of many Africans. They were the primary service providers in the former reserves, and had assumed greater responsibility for the welfare of Africans in towns in the preceding decade. In some districts local councils had existed for thirty-seven years, meaning multiple generations had witnessed the institutions and idea of local government evolve. Many had been exposed to the logic of the 'local government model' and had accepted, albeit with some resistance, the imposition of taxes and levies in order to expand non-mission education in the reserves.⁵⁹ Yet the existence and strength of the provincial administration presented an alternative structure through which local communities could be governed. The tension between these two systems became immediately apparent after independence as Chapter Two explores.

Local government & the historiography of independent Kenya

This historical interest in colonial local government has not been replicated by scholars of post-colonial Kenya. Indeed, local government features peripherally - if at all - in the main accounts of post-independence politics.⁶⁰ Those who have

⁵⁶ Cherry Gertzel, 'The provincial administration in Kenya', *Journal of Commonwealth Political Studies*, 4:3 (1966), pp. 201-215, p. 201.

⁵⁷ Gertzel, *The Politics of Independent Kenya*, p. 166, p. 171.

⁵⁸ Tamarkin, 'The roots of political stability', p. 306.

⁵⁹ Schilling, 'Local Native Councils'.

⁶⁰ For example there are no substantive references to local government in Daniel Branch, *Kenya: Between Hope and Despair* (New Haven, 2011), nor in B. A. Ogot and W. R. Ochieng' (eds.), *Decolonization & Independence in Kenya, 1940-93* (London, 1995).

addressed the question of what happened to local government after independence offer a broadly similar narrative and analysis. In this narrative, the most important turning points for local authorities all occurred between 1963 and 1974.⁶¹ The first milestone came in December 1964 when regional authorities were abolished, only eighteen months after their creation. This marked the end of a period characterised by intense confusion in the field between regional and local governments, the provincial administration and central government line ministries.⁶² The previous year – a month before independence – the three streams of local government had finally been merged and standardised across the country. Responsibility for primary education, healthcare and secondary roads passed to all local authorities. Councils in the former reserves had been administering these functions for at least a decade; but for the newly democratised councils in the settled districts, responsibility for African development – on this scale – was entirely new.

The end of regional assemblies was followed by five years of mounting difficulties for local authorities, especially in rural areas where many county councils developed substantial deficits in a short space of time.⁶³ Late in 1969 the government passed the Local Government (Transfer of Functions) Act which removed from county councils their primary functions: education, healthcare and roads. Earlier that year, Kenya had become a *de facto* one party state. Yet power lay neither with the ruling party nor with the legislature. Indeed, the civil service was strengthened at the expense of other branches of government and representative institutions.⁶⁴ Four years later, the government abolished Graduated Personal Tax which had been the main source of funding for local authorities. This ‘dramatic attack on local government’, served to ensure that ‘a clear relation’ no longer ‘existed between local revenue and local government expenditure.’⁶⁵

In analysing these events scholars have sought to understand whether the marginalisation of local government was a conscious and deliberate aim of Kenyatta’s administration, or whether it was – at least to some degree – a reaction to changing circumstances and shifting political priorities. Most consider the

⁶¹ Stamp, ‘Local government in Kenya’; Oyugi, ‘Local government in Kenya’.

⁶² Oyugi, ‘Local government in Kenya’, pp. 120-123.

⁶³ Cherry Gertzel, Maure Goldschmidt and Don Rothchild (eds.), *Government and Politics: A Nation Building Text* (Nairobi, 1969), pp. 400-419.

⁶⁴ Henry Bienen, *The Politics of Participation and Control in Kenya* (Princeton, 1974), pp. 25-65.

⁶⁵ Stamp, ‘Local government in Kenya’, p. 30.

treatment of local government as integral to the process of state centralisation engineered by Kenyatta and his inner circle.⁶⁶ Thus emphasis has been placed on the contradictions and tensions between the provincial administration and local authorities.⁶⁷ Patricia Stamp argues that through 'strengthening the hand of the provincial administration' the government was able to weaken local autonomy without having to 'attack the local government system directly'.⁶⁸ She suggests that the financial difficulties that county councils experienced between 1963 and 1970 were inevitable given the many functions they were charged with, 'for which they had neither the human nor financial resources'.⁶⁹ In this way, Stamp implies that the central government deliberately allowed councils to underperform to create the conditions necessary for the government to legitimately recentralise services and spending.

Cherry Gertzel meanwhile was less inclined to analyse the same processes as evidence solely of State House manoeuvring.⁷⁰ Thus along with the institutional problems – staff, finance, tax collection – she also drew attention to councillors, who she suggested were 'slow to settle down and accept the limitations as well as the responsibilities of their office'.⁷¹ Her work indicates that councils were significant sources of patronage in the 1960s, and councillors played important roles in district level politics.⁷² Henry Bienen explores this further, noting that councils 'provided an important arena for factional politics' within KANU in the immediate post-independence period.⁷³ In explaining why local authorities were disempowered in 1969, he argues that the government 'found competition at the local level messy...and even at times threatening to national stability as local factionalism ramified up to the national level'.⁷⁴ This uneasy relationship between the government and district politics in the 1960s suggests that the process of state centralisation was as much reactionary as it was intended. This thesis seeks to uncover why the government wanted to set 'limits to participation from below', and

⁶⁶ Ibid., Oyugi, 'Local government'.

⁶⁷ Gertzel, Goldschmidt and Rothchild (eds.), *Government and Politics*, pp. 428-432.

⁶⁸ Stamp, 'Local government in Kenya', p. 26.

⁶⁹ Ibid., p. 26.

⁷⁰ Gertzel, *The Politics of Independent Kenya*, pp. 37-38.

⁷¹ Ibid., p. 38.

⁷² Gertzel, Goldschmidt & Rothchild, *Government and Politics*, p. 437.

⁷³ Bienen, *Kenya: The Politics of Participation and Control*, p. 46.

⁷⁴ Ibid., p. 46.

specifically from participation through local government institutions.⁷⁵ Framing the question in this way allows for a far more historically grounded and nuanced analysis. This differs with the top-down and static portrayal offered by Walter Oyugi who wrote that 'historically, the institution of local government has been treated by the centre as though it were just another government department'.⁷⁶ In contrast, this thesis shows that for the first decade after independence, the government grappled with trying to decide on what future it wanted for local authorities. The government's ambivalence towards councils not only reflected internal resistance within the regime to devolution, nor was it simply a reaction to financial problems in local authorities. The difficulty that the council system posed for the government was more complex, and was closely bound up with the high expectations that councillors and citizens attached to independence.

After the transfer of functions and loss of government grants, councils were pushed into a tense relationship with their public. In order to finance their remaining services and support large staff establishments, councils had to continue to exact a wide range of local taxes. To the public, it became increasingly unclear in the latter half of Kenyatta's presidency, what exactly county councils offered to their fee-paying electorate. Without access to state patronage, local authorities faced a crisis of legitimacy, particularly in rural areas. The weak position of local authorities is seen to correspond with that of other representative institutions such as KANU. Yet in the 1970s, the centralisation of power in Kenya's 'bureaucratic-executive', was widely considered as a source of the regime's stability, rather than as a sign of its weakness.⁷⁷ Anticipating the death of Kenyatta, Mordechai Tamarkin confidently asserted in 1978 that the succession was unlikely to threaten the 'elaborate, strong, and resilient' state apparatus consolidated under Kenyatta.⁷⁸ Later that year, Kenyatta died and his deputy, Daniel arap Moi, succeeded to the presidency. The transition from Kenyatta to Moi has often been framed in ways that emphasise the strategies the two leaders pursued in order to meet the demands of their different ethnic constituencies. David Throup for example, distils a

⁷⁵ Ibid.

⁷⁶ Oyugi, 'Local government in Kenya', p. 126.

⁷⁷ Nicola Swainson, 'State and economy in post-colonial Kenya, 1963-1978', *Canadian Journal of African Studies*, 12:3 (1978), pp. 357-381; David Throup, 'The construction and deconstruction of the Kenyatta State', pp. 33-74.

⁷⁸ Tamarkin, 'The roots of political stability', p. 318.

comparison of the state under Kenyatta and Moi, into the two presidents' relative abilities to manage their ethnic communities.⁷⁹ Kenyatta's success, he argues, lay in his creation of 'a relatively united Central Province Coalition' which transcended 'district and class divisions within his Kikuyu ethnic community'.⁸⁰ By contrast, Moi proved less able to 'weld the Kalenjin into a coherent coalition'.⁸¹ This, Throup concluded in 1987, ultimately made Moi's regime inherently weaker than Kenyatta's.

David Throup's critical appraisal of Moi's one-party state is mirrored across the literature. Few dispute that the Moi regime was more authoritarian than its predecessor. Barkan and Ng'ethe described the Moi state as a 'kleptocratic dictatorship', whilst Makua wa Mutua has argued that 'Moi perfected the repressive state crafted by Kenyatta'.⁸² Although Moi promised to follow in Kenyatta's 'footsteps', the beginning of his presidency was also marked by populist rhetoric, particularly attacking corruption, thus implicitly critiquing the largesse of the Kenyatta regime.⁸³ On account of this, Tamarkin was able to observe that, within a few months of taking office, Moi had become 'extremely popular'; his presidency giving rise to 'hopes for a better and more just Kenya'.⁸⁴ This changed in 1982 following an unsuccessful coup attempt.⁸⁵ Thereafter, Moi 'used the state's strong coercive capacity to increase the regime's control over political and economic life'.⁸⁶ Any legitimacy the regime maintained was extinguished in 1988, argue Throup and Hornsby, when queue voting was reintroduced at the general elections of that year.⁸⁷ Up until this point, the National Assembly had continued to operate with a semblance of independence from the executive. By exerting such control over

⁷⁹ Throup, 'The construction and deconstruction of the Kenyatta state'.

⁸⁰ Ibid., p. 72.

⁸¹ Ibid., p. 72.

⁸² Joel Barkan and Njuguna Ng'ethe, 'Kenya tries again', *Journal of Democracy*, 9:2 (1998), pp. 32-48; Makua wa Mutua, 'Human rights and state despotism in Kenya: Institutional problems', *Africa Today*, 41:4 (1994), pp. 50-56, p. 50-51.

⁸³ Bethwell Ogot, 'The politics of populism', Bethwell, in Bethwell Ogot and William Ochieng' (eds.), *Decolonization & Independence in Kenya, 1940-93* (London, 1995), pp. 187-213.

⁸⁴ Mordechai Tamarkin, 'From Kenyatta to Moi: The anatomy of a peaceful transition of power', *Africa Today*, 26:3 (1979), pp. 21-37, p. 35.

⁸⁵ Vincent Khapoya, 'Moi and beyond: Towards peaceful succession in Kenya?', *Third World Quarterly*, 101:1 (1988), pp. 54-66.

⁸⁶ Daniel Branch and Nicholas Cheeseman, 'Democratization, sequencing, and state failure in Africa: Lessons from Kenya', *African Affairs*, 108 (2008), pp. 1-26, p. 9.

⁸⁷ David Throup and Charles Hornsby, *Multi-Party Politics in Kenya: The Kenyatta & Moi States & the Triumph of the System in the 1992 Election* (Oxford, 1998), pp. 42-44.

parliament, 'the state...laid the groundwork for its downfall.'⁸⁸ For Throup and Hornsby 'the state' and 'Moi' had become interchangeable by the late 1980s. This analysis is shared by Susanne Mueller who examines Moi's 'highly personalized presidency', where bureaucratic norms and procedures were flouted in favour of the president's whims.⁸⁹

The absence of literature on local government in the 1980s suggests that councils had by this point become irrelevant. In this way, Charles Hornsby observes that '[ev]erywhere, local authorities remained ineffectual, politicised and corrupt'.⁹⁰ Like others who examine this period, Hornsby dismisses local government as insignificant and unconnected to the exercise of power. The changing role of local authorities within President Moi's one-party state (1978-1992), is little considered by either Jennifer Widner or Gabrielle Lynch in their studies of Moi's regime.⁹¹ Yet arguably, through this an opportunity is lost for understanding Moi's relationship to the 'grassroots', and how he used patronage to secure support. Indeed this thesis shows that the common contrast between Kenyatta's regime as 'regulated' and effective neo-patrimonialism and Moi's as 'predatory', appears less convincing when examined from below.⁹² In this way, the thesis attempts to uncover the 'moral economy' of local government corruption in order to better understand the purposes this served for the president. Moi has been described as demonstrating 'a rapport with the *wananchi* that went far beyond that of the later Kenyatta'.⁹³ Yet equally, numerous scholars have also argued that Moi dismantled Kenyatta's effective clientelist networks, erecting in their place a crude system entirely dependent on the Office of the President.⁹⁴ These might appear to be incompatible points, but actually both may be true; closer consideration of local government, it is argued, helps explain how.

⁸⁸ Ibid., p. 45.

⁸⁹ Susanne Mueller, 'The political economy of Kenya's crisis', *JEAS*, 2:2 (2008), pp. 185-210, p. 197.

⁹⁰ Hornsby, *Kenya: A History Since Independence*, p. 445.

⁹¹ Jennifer Widner, *The Rise of a Party-State in Kenya: From Harambee to Nyayo!* (Berkeley, 1992); Gabrielle Lynch, *I Say to You: Ethnic Politics and the Kalenjin in Kenya* (Chicago, 2011).

⁹² Daniel Bach, 'Patrimonialism and neopatrimonialism: comparative receptions and transcriptions', in Daniel Bach and Mamoudou Gazibo (eds.), *Neopatrimonialism in Africa and Beyond* (New York, 2012), pp. 25-45.

⁹³ David Goldsworthy, 'Kenyan politics since Kenyatta', *Australian Outlook*, 36:1 (1982), pp. 27-31, p. 29.

⁹⁴ For example see Throup and Hornsby, *Multi-Party Politics in Kenya*, p. 45; Branch and Cheeseman, 'Democratization'.

The transition to multi-party democracy from 1991 did not deliver the kind of transformation that reformers had anticipated.⁹⁵ Indeed, as Branch and Cheeseman note, 'the story of Kenya in the 1990s is not one of democratic consolidation and institutional reform. Rather, it is a tale of corruption, increasing elite polarization, the rise of militias, and...the diffusion of violence.'⁹⁶ At the local government level, observers found little to celebrate.⁹⁷ Southall and Wood concluded in 1996 that 'the national political struggle between classes, parties, factions within parties, and ethnic groupings' had simply been reproduced at local level.⁹⁸ Their analysis corresponded with the extremely critical press coverage of local government politics in the 1990s. Even though opposition parties succeeded in gaining control of many local authorities in 1992, structural constraints imposed from the centre, along with the 'ignorance and rapaciousness' of most councillors meant that 'virtually nothing changed in local government', according to Southall and Wood.⁹⁹

The increasing influence of ethnicity in politics; escalation in corruption; and instrumental use of violence from the early 1990s were mostly analysed at the time as the outcome of Moi and KANU's electoral strategy.¹⁰⁰ Yet events since Moi's retirement in 2002 have forced scholars to move past seeing Moi as the sole mastermind of disorder. Corruption, ethnic voting and political violence have continued to undermine the democratic record of successive governments. More recent analysis thus sees these enduring dynamics as not just Moi's legacy, but rather as the cumulative effect of longer processes of state formation by which Kenya's political economy has developed primarily to serve the interests of colonial and post-colonial elites.¹⁰¹ Whilst in the 1960s and 1970s, the elite's use of patronage was viewed by many scholars as a core part of the regime's stability, contemporary analysis now considers these as historical abuses rather than

⁹⁵ Makau Mutua, *Kenya's Quest for Democracy: Taming Leviathan* (Boulder, 2008), pp. 75-116.

⁹⁶ Branch and Cheeseman, 'Democratization', p. 11.

⁹⁷ Southall and Wood, 'Local government and the return to multi-partyism'.

⁹⁸ *Ibid.*, p. 524.

⁹⁹ *Ibid.*, p. 524, p. 514.

¹⁰⁰ Korwa Adar, 'Assessing democratisation trends in Kenya: A post-mortem of the Moi regime', *Commonwealth & Comparative Politics*, 38:3 (2000), pp. 103-130; Jacqueline Klopp, "'Ethnic clashes" and winning elections: The case of Kenya's electoral despotism', *Canadian Journal of African Studies*, 35:3 (2001), pp. 473-517.

¹⁰¹ Branch and Cheeseman, 'The politics of control'.

examples of effective regime building.¹⁰² This turn was most evident in the academic and popular analyses of Kenya's disputed election and the associated violence in late 2007 and early 2008.¹⁰³ Thus, in explaining the election crisis, Mwangi wa Gĩthĩnji and Frank Holmquist highlight the importance of enduring patterns of neo-patrimonial rule, claiming that 'from the colonial period to the present, the state has been central to the process of private accumulation'.¹⁰⁴ Yet to frame this as exclusively 'private accumulation' by Kenya's rotating elites, discounts the possible ways in which elite action has – at least in part – been a response to popular demands.

This thesis critiques and contributes to the literature on the Kenyan state in several ways. As this section described, writing on Kenya has tended to ascribe substantial power to 'the state', and at times conflated 'the state' with the political leadership. In such instances, Kenyatta's 'kitchen cabinet', and Moi's cronies are regarded as powerful agents of the state. This thesis questions this in two ways. Firstly, whilst acknowledging that the administration has been unusually cohesive and powerful in Kenya, it is suggested here that the 'the state' has often been less autonomous and more tangled up with society at the local level than much of the literature suggests. Secondly, an awareness of that entanglement encourages a sense that Kenya may have been less centralised than some have argued. These observations provoke an interest in the nature of political processes at the local level. A focus on local government offers a way to understand how the state has been constituted in sub-national spaces, making possible the politics of clientelism whilst apparently performing the important, if illusionary difference between state and society. In order to consider these questions, it is instructive to reflect further on what is meant by the 'state', and how it has been studied in other African contexts.

¹⁰² Mueller, 'The political economy of Kenya's crisis'; Karuti Kanyinga, 'The legacy of the White Highlands: Land rights, ethnicity and the post-2007 election violence', *Journal of Contemporary African Studies*, 27:3 (2009), pp. 325-344.

¹⁰³ See the *Journal of Eastern African Studies*, 8:2 (2008); special issue on the 2007/08 post-election violence.

¹⁰⁴ Mwangi wa Githinji and Frank Holmquist, 'Kenya's hopes and impediments: The anatomy of a crisis of exclusion', *JEAS*, 2:2 (2008), pp. 344–358, p. 347.

The Kenyan case compared: neo-patrimonialism and the state in Africa

'Peasants avoid it, urban workers despise it, military men destroy it, civil servants rape it and academics ponder the short- and long-term results': in Africa, the state's claim to be 'the master noun of modern political discourse', appears just as strong as elsewhere.¹⁰⁵ Yet even though the term is ubiquitous, its exact meaning remains elusive. Scholarly debate on the state in Africa, particularly since the early 1980s, has seen the concept formulated in a myriad of ways. The African state has thus emerged as a hydra, variously described as: 'juridical', 'quasi', 'collapsed', 'weak', 'bifurcated', a 'shadow state,' and a 'rhizome'; the list goes on, yet arguably, these labels obscure more than they illuminate.¹⁰⁶ Instead of searching for the perfect prefix, greater thought should be given to the 'master noun' itself. This was Philip Abrams' intention in his 1977 paper – published in 1988 - on 'the difficulty of studying the state'.¹⁰⁷ In seeking to problematise the very existence of a monolithic 'state', Abrams proposed:

that we should abandon the state as a material object of study whether concrete or abstract while continuing to take the idea of the state extremely seriously. The internal and external relations of political and governmental institutions (the state-system) can be studied effectively without postulating the reality of the state. So in particular can their involvements with economic interests in an overall complex of domination and subjection.¹⁰⁸

Although writing in reference to the United Kingdom, Abrams' insights are equally relevant to Africa. Indeed, the strengths of his analysis are arguably easier to

¹⁰⁵ Rene Lemarchand, 'The state, the parallel economy, and the changing structure of patronage systems', in Donald Rothchild and Naomi Chazan (eds.), *The Precarious Balance: State and Society in Africa* (Colorado, 1988), pp. 149-171, p. 149; Clifford Geertz's description of the state as the 'master noun' occurs in *Negara: The Theatre State in Nineteenth-century Bali* (Princeton, N. J., 1980), p. 121.

¹⁰⁶ 'Juridical': Robert Jackson and Carl Rosberg, 'Why Africa's weak states persist: the empirical and juridical in statehood', *World Politics*, 35:1 (1982), pp. 1-24; 'Quasi': Robert Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge, 1990); 'Collapsed': William Zartman, *Collapsed States: The Disintegration and Restoration of Legitimate Authority* (Boulder, 1995); 'Weak': Joel Migdal, *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World* (Princeton, 1988); 'Bifurcated': Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton, 1996); 'Shadow state': William Reno, *Corruption and State Politics in Sierra Leone* (Cambridge, 1995); 'Rhizome': Jean Francois Bayart, *The State in Africa: The Politics of the Belly* (London, 1993).

¹⁰⁷ Philip Abrams, 'Notes on the difficulty of studying the state', *Journal of Historical Sociology*, 1:1 (1988), pp. 58-89.

¹⁰⁸ *Ibid.*, p. 75.

discern in Africa, where the processes that enabled the 'idea of the state' and the evolution of the 'state-system' to be fused together in such a powerful way have taken place in the recent past. In this way, Abrams' assertion that the only way to understand the state, is to see it as 'historically constructed', has been taken up by Africanists such as Crawford Young, who argues that: 'The state is not simply an inert abstraction; it is, above all, a historical actor, a collective agent of macropolitical process'.¹⁰⁹

Yet to call the state an 'historical actor' is in itself a form of reification; clearly it is difficult to avoid seeing the state as an entity of some kind. This problematic is clear from the vast debates that have taken place over the division – real or imaginary – between 'state' and 'society' in Africa. Inspired by a turn in France in the 1980s towards analysing 'politics from below', much of this work has sought to understand the way that the state is embedded in society.¹¹⁰ In this way, Victor Azarya describes the state as 'an organization *within* society', and Chabal and Daloz write of the African state, as never having been significantly 'emancipated from society'.¹¹¹ They argue that, in Africa, rather than having achieved 'hegemonic domination', the state itself had been 'captured' by society.¹¹² For Naomi Chazan, the task for scholars then was to examine patterns of state-society incorporation and disengagement; the processes of exchange and interaction between state and society; the actors involved; and the meanings inscribed.¹¹³ Through this, she argued, it became possible to understand the 'degrees of stateness on the continent'.¹¹⁴ Such an approach however, appears to affirm Jean-Francois Bayart's observation that 'the logic of deconstruction in the statist arena is not so easily

¹⁰⁹ Abrams, 'Notes on the difficulty of studying the state', p. 80; Crawford Young, 'The African colonial state and its political legacy', in Donald Rothchild and Naomi Chazan (eds.), *The Precarious Balance: State and Society in Africa* (Colorado, 1988), pp. 25-66.

¹¹⁰ Jean-Francois Bayart, 'Le politique par le bas en Afrique noire', *Politique Africaine*, 1 (1981), pp. 53-82; Jean Francois Bayart, Achille Mbembe, and Comi Toulabour (eds.), *Le Politique Par Les Bas En Afrique Noire: Contributions á Une Problématique de La Démocratie* (Paris, 1992).

¹¹¹ Victor Azarya, 'Reordering state-society relations: Incorporation and disengagement', in Donald Rothchild and Naomi Chazan (eds.), *The Precarious Balance: State and Society in Africa* (Colorado, 1988), pp. 3-21, p. 9; Patrick Chabal and Jean-Pascal Daloz, *Africa Works: Disorder as Political Instrument* (Oxford, 1999), p. 4.

¹¹² *Ibid.*, p. 26.

¹¹³ Naomi Chazan, 'Patterns of state-society incorporation and disengagement in Africa', in Donald Rothchild and Naomi Chazan (eds.), *The Precarious Balance: State and Society in Africa* (Colorado, 1988), pp. 121-148.

¹¹⁴ *Ibid.*, p. 124.

separated from the logic of its construction'.¹¹⁵ Given such hazards, the rationale for limiting the scholarly gaze – as Abrams proposed – seems valid. Yet surrendering 'the state' as an object of analysis in favour of a focus on the 'state-idea' and 'state-system' does not mean that the social environments in which these exist are any less important. Rather what matters, is 'how the putative division between state and society is produced'.¹¹⁶

The intensity of the state-society debate is understandable given the considerable influence that concepts of clientelism and neo-patrimonialism have had on the study of African politics. Since their first application to Africa by scholars such as Aristide Zolberg, Rene Lemarchand, Christopher Clapham and Jean-Francois Medard, these concepts have become 'endemic to the study of contemporary African polities', as Mamoudou Gazibo observes.¹¹⁷ This early research displays the same concern with definitions and distinguishing between different forms of patron-client politics that has persisted in the literature. In proposing a definition of political clientelism in 1972, Rene Lemarchand and Keith Legg offered a broad conception of the term, which focused on transactions between patrons and clients whose relationship was unequal, 'personalized, affective and reciprocal'.¹¹⁸ Lemarchand and Legg stressed that the kinds of relationships they described were not in any way unique to Africa, but were a 'generic trait of political systems regardless of their stages of development'.¹¹⁹

The term 'neo-patrimonialism' builds on this basic conception of clientelism but inserts it into a setting where a 'contradictory combination of bureaucratic and

¹¹⁵ Jean-Francois Bayart, *The State in Africa: The Politics of the Belly* (Cambridge, 2009), p. 209.

¹¹⁶ Brian Dill, *Fixing the African State: Recognition, Politics, and Community-Based Development in Tanzania* (New York, 2013), p. 3.

¹¹⁷ Mamoudou Gazibo, 'Introduction', in D. Bach and M. Gazibo (eds.), *Neopatrimonialism in Africa and Beyond* (New York, 2012), pp. 1-6, p. 2. For the early application of concepts of clientelism to the study of African politics see Aristide Zolberg, *Creating Political Order: The Party States of West Africa* (Chicago, 1969); Rene Lemarchand and Keith Legg, 'Political clientelism and development: A preliminary analysis', *Comparative Politics*, 4:2 (1972), pp. 149-178; Rene Lemarchand, 'Political clientelism and ethnicity in tropical Africa: Competing solidarities in nation-building', *American Political Science Review*, 66:1 (1972), pp. 68-90; Christopher Clapham, *Private Patronage and Public Power: Political Clientelism in the Modern State* (London, 1982); Jean-Francois Medard, 'The underdeveloped state in tropical Africa: Political clientelism or neo-patrimonialism?', in Christopher Clapham (ed.), *Private Patronage and Public Power: Political Clientelism in the Modern State* (London, 1982), pp. 162-192. ;

¹¹⁸ Lemarchand and Legg, 'Political clientelism', p. 151.

¹¹⁹ *Ibid.*, p. 149.

patrimonial norms' co-exist.¹²⁰ For Medard, the characteristic feature of neo-patrimonial states was the absence of a 'clear division' or 'confusion over public and private domains'.¹²¹ The strength of neo-patrimonialism, as a term, Medard argued, was that it was able to incorporate 'not only clientelism, but also nepotism, ethnicity and corruption, which are all constitutive elements of the underdeveloped state in tropical Africa.'¹²² Perhaps the greatest strength of the neo-patrimonial approach however, is that it creates a framework for understanding the development and perpetuation of a very different kind of 'state-idea' and 'state-system' to that prevalent in the West. Explaining how these two systems interact has thus been one of the primary research agendas for scholars interested in Africa. From this long, interdisciplinary conversation, a model of the neo-patrimonial state has emerged, which aims to explain how political clientelism has enabled both the 'reciprocal assimilation of elites' and how it is 'instrumental as a way of articulating the centre and periphery'.¹²³ It is thus a political and economic system structured on:

a multilevel network of patron-client relations starting between the national politicians (patrons) and competing elites (clients), and building upon regional networks where the latter elites have traditionally played the role of patrons. The formation of the ruling class is therefore predicated upon a system of nonformal political and economic relations that take precedence over the formal political system.¹²⁴

By analysing neo-patrimonialism mainly through the lens of political economy however, there is a danger of overlooking the important 'legitimation-work' – to borrow again from Philip Abrams – involved in the redistribution of state resources. As Christopher Clapham observes, 'the patron-client bond is a moral one'.¹²⁵ Neo-patrimonial systems thus have their own 'socio-cultural logic and moral economy'.¹²⁶ This moral dimension of neo-patrimonialism cannot properly be understood in the abstract. Indeed even though Bratton and van de Walle describe neo-patrimonialism as 'the *core* feature of politics in Africa', its analytical

¹²⁰ Medard, 'The underdeveloped state', p. 180.

¹²¹ Ibid., p. 180.

¹²² Ibid., p. 165.

¹²³ Bayart, *The State in Africa*, pp. 152-154; Medard, 'The underdeveloped state', p. 169.

¹²⁴ Pierre Englebert, *State Legitimacy and Development in Africa* (Boulder, 2000), p. 99.

¹²⁵ Clapham, *Private Patronage and Public Power*, p. 5.

¹²⁶ Cherry Leonardi, 'Paying "buckets of blood" for the land: Moral debates over economy, war and state in southern Sudan', *JOMAS*, 49:2 (2011), pp. 215–240. p. 233.

utility is arguably greatest when used in context, to explain the development of a specific 'moral matrix'.¹²⁷ The moral economy of political clientelism is not universal across Africa, unique to Africa, nor is it static; it is subject to contestation and debate. Views of legitimate and illegitimate behaviour change, as do public expectations of leaders. Neo-patrimonialism should not, as Theobald observed, be a 'catch-all concept'; scholars must seek to understand the way that Africans 'engage in critical and comparative' debate about the nature of political accountability.¹²⁸ This requires looking at politics 'from below', or what Bayart has termed 'the politics of the belly'.¹²⁹ The study of local government thus emerges as a logical and fruitful method for exploring the way that different ideas and expectations of the state are negotiated by society. Yet scholars have only quite recently begun to look to local state institutions to answer these kinds of questions, as the next section outlines.

Decentralisation, corruption and the local state in Africa

The centralisation of power in Kenya's 'bureaucratic-executive state', was a trend replicated in many other African states in the 1960s. After independence, 'centralisation became the order of the day', in Tanzania, Zambia, Malawi, Cameroon, Senegal and Cote d'Ivoire, and in turn academic interest in local government dissipated.¹³⁰ When the second edition of Ronald Wraith's *Local Government in West Africa* was published in 1972, the name of the volume had conspicuously changed to *Local Administration in West Africa*. As Nelson Kasfir has quipped, Wraith 'could no longer find any local governments' in West Africa 'with control over their budgets nor any with autonomous policy-making powers'.¹³¹ It was not until the late 1970s and early 1980s that scholars returned to the study of local government.¹³² This time cast in the language of 'decentralisation', the second

¹²⁷ Michael Bratton and Nicolas van de Walle, 'Neo-patrimonial regimes and political transitions in Africa', *World Politics*, 46 (1994), pp. 453-489; 'Moral Matrix' term used by Michael Schatzberg, *Political Legitimacy in Middle Africa* (Bloomington, 2001).

¹²⁸ Robin Theobald, 'Patrimonialism', *World Politics*, 34 (1982), pp. 548-559; John Lonsdale, 'Moral and political argument in Kenya', in Bruce Berman, Dickson Eyoh, and Will Kymlicka (eds.), *Ethnicity & Democracy in Africa* (Oxford, 2004), pp. 73-95, p. 75.

¹²⁹ Bayart, *The State in Africa*.

¹³⁰ Nelson Kasfir, 'Designs and dilemmas: An overview of decentralization in Africa', in Philip Mahwood (ed.), *Local Government in the Third World: The Experience of Tropical Africa* (London, 1983), pp. 25-47, p. 25.

¹³⁰ Ronald Wraith, *Local Administration in West Africa* (London, 1972).

¹³¹ Kasfir, 'Designs and dilemmas', p. 32.

¹³² *Ibid.*, p. 25.

wave of interest in local government came from scholars working in the fields of development studies and public administration. Frequently directed towards a policy audience, these writers – who Patricia Stamp describes as ‘scholar-practitioners’ – tended to view decentralisation as an administrative arrangement more than a field for political negotiation.¹³³ The study of decentralisation was thus – and to an extent remains – dominated by scholars whose interests are technical and specialised. This ‘tendency of disciplinary specialists to compartmentalise decentralisation’ has been noted by Paul Smoke: ‘Economists focus on fiscal and economic development, political scientists focus on intergovernmental relations, local elections and accountability mechanisms, and public administration experts work on institutional structures, processes and procedures.’¹³⁴ This tendency to narrow down on specific aspects of decentralisation, and indeed to view local government in isolation, removed from the state’s broader political-economy, made local government into a marginal, ‘special interest’ field, seen as having little to contribute to broader debates on the African state.

This started to shift after the 1990s with the ‘third wave’ of democratisation in Africa. From then on, scholars and practitioners turned their attention to ‘democratic decentralisation’.¹³⁵ A more inclusive framework of local *governance* was favoured as a way to conceptualise the many different forms of local political organisation that did and could exist across the continent.¹³⁶ This formed part of a search to find more rooted and organic forms of authority, that had the potential to be more accountable than the central state. This coincided with a growing interest in the way states ‘work’ in practice. Prompted by the critical literature on the state in Africa – discussed earlier in the chapter – more scholars began to look to local bureaucracies to understand the state’s daily construction and negotiation. Frequently drawing on anthropological and sociological approaches, these scholars – who are not exclusively Africanists – recognise the importance of studying the

¹³³ For an overview see Diana Conyers, ‘Decentralization: The latest fashion in development administration?’, *Public Administration and Development*, 3:2 (1983), pp. 97–109.

¹³⁴ Paul Smoke, ‘Decentralisation in Africa: Goals, dimensions, myths and challenges’, *Public Administration and Development*, 23:1 (2003), pp. 7–16, p. 8.

¹³⁵ James Manor, *The Political Economy of Democratic Decentralization* (Washington, 1999).

¹³⁶ Donald Rothchild (ed.), *Strengthening African Local Initiative: Local Self-Governance, Decentralisation and Accountability* (Hamburg, 1994); James Wunsch, ‘Decentralization, local governance and ‘recentralization’ in Africa’, *Public Administration and Development*, 21:4 (2001), pp. 277–288; G. Shabbir Cheema and Dennis Rondinelli, *Decentralizing Governance: Emerging Concepts and Practices* (Cambridge, Mass., 2007).

local state, because it is in such contexts that that the state's 'capacity is tested... and attitudes to official authority are produced'.¹³⁷

This strand of research has been particularly prevalent amongst scholars working on Francophone West Africa. For example Jean-Pierre Olivier de Sardan argues that by examining the everyday practices of states, the analytical and descriptive limitations of 'neo-patrimonialism' become more apparent. He notes that the concept is unable to satisfactorily explain 'islands of effectiveness' within a state's institutional matrix, and the existence of an often 'deep-seated attachment to bureaucratic behaviours' alongside endemic corruption.¹³⁸ Olivier de Sardan and Giorgio Blundo's contributions on corruption in Africa have greatly enhanced and refined scholarly understandings of the logics, value systems and cultural codes that 'anchor corruption in ordinary everyday practice'.¹³⁹ Olivier de Sardan argues that 'petty corruption' and 'grand corruption' are 'two poles of a continuum' rather than categorically distinct phenomena.¹⁴⁰ In Kenya the repudiation of 'grand corruption' has been an enduring feature of public discourse since independence. Academic analysis has largely failed to tackle the question of why corruption in Kenya is 'as frequently denounced in words as it is practiced in fact'.¹⁴¹ Instead the use of public office for private gain is primarily seen as a practice that has been produced first and foremost by the holders of executive power. Yet the experience of local authorities, this thesis argues, provides important insights into how the neo-patrimonial state is reproduced – and arguably *produced* – at the local level.

Much of the writing on 'states at work' has thus far focused on officials, civil servants and bureaucrats; on the offices where citizens go to negotiate with agents of the state.¹⁴² By looking at councillors, this thesis shifts the focus to those who are not only elected to serve the government, but also to represent the people. Outside

¹³⁷ Akhil Gupta, 'Blurred boundaries: The discourse of corruption, the culture of politics, and the imagined state', *American Ethnologist*, 22:2 (1995) pp. 375-402, p. 375.

¹³⁸ Richard Crook, 'Rethinking civil service reform in Africa: "islands of effectiveness" and organisational commitment', *Commonwealth and Comparative Politics*, 48:4 (2010), pp. 479-504; Paul Nugent, 'States and social contracts in Africa', *New Left Review*, 63 (2010), pp. 35- 68, p. 37.

¹³⁹ Giorgio Blundo and Jean-Pierre Olivier de Sardan with N. B. Arifari and M. T. Alou, *Everyday Corruption and the State: Citizens and Public Officials in Africa* (New York, 2006).

¹⁴⁰ Olivier de Sardan, 'A moral economy of corruption', p. 29.

¹⁴¹ *Ibid.*, p. 29.

¹⁴² See two recent edited volumes: Thomas Bierschenk and Jean-Pierre Olivier de Sardan (eds.), *States at Work: Dynamics of African Bureaucracies* (Lieden, 2014); Tom de Herdt and Jean-Pierre Olivier de Sardan (eds.), *Real Governance and Practical Norms in Sub-Saharan Africa: The game of the rules* (Abingdon, 2015).

of the Kenyan context, questions over the nature of political leadership, local legitimacy and moral authority have often – although not exclusively – been framed in reference to the institution of chieftaincy.¹⁴³ Rather than a ‘traditional institution’, most argue that chiefs have served as an adaptable, ‘intermediary institution’.¹⁴⁴ Yet whereas chiefs were usually ‘recognised or selected’, local government councillors were, in theory, self-selecting.¹⁴⁵ They chose to put themselves forward to serve on local government bodies. This thesis considers the motivations and expectations of councillors, and how this has changed over time. Examining why councillors were drawn to local government office, and how their experiences compared with their expectations, it explores how competing ideas of ‘the state’ have been debated and negotiated discursively and in everyday practice. It explores how notions of reciprocity develop and mutate as much from the ‘bottom up’ as from the top down, and how the individual aspirations of local politicians impact the way state institutions function.

Cases, sources and structure

To write the history of local government in Kenya ‘from above’ and ‘from below’, different sources and methods are needed that can answer both questions of policy and of practice. This thesis combines the use of interviews with former councillors and officials with a range of documentary sources. Records from the Colonial Office are used to complement papers at the Kenya National Archives, including files from the Ministry of Local Government and official reports and policy documents. The Kenyan parliamentary debate records reveal how members of parliament viewed their local authorities and the local government system. As the ‘big men’ of the district, their views offer an additional perspective on the connections between elite and deep politics. Three case study councils from different regions in Kenya are used to explore local authority experience in a range of settings. These examples are not intended to serve as illustrations of any particular ‘type’, rather merely as an indication of some of the ways that local government was understood and experienced similarly across Kenya and some of the differences.

¹⁴³ For example see Paul Jackson, ‘Reshuffling an old deck of cards: The politics of local government reform in Sierra Leone’, *African Affairs*, 106:422 (2007), pp. 95-111; Donald Ray and P. S. Reddy (eds.), *Grassroots Governance? Chiefs in Africa and the Afro-Caribbean* (Calgary, 2003); Cherry Leonardi, *Dealing with Government in South Sudan: Histories in Chiefship, Community and State* (Woodbridge, 2013).

¹⁴⁴ Leonardi, *Dealing with Government*, p. 4.

¹⁴⁵ *Ibid.*, p. 2.

Two rural authorities; Kakamega County Council and Kilifi County Council, and on one urban authority; Nakuru Municipal Council are studied in this thesis. These cases were selected because they offered examples of how local government was established and experienced differently in the colonial period. Kakamega in Western Province was the wealthiest African District Council at independence. It had played an extremely important part in local development over the preceding three decades. By contrast Kilifi County Council, situated on the coast north of Mombasa, played a comparatively small role in the district before independence. The identity of the populations of both county council areas were formed out of late-colonial 'invention'.¹⁴⁶ In the case of Kakamega, there has remained a 'complex tension among the constituent groups who came to form this corporate body' known as the 'Luhya tribe'.¹⁴⁷ At the coast a similar corporate identity was formed in the late-colonial period, with the re-imagining of the nine 'indigenous tribes' of the coast to create the 'Mijikenda'.¹⁴⁸ Within Kenya's post-colonial politics these two ethnic communities, or political regions have not been valued equally by the centre. This has had significant ramifications on the vitality of local government in the two regions, as will demonstrated throughout. The third case study is of Nakuru town, which in the colonial period was considered the 'capital of the White Highlands'.¹⁴⁹ It thus provides an example of a council and town that changed considerably in the years before and after independence. Nakuru town became an incredibly significant political battleground after independence. Unlike Kilifi and Kakamega, the council's politics were scrutinised by the centre, and councillors were fully integrated into district and national clientelist networks.

These cases are not intended to serve as detailed studies of district politics. Indeed the complexities of each locale can only be touched upon, sometimes in quite unsatisfactory ways. Nonetheless as John Lonsdale notes, '[c]ase studies can show how the 'big *why* questions' of world history actually manifest themselves to human actors in real life, and how in real lives they can, if always provisionally, be

¹⁴⁶ Lynch, *I Say to You*, pp. 12-19.

¹⁴⁷ Julie MacArthur, 'When did the Luyia (or any other group) become a tribe?', *Canadian Journal of African Studies*, 47:3 (2013), pp. 351-363.

¹⁴⁸ Justin Willis and George Gona, 'Tradition, tribe, and state in Kenya: The Mijikenda Union, 1945-1980', *Comparative Studies in Society and History*, 55:1 (2013), pp. 448-473.

¹⁴⁹ Lonsdale, 'Town life', p. 209.

answered.’¹⁵⁰ Councillors’ thoughts and experiences can reveal how ideas and expectations of ‘the state’ in Kenya have been constructed, negotiated and debated. Most councillors conceived of themselves as public servants and leaders who were respected and valued by their local community. This was reflected in the ways they narrated their experiences of local government. They were self-selecting in what they remembered, emphasised, omitted and underplayed. This has to be born in mind when assessing the value and accuracy of interview sources. Most councillors told stories of triumph against adversity, not of failure and corruption. The timing of the research is also significant. Interviews were mainly conducted in the months before and after the March 2013 national elections; the first under the new devolved constitution. Asked to recount experiences that in many cases took place two to three decades ago, at a time when a new devolved system was being introduced, there was often some confusion for councillors.

The case studies are examined both through the oral histories of councillors and through the documentary records of councils, most importantly full council and committee minutes, which were accessed at the Kenya National Archives in Nairobi, Nakuru and Kakamega, and at the offices of Nakuru and Kilifi councils. As sources, council minutes offer a particular, and limited view into local government. Through examining minutes, it is possible to know when meetings occurred, who was present, the agenda, and roughly what was said and decided. Yet as with parliament, council and committees meetings are highly codified spaces, as are the written records of these events. Prepared by educated officials, minutes are selective in what they record. They offer a sanitised version of proceedings, prepared for the consumption of higher officials within the Ministry of Local Government and provincial administration. Council minutes are not particularly useful for revealing political divisions between members. Whether censored out by scribes, or taking place outside of council offices, the personal and petty politics – found universally in local government – cannot be uncovered through official minutes. Newspaper records are useful for completing this picture, as are the memories of councillors themselves. Stories of local government were most often featured in the ‘civic pages’ of Kenya’s newspapers. *The East African* and *The Standard* on occasion covered local government affairs, but it was the *Daily Nation* and the *Weekly Review* that

¹⁵⁰ John Lonsdale, ‘Agency in tight corners: Narrative and initiative in African history’, *Journal of African Cultural Studies*, 13:1 (2000), pp. 5–16.

most commonly published news and commentary on local authorities. These stories provide an indication of the changing nature of public debate about local government. Yet in maintaining normative expectations and thus always measuring Kenya's councils against the official norms of local government, these newspapers offer a particular view into local authorities which cannot be taken as representative of 'society'. They are nonetheless still important sources, as Gupta Akhil argues, the media is one of a number of 'contexts through which the state comes to be constructed'.¹⁵¹

This thesis does not attempt to provide a comprehensive account of how Kenya's citizens have engaged with the idea and institutions of local government; rather it offers one view into how local politicians have interpreted and performed their roles. It is impossible to assess exactly how selective and self-aggrandizing councillors were when retelling their years of 'service'. Yet the process of locating former councillors – which in some instances was very straightforward, and in other cases far less so – suggests that Oyugi's statement that 'many do not know who their councillors are' must be revised.¹⁵² The title 'councillor' is retained for life, as was discovered in Kilifi, Kakamega and Nakuru when seeking out former civic leaders. The significance of this should not be overstated, but as the thesis shows, the fact that councillors were known and remembered does reveal that their role extended beyond the formal confines of county halls. The 'real lives' of councillors *do* as Lonsdale has suggested provide 'the counter-evidence' to the narrative of local government currently found in the literature.¹⁵³ Yet in making the argument for bringing councillors into the study of Kenyan politics on the basis of their role as patrons and clients, certain methodological risks arise, which Christopher Clapham first noted in 1982:

Unlike generalized abstractions such as class, patron-client ties exist in a directly observable form. One can stand at the patron's elbow and watch him conducting his business and in the fascination of the scene miss both those aspects of political life which are not enacted in so dramatic a way, and those features of the social backcloth which are needed for the play to be staged in the first place. If clients are what one looks for, then clients are what one will see.¹⁵⁴

¹⁵¹ Akhil, 'Blurred boundaries', p. 377.

¹⁵² Oyugi, 'Local government in Kenya', p. 137.

¹⁵³ Lonsdale, 'Agency in tight corners', p. 7.

¹⁵⁴ Clapham, *Private Patronage and Public Power*, p. 32.

A related question was posed by Rene Lemarchand who asked whether patronage is 'merely a symptom of something more fundamental, or whether it can be viewed as the analytic key that enables us to make sense of otherwise untractable political realities?'¹⁵⁵ The findings of this thesis suggest that both are the case. Patronage is a symptom or response to insufficient state capacity and inadequate resources. But it is also an expression of particular expectations of leaders and those who occupy state institution that have evolved, if not organically from 'the grassroots' up, at least through symbiosis between high and deep state politics.

The thesis is organised chronologically, beginning with chapter one which examines the period from Arthur Creech-Jones' 1947 dispatch to Kenyan independence in 1963. It examines how the new 'policy' was elaborated on in the decade after 1947, at conferences, in journals and in the Colonial Office itself, and how these ideas were engaged with and implemented in Kenya in the late-colonial period. Chapters two, three and four explore changing government policy towards local government between 1963 and 1992. They focus on the ways policy affected practice in Kakamega and Kilifi county councils during this period, and the different approaches taken by presidents Kenyatta and Moi to the local government system. The same period is examined in chapter five which focuses on Nakuru Municipal Council. Chapter six looks at the impact multi-partyism had on local authorities after 1992 up to 1997 and uses material from all three cases. The final chapter examines the implementation of a local government reform programme from 1997, which was overtaken by a broader process of constitutional review. The thesis concludes by reflecting on the way that the new devolved structure relates to the system it was brought into replace, both in theory and in practice.

¹⁵⁵ Lemarchand, 'The state, the parallel economy, and the changing structure of patronage systems', p. 150.

Chapter One: 'The prospects of a glorious future': Colonial visions for local government, 1945 – 1963

Introduction

This chapter examines how the Colonial Office's post-war vision for British local government was implemented in Kenya in the late-colonial period. It describes the existence of different racialised local government streams during the colonial era which served Africans, Europeans and urban residents separately, and which complicated the development of local government in Kenya after 1945. The African District Council ordinance of 1950 was intended to usher in a new era; prior to this, Local Native Councils (LNCs) had evolved predominantly in response to local circumstances. Yet although the late-colonial period was characterised by a more systematic approach to local government on the part of officials in London and Nairobi, events of the 1950s and early 1960s served to ensure that when Kenya achieved independence in 1963, the local government foundations varied greatly from district to district, and town to town, and councils everywhere were in a state of confusion.

In the context of this thesis, the colonial era is significant in three ways. First, county councils at independence began life on the foundations of their African District Council (ADC) predecessors. The legacies bequeathed to local authorities differed immensely between councils, and this had important consequences for the post-colonial trajectories of local government in different regions. Second, the model of local government promoted in this era remained intensely powerful after independence, resonating with officials and the public alike. Councils' shortcomings were perceived in relation to an idealised understanding of how local government should function and the purposes it should serve, based on notions conceived and inculcated in the late-colonial period. Finally, and most importantly, there are clear continuities between the pre- and post-independence eras in the way that councillors used their positions to enhance and extract opportunities for themselves and their constituents from the state. Local councils provided a range of accumulation opportunities to their African members before independence, the expectation of such opportunities continued to influence the actions of councillors for generations afterwards.

Local government reform reflected a broader shift in colonial policy-making, which began in the late 1930s and found expression in a myriad of post-war plans for colonial development. The so-called 'second colonial occupation', was a period of unprecedented intervention by colonial states in the lives of Africans.¹ Robert Pearce sees this period as the 'turning point' in British Africa, when attitudes towards the colonial mission were fundamentally reworked; the principle of trusteeship gave way to 'development', and formulating strategies for political evolution became of prime importance.² A core feature of this shift was the refashioning of local government institutions in Africa. It was no longer adequate for 'Native Authorities' – in their various forms – to function merely as forums for debate and participation for the chiefs.³ Instead they had to figure more centrally in African economic development programmes and serve as training grounds in citizenship and political responsibility for the younger generation of emerging leaders. The chapter begins by exploring how this vision for local government came to dominate official thinking in the Colonial Office in the late 1940s. The next section turns to Kenya, outlining how local government evolved in the colony in the inter-war period, before looking in detail at the changes that occurred post-1947. It is shown in the third section that the budgets and scope of African councils' activities expanded enormously in the 1950s, yet still the members of ADCs continued to call for further powers, greater funding and more executive responsibility.⁴ This section specifically compares the councils in Kilifi and Kakamega, known at this time as Giriama and North Nyanza respectively.

The situation in ADCs contrasted greatly with county councils and municipal councils. The former – in the 'White Highlands' – were the preserve of Europeans who remained reluctant throughout this period to provide services for Africans living in the scheduled districts. Municipal councils also struggled with the questions of representation and services for Africans in the towns. This led municipal councils to adopt quite contradictory policies towards Africans, simultaneously promoting African housing schemes, and the development of 'urban

¹ D. A. Low and J. M. Lonsdale, 'Introduction: Towards the new order 1945-1963', in D. A. Low and A. Smith (eds.), *History of East Africa*, vol. III, (Oxford, 1976), pp. 1-63, p. 12.

² Pearce, *The Turning Point in Africa*.

³ *Ibid.*, pp. 132-161.

⁴ Address of welcome to Havelock by Chief Laban Motaroki, JA/12/27, KNA, Nairobi.

citizenship', whilst resisting calls from African politicians to increase their representation on municipal councils.

'Efficient, democratic local government': Creech Jones' plan for Africa

Soon after taking office in October 1946, the new Secretary of State for the Colonies Arthur Creech Jones sent out a circular despatch to all African governors. The 'famous' despatch of February 1947 set out his vision for colonial administration on the continent.⁵

I believe that the key to success lies in the development of an efficient, and democratic system of local government...I use the words because they seem to me to contain the kernel of the whole matter: *local* because the system of government must be close to the common people and their problems; *efficient* because it must be capable of managing the local services in a way which will not only find a place for the growing class of educated men, but at the same time command the respect and support of the mass of the people.⁶

As John Cell wrote in 1980, '[s]tudents have long recognized this document's wider implications and its pivotal character.'⁷ Yet in trying to contextualise and account for the despatch, scholarship has been divided on whether it did, as Cell argued, signal a 'new policy' for Africa and if so, how this policy had been formulated. Creech Jones' assessment of local government as 'the key to success' was informed by his own party's strength in that field.⁸ As Paul Kelemen has discussed, the Labour Party drew on its own 'ideological and political traditions' when formulating colonial policy after the 1945 election.⁹ Along with local government - which had been Labour's 'main organisational base' in the early twentieth century - the party also sought to promote trade unions and cooperatives as a means 'to reorganise the colonial state's relationship with its African subjects.'¹⁰

Yet to fully contextualise Creech Jones' despatch it is necessary to look beyond the Labour Party's particular attachment to local government. Indeed the

⁵ Numerous scholars have described the local government despatch as 'famous' including John Cell, S. O. Okafor and Kenneth Robinson: Cell, 'On the eve of decolonization', p. 235; Okafor, 'Ideal and reality in British administrative policy in Eastern Nigeria', *African Affairs*, 73:293 (1974), pp. 459-471, p. 469; Kenneth Robinson, 'Colonialism French-style, 1945-1955: A backward glance', *JICH*, 12:2 (1984), pp. 24-41, p. 28.

⁶ Circular quoted in Hicks, *Development from Below*, p. 5.

⁷ Cell, 'On the eve of decolonization', p. 235.

⁸ Paul Kelemen, 'Modernising colonialism: The British labour movement and Africa', *JICH*, 34:2 (2006), pp. 223-244.

⁹ *Ibid.*, p. 224.

¹⁰ *Ibid.*, p. 226, p. 225.

significance of the 'new policy' can only be understood in reference to much broader debates circulating in the late 1930s and early 1940s about the role of the state in matters of economic development and social welfare, both in the metropole and in the colonies.¹¹ Here Frederick Cooper's work is particularly revealing. Cooper examines how the concept of 'development' emerged in the years immediately before 1940 as a way to reframe the problems affecting many British colonies.¹² In particular, labour strikes and disturbances in the West Indies, Northern Rhodesia, and east and west Africa between 1935 and 1939 had led to difficult questions at home about the purpose and consequences of Britain's colonial mission. Cooper shows how this 'complex issue became clarified, simplified and symbolised within the decision-making apparatus of the British government' under the banner of 'development'.¹³ The publication of Lord Hailey's *An African Survey*, in 1938, had further provoked discussions about colonial governments' poor records in respect of African welfare.¹⁴ The landmark Colonial Development and Welfare Act of 1940 was thus a 'grand gesture', which aimed to redefine the relationship between state and society in the colonies by incorporating the new language of 'development'.¹⁵ In linking this to the notion of 'welfare' - which Cooper notes, 'meant rather a lot in the domestic politics of Great Britain' - the Act connected the poor in the metropole with those in the colonies in a new and powerful way.¹⁶ It allocated £50 million for colonial development over the following decade, plus an annual disbursement of £500,000 for research.¹⁷ The publication in 1942 of the Beveridge Report, which outlined the 'Five Giants facing society: Squalor, ignorance, want, idleness and disease'; provided further opportunity for the cross-fertilisation of ideas about government's responsibility towards the poor in Britain and in Africa.¹⁸

¹¹ Frederick Cooper, *Decolonization and African Society: The Labor Question in French and British Africa* (Cambridge, 1996), pp. 111-141.

¹² Ibid.

¹³ Ibid., p. 65.

¹⁴ Lord Hailey, *An African survey: A study of problems arising in Africa south of the Sahara* (London, 1938).

¹⁵ Joanna Lewis, *Empire State-Building: War & Welfare in Kenya, 1925-52* (Oxford, 2000), p. 21.

¹⁶ Cooper, *Decolonization and African Society*, p. 67.

¹⁷ E. R. Wicker, 'Colonial development and welfare, 1929-1957: The evolution of a policy', *Social and Economic Studies*, 7:4 (1958), pp. 170-192.

¹⁸ James Midgley, 'Imperialism, colonialism and social welfare', in James Midgley and David Piachaud (eds.), *Colonialism and Welfare: Social Policy and the British Imperial Legacy* (Cheltenham, 2011), pp. 36-54.

The exigencies of war prevented the Colonial Office from being able to fully act upon its evolving mandate. With the end of the war, a 'revolution' at the Colonial Office begun.¹⁹ To Anthony Kirk-Greene this 'revolution' found expression in a 'package deal' of reforms announced in 1947 by Arthur Creech Jones.²⁰ At the heart of this deal was the local government despatch, 'which replaced the pre-war credo of indirect rule and Native Administration'.²¹ The system of administration Lord Lugard had first pioneered in Nigeria at the start of the twentieth century, was based on the co-option or appointment of native leaders.²² Since then, the practices of 'indirect rule' had evolved across the continent, and efforts had been made in the 1920s and 1930s to incorporate the growing number of mission-educated Africans into the Native Authorities, as a means to check the development of nationalist politics.²³ Yet whilst the work and membership of native councils had expanded in the inter-war period, there remained a sense that the native authority system was essentially conservative, and indeed Creech Jones described indirect rule as 'broadly speaking, a static policy'.²⁴ The native authority system had to be overhauled in order to fit in with the 'new look Colonial Service'.²⁵ Refashioning and reforming 'native authorities' into 'local governments' thus aimed to address the new – and less new – agendas of social welfare, economic development, political evolution and civic education in one policy; a policy that could convincingly be presented to the traditionally conservative members of the Colonial Service as an extension of existing policy, rather than a revolution. Yet nonetheless, as Hicks notes, whilst not an entirely 'new policy', the despatch did 'state the objectives in a way in which they could hardly have been stated at an earlier date', specifically by placing African councils at the centre of plans for eventual self-government.²⁶

This development in policy enjoyed wide support across Westminster. For Labour it promised 'representative institutions', whilst for the Conservative Party,

¹⁹ R. D. Pearce, 'The Colonial Office in 1947 and the transfer of power in Africa: An addendum to John Cell', *JICH*, 10:2 (1982), pp. 211–215, p. 213.

²⁰ Anthony Kirk-Greene, *Glimpse of Empire: A Corona Anthology* (London, 2001), p. xi.

²¹ *Ibid.*, p. xi.

²² Bryan Keith Lucas, 'The dilemma of local government in Africa', in Kenneth Robinson & A. F. Madden (eds.), *Essays in Imperial Government presented to Margery Perham* (Oxford, 1963), pp. 193–208.

²³ Lonsdale, 'Some origins of nationalism', p. 121–22.

²⁴ Arthur Creech Jones, 'The place of African local administration in colonial policy', *Journal of African Administration*, 1:1 (1949), pp. 3–6, p. 4.

²⁵ Kirk-Greene, *Glimpse of Empire*, p. xi.

²⁶ Hicks, *Development from Below*, p. 4.

local government offered a way to ensure 'the emergence of 'natural leaders'.²⁷ London may have been united behind the pursuit of local government, but as with most Colonial Office initiatives, convincing the 'man on the spot' was another matter.²⁸ Even as an evolution rather than revolution of existing policy, the fact that the despatch implied a transition to self-government within one generation was sufficient to alarm some members of 'the old guard of colonial officials'.²⁹ So in order 'to get the younger generation of middle-ranking colonial administrators on the side of the Colonial Office' and its plans for local government, a summer school was held at the University of Cambridge in 1947.³⁰ 'African Local Government' was the theme of the first conference; and D. K. Fieldhouse notes that 'the list of speakers' at the conference included many of the 'great and good in contemporary colonial affairs'.³¹ Over the next twelve years, local government was on two further occasions the focus of discussion at what became annual conferences on colonial administration in British Africa.³² Attendees included officials from Whitehall, administrators from across the continent and sector specialists on local government, and other topics such as agriculture and community development. The first conference began with an address by the Parliamentary Under Secretary of State for the Colonial Office who summed up the principle of local government as 'the education of Africans in managing their own local affairs as a preparation for self-government'.³³ In between cricket matches which set east Africa against west Africa, attendees considered the practical problems presented by local government including finance, functions, and relations with other authorities. By the first conference's close, progress had been made in schooling attendees on the principal aim of local government. A group tasked with considering political aspects of local government concluded in its final report that 'local government institutions...must provide representation for the traditional elements of the emerging professional

²⁷ J. M. Lee, *Colonial Development and Good Government: A Study of the Ideas Expressed by the Official Classes in Planning Decolonization 1939-1964* (London, 1967), p. 143.

²⁸ Cell, 'On the eve of decolonization'.

²⁹ Anthony Kirk-Greene, *On Crown Service: A History of HM Colonial and Overseas Civil Services, 1837-1997* (London, 1999), p. 59.

³⁰ *Ibid.*, p. 60.

³¹ D. K. Fieldhouse, 'Ronald Robinson and the Cambridge development conferences, 1963-70', *JICH*, 16:3 (1988), pp. 173-199, p. 175.

³² In 1951 and 1958: *Colonial Office Summer Conference on African Administration, 1951* (London, 1951); *Colonial Office Summer Conference on African Administration, 1958* (London, 1958).

³³ *Colonial Office Summer School on African Administration, 1947* (London, 1947), p. 9.

and commercial classes, and the educated element generally from which the most politically-conscious members of the community emerge, as well as for the great mass of the rural population'.³⁴ No longer were native authorities to provide a means to contain the 'politically-conscious' rather, through 'local government' these individuals were to be trained so that 'a chain of democratic representation from the local to the central government' could be 'built up'.³⁵

Following the first summer school, the Colonial Local Government Advisory Panel was formed and an internal African Studies Branch was set-up in the Colonial Office.³⁶ Eighteen months after the first conference, the Branch launched the *Journal of African Administration*. The *JAA* was to provide a forum where problems encountered in the field could be shared and surmounted through the exchange of ideas and experience gained in the colonies and at home. In the inaugural issue, Creech Jones declared that '[t]he essential and permanent objective of British policy is to bring forward the African territories to self-governing responsibility within the Commonwealth. To that end, an evolutionary process towards more liberal, representative and responsible political institutions is going on.'³⁷ He expected local government to facilitate such political evolution, and matters related to local government dominated in particular the early issues of the journal. Articles explored the principles underlying local government reform and the practical challenges to its implementation, particularly regarding training and finance.³⁸ In making the case for local government, most contributors emphasised that local authorities had to be 'representative and acceptable to the people', Ronald Robinson wrote explicitly of the need to move towards 'democratic local self-governing bodies of the English type'.³⁹

Yet whilst the arguments for local government might have been couched in liberal, progressive terms there were also more pragmatic reasons for encouraging

³⁴ Ibid., p. 24.

³⁵ Ibid., p. 9.

³⁶ Hubert Allen, 'Farmers' Weekly to Journal of Agronomic Sciences: Changing conceptions of local government in *Public Administration and Development* and its predecessors', *Public Administration and Development*, 19:5 (1999), pp. 439-452.

³⁷ Arthur Creech Jones, 'The place of African local administration in colonial policy', p. 3.

³⁸ For example see Ronald Wraith, 'A note on local government training for the colonial services', *JAA*, 2:1 (1950), pp. 30-35; T. G. Askwith, 'Training for local government at Jeanes School', *JAA*, 3:4 (1951), pp. 162-15; R. J. Howes, 'A Kenya experiment in training for local government', *JAA*, 3:2 (1951), pp. 87-90.

³⁹ R. E. Robinson, 'Why "indirect rule" has been replaced by "local government" in the nomenclature of British native administration', *JAA*, 2:3 (1950), pp. 12-15, p. 14.

the development of local government. As Leigh Gardner notes, the post-war push for local government was as much informed by Whitehall's need to finance its 'expanding ambitions' for the colonies as it was by a newfound commitment to representative institutions.⁴⁰ By bringing services closer to the 'taxpayer' it was hoped that people 'might then be willing to pay more'.⁴¹ This theory lay at the heart of the 'local government model'; it tied programmes of social and economic development to the objects of financial self-sufficiency and political evolution. As an idea it was appealingly simple. Through the services provided by local authorities, Africa's masses would experience the benefits of taxation. A sense of citizenship would be created starting at the local level. These institutions would train Africans both for professional and political careers, so that eventually they could assume the institutions of central government. As Creech Jones explained when addressing the Colonial Local Government Advisory Panel 'local government ... is a school where we hope Africans will master, in miniature, the arts of democratic administration and politics.'⁴² To planners in London, the value of this 'school' was that it appeared to contain the potential to transcend the particularities of different African colonies. Indeed, as Chris Vaughan writes, local government was part of 'a wider project of post-war imperial policy to make "other" political cultures look less "other" and more like the metropole itself.'⁴³ Exposure to the ritualised practices of local government would work to transform African councillors into 'statesmen of the future'.⁴⁴ These practices, or conventions, in theory defined the limits of acceptable behaviour of members and set out the scope and style of legitimate political debate.⁴⁵ In this way, the conventions of councils were seen to contain transformative potential, by harnessing the 'language of the people' within a bureaucratic apparatus, councils were considered particularly well adapted to the important task of political education.⁴⁶

By 1950 this model had seemingly been accepted; Ronald Robinson wrote of 'local government' having replaced 'indirect rule' in the 'nomenclature of British

⁴⁰ Gardner, *Taxing Colonial Africa*, p. 161.

⁴¹ *Ibid.*, p. 162.

⁴² Address by Secretary of State Arthur Creech Jones to the first meeting of the Colonial Local Government Advisory Panel, 23 July 1948, JA/16/13, KNA, Nairobi.

⁴³ Vaughan, 'Reinventing the wheel?', p. 255.

⁴⁴ *Ibid.*, p. 255.

⁴⁵ Alison Richards, 'The nature of the problem', in Alison Richards and Adam Kuper (eds.), *Councils in Action* (Cambridge, 1971), pp. 1-12, p. 2.

⁴⁶ Vaughan, 'Reinventing the wheel?', p. 255.

native administration'.⁴⁷ Yet Ronald Robinson's enthusiasm may have been a little premature. The next section examines how this 'new policy' was received and implemented in Kenya. It outlines the role that LNCs have played in Kenya up to the mid-1940s. In the decade that followed, councils in the reserves embraced the opportunity to expand their services by enlarging their treasuries; neither Africans, nor government officials appeared to object greatly to the 'taxes for services' dimension of local government reform. Yet the question of how to connect this to wider programmes for political evolution and fairer, more democratic representation proved far more complex and controversial in Kenya's deeply divided society.

'An achievement of which the colony could be proud': Local Native Councils, 1924 – 1947

When Sir Philip Mitchell, Governor of Kenya, received Creech-Jones' despatch in February 1947, a process of local government reorganisation was already underway in the colony.⁴⁸ In a letter to a colleague in Lusaka, the new Member for Health and Local Government, Charles Mortimer attempted to summarise the changes taking place. This was not an easy task. Kenya's local government system up to 1947, and indeed afterwards, was complicated by the existence of multiple structures - governed differently - in rural African areas, rural 'European' areas, and urban areas. Furthermore, within these three systems there was little uniformity. Mortimer's convoluted explanation included details of the new "Member" system which grouped departments and created 'quasi ministers' to run them.⁴⁹ He went on to note that local native authorities – the councils in the reserves – were 'being brought into the local government organization as ADCs, with increased powers and more customary local government procedure'.⁵⁰ Finally Mortimer described the new 'Local Government Board' which would have 'three standing committees – for municipalities, settled districts and African District Councils respectively'.⁵¹ Bringing the three systems together under the supervision of one Member and one Board was a major development (although this was not actually implemented until

⁴⁷ Robinson, 'Why "indirect rule" has been replaced by "local government"'.
⁴⁸ Member for Health and Local Government to Mr. L. W. G. Eccles, 14 January 1947, JA/12/58, KNA, Nairobi.
⁴⁹ Ibid.
⁵⁰ Ibid.
⁵¹ Ibid.

June 1953).⁵² Up until this point, in line with the broader policy in Kenya of 'dual development' for different races, the three council systems were treated quite independently. In order to assess the changes that occurred from 1947 onwards it is necessary first to examine how the three local government streams had evolved up to that point. This section first discusses European district and urban councils, before exploring in greater detail the activities of councils in the reserves.

In the towns and in settled districts, up until at least the 1940s, local government bodies were controlled entirely by European councillors with limited Asian – usually nominated – representation. Both types of councils demonstrated little interest in the Africans living and working in their areas of jurisdiction beyond periodic attempts to regulate their labour power, and control their movements. European district councils were established in seven 'non-African' areas in 1928 following the recommendations of the Feetham Commission (1926) into local government.⁵³ 'The architect of local government' in South Africa, Judge Feetham had been briefed that 'the local interests of the white farmer and non-native town dweller are distinct from the local interests of the African in his reserve'.⁵⁴ Scholarship on district councils has mainly focused on settlers' efforts to restrict the economic activity of 'squatters'; those who lived and worked on European farms but were designated as 'migrant labourers'.⁵⁵ Councils were slow to accept any responsibility for the welfare of 'squatters', claiming that such services were to be provided in their homes in the reserves. Instead, district councils primarily focused on providing the infrastructure to 'service settler accumulation' such as access to roads and water.⁵⁶ They continually resisted recommendations from central government to levy rates, choosing instead to limit their activities mainly to road construction, financed by the central government.⁵⁷ The Commissioner for Local

⁵² Colony and Protectorate of Kenya, *Report of the Commissioner for Local Government, 1953* (Nairobi, 1953).

⁵³ S. H. La Fontaine and J. H. Mower, *Local Government in Kenya: Its Origins and Development* (Nairobi, 1955).

⁵⁴ Quoted in Robert Home, *Of Planting and Planning: The Making of British Colonial Cities* (Abingdon, 2013), p. 183.

⁵⁵ David Anderson and David Throup, 'Africans and agricultural production in colonial Kenya: The myth of the wars as a watershed', *JAH*, 26 (1985), pp. 327–345; Christopher Youé, 'Settler capital and the assault on the squatter peasantry in Kenya's Uasin Gishu district, 1942-63', *African Affairs*, 87:348 (1988), pp. 393–418.

⁵⁶ John Lonsdale and Bruce Berman, 'Coping with the contradictions: The development of the colonial state in Kenya, 1895-1914', *JAH*, 20:4 (1979), pp. 487–505, p. 504.

⁵⁷ Anthony Clayton and Donald Savage, *Government and Labour in Kenya, 1895-1963* (London, 1974), p. 168.

Government, Charles Mortimer, noted 'with regret' in 1947 that amongst European district councils, there had been 'little progress ... in that fundamental to assumption of further responsibility, the imposition of local rating'.⁵⁸

If levying rates was one indication of a vibrant local authority, another – according to the commissioner – was the turnout on election day. This was also an area of disappointment for the Commissioner for Local Government, particularly in respect of municipal authorities. He observed in 1947 that:

if contested elections and heavy polling are an indication of public interest in municipal affairs those concerned with the future of local government in Kenya might feel dejection and despondency, and it would be more honour to electorates if they chose to express their feelings by a more active participation in municipal life than writing letters to the press.⁵⁹

This assessment, of course, fails to acknowledge that not all of colonial Kenya's urban residents were able to participate equally in municipal life. Indeed questions about who belonged in 'the town', where they should live, and how they should be represented fundamentally shaped the structure and composition of urban municipal councils and thus the principles that underpinned town planning policies. The answers that Nairobi's European residents and councillors had provided in the inter-war period were increasingly challenged after 1945. Municipal politics up until that point had primarily consisted of a 'struggle between European and Indians for domination and control of Nairobi'.⁶⁰ Designated by colonial authorities as 'temporary workers', Africans were not permitted to remain in the town unemployed, and from 1919 'native reserves' were designated to further zone and segregate urban Africans from Europeans and Indians.

In Mombasa, it took the dockworkers' strike of 1939 for colonial officials to reconsider their long held view of Africans in the town as simply 'casual labour'.⁶¹ Thereafter, as Cooper writes: 'The workers in the post, in the city, on the railway, and eventually throughout the colony ceased to be anonymous embodiments of labor power, but social beings, whose culture, welfare, and relationships with each other and with employers were vital determinants of order and productivity.'⁶² The

⁵⁸ Colony and Protectorate of Kenya, *Report of the Commissioner for Local Government, 1947* (Nairobi, 1947), p.3.

⁵⁹ Ibid.

⁶⁰ Ambe Njoh, *Planning Power: Town Planning and Social Control in Colonial Africa* (London, 2007), p. 175.

⁶¹ Cooper, *On the African Waterfront*, pp. 50-57.

⁶² Ibid., p. 2.

changes to local authorities in settled areas and municipal councils after 1940 were thus more connected to questions of labour and stability than to a commitment to certain local government ideals. Therefore the early history of these two local government streams need not be examined in any great depth in order to understand the changes that came after 1940, when municipal councils in particular began to reconsider their policies towards Africans who lived in the towns.

An amendment to the Native Authority Ordinance saw Local Native Councils established in most districts in the 'African reserves' from 1925.⁶³ Unlike in other colonies, these 'Native Authorities' were established without 'even a shred of fiction about traditional or indigenous origins'.⁶⁴ Instead their express purpose was to provide 'local forums in which Africans could harmlessly let off steam'.⁶⁵ Just two years earlier, colonial Kenya 'had witnessed its first violent political protest' in Nairobi after the arrest of Harry Thuku, the charismatic, young leader of the East African Association.⁶⁶ Mission-educated, Thuku challenged the authority of the chiefs in Kikuyuland and campaigned against the payment of taxes.⁶⁷ It was intended that LNCs would provide a forum to incorporate the younger generation of educated Africans, such as Thuku, so as to prevent the growth of pan-ethnic political associations. Furthermore, by having both government-appointed chiefs and 'elected' members, LNCs were to bridge the emerging divide between 'traditional authority' and younger politicians in that the council system forced chiefs 'to share power with their literate subjects'.⁶⁸ Yet this purpose was not achieved with equal success everywhere, in this way E. S. Otieno-Adhiambo notes that '[d]uring the inter-war years, the Central and South Nyanza Local Native Councils provided arenas for fierce competition between the appointed chiefs and the elected rival elites'.⁶⁹ This competition stemmed partly from the increasing

⁶³ Cora Hochstein, 'The development of African local government in Kenya Colony', (PhD, Radcliffe College, 1948).

⁶⁴ Berman, *Control & Crisis*, p. 216.

⁶⁵ *Ibid.*, p. 216

⁶⁶ David Anderson, *Histories of the Hanged: Britain's Dirty War in Kenya and the End of the Empire* (London, 2005), p. 17.

⁶⁷ *Ibid.*

⁶⁸ Andrew Roberts, 'East Africa', in A. D. Roberts (ed.), *The Cambridge History of Africa: From c. 1905 to c. 1940: Vol. 7* (Cambridge, 1986), pp. 649-701.

⁶⁹ E. S. Atieno Odhiambo, 'Hegemonic enterprises and instrumentalities of survival: Ethnicity and democracy in Kenya', *African Studies*, 61:2 (2002), pp. 223-249.

revenues LNCs had at their disposal. By 1938, the total revenue of all Local Native Councils had reached K£61,651; an increase of K£30,000 over 1928 figures.⁷⁰

A large proportion of LNCs' revenues were raised from rates; a tax levied on property. To begin with, LNCs levied a local rate of one shilling per hut, which rose steadily thereafter. Expenditure supported 'progressive' activities in the reserves.⁷¹ Benjamin Kipkorir has suggested that 'right from the early stages of their existence... LNCs undertook all the social development and welfare functions of the government in the areas of their jurisdiction'.⁷² Kipkorir perhaps overstates the case, but there is considerable evidence that local councils were instrumental in expanding the education opportunities available in the reserves, particularly the number of non-mission run schools, as Donald Schilling has shown.⁷³ LNCs' preoccupation with education was typical of councils in Central and Nyanza Province.⁷⁴ In her tour of Kenya and Tanganyika in 1929-30, Margery Perham attended a meeting of Central Kavirondo LNC, where members discussed the construction of a new school. She admired - in comparison to the native authorities in Tanganyika - how:

Their only revenue comes from any rents from land leased in the reserve and from a special extra tax they put on themselves. They began with a shilling, but in their enthusiasm here for education they raised it to 2S and so produced enough to build a really fine central school.⁷⁵

Perham went on to describe some of the other activities Central Kavirondo LNC was engaged in: building and managing medical dispensaries; constructing roads and bridges; running forestry and agricultural services; and a model dairy.⁷⁶ Through initiating and maintaining all of these services, LNCs assumed pivotal positions in the economic life of the reserves. Gavin Kitching underlines the important contribution LNCs made in facilitating African business, supplying loans to traders,

⁷⁰ Leigh, *Taxing Colonial Africa*, p. 173.

⁷¹ Kitching, *Class and Economic Change*, p. 189.

⁷² B. E. Kipkorir, *Descent from Cherang'any hills: Memoirs of a reluctant academic* (Nairobi, 2009), p. 175.

⁷³ Schilling, 'Local Native Councils'. Also on education and LNCs see: Stafford Kay, 'African roles, responses, and initiatives in colonial education: The case of Western Kenya', *Paedagogica Historica: International Journal of the History of Education*, 16:2 (1976), pp. 272-293.

⁷⁴ Robert Tignor, *The Colonial Transformation in Kenya: The Kamba, Kikuyu, and Maasai from 1900 to 1939* (Princeton, 1976), pp. 255-272.

⁷⁵ Margery Perham, *East African Journey: Kenya and Tanganyika, 1929-30* (London, 1976), p. 146.

⁷⁶ *Ibid.*

and employing skilled and unskilled workers. In this way, he argues that LNCs functioned as ‘a training ground for the African petite bourgeoisie’.⁷⁷ Also interested in spheres of ‘collaboration’, John Lonsdale notes that ‘whatever their shortcomings, these LNCs were crucial in that they enlarged the circle of recognised communicators between people and government’ to include teachers, traders and farmers.⁷⁸

Regarding the constitution of councils, Lord Hailey observed considerable variations across the districts.⁷⁹ Members in 1938 were both nominated and ‘appointed after election.’⁸⁰ The president of each LNC was the district commissioner who was empowered to veto any resolution. In this way, LNCs activities and development were firmly under official control. This did not change significantly after 1945, even with the expanding remit of the Department of Local Government. Events of the 1950s – notably the ‘Mau Mau’ Emergency – served to ensure that the provincial administration’s primacy ‘in the field’ remained intact, despite the immediate post-war challenge to its authority. And as the next section will show, district commissioners had quite different expectations to the ideologues at the Colonial Office about how quickly African councils could be expected to conform to ‘English local government’ standards.

‘An open door to larger responsibilities’: Implementing reform, 1947 – 1963

In 1949 the African Studies Branch proudly remarked in the *Journal of African Administration* that Kenya’s new African District Council Bill represented ‘the application of English local government principles to African conditions to an extent unparalleled elsewhere in the Colonial Office territories.’⁸¹ Kenya’s Member for Local Government, Charles Mortimer used strikingly similar language during a Legislative Council debate on the bill in January 1950.⁸² Although there were only four Africans on the Legislative Council at this time, the ordinance was considered by Mortimer to be of ‘far greater importance to Africans than any addition to the

⁷⁷ Kitching, *Class and Economic Change*, p. 198.

⁷⁸ John Lonsdale, ‘Some origins of nationalism in East Africa’, *JAH*, 9:1 (1968), pp. 119–146, p. 122.

⁷⁹ Lord Hailey, *An African Survey*, p. 391.

⁸⁰ *Ibid.*, p. 391.

⁸¹ ‘Local government reorganisation in the Eastern Provinces of Nigeria and Kenya - a note by the African Studies Branch’, *JAA*, 1:1 (1949), pp. 18-29.

⁸² ‘British model has been used: plan for African District Councils’, *The East African Standard*, 20 January 1950, p. 1, contd. P. 5.

number of Africans' on the Legislative Council.⁸³ Commending the bill to council, Mortimer concluded that it should be viewed by Africans as 'an open door to larger responsibilities, to greater freedom and to fuller control of their own affairs'.

Passed in 1950, the African District Council Ordinance replaced LNCs with ADCs; the latter having 'constitutions and powers similar to local authorities in the European settled areas'.⁸⁴ Unlike the (Local) Native Authority Ordinance of 1937 which it superseded, the ordinance provided considerable detail on the organisation and powers of ADCs. Councils became corporate bodies empowered to make by-laws, borrow money and invest funds. The Native Authority Ordinance of 1937 had been comparatively vague on the revenues local councils were empowered to collect, specifying only that they could levy a rate and collect 'any other moneys which may lawfully be paid into such fund'.⁸⁵ By contrast, the ADC ordinance clearly set out the full range of revenue sources available to councils: rates, taxes, cesses on agricultural produce, license fees, permit charges, fines, service charges, interest from investments and central government contributions.⁸⁶ In terms of the membership of councils, the ordinance vested considerable power in provincial commissioners, the Member for Health and Local Government and the Governor. It was at the discretion of individual provincial commissioners to determine for the ADCs in their province: which Africans to nominate as councillors; the method and proportion of councillors to be elected; and who should hold the posts of president and deputy president on each council. This flexibility was ostensibly intended to allow 'advanced' and 'backward' districts to develop at their own pace.

The ADC ordinance included an extensive list of the powers which were entrusted to ADCs with the authorisation of the Member for Health and Local Government gave his authorisation.⁸⁷ It specified that they could: make, establish and control roads and bridges, markets, recreation grounds, cemeteries, council offices and buildings, camping grounds, slaughterhouses, hides and skins facilities, forests and woodlands, social centres, and canteens.⁸⁸ Furthermore, ADCs could

⁸³ Ibid.

⁸⁴ 'Local government reorganisation'.

⁸⁵ The Native Authority Ordinance, 1937.

⁸⁶ African District Council Ordinance, 1950.

⁸⁷ Ibid.

⁸⁸ Ibid.

provide water services, health services, educational facilities, refuse collection, and agricultural and transport services. Many LNCs were already exercising some of these powers, although the level of activity varied markedly between provinces. Indeed there were pronounced regional differences in the operation of councils, both before and after the 1950 ordinance. Budgets varied immensely, and by virtue of this, the scale and scope of activities that local councils were able to undertake also differed significantly. Comparing the revenue and expenditure of LNCs by province demonstrates this see Figure 3. At the two extremes were North Kavirondo and Marsabit LNC. North Kavirondo, which later became North Nyanza – and Kakamega at independence - was the richest council at this time. In the immediate post-war period its treasury grew rapidly. In 1945, North Kavirondo's revenue stood at K£50,062 and expenditure at K£37,396.⁸⁹

Figure 3: LNC revenue/expenditure by province in 1945.

| Province | Revenue (K£) | Expenditure (K£) |
|----------------------------|--------------|------------------|
| Nyanza | 138,552 | 101,645 |
| Central | 133,078 | 109,461 |
| Rift Valley | 25,930 | 18,090 |
| Coast | 21,900 | 18,555 |
| Masai District | 23,676 | 8,645 |
| Northern Frontier District | 1,035 | 566 |

In Kenyan Pounds. Source: adapted from Gardner (2012: 177).

For the year 1952, the council estimated an annual revenue of K£191,759 and expenditure of K£190,259.⁹⁰ By comparison, Marsabit ADC's estimates for 1952 predicted an annual revenue of K£745; an increase of just K£487 on 1945 figures.⁹¹ The only service that Marsabit ADC undertook was the running of a school, whereas North Nyanza ADC extended its reach into all areas of 'development' work. The position of Giriama African District Council in Kilifi was somewhere between these two extremes. Figure 4 compares estimated expenditure between North Nyanza and Giriama in 1951. It highlights the high proportion of expenditure taken up by education in some councils such as North Nyanza where this item constituted a third of the annual estimates. The District Commissioner for Kilifi, writing his annual report in 1950 was pleased to note that the council had 'not crippled itself

⁸⁹ Gardner, *Taxing Colonial Africa*, p. 177.

⁹⁰ North Nyanza ADC estimates revenue/expenditure 1952, CO822/342, TNA.

⁹¹ Marsabit ADC estimates revenue/expenditure 1952, CO822/342, TNA.

by spending too much on education'.⁹² The tone of his appraisal contrasted somewhat with the previous year's report where he had noted that '[t]he Giriama are still it appears, dubious as to the value of education'.⁹³

The contrasting financial capacities of councils was the outcome of various factors. Different population densities had a direct bearing on the number of ratepayers in each district. The 1962 census estimated that North Nyanza had a population of 608,197; significantly greater than Kilifi district which had a total population of 240,646.⁹⁴ Furthermore, ADCs chose the level of the rate themselves. In 1951 the rate in Kilifi was set at 3/- sh with an additional special rate for education of 1/- sh.⁹⁵ This figure was similar to other councils in Coast Province, but much smaller than most other ADCs.⁹⁶ The rate in North Nyanza was set at 8/- sh in 1951 with an additional 1/- sh on education. The highest rates were found in Kajiado and Machakos where ratepayers were expected to pay 14/- and 13/- respectively.⁹⁷

Figure 4: Expenditure North Nyanza and Giriama ADCs, 1951.

| Expenditure Items, 1951 | North Nyanza (K£) | Giriama (K£) |
|--------------------------------|-------------------|-----------------|
| Administration | 9,140 | 2,516 |
| Law and Order | 16,200 | 4,319 |
| Social Welfare | 2,670 | 324 |
| Public Health | 16,320 | 3,120 |
| Education | 53,086 | 5,000 |
| Agricultural Services | 3,745 | 2,490 |
| Veterinary Services | 1,471 | 5,609 |
| Roads and Bridges | 9,364 | 3,365 |
| Upkeep of Property and Markets | 3,642 | 899 |
| Forestry | - | 274 |
| Water Supplies | - | 2,695 |
| Extraordinary | 42,055 | 6,165 |
| Miscellaneous | 1,935 | £45 |
| Balance carried forward | 2,127 | - |
| Total | K£161,737 | K£36,731 |

In Kenyan Pounds. Source: JA/1/828, KNA.

⁹² Kilifi District Annual Report, 1950, DC/KFI/1/1/5, KNA, Nairobi.

⁹³ Kilifi District Annual Report, 1949, DC/KFI/1/1/5, KNA, Nairobi.

⁹⁴ Republic of Kenya, *Population Census of 1962, Advance Reports Vols. 1 & 2* (Nairobi, 1964).

⁹⁵ African District Council Estimates 1952, 30 November 1951, JA/1/828, KNA, Nairobi.

⁹⁶ Ibid.

⁹⁷ Ibid.

Decisions over rates were made in reference to perceived wealth in the district, which varied greatly, reflecting the uneven impact of colonialism on different places and peoples in Kenya. The impressive revenue streams that councils in Nyanza and Central Province enjoyed indicated just how much these regions' political-economies had been transformed by colonial capitalism and missionary education, and how much their populations' ideas of progress had been shaped by colonial encounter. North Nyanza was the 'granary of the colony', where maize production contributed immensely to the local council's coffers.⁹⁸ Introduced in 1942, the Agricultural Betterment Fund (ABF) worked by applying a cess on each bag of produce sold to the Maize and Produce Control board, and these monies 'were credited to the account of the LNC of the district in which the produce was marketed'.⁹⁹ This meant that 'the bulk of the revenue from this source went into areas which marketed large quantities of maize'.¹⁰⁰ In 1947 North Nyanza received K£133,276 from the Fund – the most in the colony – and by 1952, 70 percent of its budget derived from Agricultural Betterment Fund transfers.¹⁰¹ In Kilifi, cess on mangoes, cotton, charcoal and milk – the district's main produce in the post-war period – helped enlarge the council's revenue by K£12,000 in total between 1949 and 1951, but this increase was not on the same scale as in Nyanza.¹⁰² The council mainly depended on the direct rate, collection of which fluctuated from year to year.

As ADCs' budgets continued to increase in the early 1950s, optimism about their capacities as agents of development soared. La Fontaine and Mowers triumphantly claimed in 1955 that there was 'no limit to the progress, educational, medical, agricultural or otherwise to which the Councils could lead the people, provided the latter are prepared to work and to co-operate.'¹⁰³ Yet the ever growing wealth of councils in fact undermined peoples' willingness to 'co-operate' as Gavin Kitching argues:

⁹⁸ Kitching, *Class and Economic Change*, p. 134.

⁹⁹ Gardner, *Taxing Colonial Africa*, p. 181.

¹⁰⁰ *Ibid.*, p. 181.

¹⁰¹ For North Nyanza's ABF allocation in 1947 see Kitching, *Class and Economic Change*, p. 194; ADC individual budgets 1952, CO822/342, TNA.

¹⁰² Kilifi District Annual Report, 1949, DC/KFI/1/15, KNA, Nairobi.

¹⁰³ La Fontaine and Mower, *Local Government in Kenya*, p. 31.

the LNCs were an arena of struggle among different groups within the African petite bourgeoisie, as well as a source of some power and resources which they could use or attempt to use against Indians and (occasionally) against other Africans... In short, after the war, as before, the LNCs continued to function as a training ground for the African petite bourgeoisie, and taught important lessons about the uses to which governmental power could be put¹⁰⁴

As was discussed above, for the Colonial Office, a crucial part of local government reform was the introduction of more democratic practices at the local level. At the point when the African District Council Ordinance came into effect most councils had a majority of 'elected members'.¹⁰⁵ Indeed Low and Lonsdale have even suggested that LNCs 'could well have served as the model for that [Creech Jones] despatch, in their representative qualities at least, if not in the extent of their powers'.¹⁰⁶ These 'elections' took various forms. Some councils used queue voting, and others used locational councils – a lower tier introduced in 1946 – as electoral colleges.¹⁰⁷ The Giriama LNC in 1948 had twenty-seven elected members and eleven nominated members. How these members were elected, was not explained in the district annual report, but the DC did praise the 'nucleus of sensible and intelligent members' on the council, whose skills surpassed those of the chiefs: 'generally speaking a poor lot', with 'a large amount of "dead wood"'.¹⁰⁸ In the annual report for 1951 the district commissioner offered further detail on the method of election:

When the new council was elected in July, the election *barazas* were attended by either the District Commissioner or the District Officer, Malindi. Each *baraza* was invited to nominate by word of mouth a number of persons, who were then told to walk some distance away from the *baraza*. The people in the *baraza* were then asked to stand behind the man of their choice. The election resulted in the constitution of a considerably younger and better educated council which include the only two "politicians" in the district. Both these men seem to have settled down happily and have been appointed to sub-committees.¹⁰⁹

The ADC Ordinance upheld provincial commissioners' 'right to prescribe the form and method of election to councils'.¹¹⁰ When the bill was put forward, the JAA claimed that it looked 'forward to a time when council business will be run entirely

¹⁰⁴ Kitching, *Class and Economic Change*, p. 198.

¹⁰⁵ La Fontaine and Mower, *Local Government in Kenya*, p. 21.

¹⁰⁶ Low and Lonsdale, 'Introduction: Towards the new order 1945-1963', p. 49.

¹⁰⁷ La Fontaine and Mower, *Local Government in Kenya*, p. 21.

¹⁰⁸ Kilifi District Annual Report, 1948, DC/KFI/1/1/5, KNA, Nairobi.

¹⁰⁹ Kilifi District Annual Report, 1951, DC/KFI/1/1/5, KNA, Nairobi.

¹¹⁰ 'British Model has been used: plan for African District Councils'.

by African councillors and when the district commissioner has withdrawn from direct participation'.¹¹¹ But given the dominant worldview of most administrators, it is highly doubtful whether most DCs *did* look forward to that time.¹¹² An administrative officer in Taita, Coast Province, reflected in the *JAA* in 1954 on the progress made in his district in respect of local government. Although he accepted the colonial government's aim to 'make a class of responsible leaders' through ADCs, he nevertheless maintained that 'to withdraw the paternal element from the Taita district' would cause great suffering to the 'peasantry'.¹¹³ The people of Taita – according to their district commissioner – were not ready for truly democratic local government. This parochial view was shared by some of the most ardent advocates of British local government. Dr. A. H. Marshall, City Treasurer of Coventry and a member of the Colonial Local Government Advisory Panel wrote in 1955 that: '[t]he pure milk of the British gospel thus has to be watered down in the initial stages. With such adaptations, the British system can be made to work well; without them it would be sometimes unworkable.'¹¹⁴

It was not until 1956 that the now Ministry of Local Government began to reconsider its *laissez-faire* approach to ADC elections. The previous year the Coutts report which had examined methods of electing Africans to the Legislative Council, recommended that Africans 'be directly elected by secret ballot' on a qualitative franchise whereby certain qualifications such as age, education and property, entitled the voter to additional votes. After the report was published, the Member for Local Government, Wilfred Havelock, wrote to his secretary, noting that the Coutts report would 'inevitably have repercussions on African District Councils', suggesting that it was 'not too soon to start thinking about the problems involved'.¹¹⁵ The 'problems' his letter went on to outline were numerous. First, Havelock began by highlighting the fact that all ADC 'elections' actually had no legal basis - councillors whether 'elected' or 'nominated' - were all formally appointed by the provincial commissioner.¹¹⁶ The letter posed the question of whether the time

¹¹¹ 'Local Government Reorganisation', p. 26.

¹¹² 'A survey on the development of local government in the African territories since 1947'.

¹¹³ M. G. Power, 'English local government in Taita district, Kenya', *JAA*, 6:1 (1954), pp. 28-38.

¹¹⁴ A. H. Marshall, 'The British system works well – with modifications', extract from *The Municipal Journal*, 19 June 1955, JA/1/799, KNA, Nairobi.

¹¹⁵ Letter from Member for Local Government to Secretary for Local Government, 23 January 1956, JA/15/577, KNA, Nairobi.

¹¹⁶ *Ibid*.

had come 'for these informal elections to be placed on a legal basis', and if so, what procedures should be put in place, whether a secret ballot was necessary, and how to determine the qualifications of voters and candidates.¹¹⁷

The ministry appears to have delayed examining these questions. Instead, officials focused their attention on local government finances. In 1957 the government published a White Paper entitled: '*Financial Relationships between the Kenya Government and African District Councils*'.¹¹⁸ Considered 'a landmark in Kenya's local government history', the White Paper proposed a new grant structure for ADCs, and from 1958 councils became public health authorities, and 'were also to finance one-third of the net expenditure (total expenditure minus fees) on primary education, the residual remaining the Central Government's responsibility.'¹¹⁹ These additional financial responsibilities placed on councils in the last five years before independence had important repercussions on county council's financial stability after 1963 as the next chapter will show.

Ensuring that ADCs were established on a sound financial footing was considered essential by officials in the ministry and by experts at the Jeanes School of Administration; a regular advisor to the government. Experts at the time insisted that finance was 'the rock on which local government can so easily founder.'¹²⁰ Decisions over ADCs' budgets, however, became a key battleground in the late 1950s between African councillors and officials. Central Nyanza ADC voted in 1958 to lower taxes, discontinue an expensive afforestation scheme, dismiss some of its technical officers and reduce road expenditure in order to reduce the tax burden on its constituents.¹²¹ This demonstrated a growing confidence amongst councillors to resist the conservation policies the administration had imposed on the council in the past.¹²² However, the Governor was deeply troubled by this. He wrote to Colonial Secretary Lennox Boyd to inform him of these events, which to him represented 'the first time that an African district has tried to assert its

¹¹⁷ Ibid.

¹¹⁸ Hannigan, *What is Local Government?*

¹¹⁹ A. M. Sharp and N. M. Jetha, 'Central government grants to local authorities: A case study of Kenya', *African Studies Review*, 13:1 (1970), pp. 43–56.

¹²⁰ A. H. Marshall, 'Sources of revenue available to colonial authorities' extract from *The Municipal Journal*, 26 August 1955, JA/1/799, KNA, Nairobi.

¹²¹ Memo Minister for Local government, 7 October 1958, CO822/1564, TNA.

¹²² Alphonse Otieno, 'Conjunction and disjunction: Afforestation and conservationism in Central Nyanza District, Kenya, 1940-1957', *Africa Today*, 54:1 (2007), pp. 53–70.

independence in a manner to cause disquiet.¹²³ The Council of Ministers ultimately decided to dissolve the council, and release its forty 'elected' and thirteen nominated members from service. Afterwards, Central Nyanza ADC was reconstituted with fifteen elected and fifteen nominated members and the local rate was raised.¹²⁴ However, the people of Central Nyanza refused to pay the new rate. Dixon Makasembo, chairman of the Central Nyanza African District Association cabled the Colonial Office in protest:

Public view with indignation blind decision of Kenya government on report of enquiry Central Nyanza African District Council. Government action resulting deadlock now. Such action jeopardising relations between public and government. Sudden and abrupt moves such as this breeding frustration and suspicions.¹²⁵

The timing of the whole affair was deemed most unfortunate by the Provincial Commissioner of Nyanza who had recently decided that the moment had come to experiment with withdrawing the district commissioner from one council altogether.¹²⁶ The African District Council Ordinance of 1950 had not specified that district commissioners had to be the president of the council; instead filling this role was left to the discretion of the provincial commissioner.¹²⁷ It would be nine years before the first ADC had an African president, and the council that ultimately was bestowed this honour was Elgon Nyanza.¹²⁸ Pascal Nabwana became the first African chairman in 1959, in the same year he was also appointed as the first African President of the District Court of Appeal in Kakamega.¹²⁹

Examining the history of Nabwana highlights the degree of ambivalence that often defined interactions between the so-called 'progressive' members of councils, and the colonial state. Nabwana was educated by a Catholic mission and trained as a teacher at the Jeanes School of Administration. He was a member of North Kavirondo LNC throughout the 1930s, during which time he regularly objected to

¹²³ Baring to Lennox Boyd, 25 October 1958, CO822/1564, TNA.

¹²⁴ CM(58)294 Council of Ministers African District Council, Memorandum by the Minister of Local Government, Health and Town Planning', 4 October 1958, TNA CO822/1564.

¹²⁵ D.O. Makesembo to Colonial Secretary, 25 January 1959, TNA, CO822/1639.

¹²⁶ Baring to Lennox Boyd, 25 October 1958, TNA, CO822/1564.

¹²⁷ 'British model has been used: Plan for African District Councils'.

¹²⁸ Colony and Protectorate of Kenya, *Report of the Permanent Secretary for Local Government, 1958-59* (Nairobi, 1960).

¹²⁹ Vincent Simiyu, *Elijah Masinde: A Biography* (Kenya, 1997), p. 17.

the government's refusal to let Africans grow coffee.¹³⁰ He formed the Bukusu Union in 1940, a political society 'concerned with education and with uniting the Bukusu people as a group.'¹³¹ He came into regular conflict with the chief in his location, and the administration responded to these activities by creating and appointing him to a Locational Advisory Council, hoping that this would encourage a more 'responsible' approach to politics by giving Nabwana and his friends 'more influence'.¹³² However, in 1948 he was accused of supporting *Dini ya Msambwa*, a group 'which sought the expulsion of Europeans from Kenya and the rejection of European civilization.'¹³³ Furthermore, he faced charges of 'inciting people not to pay poll tax and engineering a plot to remove' his locational chief.¹³⁴ This stain on his reputation passed, and just over a decade later, he became the first African chairman of a local government body.

This account of Nabwana's political career reveals the complicated and sometimes contradictory nature of collaboration between councils and the colonial government. It was not always the compliant and cooperative who 'collaborated' with the government. And these individuals often pursued particular local and national agendas outside of their capacities as councillors through other official and unofficial channels. Another example of this is found in the activities of Councillor Herman Asava, who in the years before independence simultaneously served on North Nyanza African District Council, formed the North Nyanza African Nationalist Association and was district chairman of the Kenya African Democratic Union.¹³⁵ It was in the latter role that Asava wrote to the Governor in 1961 requesting that the North Nyanza ADC be allowed an African chairman, 'in view of the progressive and enlightened population in the district.'¹³⁶ The goal of having an African chairman was a particular preoccupation for the members of North Nyanza ADC. In January

¹³⁰ Nicholas Makana, 'Metropolitan concern, colonial state policy and the embargo on cultivation of coffee by Africans in colonial Kenya: The example of Bungoma district, 1930-1960', *History in Africa*, 36 (2009), pp. 315-329.

¹³¹ Bethwell Ogot, 'Mau Mau & Nationhood: The untold story', in E. S. Atieno Odhiambo and John Lonsdale (eds.), *Mau Mau & Nationhood* (Oxford, 2003), pp. 8-36, p. 15.

¹³² J. J. de Wolf, 'Dini Ya Msambwa: Militant protest or millenarian promise?', *Canadian Journal of African Studies*, 17:2 (1983), pp. 265-276, p. 272.

¹³³ 'Religion of the Ancestors'; Bethwell Ogot, 'Mau Mau & nationhood: the untold story', in E. S. Atieno Odhiambo and John Lonsdale (eds.), *Mau Mau & Nationhood* (Oxford, 2003), pp. 8-36, p. 14.

¹³⁴ Simiyu, *Elijah Masinde*, p. 21.

¹³⁵ Herman Asava, interview, 28 August 2013, Mbale town.

¹³⁶ Herman Asava to the Governor of Kenya, 3 June 1961, copy of letter presented to author.

1959 councillors had lobbied Havelock on the issue during his tour of the province.¹³⁷ Several months later councillors took the opportunity to inform the ministry's permanent secretary that 'it had been a great shock to the council that the first African chairman should have been appointed to Elgon Nyanza which only a few years ago had been part of the North Nyanza African District Council.'¹³⁸ In reply the permanent secretary reiterated the minister's comments from earlier in the year when Havelock had said 'he wanted Council to put its financial matters straight first'.¹³⁹

1958 had seen the worst payment of the ADC rate in North Nyanza in many years, causing a significant deficit in the council's estimated revenue.¹⁴⁰ The district commissioner accounted for the shortfall of 19,339 ratepayers (27.6 per cent of the total) by observing that 'a large number of the able-bodied men go to look for employment outside the district'.¹⁴¹ Yet the problems North Nyanza was experiencing were not unique. Indeed, many other councils were struggling to meet their estimates for ratepayers, including Kilifi ADC, as Figure 5 shows:

Figure 5: Number of ratepayers in Kilifi district, 1957-62.

| Year | 1957 | 1958 | 1959 | 1960 | 1961 | 1962 |
|-------------------|--------|--------|--------|--------|--------|--------|
| No. of ratepayers | 42,629 | 39,780 | 36,291 | 41,017 | 34,133 | 27,375 |

Source: JA/1/650, KNA, Nairobi.

Kilifi's district commissioner considered the 'alarming' decline 'to indicate the law of diminishing returns'.¹⁴² By 1962 the council was levying a rate of 15/- sh, and locational councils demanded an additional rate equal to the full council's rate. This amounted to an increase from 5/- sh in 1952 to 30/-sh in some locations in the district in 1962. The 'law of diminishing returns' may have been part of the explanation, but the Ministry of Local Government's preferred analysis was that the colony's declining tax revenues was the consequence of drought.¹⁴³ Unsurprisingly

¹³⁷ Memo North Nyanza ADC to the Minister for Local Government, JA/12/27, KNA, Nairobi.

¹³⁸ Notes on the tour of the Permanent Secretary, Kakamega, 18 June 1959, JA/12/28, KNA, Nairobi.

¹³⁹ Special finance committee minutes, North Nyanza ADC, 26 January 1959, JA/12/27, KNA, Nairobi.

¹⁴⁰ North Nyanza ADC Annual Report, 1958, PC/NZA/4/4/106, KNA, Nairobi.

¹⁴¹ Ibid.

¹⁴² Kilifi ADC Annual Report, 1962, JA/1/650, KNA, Nairobi.

¹⁴³ 'Financial situation of local authorities' Memorandum by the Minister for Local Government and Lands, Council of Ministers C. M. (61) 544., 19 July 1961, CO822/2682, TNA.

the ministry was not inclined to consider whether declining tax compliance was reflective of more fundamental shifts in how Africans were viewing the relationship between taxation, representation, and services, and in particular, how the idea and prospect of *'uhuru'* – meaning freedom or independence in KiSwahili – was challenging the norms the colonial state had strived to establish. Rate paying further dropped between 1960 and 1961 after the British government indicated that Kenya would imminently gain independence (see Figure 6). The foundations of local authorities' fiscal crisis were laid in the late-colonial period when conflicting ideas emerged about who was expected to do what 'for the nation'.

Figure 6: Decline in ratepayers by ADC, 1959-61.

| African District Council | Number of ratepayers | |
|--------------------------|----------------------|---------|
| | 1959/60 | 1960/61 |
| South Nyanza | 76,205 | 46,834 |
| Kipsigis | 13,960 | 8,387 |
| Nandi | 10,048 | 4,894 |
| Elgeyo Marakwet | 5,282 | 3,000 |
| Baringo | 3,613 | 2,104 |
| West Pokot | 3,872 | 2,589 |
| Fort Hall | 12,582 | 7,064 |
| Nyeri | 9,261 | 7,866 |
| Embu | 21,000 | 14,175 |
| Kitui | 12,022 | 3,959 |
| Kilifi | 25,690 | 21,316 |
| Taita Taveta | 4,817 | 3,111 |

Source: TNA, CO822/2682.

In spite of the downward trend with tax compliance, the achievements of ADCs in the post-war period were clear to all observers. In 1960 Professor W. J. M. Mackenzie of Manchester University prepared a background note on 'Political opinion in Kenya' for the Colonial Office in preparation for the first constitutional conference at Lancaster House in January 1960.¹⁴⁴ His observations regarding local government were broadly positive:

The English tradition has been surprisingly successful in reasserting itself in spite of difficult conditions and limited financial resources. Local authorities and numerous amateur "boards" are not free from parochialism, sectionalism and even corruption; but they have established in limited spheres a rough but realistic model of what self-government means... This programme is clear in people's minds; but I got the impression that a

¹⁴⁴ W. J. M. Mackenzie, 'Political Opinion in Kenya', CO822/2682, TNA.

tremendous amount remains to be done in a very short time, if this model of self-government is to stand a chance in the face of the centralising politics of African nationalism.¹⁴⁵

Mackenzie's concern about 'the centralising politics of African nationalism' proved valid, as the next chapter shows. But in order to understand how and why Kenya became highly centralised after independence, it is necessary to examine the ways that Kenya's administrative apparatus changed in the late-colonial period, and the different constitutional debates that occurred at this time. The next section considers this, and touches on how municipalities and councils in scheduled areas evolved during this time.

'The necessity for rapid advance': "Mau Mau", municipalities, and majimbo, 1952-1963

As the introductory chapter discussed, many scholars have drawn attention to continuities in the role played by the provincial administration in pre and post-independence Kenya. In particular, emphasis has been placed on changes to the size and scope of the administration in the late-colonial period. Bruce Berman has argued that during the period from 1945 to 1963, the administration experienced a consecutive process of decline, restoration, and decline.¹⁴⁶ Before the war, field administrators had enjoyed the freedom to 'work out the implementation of any policy in the light of their judgement of local circumstances.'¹⁴⁷ They regarded their duty in paternal terms, as the protectors of traditional, tribal Africa, and they 'lived the lives of little kings in an epoch when their home based brothers had exchanged kingship for bourgeois democracy'.¹⁴⁸ The end of the Second World War brought a boom in the Kenyan economy and a surge in political activity; it was the administration which was most dismayed by the pace of change and fearful of the consequent effects on African society, perceived as harmonious, tribal and vulnerable to the more insidious aspects of modernity.¹⁴⁹ The administration remained ambivalent about the new post-war obligation of 'development' and felt threatened by the rise of technical ministries in the Secretariat tasked with

¹⁴⁵ Ibid.

¹⁴⁶ Berman, *Control & Crisis*.

¹⁴⁷ Bruce Berman, 'Bureaucracy and incumbent violence: Colonial administration and the origins of the "Mau Mau" Emergency in Kenya', *British Journal of Political Science*, 6:2 (1976), pp. 143-175, p. 148.

¹⁴⁸ Robert Heussler, 'British Rule in Africa' in P. Gifford and W.R. Louis (eds.), *France and Britain in Africa: Imperial Rivalry and Colonial Rule* (London, 1971), pp. 571- 592, p. 578.

¹⁴⁹ Ibid.

instituting such change. The declaration of a State of Emergency in 1952 however, allowed for a 'restoration' in the position of the administration. Administrators blamed incidences of 'Mau Mau' violence on a 'loss of contact' between them and those they were governing. They claimed that the bureaucratisation of government had prevented them from pursuing reliable methods of administration based on direct personal contact with the 'natives'.¹⁵⁰ This analysis led to a policy of 'closer administration'; the size of the administration more than doubled between 1951 and 1962, and the supremacy of administrators in the field was reaffirmed.¹⁵¹ During the Emergency, the provincial administration proved itself to be a highly effective structure for guaranteeing central government control of the grassroots. The rapid expansion of this system left a lasting mark on the state's institutional landscape, which remained 'profoundly unbalanced' long after independence.¹⁵²

Despite its central location in the 'White Highlands' Nakuru town did not experience much violence during the Emergency. This was partly because of passbook regulations which prevented Kikuyu from entering the town without permission.¹⁵³ These regulations were only lifted at the end of 1959, at which point there was an estimated African population of 23,000. Within a year, the municipal council estimated that this figure had doubled.¹⁵⁴ Members of the council responded to this influx, and the rise of 'unemployment and destitution' that this created, by introducing programmes reminiscent of local authorities 'at home'. The Joint Committee for the Relief of Distress in Nakuru Town' was formed, which opened a soup kitchen in 1961 for women and children. The rapid increase in the town's population also led to severe housing shortages. The issue of whether housing should be provided for Africans in towns, and if so in what form and provided by whom, had been a key debate within municipal councils in the post-war period.

There had been a broad consensus, ever since the inception of boards responsible for urban management that Africans 'did not belong' in the towns except as migrant labour.¹⁵⁵ Therefore their welfare was considered the

¹⁵⁰ Berman, 'Bureaucracy & incumbent violence', p. 250.

¹⁵¹ Daniel Branch, *Defeating Mau Mau*, pp. 164-165.

¹⁵² Branch and Cheeseman, 'The politics of control', p. 11.

¹⁵³ Nakuru Municipal Council Annual Report, 1958, JA/1/611, KNA.

¹⁵⁴ Nakuru Municipal Council Annual Report, 1960, NMC, JA/1/611, KNA.

¹⁵⁵ Herbert Werlin, 'The Nairobi City Council: A study in comparative local government', *Comparative Studies in Society and History*, 8:2 (1966), pp. 181-198, p. 187.

responsibility of their employers, rather than the municipal boards. In Nairobi in particular, this created severe housing problems, which were compounded by the Local Government (Municipalities) Ordinance of 1928, which prevented Africans from residing anywhere other than the 'locations', designated to them by the municipal authority. As migration to the towns continued in the 1930s, conditions worsened for Africans living in Nairobi, and in other towns. Nonetheless it was, according to Seeley, 'largely pressures from outside the colony which brought about a change in social welfare policy' in Kenya's towns in the post-war period.¹⁵⁶ Investments in housing projects transformed Nairobi from the 1940s, from a 'ramshackle backwater' to a 'vibrant and fashionable city'.¹⁵⁷ These developments were mirrored in Mombasa, and other provincial towns. At last, municipal authorities accepted the principle that Africans and their families would be permanent residents in towns. For Richard Harris, this 'shift in housing policy', came to encompass a hope that good housing would 'stabilize workers, promote social mobility and, eventually, ease the transition to political independence'.¹⁵⁸ On this point, officials in the Department of Local Government did not always see eye to eye with European councillors. The Member for Health and Local Government articulated his vision to the Mayor of Nairobi in a letter in 1950, writing that 'the correct channel of development is to build the African resident in Nairobi into a feeling of citizenship of Nairobi, and as long as he feels that the central government can be played off against the local government authority, so long is he likely to fail to recognise that he must become part of the town'.¹⁵⁹ Yet arguably despite these sentiments Africans in Nairobi and indeed in Nakuru and other municipalities were not truly able to become 'part of the town' until independence.

In 1945, Nairobi became the first municipal council to have African nominated members. Two years later Nakuru, Eldoret and Kisumu followed suit. Critically outnumbered by elected European and Asian members, African members had little influence on the full council. The business of 'African Affairs' was mainly conducted through 'Advisory Councils', which served as an official link between the

¹⁵⁶ Seeley, 'Social welfare in a Kenyan town', p. 545.

¹⁵⁷ Anderson, 'Corruption at City Hall', p. 138.

¹⁵⁸ Richard Harris, 'From trusteeship to development: How class and gender complicated Kenya's housing policy, 1939-1963', *Journal of Historical Geography*, 34 (2008), pp. 311-337.

¹⁵⁹ Member for Health and Local Government to DC Nairobi, 16 May 1950, JA/19/224, KNA, Nairobi.

council and African areas. The District Commissioner for Nairobi noted in 1950 that:

the establishment of the African Advisory Council itself is regarded by many of the more intelligent Africans as having been a ruse to divert them from their legitimate aspirations for greater representation of the city council itself, into the blind alley of joining a powerless debating society, and the feeling is growing that the time is ripe for Africans to discard the shadow of the African Advisory Council and go all out for the substance of greatly increased representation.¹⁶⁰

Eight years after this was written, the object of increased representation on municipal councils and indeed on county councils in settled areas remained one of the demands forwarded by African politicians. In the Legislative Council, Justus ole Tipis moved a motion in June 1958 to this effect:¹⁶¹

Sir, sometimes I am entirely at a loss. I fail to reconcile the Government policy and attitude. On the one hand they say that there are no qualified Africans who can contribute efficiently to the deliberations on these councils. On the other hand they go on to nominate people of their own choice and place them in a very awkward position... If the training grounds on the various things are the local government bodies then surely you cannot train someone without, Sir, but you have got to train them within; and for that simple reason I think it is time that we adjusted our attitude or our policies and made the African feel that he is part and parcel of these councils and that his interests are safeguarded by those who have the interests of the African community and interests of the whole country at heart.¹⁶²

The Minister for Local Government did not challenge the principle put forward by ole Tipis, but rather insisted that African representation had been increased, and would be increased further in time, according to the requirements of different areas. But to many who sat on the predominantly European county councils, this policy ran counter to what they hoped to achieve through local government in the 1950s. The two new constitutions introduced during the decade had both been based on a system of multi racialism which shared power amongst 'racially defined groups'.¹⁶³ Multi-racial or 'mixed government' proceeded at the national level, albeit slowly, with more African members elected to Legislative Council, yet these developments were not mirrored at the local level. In fact, in response to the gradual movement

¹⁶⁰ DC Nairobi, 'The African part in Nairobi local government – draft memo', 28 March 1950, JA/19/224, KNA, Nairobi.

¹⁶¹ Colony and Protectorate of Kenya, *Legislative Council Debates*, 12 June 1958, col. 1807.

¹⁶² *Ibid.*, cols. 1809-1810.

¹⁶³ The Lyttelton Constitution, 1954; Lennox-Boyd Constitution, 1957-58, see Robert Maxon, *Britain and Kenya's Constitutions, 1950-1960* (Amhert, 2011).

towards multiracialism, some county councils attempted to shore up their own autonomy to 'protect' certain 'European' spheres. This aim was expressed by A. B. Goord, the chairman of the Nakuru County Council in the mid 1950s, who went on to serve on the Legislative Council. New Zealand-born Goord wrote in a note for the Association of District Councils in 1954 that:

Whatever views may be held regarding the Lyttelton Plan, the course of multi-racial government has been taken... We are thus committed, willy nilly, to a policy which, however estimable in theory, must result in a steady diminution of European influence at the centre vis-à-vis that of other races, the end of which cannot be foreseen. Faced with this situation there is an obvious and urgent need for the European community to secure the maximum possible control within the European Highlands, with the object of securing, not racial advantage, but rather the maintenance of European Standards and the progress of non-Europeans towards the Western way of life.¹⁶⁴

Two months before this note was circulated, the Federal Independence Party had formed.¹⁶⁵ It rejected the Lyttelton plan and pushed for 'provincial autonomy'. In 1958 the Federal Independence Party was - somewhat ironically - reconstituted as the Progressive Local Government Party; its aims of racial segregation and 'European' control of the highlands remained the same. These right-wing groups, however, never enjoyed the support of the majority of Europeans. The Progressive Local Government Party's funds in January 1959 amounted to only three hundred shillings, and at the party's annual conference two months later just eighty members attended.¹⁶⁶ In a speech to the members of Nakuru County Council in March 1958, Havelock distanced himself from the ideas promoted by the PLGP. He stated that 'some people in this country believe that local government and the development of it is a sort of cloak for the establishment of provincial autonomy, or black and white states in Kenya. This is certainly not my idea.'¹⁶⁷

¹⁶⁴ A. B. Goord, 'The development of the county system', 21 July 1954, JA/1/89, KNA, Nairobi.

¹⁶⁵ Robert Maxon, 'Constitution-making in contemporary Kenya: Lessons from the twentieth century', *Kenya Studies Review*, 1:1 (2009), pp. 11-30.

¹⁶⁶ Letter Director of Intelligence to Chief Secretary, 6 January 1959; Letter 'Annual Conference Progressive Local Government Party', from Director of Intelligence to Chief Secretary, 4 March 1959, FCO 141/6649, TNA.

¹⁶⁷ Speech by Wilfred Havelock to Nakuru County Council, 22 March 1958, C0822/1630, TNA.

Yet according to Bethwell Ogot, '[b]y 1960, the 'white island' concept had been sold to some African leaders who renamed it 'regionalism' or *majimbo*.'¹⁶⁸ Ogot's analysis, which sees a direct link between settlers' plans in the 1950s and African politicians' proposals after 1960 is too simplistic. Indeed highlighting, and arguably overstating, the connection between these two ideas was part of the KANU's strategy in the early 1960s for turning public opinion against the *majimbo* constitution.¹⁶⁹ As Robert Maxon argues, the proposals put forward by the KADU from 1960 were different from those of the Progressive Local Government Party, both in substance and intent. The first Lancaster House conference was held in January 1960, which was attended by Michael Blundell of the multi-racial New Kenya Group, and Ronald Ngala who led the delegation of African Elected Members. Regionalism was not discussed at the first conference, but the African Elected Members did raise with the Secretary of State, Iain Macleod, their concerns over local government:

The African Members draw your attention to discrepancies existing in the development of local government in Kenya and especially the very blatant racism that seems to be the basis of present Government approach and policy. With the new changes now taking place local government, must not lag behind. In fact we believe that local government as the foundation for our future government should be very much ahead in positive and liberal development. We therefore demand the immediate review of local government structure and development in Kenya.¹⁷⁰

The negotiations in London had 'sounded the death-knell for multiracialism' and brought the prospect of Kenyan independence into clear view.¹⁷¹ Yet at this point, the local government system was still essentially segregated by race, as Ngala's note implied. Of the ninety-one members of the five municipal councils in 1960, there were only twelve African members, all of whom were nominated.¹⁷² Compared to the membership of county councils, municipalities were far more representative. The seven county councils only had eleven African members out of a total of 179. After the conference, both London and Nairobi initiated reviews of

¹⁶⁸ Bethwell Ogot, *My Footprints in the Sands of Time: An Autobiography* (Victoria, B. C., 2003), p. 160.

¹⁶⁹ Anderson, 'Yours in struggle for majimbo'.

¹⁷⁰ African Elected Members delegation – further points of discussion with the Colonial Secretary, CO822/2682, TNA.

¹⁷¹ Gary Wasserman, 'The independence bargain: Kenya Europeans and the land issue 1960-1962', *Journal of Commonwealth Political Studies*, 11:2 (1973), pp. 99-120, p. 100.

¹⁷² From Ag Governor to SofS, telegram members of councils by communal groups, 12 February 1960, TNA, CO822/2632.

local government, each reaching rather different conclusions. To the Colonial Office the problem was 'how, during the pre-independence period, to set about eliminating discrimination from local government'.¹⁷³ In doing so, it was hoped that moderate influences could be maintained which would help to avoid 'merely the replacement of white by black supremacy'.¹⁷⁴ In Nairobi, the Ministry of Local Government approached the question differently. For them, the task was to find a way to manipulate the franchise and electoral boundaries favourably for European candidates, to ensure the maintenance of some European influence at the local level.¹⁷⁵ Officials in Nairobi approached the Colonial Local Government Advisory Panel for recommendations on how to get round 'the problem of the basis of representation'.¹⁷⁶ This question was also put to local authorities in a circular which invited councils to express their views on the future reorganisation of local government. Goord responded on behalf of the Association of Local Government Authorities of Kenya (ALGAK), a body established by councils to represent their interests. Goord rejected the notion of a Lancaster House (common roll) franchise, claiming that it would 'kill local government stone dead'.¹⁷⁷ He argued that 'local government has an administrative rather than a political function', and that Africans could not yet be expected to responsibly manage these 'administrative' institutions.¹⁷⁸

The flurry of local government memos and meetings that followed the first Lancaster House conference slowed down mid-way through 1960 after the formation of two Kenya-wide African nationalist parties KANU and KADU. From this point onwards, the issue of local government reform was not pursued by either party. Instead, negotiations between KANU, KADU, Nairobi and London focused on the transfer and constitution of the central government. Both parties were 'coalitions of varied and diverse local politics'.¹⁷⁹ KANU was primarily composed of Kikuyu and Luo politicians, whilst KADU represented 'minority' tribes in the Rift Valley and at the Coast. These ethnic blocs, David Anderson argues, 'reflected a very

¹⁷³ C. A. G. Wallis, 'The basis of representation in local government', 13 May 1960, CO822/2682, TNA.

¹⁷⁴ Ibid.

¹⁷⁵ A. B. Goord to Minister for Local Government, 17 June 1960, CO822/2682, TNA.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

¹⁷⁹ Anderson, 'Majimbo: The troubled history', p. 25.

significant divide in political ideology and practice' between different communities in Kenya. Specifically, supporters of KADU believed the 'overwhelming political and economic power' of Kikuyu and Luo politicians would lead to the domination and oppression of smaller communities after independence.¹⁸⁰ To counter this, at the second Lancaster House conference which began in February 1962, KADU, led by Ronald Ngala, proposed 'decentralisation of power' or what became known as *majimboism*, meaning regionalism. This plan, like those of the 1950s was essentially 'defensive' in nature.¹⁸¹ KADU's proposals were prepared with the support of the New Kenya Group's 'liberal' European politicians including Michael Blundell and Wilfred Havelock.¹⁸² After seven weeks negotiating in London, KANU finally yielded with the broad substance of KADU's *majimbo* plan, which consisted of a bicameral parliament, and the creation of seven decentralised regional bodies with legislative and executive powers.¹⁸³ Many of the details of the *majimbo* constitution were left to be filled in at a later date, but in practice, KANU remained staunchly opposed to any form of regionalism.¹⁸⁴ KANU won in a landslide in the elections of May 1963, gaining eighty-three seats to KADU's thirty-three. The third and final constitutional conference of October that year was arranged to 'tie up loose-ends and only to make modifications in the *majimbo* constitution where its implementation had been shown to be impractical.'¹⁸⁵ However, the KANU government, 'backed by an impressive mandate' called on Secretary of State Duncan Sandys to make major changes to the *majimbo* model.¹⁸⁶ Sandys' support was not necessary; Jomo Kenyatta's government encountered minimal political and popular opposition when it begun the process of reconstituting Kenya into a unitary state, as will be discussed in the next chapter.

Conclusion

From 1961 onwards negotiations over the *majimbo* constitution eclipsed debates about local government. Discussions about local authorities however, continued amongst a core group of officials in Nairobi and London. Yet the review of local

¹⁸⁰ Anderson, 'Yours in struggle for majimbo', p. 552.

¹⁸¹ Maxon, 'Constitution-Making', p. 25.

¹⁸² Lynch, *I Say to You*, pp. 63-72.

¹⁸³ Stephen Ndegwa, 'Citizenship and ethnicity: An examination of two transition moments in Kenyan politics', *American Political Science Review*, 91:3 (1997), pp. 599-616.

¹⁸⁴ Lynch, *I Say to You*, pp. 67-68.

¹⁸⁵ Kyle, *The Politics of the Independence of Kenya*, p. 189.

¹⁸⁶ *Ibid.*, p. 189.

government proved so contentious that it was not until April 1963, a month before the general elections, that the government published legislation removing the racial bars that separated the three local government streams.¹⁸⁷

The fact that the local government system had managed to withstand the 'winds of change' longer than most other arms of government was ironic given the explicitly liberal motivations that had underpinned the programme of post-war reforms. From the mid 1940s, Kenya was at the forefront of a process of local government reform driven to a large degree by new ideas circulating in the metropole. The idea that 'development' and training in citizenship could go hand in hand through local authorities was vigorously promoted from London. In Kenya, whilst administrators tasked with modernising African councils may not have chosen to see this process as part of an evolution towards self-government, this conservatism did not prevent local authorities in African areas from advancing in the 1950s, becoming more sophisticated and fiscally important. The progress made in developing the local government system was celebrated in a training guide for councillors published in 1955. It concluded: 'You have been privileged to see how African District Councils have grown from the early gatherings of old men under the trees. If they are well and wisely directed, as there is every hope they will be, they have the prospects of a glorious future.'¹⁸⁸

But this 'glorious future', as the last section of the chapter discussed, was derailed by the Emergency which empowered the administration, took policy attention away from local government and deepened colonial suspicions of the African entrepreneur and local politicians who were, potentially, the natural allies of councils. This, the entrenched power of settlers in county councils, and ambivalence over municipal authorities meant that by the late 1950s, progress had stalled. African politicians' interest in local government effectively ended when the British government committed to Kenyan independence in 1960. The new regional governments created by the *majimbo* constitution meant that when Kenya became independent, local authorities were in a state of confusion. These bodies – which had been created to be the centrepiece of a new kind of governance – had a mixed record across the country. In some regions, councils had for decades played increasingly important roles as service providers. Furthermore, these councils had

¹⁸⁷ The Local Government Regulations, 1963.

¹⁸⁸ La Fontaine and Mower, *Local Government in Kenya*, p. 52.

contributed - through regular 'elections' - to the development of particular ideas and expectations of government institutions and political leaders. Yet in some regions, including in former 'settled districts', such legacies were weak or absent. Ahead of the local government elections of August 1963, one regional government agent wrote to his assistants that it was 'most unlikely that prospective candidates will have any idea what these elections are all about'.¹⁸⁹ The next chapter considers whether this assessment bore any truth by examining how councillors positioned themselves and understood their roles during the first parliament of independent Kenya.

¹⁸⁹ Regional Government Agent to Assistant Regional Agents, 6 August 1963, JA/34/9, KNA, Nairobi.

Chapter Two: ‘Pay tax to protect freedom’: County councils after independence, 1963-1967

Now, this is tough. I know, but it is necessary. We have tried publicity, we have tried persuasion, we have tried appeals and I have already indicated what a low proportion of people have paid their tax.¹

Introduction

This chapter considers how debate about local government changed in the first five years of independence. Whilst the fifteen years preceding 1963 had seen the colonial government – at the behest of London – attempt to apply ‘English local government principles’ in Kenya; this project had been thrown into a state of confusion by the passage of an independence constitution which created new middle-tier regional authorities responsible for local government. A further complication arose from the difficulty departing colonial officials encountered in their attempts to reform the racially segregated local government system whilst still maintaining a place for various kinds of ‘moderates’ at the local level. It was in the context of these two concurrent processes that - a month before internal self-government began - the *Daily Nation* published an article expressing concern over the future of local government:

Regulations for the establishment of local government in an independent Kenya were published this week, nearly two years after the problems that will arise from changed conditions were first debated in the Legislative Council...This set of regulations might be called the “Ideal Guide to Local Government.” It is. And only one question hangs over it: Will it work?²

The article suggested that the answer to the question posed would depend on the kind of relationship that developed between local authorities, regional governments and the national government. Yet just over a year after the article was published, Kenyatta announced his intention to disband regional authorities and introduce a republic.³ By December of 1964 that process was complete. Local authorities however, survived and they remained responsible for important government services including primary education, primary healthcare, and

¹ Statement by Lawrence Sagini, Minister for Local Government. Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Third Session, 27 January 1966, cols. 212- 225, col. 215.

² ‘Will it Work?’, *Daily Nation*, 3 May 1963, p. 6.

³ Gertz, *The Politics of Independent Kenya*, p. 34.

secondary roads. That councils were not dealt the same fatal blow was not a sign of the government's confidence in and commitment to local government. As this chapter will show, the central government and in particular the provincial administration, appears to have been profoundly ambivalent about the kinds of people that local government empowered, and the sorts of demands they were prone to making. Through exploring the profile and political expectations of councillors, this chapter offers an alternative way of framing the question 'will it work?', by suggesting that as much attention must be devoted to the idea of local government as to its institutions and, importantly, how these changed after independence. It argues that only by attending to both aspects is it possible to understand why the performance of local authorities, in terms of service provision, declined so noticeably between 1963 and 1969. The financial difficulties experienced by many councils after independence can be explained both by the institutional changes brought about in 1963, and by the particular expectations of local government office held by the councillors of 1963 and those they represented. In this way, the struggles taking place in local authorities provide further evidence to support James Giblin's argument that 'this period of transition was experienced as a complex mixture of both compliance and dissent, exultation in new freedom and dissidence'.⁴

By beginning this chapter in 1963 there is a danger of overstating the extent to which independence constituted a watershed moment. In line with recent scholarship, this chapter recognises the important continuities in terms of state action and ideology, before and after independence. In this way, the period from the 1940s to the 1970s, are 'taking shape in a number of accounts as a single, continuous era characterised above all by an official creed of modernisation and development'.⁵ Yet this 'official creed' was also confronted with the challenge of having to meet or manage 'the expectations of independence'.⁶ Writing in reference to Zambia, Giacomo Macola characterises these expectations as 'fundamentally

⁴ James Giblin, 'Creating continuity: Liberal governance and dissidence in Njombe, Tanzania, 1960-61', *The International Journal of African Historical Studies*, 40:1 (2007), pp. 27-50, p. 29.

⁵ Andrew Burton and Michael Jennings, 'Introduction: The emperor's new clothes? Continuities in governance in late colonial and early postcolonial East Africa', *The International Journal of African Historical Studies*, 40:1 (2007), pp. 1-25, p. 15.

⁶ Giacomo Macola, "'It means as if we are excluded from the good freedom": Thwarted expectations of independence in the Luapula province of Zambia, 1964-6', *The Journal of African History*, 47:1 (2006), pp. 43-56, p. 44.

acquisitive'.⁷ Demands for employment, education, and an end to taxation were commonly placed upon the new independent governments, and as Frederick Cooper notes, being 'simultaneously developmentalist-interventionist and populist-clientelist' proved a difficult tight-rope for many African governments to walk in the 1960s.⁸ In neighbouring Tanzania, Julius Nyerere 'worked hard to reframe such expectations [of *uhuru*] in terms which emphasised that such changes would not appear overnight, and rather than stress *uhuru* alone, Nyerere, TANU [Tanganyika African National Union] and local officials began to emphasize *uhuru na jasho*, freedom and work.'⁹

In Kenya, the new KANU government faced similar challenges.¹⁰ The provincial headquarters in Mombasa, built after independence, had the words '*uhuru na kazi*', freedom and work, spelt out on its roof. Like Nyerere, Jomo Kenyatta fought hard to counter the impression that 'freedom' meant 'free things'.¹¹ As Daniel Branch notes, this was both out of pragmatism and ideology.¹² For Kenyatta, 'development' was best achieved through 'the virtues of discipline and productive labour'.¹³ This was the message he espoused to Mau Mau veterans who had fought for 'land and freedom' a decade earlier. Yet this message was directly challenged in 1966 when Oginga Odinga broke from the party and formed the Kenya People's Union (KPU). KPU built support for its redistributive agenda by condemning the government's treatment of Mau Mau veterans. Odinga who had served as Kenyatta's Minister for Home Affairs in 1963-64 and Vice President in 1964-66, published his autobiography *Not Yet Uhuru* in 1967. In it he recalled touring the country in the first year of independence to counter the view held by '[s]ome people in the villages ... that there was lots of money in the bank and Kenya

⁷ Ibid., p. 45.

⁸ Frederick Cooper, *Africa Since 1940: The Past of the Present* (Cambridge, 2002), p. 88.

⁹ Emma Hunter, 'Revisiting *Ujamaa*: Political legitimacy and the construction of community in post-colonial Tanzania', *JEAS*, 2:3 (2008), pp. 471-485, p. 475.

¹⁰ I. K. Tarus, 'A history of the direct taxation of the African people of Kenya, 1895-1973', (PhD Rhodes University, 2004).

¹¹ Lonsdale, 'Moral and political argument'.

¹² Daniel Branch, 'The search for the remains of Dedan Kimathi: The politics of death and memorialization in post-colonial Kenya', *Past & Present*, 206 (2010), pp. 301-320.

¹³ Ibid., p. 307.

would give it all to us'.¹⁴ But after several years of KANU rule, Odinga concluded that 'the people' were right in beginning 'to wonder the meaning of *uhuru*'.¹⁵

This chapter considers how such wondering played out in local government offices in the 1960s. The debates that took place in Kenya's county halls and the struggles that went on around them in the 1960s shed light on a historical moment 'when the meaning and limits of freedom were not yet fixed'.¹⁶ Through an examination of Kilifi and Kakamega county councils and the proceedings of a national commission of inquiry held in 1966 into local government, it is shown that the immediate post-independence period was marked by considerable contestation over the meaning and means by which 'freedom' and 'development' would be realised. In Central Province and the Rift Valley such contestations centred on the question of land; but in local authorities across Kenya, taxation was the focal point.

The main sources of revenue for county councils in this period were Graduated Personal Tax (GPT) – a progressive form of direct taxation introduced at the start of 1964 to replace the poll tax – and government grants. Councils both struggled and were reluctant to collect GPT, and expected the central government to provide funds which would make up the shortfall in councils' budgets, and ensure the rapid expansion of local services. This expectation was rebuffed by the establishment. In July 1963 – a month after internal self-government began – the *Daily Nation* reported that it was:

time the laggards who have not paid rates awakened to the fact that "freedom" does not mean that all things are "free, gratis and for nothing." It is time that they pulled their weight, heeded the pleas of the Government and accepted the responsibilities of *Uhuru*.¹⁷

At first, the government tried to frame the message in a way that appealed to the public. Provincial commissioners were instructed in December 1963 to distribute pamphlets reading '*lipa ushuru kuchunga uhuru*': pay tax to protect freedom.¹⁸ Yet despite the propaganda, Kenya's councillors still attempted to renegotiate the terms of *uhuru* by challenging the imperative of tax collection. The independence constitution had contributed to a feeling amongst councillors that they had the

¹⁴ Ajuma Oginga Odinga, *Not yet Uhuru: The Autobiography of Oginga Odinga* (London, 1967), p. 242.

¹⁵ *Ibid.*, pp. 250-51

¹⁶ Giblin, 'Creating continuity', p. 28.

¹⁷ 'Desperate, deplorable', *Daily Nation*, 19 July 1963, p. 6.

¹⁸ Tarus, 'A history of the direct taxation', p. 241.

authority and power to contest government directives. They quickly discovered however, that the new administration had no intention of empowering these voices of the grassroots.

The tension between local authorities and the central government that emerged during this period, and the cautious way - at least compared to later years - in which the government asserted its authority over councils reveals an uncertainty about state legitimacy that rarely features in accounts of the Kenyatta state. This has important implications for academic understandings of broader processes of political change taking place in many other African states in the 1960s and early 1970s. The significance of such localised debates about the nature of political legitimacy have not been routinely incorporated into scholarship on the emergence of 'centralised-bureaucratic' regimes in Africa. As Emma Hunter writes, the insights of 'intellectual history from below' have 'remained largely separate from the concerns which animate political historians and social scientists such as, crucially the political transition from colony to independent state and questions of political legitimacy within these two state formations'.¹⁹ Yet in order to understand why the powers of local government were so dramatically curtailed in late 1969 (discussed in the next chapter) it is essential to look beyond a generalised trend towards centralisation, by probing the deeper challenge being posed by locally elected leaders who articulated a vision for an alternative political settlement which undermined the principles that both the colonial and post-colonial governments had so desperately sought to instil.

Public debate on local government in the 1960s - and indeed in the following decades - centred on questioning the quality, capacity and integrity of councillors themselves. In light of this, the chapter begins by looking at the lives and ideas of two councillors who served on Kilifi County Council during this period. Their contrasting perspectives offer a vivid illustration of some of the tensions that arose in the immediate post-independence period. This section also looks at a series of struggles that Kilifi County Council engaged in with the central government, and internally, during its first few years, and considers what these reveal about councillors' expectations of independence. Shifting to Kakamega, the next section examines the difficulties the council encountered collecting GPT

¹⁹ Emma Hunter, *Political Thought and the Public Sphere in Tanzania: Freedom, Democracy and Citizenship in the Era of Decolonization* (New York, 2015), p. 7.

between 1963-65. Within a few short years, Kakamega County Council went from being one of the wealthiest local authorities in the country to bankruptcy. The different explanations of this offered by the council and the government are explored before the chapter turns to considering broader national trends which came to light through the 1966 Commission of Inquiry into Local Government, headed by Walter Hardacre, a local government official from Britain. The divergent views expressed in the evidence and proceedings of the Hardacre commission reveal that whilst the colonial model of local government continued to appeal to many in Kenya, the precise role of councils and the principles underpinning the system were being fundamentally questioned by some at this time. The report of the commission eventually led to the drafting and adoption of Sessional Paper No. 12 in 1967. This formal policy paper recognised that local authorities had a part to play in maintaining the government's legitimacy. Yet this rhetorical support for local government did not lead to the introduction of substantive institutional reforms. Nevertheless, at the end of 1967, the future for local authorities in Kenya remained open and broadly optimistic.

'Everything was going back to that tax': Kilifi County Council, 1963-64

At the first substantive meeting of Kilifi County Council, held on the last day of 1963, the regional government agent (who was the former district commissioner restyled) informed the members that the budget estimates for the 1964 financial year forecast a deficit of K£5,853.²⁰ After approving the estimates, Councillor Binns proposed that a request be submitted to the regional assembly 'to appoint a committee of enquiry into the administration and workings of the late African District Council for the past five years'.²¹ The minutes record that the members were 'very much perturbed in the administration, collection of taxes, supervision and security of council's finances and expenditures' under the former ADC.²² Even after the regional government agent informed the council that an auditor at the Ministry of Local Government would have overseen the council's finances during that period, the council insisted that their recommendation be put to the regional assembly regardless. Throughout the meeting, the councillors exhibited a confidence and belief in their own authority that stood in stark contrast to their

²⁰ Full council minutes, KCC, 30 December 1963, Kilifi County Government Archive.

²¹ Ibid.

²² Ibid.

ADC predecessors. They rejected a legal notice that outlined new *tembo* (palm wine) tapping fees, deciding unilaterally to keep the fees as they were. They vociferously objected to the regional government agent's proposal to write a letter to the chiefs, copying in councillors, instructing them to arrange local *baraza* (public meetings) to nominate members for local assessment committees for the new Graduated Personal Tax, insisting instead that the letters be addressed to councillors, as 'the inhabitants had lost their confidence in their chiefs'.²³

The decisions reached by the council, and the defiant way in which they were expressed, reveals how much faith was placed in the independence constitution by these councillors who were elected by a largely-KADU voting populace. For them, *majimbo* meant that locally elected politicians had been anointed with the authority to override decisions of civil servants and the national government alike. Yet the councillors soon discovered that this view was not widely shared. At a meeting of the council in June 1964, councillors 'complained bitterly' about two instances when council staff had refused the requests of councillors.²⁴ In one case the offended councillor had telephoned the president of the coast region – Ronald Ngala – to complain about the behaviour of the assistant clerk. In the other, it was actually the wife of an employee (the treasurer) who had refused to give councillors staying at the council rest house the 'key for the lavatories'.²⁵ On account of this, the council resolved to form a sub-committee to look into the treasurer's case, 'while bearing in mind that the council was not in favour of the treasurer to remain in employment'.²⁶ All in all, the members agreed 'that in future, any council employee who defies the powers of the councillors or shows that he is unreasonably insubordinate should be liable to immediate dismissal'.²⁷ These seemingly minor instances of 'insubordination' and the enraged responses these elicited from councillors revealed a growing anxiety in 1963-64 amongst Kilifi's councillors that their new elected offices did not carry the same standing as they had expected. Examining in greater detail the views of two Kilifi councillors who served in the 1960s provides a means for reflecting on the expectations of

²³ Ibid.

²⁴ Special meeting minutes, KCC, 2 June 1964, Kilifi County Government Archive, uncatalogued.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

councillors; the extent to which they conformed to the colonial vision of model councillors; and the ways in which councillors carried their own ideas of what local government service entailed.

Born in 1926, Pekeshe Ndeje's association with the council began as a young man. After a short spell at a village school, he acquired a position as an *askari* (tribal policeman) with the Giriama Local Native Council, and was responsible for assisting the chief in tax collection. With his government salary he found himself able, aged twenty-five, to build a house and open a shop in Rabai. In 1951 he was nominated to the local native council, and was re-elected at independence, where he represented Ruruma ward for a further ten years. Ndeje's reflections on his time at the council; his views on taxation; and the council's 'development' record are in some ways contradictory, and reveal the ambivalent position held by councillors who straddled the colonial/post-colonial divide. A staunch critic of the colonial state, Ndeje nonetheless collaborated in multiple ways with the colonial government, and in doing so, extracted opportunities that served to distinguish him from those he represented. He was exposed to the principles of local government finance but these did not transform his worldview. The council offered him a way to better himself, and he expected it to serve the same purpose for the people of his location.

In explaining why he joined the council, Ndeje recalled the ambitions he held - for himself and his community - as a young man. Specifically, he remembered his reaction to witnessing life in Mombasa compared to Kilifi as a boy, thinking:

Why, when I visit Mombasa do I see people smartly dressed, and at our place we are still wrapping ourselves in cloths, and I don't even have a shirt? I was walking half naked. That was my jealousy. I said, what can we do, so that we can get to be like that.²⁸

His first step towards realising these ambitions came with his job at the council as an *askari*. Tax collectors often resorted to violent and coercive methods, physically taking people to be registered at the chief's hut, and forcibly detaining tax evaders.²⁹ His nomination to the LNC suggests he served with sufficient zeal to win the district commissioner's approval. Yet when he reflected on this period nearly

²⁸ Pekeshe Ndeje, interview, 23 January 2013, Ruruma (held in KiGiriama).

²⁹ Tarus, 'A history of the direct taxation'.

sixty years later, he said it was becoming a councillor that made him realise how unsatisfactory the tax system was:

Colonial government denied us many of our rights and we used to oppose that. On the issue of rate collections, a lot of money was collected and lots of it went to the central government side and we were left with very little. Out of say 13-15 or so shillings collected, we were left with about 3 shillings.³⁰

He anticipated that independence would provide the change needed to enable him and his fellow councillors to play a more effective part in the district's 'development', by using a higher proportion of the council's revenue on the provision of material infrastructure. It was assumed that with an African chairman and African district commissioner there would be nothing to stop Kilifi from 'developing'. However, two weeks before internal-self-government began, an extraordinary meeting was called to discuss the council's finances.³¹ On receiving a letter from the Ministry of Local Government, the chairman informed the council that out of 30,000 eligible rate payers in the district only 2,456 had paid that year.³² The situation required both an aggressive programme of cuts, and a concerted effort to collect rates. The district commissioner told the members that 'it was the duty of every councillor to persuade his people to pay ADC rates if they wanted services to continue. This responsibility should not be left in the hands of the chiefs alone.'³³ Three weeks later, an executive committee of the council agreed to implement a range of austerity measures recommended by the ministry including slashing the education budget to K£3,000 and closing four dispensaries.³⁴ Then a month later, three hundred teachers in the district were served their notice. Commenting on the story, the *Daily Nation* laid the blame squarely on the taxpayers: 'By cutting services, the county councils have provided undeniable evidence that the people just do not care. Apparently they are prepared to see the closing of dispensaries and health services provided for their benefit. And, above all, they apparently are prepared to see the end of educational progress for their

³⁰ Pekeshe Ndeje, interview, 23 January 2013 Ruruma (KiGiriama).

³¹ Extraordinary meeting minutes, KCC, 15 May 1963, Kilifi County Government Archive, uncatalogued.

³² Ibid.

³³ Ibid.

³⁴ Executive committee meeting minutes, KCC, 8 June 1963, Kilifi County Government Archive.

children.³⁵ In the following months, the political and administrative class of Kilifi 'went out of their way to persuade people to pay' according to council chairman H. G. S. Harrison.³⁶ Their efforts paid off; August saw the highest tax collection in the district for the year.³⁷

The councillors making these difficult decisions were not the same ones who at the end of the year were acting so defiantly. The local government elections took place in August 1963: out of the ADC's forty-four members only seven were re-elected to serve on the new twenty-eight member county council.³⁸ These councillors were less enthusiastic about the imperative of tax-collection. Pekeshe Ndeje quickly became disillusioned with the council's fiscal policies, which went against what he had expected of independence:

there was exploitation of our people. They could not enjoy their crops directly. They paid taxes, the tappers who brought down the palm wine, they paid tax. It came so that even when you sold your maize, you had to ... so it came that everything was going back to that tax. If you look at the roads, they did not go to the place where the crops came from. They went and got lost among our fellows, the chairman and the committee. You pay, and they pay well but they don't get the road.³⁹

It is not surprising that Ndeje raises palm wine tapping as a memorable example of the enduring injustices after independence. The issue of licence fees for tappers galvanised coastal councillors and members of parliament in the 1960s. Trade in palm wine was a lucrative business in Kilifi and across the coast at the time. Yet whilst the owners of coconut trees and those involved in its transport and marketing amassed wealth, hired tappers were paid poorly, had little security, and had the expense of purchasing a licencing fee from the council. In 1965, Ronald Ngala took this matter to the National Assembly, telling the House that the licence fee for tappers had stood at twenty shillings in 1960, five years later it had risen to fifty shillings.⁴⁰ Ngala asked whether 'in view of the tappers paying Graduated Personal Tax' it was necessary and fair for tappers to also pay fifty shillings a year for a licence.⁴¹ Dismissing the question, government minister James Nyamweya

³⁵ 'Desperate, deplorable'.

³⁶ 'Kilifi schools: New hope', *Daily Nation*, 7 September 1963, p. 5.

³⁷ Ibid.

³⁸ Full council minutes, KCC, 15 November 1963, Kilifi County Government Archive.

³⁹ Pekeshe Ndeje, interview, 23 January 2013, Ruruma (Kilifi).

⁴⁰ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Second Session, 24 June 1965, cols. 728-732.

⁴¹ Ibid., col. 729.

replied saying ‘the President’s Office does not concern itself with taxation. What it concerns itself with is the orderly administration of the area and whether the licences are paid for or not.’⁴² Masinde Muliro censured Ngala further commenting that ‘the main problem behind this question is simply because the members from the Coast Province affected do not teach their people to do better crop husbandry, in order to get a better living from their trees?’.⁴³ Similar accusations were made across the country in places where revenues were not meeting estimates. To those who had taken over the national government the tension between expectations and reality had to be framed as a failure of leadership, negative politics, and ‘backwards’ attitudes, rather than something more profound and challenging.

The members of Kilifi County Council however continued to rail against the laws governing palm wine production. At a meeting in January 1967 the district commissioner tried to introduce a new licence form for tappers, to be collected from the council offices rather than chiefs.⁴⁴ The councillors ‘spoke strongly’ against the suggestion and they ‘refused the use of the proposed form’.⁴⁵ They argued that tapping was a ‘temporary job’, and tappers were in a precarious position, as most did not own the trees they tapped, and could be dismissed at any point. They further stressed that ‘tapping was the last job to a local person’, that ‘they do it just to keep their families but not to enrich themselves’.⁴⁶ A fellow councillor of Ndeje’s, Gilbert Dzombo also considered licence fees for tappers punitive. His relationship with the location chief deteriorated after repeated disputes over the chief’s enthusiastic efforts to curb illegal tapping in their area. For Dzombo, charging tappers was excessive and ‘unfair’, because for the tapper ‘when he falls down, he dies’.⁴⁷

But whilst Ndeje’s opposition to tapping licences was part of a general dislike of taxation, Dzombo saw it as a distinct issue. He accepted the notion that his role as a councillor was to ‘educate them that you have to pay taxes for the services that you are going to be given’.⁴⁸ In contrast to many of his contemporaries, Dzombo did correspond fairly well with the colonial vision of a model councillor.

⁴² Ibid., col. 729.

⁴³ Ibid., col. 731.

⁴⁴ Special meeting minutes, KCC, 25 January 1967, Kilifi County Government Archive.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Gilbert Dzombo, interview, 30 January 2013, Jibana (Kilifi).

⁴⁸ Ibid.

He attended a mission school in Ribe, a village sixteen miles northwest of Mombasa, where Kenya's first Methodist mission station had been established in 1862.⁴⁹ The experience profoundly shaped his life. After leaving school, Dzombo moved to Mombasa and enrolled at a commercial college where he learned to touch-type. In the early 1950s he held a number of white-collar jobs in Mombasa before receiving an invitation to return to his former school from the head of the mission. The school had been transformed into a teachers' training college, and Dzombo took up a position as clerk. At independence he was promoted to accounts clerk, and in 1980 to school bursar; a decade later he retired. It was in 1965, aged thirty, that he was elected to the council where he served three terms. Dzombo's professional history stands out from his contemporaries. In the local government elections of 1968, of those elected to Kilifi County Council, there were thirteen farmers, three traders, two shopkeepers, two businessmen, two local KANU officials, one hotelkeeper, one auctioneer, and only one 'clerk': Gilbert Dzombo.⁵⁰ As a 'professional' with a reliable source of income, Dzombo took a different approach to councillorship from his peers. He claimed to accept that it was a voluntary service undertaken for the good of the community. This, he recalled, was not the attitude of most other councillors:

Most of my fellow councillors took that [the council] as a job and that is why some of them got, became corrupt. Because, for example a *mwananchi* [citizen] wants to build a shop, we had a by-law which the *mwananchi* should get a form to fill, and that form must pass through the councillor. So before, instead of the councillor giving that *mwananchi* that form free of charge, my colleagues were selling those forms.⁵¹

Yet for Dzombo, the council was not a source for accumulation, but a vehicle for pursuing the general betterment of his community:

So that we could together fight poverty, disease and ignorance. Yes ignorance. Those three enemies. When I joined the council those were the things I concentrated on. These made the people like me and I was returned every time unopposed.⁵²

Reproducing the rhetoric of the late colonial state, Dzombo echoed the words of William Beveridge whose 1942 report described the 'five giants' facing British society. By drawing on this discursive framework to explain his calling to local government service, Dzombo provides evidence that the colonial state in Kilifi had

⁴⁹ Charles New, *Life, Wanderings, and Labours in Eastern Africa* (3rd edn, London, 1971).

⁵⁰ Kilifi DC to Coast PC, 3 August 1968, CA/8/72, KNA, Nairobi.

⁵¹ Gilbert Dzombo, interview, 30 January 2013, Jibana (Kilifi).

⁵² Ibid.

had some success in grooming young, educated Africans for the kind of work that the Colonial Office envisioned. Justin Willis notes the power and legacy of this specific language in Kenya, writing that ‘the unholy trinity of poverty, ignorance and disease played a prominent role in discursive justifications of state policy and authority after independence’ in Kenya.⁵³

But the fact that Dzombo was in the minority, even possibly an anomaly within Kilifi, also serves to underline how limited this success was. Pekeshe Ndeje was far more representative of the norm. Whilst both men were ultimately motivated by similar aims – to bring development to their wards – they had very different understandings of the role that the council should play in this endeavour. Dzombo equated councillorship with being a counsellor, whereby his primary purpose was to enlighten his fellow Jibana, including on the imperative of tax payment. Whereas Ndeje thought independence would bring the end of exploitation, which he associated with heavy taxation, he thought that it was his role to articulate local demands for resources from the central state:

the independence government was behaving like the colonial government because it was like a farmer harvests and all his harvest is taken away from him and he is left with nothing...The central government didn't want to share tax collection with the council.⁵⁴

Many decades after he served as a councillor, Pekeshe Ndeje's abiding memory of his time at Kilifi County Council is one of disappointment and disillusionment. Yet as the beginning of this section showed, the first cohort of elected independence era councillors did enter local government office with the expectation that they could make demands on the national and regional governments, and that these would be heard. That this expectation was common across councils can be deduced from a speech made by the Minister for Local Government to Mombasa Municipal Council in July 1964. The *East African Standard* reported that the minister told councillors:

A councillor is elected to serve and not to boss; to devote himself as much to the needs of the humblest as to those of the more well-to-do members of the community, and to guard the interests of all his constituents, not merely those of his community, tribe or race. As the elected representatives of the people, you have the right and indeed the responsibility to come to council and committee meetings to express the views of those who elected

⁵³ Justin Willis, *Potent Brews: A Social History of Alcohol in East Africa 1850-1999* (Oxford, 2002), p.176.

⁵⁴ Pekeshe Ndeje, interview, 23 January 2013, Ruruma (Kilifi).

you. It may be that those views do not coincide with the majority but when a decision has been taken it is your responsibility to uphold it.⁵⁵

The minister warned that only ‘disorder’ could follow from councillors telling their constituents ‘to disobey or ignore the decisions of the council’.⁵⁶ Such ‘discreditable’ behaviour, he concluded ‘was directly opposed to the spirit of *harambee*’.⁵⁷ In this way, national politicians and civil servants attempted in the months following independence to discipline councillors and teach them that their role was to educate constituents on the value of hard work and obedience. As in Kilifi, disputes over taxation spoke to broader debates occurring within Kenyan communities immediately after independence over what kind of ‘development’ was expected to follow *uhuru*, and who was responsible for providing this. In places that had a longer and more vibrant local government tradition such struggles were more pronounced. The next section examines one example, Kakamega, where the defiant actions of the council immediately after independence alarmed national elites.

‘Uhuru meant standing on one’s own’: Kakamega County Council, 1964-65

In 1964 a new direct tax was introduced to replace the former poll tax. Unlike the poll tax, the Graduated Personal Tax (GPT) was progressive; rates varied depending on income. GPT was designed to serve as the ‘financial mainstay of rural local government’, although a proportion was transferred to central government.⁵⁸ Until they were dissolved in late 1964, regional governments had formal oversight of GPT. According to the Minister for Local Government, this resulted in a ‘very varied system of graduated personal tax assessment and collected’.⁵⁹ He told parliament in 1966 that ‘[s]ometimes the provincial administration and sometimes the council were responsible; sometimes the responsibility was shared; and sometimes no one seemed to be taking very much responsibility at all.’⁶⁰ Thus in the first year of independence, there was a level of uncertainty about local government finance that had not existed before. In Kakamega this uncertainty exacerbated the council’s

⁵⁵ ‘Election to council ‘not a sinecure’, *The East African Standard*, 25 July 1964, JA/12/26, KNA, Nairobi.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Government of Kenya, *Report of the Local Government Commission of Inquiry* (Nairobi, 1966), p. 37.

⁵⁹ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Third Session, 27 January 1966, cols. 212-225, col. 215.

⁶⁰ Ibid.

already strained financial position. As the last chapter discussed, North Nyanza was the wealthiest ADC in the colony for many years. Yet as the chapter also showed, the council's financial security began to falter in the late 1950s with increasing expenditure and declining rate payments which resulted in a rising deficit per annum.⁶¹ With independence, these trends continued.

In July 1963 Kakamega County Council issued a notice to ratepayers announcing a 50 percent penalty for late payment, thereby increasing the rate from forty to sixty shillings from September onwards.⁶² This measure was applied in an attempt to rectify the fact that only 44 percent of those eligible had paid their rates.⁶³ Writing to the chairman, the council's treasurer noted that although 'we are better than previous years', the rate level was ten shillings greater than it had been in 1960 when the ADC's annual revenue from rates was roughly equivalent:⁶⁴

Figure 7: Kakamega ADC rates and revenue collections 1960-63.

| | 1960 | 1961 | 1962 | 1963* |
|-------------------------|-------------|-------------|-------------|-------------|
| Rate (shillings) | 30 | 30 | 37 | 40 |
| No. of rates | 1,020,038 | 883,081 | 745,976 | 1,011,050 |
| Total revenue | KE1,509,965 | KE1,376,220 | KE1,215,137 | KE1,602,116 |

Source: KNA DC/KMG/2/16/53.

*As at 31.7.1963 Kenyan Shillings

The following year the council's record was even worse. In November 1964, the *Daily Nation* reported that less than 20 percent of those liable had paid their GPT in Western Province.⁶⁵ Several months later, with no improvement, the Ministry of Local Government unilaterally decided to dismiss all Kakamega's councillors and take over the running of the council. Examining the discussions that took place between the council and the Ministry of Local Government in 1964-65 reveals a significant divergence of opinion over why Kakamega was facing a financial crisis, and what should be done to resolve the situation. Whilst officials and politicians of central government accused the council of acting negligently and irresponsibly, councillors located the problem in the central government, for its refusal to provide the resources needed to satisfy local demands.

⁶¹ North Nyanza ADC Annual Report 1958, PC/NZA/4/4/106, KNA, Nairobi.

⁶² Kakamega notice to ratepayers, DC/KMG/2/16/53, KNA, Kakamega.

⁶³ Treasurer to chairman, KMGCC, 8 August 1963, DC/KMG/2/16/53, KNA, Kakamega.

⁶⁴ Ibid.

⁶⁵ 'Education will be hard hit', *Daily Nation*, 3 November 1964, p. 6.

In November 1964, the Minister for Local Government, Samuel Ayodo, visited Kakamega County Council.⁶⁶ Earlier that month, the last remaining members of KADU had crossed the floor, and dissolved the opposition.⁶⁷ This allowed the government to progress with its plan - announced in August that year - to abolish regionalism and declare Kenya a republic. Kakamega's councillors considered that this development could only help improve revenue collection in the district, given that throughout the year, it had 'not been an easy task to see eye to eye on problems common to the two parties'.⁶⁸ The minister was presented with a memorandum outlining the council's analysis of its financial decline, and setting out a number of requests. Beyond party politics, the memorandum blamed the administration for the council's poor collection, claiming that the administration's 'attitude has tended to be "Let the County Council itself collect its Graduated Personal Tax"'.⁶⁹ This was the reason stated in the memorandum for the council's request that it relinquish 'Graduated Personal Tax to the central government in exchange for adequate grants to enable us to run our services'.⁷⁰ Specifically the council asked that its grants 'be increased at least threefold'.⁷¹ The memorandum conveyed councillors' impression that 'central government' could provide what the 'administration' could not. A false distinction, it revealed councillors' expectation that a bountiful, independent government would remove the need for any local person - whether councillor or chief - to have to engage in the unpopular task of tax collection. The minister's response was uncompromising; he rejected the request for increased grants, and chastised the council for failing to discipline the people of Kakamega into the realities of *uhuru*:

He said that since the country had attained independence people have misinterpreted the meaning of the word "Uhuru". This word had wrongly been taken for "Freedom". He said that the word "Uhuru" meant standing on one's own. People who had misinterpreted the word for "Freedom" were doing very bad in that they were not working hard to pay taxes. He regretted to say that this county council was doing very badly and yet it had been one of the richest. If this state of affairs went on, the central

⁶⁶ Full council minutes, KMGCC, 24 November 1964, HW/24/9, KNA, Kakamega.

⁶⁷ Gertzel, *The Politics of Independent Kenya*, p. 54.

⁶⁸ Memo Kakamega County Council to Minister for Local Government, 24 November 1964, HW/24/9, KNA, Kakamega.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid.

government would have no alternative but to dissolve this county council and run its affairs from Nairobi.⁷²

By the end of the year, the council had collected only K£78,000 out of an estimated K£176,000 in GPT.⁷³ Consequently the council had a deficit of K£140,800, and the general account was overdrawn by K£87,310.⁷⁴ At the start of the new year Ayodo was replaced by Lawrence Sagini, but this change at the ministry did not alter the government's position. Like his predecessor, Sagini made a crisis call on the council, wanting to find out why Kakamega had performed even worse than other councils collecting GPT.⁷⁵ Sagini accepted 'that there were difficulties in the collection of a new tax' but ultimately blamed 'adverse political activity' and laxity amongst council officers and staff.⁷⁶ For its part, the council continued to hold the administration responsible. The minister refused to accept this, and retorted that if given the opportunity, he knew the council would readily leave 'all the inevitably unpleasant duties associated with the collection of tax' to the district commissioner and his staff.⁷⁷

By March 1965, the situation had little improved, and the provincial commissioner was ready to recommend drastic action.⁷⁸ He informed the council that he had requested permission to allow him to arrest GPT defaulters, and confiscate their property. This was, he admitted, 'a system practised by the colonialists', and therefore he was 'not happy to employ it'.⁷⁹ At the same meeting, council members tried to address the severe shortfall in revenue. The chairman acknowledged that the public expected more than the council or government could provide. The first solution offered therefore was to encourage people to engage in 'self-help' activities: 'the people should do 60 percent and government would do 40 percent of the service.'⁸⁰ This was portentous; the chairman's suggestion that there should be more 'self-help' was in line with Kenyatta's model of *harambee*, discussed

⁷² Speech by Minister for Local Government to Kakamega County Council, 24 November 1964, HW/24/9, KNA, Kakamega.

⁷³ Speech Minister for Local Government to Kakamega County Council, 28 January 1965, HW/24/9, KNA, Kakamega.

⁷⁴ Minutes, Kakamega County Commission, 24 February 1966, HW/24/9, KNA, Kakamega.

⁷⁵ Special meeting minutes, KMGCC, 28 January, 1965, HW/24/9, KNA, Kakamega.

⁷⁶ Speech by Minister for Local Government to Kakamega County Council, 28 January 1965, HW/24/9, KNA, Kakamega.

⁷⁷ Ibid.

⁷⁸ Address by the PC to Kakamega County Council, 2-4 March 1965, HW/24/9, KNA, Kakamega.

⁷⁹ Ibid.

⁸⁰ Minutes of KCC, 2-4 March 1965, HW/24/9, KNA, Nairobi.

more in the next chapter, which came to serve from the late-1960s almost as an alternative system to local government.

The next measure for debate related to the level of maize cess set for the year. For every bag of maize sold, the council hoped to receive two shillings in cess.⁸¹ This proposal put forward earlier in the year had been rejected by the government who insisted that the cess remain at one shilling per bag. Defiant and desperate, the council refused to accept the government's decision. The final area of discussion related to the education budget. The education committee submitted a report which showed that K£733,970 was needed to finance the council's planned education programmes. The committee recommended that fees for pupils in standards one and two be raised by a third, but even with this measure, the council was still short K£410,139.⁸²

The meeting – which was to be the elected councillors' last - had exclusively focused on the council's dire financial situation. The council's solutions involved greater 'self-help'; maintaining a high rate of maize cess and increasing fees for school children. Whilst this may have been sobering for some councillors, it was not for Councillor Nashali. He ended the meeting by reporting to the council that other local authorities paid councillors allowances when they attended training courses.⁸³ Nashali asked whether Kakamega could do the same. This request came in the wake of a decision by the minister, which introduced a limit to the length of council meetings. Minister Sagini had been perturbed to discover that Kakamega paid K£1,500 over the estimates for councillors' allowances in 1964.⁸⁴ This provided further evidence of the practice prevalent amongst councils of deliberately extending the duration of meetings in order to receive the daily sitting allowance.⁸⁵ Nashali's request was perhaps intended to make up for this loss in revenue. However, his bid was not successful. Two months after this meeting, Kakamega County Council became the first in Kenya to be taken over by the government and run as a commission. All the councillors were discharged, the new members were

⁸¹ Ibid.

⁸² Education committee report, KMGCC, 2-4 March 1965, HW/24/9, KNA Kakamega.

⁸³ Minutes of KCC, 2-4 March 1965, HW/24/9, KNA, Nairobi.

⁸⁴ Speech Minister for Local Government to Kakamega County Council, 24 November 1964, HW/24/9, KNA, Kakamega.

⁸⁵ Memo PC Nyanza, JA/7/11, KNA, Nairobi .

nominated by the government and the district commissioner assumed the powers of chairman.

The Hardacre Commission of Inquiry

Kakamega County Council was the most dramatic manifestation of a general downward trend that most rural local authorities took in the years immediately after independence. With the end of *majimboism* in late 1964, questions began to arise as to the overall capacity of local authorities. During a debate in the National Assembly in April 1965, one member commented that the responsibilities given to local authorities – particularly in respect of primary education - were ‘too heavy’.⁸⁶ Several months later, Sirikwa County Council had to dismiss five hundred teachers in order to save K£19,127.⁸⁷ By the end of 1965, the mounting dissatisfaction regarding the functioning of local authorities gained the attention of the president. In Kenyatta’s opening address to a new session of parliament in November, he reaffirmed the government’s commitment to local government:

My government is totally committed to serving the people, by increasing the initiative and improving the living standards of every family. Such an aim greatly depends on the effective operation of local government. In this regard we deplore a position in which people in many areas are blaming their local authorities for inefficiency, while the councils blame the local people for not paying taxes that are due. All this means in effect that thousands of families are unable to enjoy all the services that they need. We shall therefore continue to examine the whole local government position, and see how present difficulties can best be met and put right.⁸⁸

This commitment to examining ‘the whole local government position’ was realised in 1966 when the government formed a commission to ‘inquire into and advise on the reforms necessary to make the local government system in Kenya a more effective instrument for the provision of local services and local development within the framework of national policy and national programmes’.⁸⁹ Analysing the commission’s terms of reference, Patricia Stamp argues that ‘[u]nder the neutral, technical language of this and subsequent reports and recommendations lay the true intentions towards local government: the reduction of its autonomy and

⁸⁶ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Second Session, 22 April 1965, cols. 1389 -1417, col. 1392.

⁸⁷ ‘Teacher sackings’, *Daily Nation*, 15 August 1965, p. 6.

⁸⁸ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Third Session, 2 November 1965, cols. 8-16, col. 10.

⁸⁹ *Report of the Local Government Commission of Inquiry*, p. 1.

jurisdiction through the manipulation of constitutional processes.⁹⁰ Writing in the knowledge of later reforms, it is easy to see how Stamp drew this conclusion. However, as this section will show, there is little compelling evidence to support the argument that, in the mid-1960s, the government was united in its determination to disempower local councils. The oral and written statements made by members of parliament, the administration, Kenyatta and his cabinet between 1966 and 1968 together present a muddled picture of official 'policy' at this time. Contained in this picture are signs that parts of the government were genuinely committed to positive and sustainable reform of the local government system. This was the Minister for Local Government, Lawrence Sagini's message to parliament in January 1966 when proposing a bill to amend the GPT law:

I know taxes are not popular and never have been, and I do not therefore expect this Bill to be a popular piece of legislation, but what I want to make quite clear is that this tax is intended to help people and not to oppress them. This tax and this Bill are essential if the local authorities are to be able to provide the services which the people of this country want. We do not want to hurt people, but to help them by providing the schools, the teachers, the health centres and dispensaries, the nurses and health assistants, the roads and markets and all the other services so necessary for their welfare and the improvement of their lot.⁹¹

The bill eventually was withdrawn, and a new draft proposed by the minister in late September, which passed in December. In the intervening months, the Commission of Inquiry into Local Government had been held. The unlikely candidate chosen to chair the commission was Walter Hardacre, treasurer of Berkshire County Council. His trip was funded through a UK aid programme which suggested on-going British support for the local government project in Kenya. Hardacre was joined by an accountant, a former KADU MP, and Dr Bethwell Ogot, a young, Luo academic. The somewhat obscure choice of commissioners did not suggest the inquiry was a particular priority for the government. Nevertheless, they undertook their work with enthusiasm; between April and June the commissioners held public hearings across the country and received over 150 memoranda from a plethora of different official and unofficial stakeholders.⁹² These included local authorities; sector ministry officials; members of the provincial administration; agricultural boards;

⁹⁰ Stamp, 'Governing Thika', p. 71.

⁹¹ Government of Kenya, *Official Report*, House of Representatives, First Parliament, Third Session, 27 January 1966, cols. 212-225, col. 216.

⁹² Republic of Kenya, *Report of the Local Government Commission of Inquiry* (Nairobi, 1966).

labour unions; academics; as well as individuals who wrote to the commission of their own volition. The volume and variety of contributions attested to the seriousness with which the problems of local authorities were being regarded. Yet whilst all agreed that the local government system needed studying, there was far less consensus over the desired outcome of such an exercise.

From the hearings and memoranda a prevailing account of the experiences of county councils since independence emerged. In 1963, councils had formally been given responsibility for the provision of primary education, which had resulted in significant annual increases in local authorities' expenditures. Meanwhile councils' revenues had declined as government grants did not keep pace with rising expenditure and councils struggled to collect the new GPT. With mounting deficits, the administration stepped in at the start of 1965 and took over the collection of GPT, but the administration did not prove as effective at tax collection as it once was given post-independence restrictions on what chiefs were permitted to do to discipline tax defaulters. On top of the financial problems, regular political and personal disputes between councillors, chief officers and members of the administration had served to negatively impact on the efficiency and internal functioning of councils. All in all, the public was growing dissatisfied with the services provided by councils.

In narrating this story, councils and the administration offered opposing views on what had gone wrong and how it should be addressed. In general, administrators criticised the quality and outlook of councillors whilst bemoaning their diminished power over councils since independence. In contrast, councils focused their attention on making pleas for greater government grants. Some called for more services, some called for less, but all agreed that it was the duty of government to support councils and enable them to deliver the development being demanded from below.

Debate over the relationship between central and local government was a recurring feature of commission hearings. Dr Ogot later recalled that President Kenyatta directed them before the inquiry began 'that it was free to recommend any changes it felt necessary, provided such changes did not affect provincial administration which, in his view was the backbone of central administration.'⁹³

⁹³ Ogot, *My Footprints in the Sands of Time*, p. 164.

The commissioners disregarded this instruction and devoted considerable time in the public hearings probing the issue of 'dual administration', which proved immensely contentious.⁹⁴ The debate centred on a series of questions concerning the relationship between the two systems. The commissioners considered whether the provincial administration was, by nature, an obstacle to local government; whether it was practicable - given the shortage of trained personnel - to have two systems; whether it was possible to integrate the provincial administration and local government, and if so, what form that integration should take.⁹⁵

The portrait of councillors offered by administrators was not flattering. The DC for Baringo considered the new cohort of 'half educated young men' who had entered local government prone to turning 'into self-seekers'.⁹⁶ Such disdain for the education and outlook of councillors was common, as the provincial commissioner for Coast Province, Isaiah Mathenge explained in a public hearing 'you know our people - we are dealing with immature people, some of whom think membership of the council should be made lucrative.'⁹⁷ Drawing a connection between the type of men serving as councillors, and their proclivity for corruption was frequently expressed, not only by members of the administration. An alderman of Nairobi City Council criticised 'the mentality of the type of people' who had been given 'authority' since 1963: 'Following the general election these people went in the offices and they thought they had a good chance to give their relatives, brothers and so forth, jobs.'⁹⁸ 'Nepotism, parochialism and favouritism' was also raised by the provincial commissioner for Nyanza who complained that councils had been reduced to 'organisations of friends'.⁹⁹ The district commissioner for Nakuru recognised that there was a gap developing between how local government was meant to function, and the reality as it was evolving across Kenya. He believed that 'a successful council would be a council run by enterprising farmers and businessmen.' But '[i]n the absence of these people, consideration for financial return by councillors almost invariably colours the running of councils.'¹⁰⁰

⁹⁴ S. O. Josiah, PC Western Province, public hearing, 25 June 1966, JA/7/10, KNA, Nairobi.

⁹⁵ Public hearing of evidence submitted by PC Coast, I. M. Mathenge, 13 June 1966, JA/7/10, KNA, Nairobi.

⁹⁶ Memo DC Baringo, 28 May 1966, JA/7/9, KNA, Nairobi.

⁹⁷ Mathenge (PC Coast), public hearing Mombasa, 13 June 1966, JA/7/10, KNA, Nairobi.

⁹⁸ Alderman Mutua, Nairobi hearings, 2 June 1966, JA/7/10, KNA, Nairobi.

⁹⁹ Memo PC Nyanza, JA/7/11, KNA, Nairobi.

¹⁰⁰ Memo DC Nakuru, 7 May 1966, JA/7/11, KNA, Nairobi.

Hardacre in particular struggled to grasp this inclination by councillors to try to maximise the patrimonial opportunities offered by local office. When questioning Mr Mustoe, the regional financial officer for Coast Province, Hardacre objected to his insistence that without central government control, all councillors would take out loans to buy cars, 'But why?', Hardacre persisted, to which Mustoe could only reply, 'because they would just do it, Sir.'¹⁰¹

When asked to provide recommendations for how to address the problems they had identified, most administrators suggested augmenting their powers over councils. In essence they recommended that the administration hold an executive position within councils, as they had in ADCs. Indeed, the provincial commissioner for Nyanza even quoted from a recent issue of the *Journal of African Administration Overseas* - successor to the *JAA* - outlining how the system had operated *before* independence. He concluded from this that 'with this manpower the African District Councils were able to direct their scarce resources to maximum use.'¹⁰² Similarly, Isaiah Mathenge complained of district commissioners having been 'stripped of their power and influence' and 'replaced with elected chairman and councillors, most of who were imbued with negative political indoctrination'.¹⁰³ The DC for Kajiado concluded that 'the central government should exercise full control over local government authorities.'¹⁰⁴ On the subject of local authority staff, many of those who submitted memoranda argued that councillors had to be prevented from interfering any further in the hiring and firing of officers. The Kenya Local Government Workers' Union (KLGWU) listed a number of disputes it had intervened in because council employees were suffering from 'unnecessary victimisation' by councillors.¹⁰⁵ This led many to support the establishment of a Local Government Public Service Commission, which it was hoped would 'insulate employees from the exploitation of the inexperienced councillors.'¹⁰⁶ But the difficulties between councillors and officers was, to some, reflective of a more fundamental problem in the local government system. Mr Simmance, who taught at the Kenya Institute of Administration, confided that:

¹⁰¹ Mustoe, 17 June 1966, JA/7/10, KNA, Nairobi.

¹⁰² Memo PC Nyanza, JA/7/11, KNA, Nairobi.

¹⁰³ Memo PC Coast, 11 June 1966, JA/7/9, KNA, Nairobi.

¹⁰⁴ Memo DC Kajiado, 16 April 1966, JA/7/11, KNA, Nairobi.

¹⁰⁵ Memo KLGWU, 19 April 1966, JA/7/11, KNA, Nairobi.

¹⁰⁶ Ibid.

I find that councillors very often, simply do not understand why their function should be to meet in a committee, sit there, pass resolutions and then have nothing whatsoever to do with the execution of these resolutions, until they come to their next meeting. They don't understand why this should be so. This is the system: I am not sure I understand why it should be so either. That will change in time won't it, it is like all teething troubles isn't it?¹⁰⁷

The problem – as defined by Simmance – was the failure of councillors to understand their role and the limits of their powers. But for councillors, the problem was the lack of respect being accorded to council members. Several councils were eager to use the commission to establish the 'standing and precedence of local authorities'.¹⁰⁸ A joint memorandum by the councils in Central Province complained that members get 'forgotten in many government functions and ceremonies'.¹⁰⁹ Councillors' sensitivity to the 'dignity of councils' exposed how the appeal of councillorship rested on much more than a desire for allowances and car loans.¹¹⁰ However, the administration was reluctant to see it this way. The provincial commissioner for Nyanza insisted that 'the spirit of working for the community has been killed through these large salaries/allowances', and that the only appeal of local government for members was to use it as a way to derive a livelihood.¹¹¹

Unsurprisingly, local authorities offered an alternative diagnosis and cure for the problems facing councils. Difficulties in the relationship between local and central government was also raised by councils, but the issue was framed quite differently, as the memorandum from Kisumu Municipal Council made plain:

The government made local authorities directly responsible for primary education when Kenya achieved independence. It was inevitable that this service would expand rapidly as the election campaign had virtually promised free education, local authorities were put under extreme pressure to develop and aid more schools and at the same time there was a reluctance on the part of parents to pay fees.¹¹²

A similar analysis was forwarded by the Coffee Board of Kenya and the Coffee Marketing Association whose interest in the inquiry mainly related to agricultural cesses. Despite objecting to local authorities' coffee cess, the two organisations

¹⁰⁷ Memo Kenya Institute of Administration, JA/7/10, KNA, Nairobi.

¹⁰⁸ Memo Kisumu Municipal Council, JA/7/11, KNA, Nairobi.

¹⁰⁹ Joint memo by Central Province Local Authorities, 19 April 1966, JA/7/11, KNA, Nairobi.

¹¹⁰ Memo Thika Municipal Council, 11 May 1966, JA/7/11, KNA, Nairobi.

¹¹¹ Memo PC Nyanza, D. Owino, JA/7/11, KNA, Nairobi.

¹¹² Memo Kisumu Municipal Council, JA/7/11, KNA, Nairobi.

were on the whole sympathetic to the position councils had been placed in by the government:

we believe that there has in the past ten years been a tendency by central government to off-load onto county councils services which were in the past substantially financed by central government. We believe that much of this off-loading has been activated by central government being unable to raise the revenues to meet the ever increasing demand in certain spheres and therefore leaving it to county councils to raise the revenue by what means they can. We refer in particular to the educational and health services.¹¹³

Whether councils were capable of administering the key services of education and health had not been a consideration during the independence constitution negotiations. This question received no further attention after the dissolution of regional governments. Such lack of consultation was a major cause of grievance expressed by councils. Eldoret Municipal Council stressed that ‘many of the difficulties’ facing county councils were caused by the government’s failure to consult with local authorities on matters directly affecting them.¹¹⁴ Numerous examples could have been cited, including repeated increases in teachers’ salaries agreed by government that impacted councils; the 1964 ‘Additional Employment Scheme’ which forced local authorities to increase their staff by 15 percent; the 1965 pay deal struck between the Ministry of Local Government and the Kenya Local Government Workers’ Union without consulting councils; and most recently, the declaration by the president in June 1965 that outpatient medical services would be free, a move which deprived councils of major revenue in the form of user fees. The way in which all of these decisions were managed reflected the central government’s attitude towards local authorities: they were expected to conform without complaint to all directives from the centre.

Along with highlighting tensions in the relationship between local and central government, councils also focused on issues related to finance. They capitalised on the opportunity provided by the commission to make a plea for increased government grants. The sources of county councils’ revenue in 1965 stood at: 33 percent government grants, 25 percent GPT, 4 percent cesses, 27 percent school fees, and 11 percent fees, charges and rates.¹¹⁵ Kipsigis County

¹¹³ Joint Memo Coffee Board of Kenya and Coffee Marketing Board, JA/7/11, KNA, Nairobi.

¹¹⁴ Memo Eldoret Municipal Council, 5 July 1966, JA/7/11, KNA, Nairobi.

¹¹⁵ Memo D. C. MacDonald (Kenya Institute of Administration), 14 April 1966, JA/7/11, KNA Nairobi.

Council highlighted the cumulative decline in grants since independence, which had meant some councils had 'been forced to draw on balances very prudently built up over the last few years'; its memorandum suggested that it was 'quite wrong for the government on the one hand to say that local authorities must build up reserves, and on the other hand to penalise those councils that have done so.'¹¹⁶ This had particularly been the case for municipal councils, which stopped receiving any government grant in 1966. Kipsigis also objected to the way the debate around GPT had been framed. It questioned the collection benchmarks set by the ministry, instead insisting that 'actual collections achieved by local authorities are a realistic measure of taxable capacity'.¹¹⁷ When accounting for declining GPT revenues, others challenged the suitability of progressive taxation altogether. In general councils called for a reduction in taxation and an increase in government grants. The chairman of Malindi and Mamburui Urban Council summed up the spirit of local authorities' demands by suggesting 'the idea that central government take over GPT, and finance local authorities by way of grants.'¹¹⁸ At this point, the former Minister of Local Government Sir Wilfred Havelock – now a member of Malindi Urban Council – interjected, reiterating one of the fundamental premises of the system, stating that 'it was better for local government to have its own sources of revenue.'¹¹⁹

In restating the principles of the local government model, Havelock avoided looking too closely at whether the system was suitable for independent Kenya at all. He was not alone. Remarkably few of the memoranda questioned the need for local government, and the merits of the system invariably were expressed in terms that echoed colonial officials. In this way, the provincial commissioner for Western Province wrote that 'local government gives people training in democracy', and the Kenya Local Government Workers Union described local government as 'the foundation stone of a nation'.¹²⁰ A memorandum from the district commissioner for Baringo included a sub-section entitled 'Politics vs Development'. In this he wrote that: 'Although local self-government is a useful education in democracy, it can also

¹¹⁶ Memo by the local authorities in the Kipsigis County area, JA/7/11, KNA, Nairobi.

¹¹⁷ Ibid.

¹¹⁸ Malindi Hearings, 16-17 June 1966, JA/7/9, KNA, Nairobi.

¹¹⁹ Malindi Hearings, 16-17 June 1966, JA/7/9, KNA, Nairobi.

¹²⁰ Memo PC Western Province, 28 May 1966, JA/7/9, KNA, Nairobi; Memo KLGWU, 19 April 1966, JA/7/11, KNA, Nairobi.

be unnecessarily expensive, a hindrance to rapid development and, in unscrupulous hands, a seed-bed for destructive politics, as well as a roost for corruption.’¹²¹ This discursive framing of ‘politics’ as antithetical to the national project of ‘development’ was not new, but rather another example of post-independence leaders recirculating the ideas and language of their colonial predecessors. The merits of the local government system were thus firmly located in the ability of such councils to deliver ‘development’ rather than their democratic utility as platforms for local opinion. Thus the DC for Narok complained that the 1963 councillors had ‘introduced politics into the local authorities and forgot to adhere to the fundamental work of a local government.’¹²² This type of criticism was called into question by Cherry Gertzel, who considered it ‘unrealistic’ to expect that elected bodies could be ‘isolated completely from political events at both local and national level’.¹²³ Gertzel - who at this point was working at University College Nairobi developing her analysis of the Kenyatta state - went on to make a broader observation about the evolving dynamic between government, councils and citizens:

Over the past year the Ministry of Local Government has devoted a considerable amount of time and energy telling councillors and staff how to behave. They have spent far less time in creating in the public mind a positive image of local government as something more than just another forum from which to express demands upon the central government.¹²⁴

This valid critique was not explored by Hardacre in the commission’s final report, which failed to address the questions of how councillors understood their role, or what their constituents expected of them. Instead, a short section on educating councillors, recommended that a ‘Local Government Members’ Guide’ be produced, and a travelling team visit councils and run educative workshops. Despite this weakness, the report was relatively comprehensive and constructive, as the next section discusses.

Sessional Paper No. 12 of 1967

The commission’s report was privately presented to President Kenyatta in September 1966. It included a detailed dissection of what was going wrong with local government finances, and offered practical reflections on problems at the

¹²¹ Ibid.

¹²² Memo DC Narok, 20 April 1966, JA/7/11, KNA, Nairobi.

¹²³ Memo Cherry Gertzel, 31 June 1966, JA/7/9, KNA, Nairobi.

¹²⁴ Ibid.

Ministry of Local Government and in the relationship between councils and the administration.¹²⁵ The report paid tribute to the achievements of local government, and stressed the importance of forward planning, and patience. It did not underplay the fiscal crisis facing many councils, although it did distinguish between county and municipal councils, the latter following a similar trend but not on the same scale. The report drew particular attention to seven councils of gravest concern, all of which were in Central and Nyanza provinces, suggesting that demands for services and expectations of *uhuru* were greatest in places with the longest exposure to the colonial state. The reality that demand was outstripping capacity and resources was underlined by the fact that estimated expenditure in 1966 had increased by K£794,000 compared to 1965 whereas estimated income had only risen by £146,000.¹²⁶ The most worrying figure was the estimated increase in county councils' combined net deficit from K£98,000 in 1965 to K£746,000 in 1966.¹²⁷ Whilst municipalities had in 1965 an estimated surplus of K£234,000, by 1966, they had an estimated net deficit of K£234,000.¹²⁸ The explanation for the financial decline of councils offered was straightforward:

Put very simply, the demand for local government services which many local authorities are being asked to meet is beyond the existing income. In the short term, unless yields from graduated personal tax can be increased appreciably, by better collection, which is not impossible in some parts of Kenya, or by an increase in the tax scales, the only answer is increased Government grants or reduced services.¹²⁹

The report stressed that additional sources of income to local authorities would be hard to find given the fact that these would inevitably 'infringe upon existing government taxes'.¹³⁰ Furthermore, the treasury had advised the commission that 'taxation is high' and could not be increased 'without damaging effects on the economy'.¹³¹ Therefore the only recommendation the commission could make was for improvement in the existing sources of revenue, including government grants which for county councils accounted for 33 percent of revenue, and only 3.5 percent in municipalities (down from 6 percent in 1965). In regards to

¹²⁵ *Report of the Local Government Commission of Inquiry.*

¹²⁶ *Ibid.*, p. 32.

¹²⁷ *Ibid.*, p. 32.

¹²⁸ *Ibid.*, p. 35.

¹²⁹ *Report of the Local Government Commission of Inquiry*, p. 34.

¹³⁰ *Ibid.*, p. 37.

¹³¹ *Ibid.*, p. 36.

GPT the commission recommended an adjustment of the tax rates, improved enforcement procedures and changes to the way tax liability was assessed. The broad range in GPT collection between councils was also highlighted. In 1965, Marsabit County Council collected K£2,972 whereas Sirikwa collected K£206,591. Thus the need to find some form of equalisation mechanism was advocated.

Rather than lay too much emphasis on the shortcomings of councils, the report highlighted weaknesses at the Ministry of Local Government, which it considered was overstretched and lacking the capacity needed to exercise the legal controls in place. The report emphasised a widespread misconception about the perceived autonomy of councils, arguing that the existing statutory controls were satisfactory, but that these were not being exercised in a consistent or timely fashion due to shortcomings at the ministry. The commission addressed the problem of 'dual administration' by focusing its proposals on measures to strengthen the Ministry of Local Government so as to ensure that it had ultimate 'responsibility for co-ordination' in the field. The danger of duplication was underlined by figures regarding the establishment of the provincial administration, which included 3,154 staff, along with 5,000 administrative police.¹³² Treading carefully, the report commented that it was 'quite aware that this administration has an important part to play in the national development of Kenya, but we express the hope that a closer examination might be made of the current duties of these personnel.'¹³³ The report's specious assumption that 'in the long run, it seems likely that much of the district administration will come mainly within the scope of the various ministries' was dashed by the president.¹³⁴ In his autobiography, Dr Ogot remembered that President Kenyatta, on reading the report, told them that its recommendations regarding the gradual transfer of administrative officers into local government service would 'never be considered, let alone implemented'.¹³⁵

The report did not recommend the transfer of any local government functions to central government. It concluded by offering its view on the immediate priorities to be considered: '1) A decision about administration and finance of primary education 2) Income estimates for 1967 3) Staffing 4) Co-ordinating committee - 1967 estimates 5) Outstanding financial accounts 6) Graduated

¹³² Ibid., p. 57.

¹³³ Ibid., p. 57.

¹³⁴ Ibid., p. 57.

¹³⁵ Ogot, *My Footprints in the Sands of Time*, p. 166.

Personal Tax – review of procedure.¹³⁶ Finally the report stressed that all action thereafter taken in respect of local government should be ‘very carefully planned and co-ordinated, otherwise much effort could be wasted’.¹³⁷

Three months after the report was presented to the president, members of the National Assembly began to express frustration at the mystery surrounding its contents. One member asked the Assistant Minister for Local Government to ‘confirm or refute the rumour that the Minister for Local Government intends to dismiss some county councillors and replace them by commissioners’.¹³⁸ The assistant minister replied that there was no truth in this, and insisted to the House that the report was simply under review at the ministry.¹³⁹ The members had to wait an entire year before being presented with the government’s proposed action. In December 1967 Minister Sagini tabled in parliament Sessional Paper No. 12 of 1967. Sagini offered no explanation for the delay except to say that ‘it was necessary to devise means by which the services would be financed and to integrate taxation by local authorities with government’s taxation...You will all appreciate that considerable consultation and research has been necessary’.¹⁴⁰ This was not reflected in the paper itself, which was essentially an abridged version of the report, annotated with comments by the government either supporting or rejecting the recommendations.¹⁴¹ Like the Hardacre Report, the paper did not recommend any major changes to the functions of local authorities. The government rejected the proposal to introduce literacy qualifications for councillors, and considered a general review of local government areas – as recommended by Hardacre – ‘unnecessary and expensive’.¹⁴² The paper also rejected the commission’s recommendation that the mandatory functions of local authorities be expanded to include social and community development, public utility services (water and buses) and a role in devising the National Development Plan. It proposed that 50 percent of Nairobi and Mombasa’s GPT takings should be

¹³⁶ *Report of the Local Government Commission of Inquiry*, p. 62.

¹³⁷ Ibid.

¹³⁸ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Fourth Session, 2 December 1966, cols. 2305-2307.

¹³⁹ Ibid.

¹⁴⁰ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Seventh Session, 18 December 1967, cols. 3455-3476, col. 3455.

¹⁴¹ Government of Kenya, *Proposed action by the Government of Kenya on the Report of the Local Government Commission of Inquiry (Sessional Paper No. 12)*, (Nairobi, 1967).

¹⁴² Ibid., p. 2.

transferred to government to help finance grants to county councils. The paper highlighted that a new Graduated Personal Tax Act had already been passed to make the system more workable. Furthermore, it provided details on a new grant formula, intended to enable local authorities to carry out their services, including education, roads and health 'without undue financial difficulty'.¹⁴³ It was claimed that the formula recognized the 'relative expenditure needs and relative fiscal abilities of county councils'¹⁴⁴

Introducing the paper to the House, Minister Sagini offered a lengthy overview of its contents. In this he outlined the ministry's analysis as to why the administration of local government had proved so problematic since independence. Sagini claimed the unrealistic demands placed upon councils by citizens was the primary reason for councils' financial difficulties. According to him, this was driving many councils into bankruptcy. He called for 'controlled development' otherwise the government would be forced to take over councils, 'contrary to the very reason for establishing local government.'¹⁴⁵ The fault lay with the people for expecting too much, and councils for trying to yield to these demands. This analysis was not new; Kakamega County Council's fiscal crisis in 1963-65 had been approached by the government in very similar terms. The second explanation offered by Sagini however was relatively novel. Expanding on this analysis, he pointed to the competing demands placed on the country's limited tax base by central and local authorities:

revenue which local authorities require for their services must be found from basically the same person from whom government seeks its own revenue. There cannot be competition between government and local authorities in the matter of taxing the country...These days considerable amounts of overseas aid are difficult to obtain and it must be accepted that the majority of the money for development will have to come from the people of this country.'¹⁴⁶

In light of the changes to local government that followed in 1969, the emergence of this line of thought is highly significant. The central government was becoming aware that its own development performance was being indirectly affected by the very existence of local government. The realisation that revenues collected by local

¹⁴³ Ibid., p. 5.

¹⁴⁴ Ibid., p. 13.

¹⁴⁵ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Eighth Session, 18 December 1967, cols. 3455-3476, col. 3459.

¹⁴⁶ Ibid., col. 3457-8.

authorities could assist government in meeting its demands was an important turning point in the debate on local government, in this way, the major reforms of 1969 would be justified in the name of 'efficiency'. However, at this moment, in December 1967, the government did not attempt to make any fundamental changes to the local government system. The sessional paper only recommended minor adjustments to the system, and largely upheld the status quo.

Conclusion

This chapter has argued that the first five years of independence were a period of significant readjustment for councils, constituents and the government, all of whom grappled and negotiated with the meaning and purpose of local authorities in an independent Kenya. The lines of conflict that came to light in this era would remain sources of contention in the decades to come. Disputes between councillors and officers; councils and the administration; taxpayers and service providers undermined the reputation and performance of councils. Yet in spite of this, the government remained publicly committed to local government, and importantly, undertook some limited reforms aimed at strengthening the system. Despite the government's disdain for councillors and irritation at having to discipline them into the realities of *uhuru*, these facts alone did not justify – or were not used to justify – either wholesale reform of the system, or its total removal. The government proceeded cautiously towards local government, guided by an understanding – inherited at independence – that local government was an integral part of a modern nation. This cautiousness was consistent with the government's need to shore up the new regime's legitimacy, both in the eyes of its citizens, and to its international observers.

Chapter Three: ‘The county councils are dead’: Local government in the late-Kenyatta state, 1968-1978

While not in any way trying to underrate the contribution, if any, which they made to their council, the ex-councillors were an incongruous assembly of charlatan opportunists who acquiesced to any and every whimsical manipulation. When this becomes the dominant characteristic of such an institution, its political legitimacy is lost and mandate betrayed. Thus the councillors, at the time of their ouster, had virtually abdicated their responsibilities and outlived their usefulness.¹

Introduction

In late 1967 it appeared that the government was committed to securing a viable future for local authorities. Yet two years later, the government passed the Transfer of Functions Act which removed from county councils their main service responsibilities: primary education, healthcare and roads. This legislation had a devastating effect on the capacity of councils, and in turn, their public reputation. In the years that followed, councils became known as little more than bastions of corruption, nepotism and inefficiency. The value of local government was repeatedly called into question by commentators and politicians who criticised councils for not providing ‘development’ or services, yet continuing to collect taxes. By the end of Kenyatta’s presidency, public opinion of local government was terrible; the institutions of local councils – and the individuals who managed them – were widely regarded as lacking legitimacy and authority.

This chapter examines why the government reversed its position on local authorities in 1969. To do so, it looks in detail at the challenges facing the Kenyatta regime in the late 1960s and early 1970s. It is argued that rather than locating the reasons for the disempowerment of local government in the internal failures of councils, it is necessary to place the experiences of local authorities in the broader political and economic context of the late-Kenyatta state. In doing so, the chapter reveals that over this period, the central government effectively - and perhaps deliberately - pushed councils into an increasingly tense relationship with their publics. Instead of using representative institutions such as local government to respond to the ‘expectations of *uhuru*’, President Kenyatta favoured an emphasis on ‘self-help’, self-sufficiency, and reciprocity within the imagined bounds of Kenya’s

¹ Peter Sawe (letter), *Weekly Review*, 4 October 1976, p. 2.

ethnic communities. Responsibility for the provision of development subtly shifted from the state, to state elites, not all of whom had equal access to the spoils. After 1970, local authorities struggled to establish a legitimate place for themselves in this neo-patrimonial order. By the end of this period, the essential link between local taxes and local services had – to most observers – been broken. County councils were regarded as little more than ‘employment agencies’, which, in order to finance this ‘service’ had to exact ever increasing fees and charges from their constituents.

The chapter begins by charting the political events that rocked Kenya in 1968 and 1969 and connects these with the sudden and unexpected introduction in November 1969 of the Transfer of Functions Bill. The next section considers the different explanations that have been offered for why local government was disempowered in 1970. It suggests that neither the official narrative provided by the government at the time, nor the academic accounts, satisfactorily locate these events in the context of Kenyatta’s attempts to respond to the high public expectations that came after independence and were directed, in large part, towards local authorities. Instead of seeing the experience of local government in the 1970s as solely the outcome of the regime’s efforts to demobilise popular forces, the chapter suggests that local government was downgraded in favour of ‘local self-help’ because the latter was more in keeping with Kenyatta’s particular vision of ‘development’ which demanded hard-work and self-mastery. The third section explores the question posed by one MP in 1971 about county councils after the transfer of function: the MP asked, ‘what in God’s name are they doing?’² It documents the measures taken by Kilifi and Kakamega councils to remain solvent after 1970; measures that rapidly eroded the legitimacy of councillors, who came to be seen as taking from the poor to sustain their allowances, and the salaries of their nepotistic workforces. This narrative is pursued in the final section which demonstrates just how bad the reputation of local authorities had become by the end of Kenyatta’s presidency. It is argued that despite the tentative efforts of some central government technocrats to restore the system, the degradation of councillors – and their exclusion from patronage networks – ultimately suited the regime’s priorities and vision.

² Republic of Kenya, *Official Report*, House of Representatives, Second Parliament, Second Session, 28 July 1971, cols. 2744-2794, col. 2755.

'A temporary but acute attack of political indigestion': National politics, 1968-70

On 3 August 1968, President Kenyatta offered a gift to South Nyanza County Council of a bull for slaughter; 'in celebration of the KANU victory'.³ This 'victory' was the election, unopposed, of the thirty-six KANU councillor candidates in the Kenya Peoples' Union (KPU) stronghold of Nyanza. On the same day, the *Daily Nation* also reported that all 1,800 KPU local government candidates across the country had been disqualified by district commissioners, acting as returning officers.⁴ A few days later, the newspaper noted that 'the nation [was] suffering from a temporary but acute attack of political indigestion'.⁵ As the month of August unfolded, the government's handling of the local government elections forced debate over the nation's political and economic future and over the democratic process more broadly. Furthermore, the elections revealed the intensity of the struggles occurring at local level for control of district KANU branches and the patronage resources of local authorities. These pressures - which were at once ideological, constitutional, ethnic and resource-based - continued to mount throughout the year and in the year that followed. This section details the events of 1968-69 and considers how national politics influenced policy on local government.

Formed two years earlier, the KPU had been established to directly challenge the government's vision and programme for the country's socioeconomic development. Support for the party was strongest in Nyanza; of the nine KPU MPs returned to office in the 'little general election' of 1966 six were Luo.⁶ Yet despite the government's attempts to brand the KPU as an exclusively Luo project, the party leaders' populist rhetoric from 1966 onwards threatened and undermined the government's claims to moral authority. The local government elections of August 1968 presented the first opportunity for the public to express their support or disapproval of KANU's policies and performance since independence. This opportunity was cut short; Tom Mboya the skilful secretary-general of KANU claimed that the KPU, fearing nationwide electoral defeat, had - in an act of self-sabotage - deliberately spoiled their nomination papers.⁷ This supposed 'deliberate

³ 'KPU suffers country-wide banning', *Daily Nation*, 3 August 1968, p. 1.

⁴ Ibid.

⁵ 'Odinga speaks', *Daily Nation*, 8 August 1968, p. 4.

⁶ Susanne Mueller, 'Government and opposition in Kenya, 1966-9', *JOMAS*, 22:3 (1984), pp. 399-427.

⁷ 'KPU tried to subvert civic poll - Mboya', *Daily Nation*, 13 August 1968, p.1.

trick to save face' however did not tally with the reports coming in from individual branches.⁸ In Kisii, KPU candidates had been arrested the night before nomination day, and not released until after the process had ended; in parts of the Rift Valley, the nomination date was abruptly changed; in Embu, Meru and Kiambu 'KPU candidates were "physically barred" from presenting their papers'; whilst in Machakos and Kakamega returning officers refused to accept that the signature of KPU president Oginga Odinga was genuine.⁹ In the weeks that followed, the *Daily Nation* did not explicitly challenge the government's actions, but editorials and letters were published which questioned the process. Writing from Nairobi, D. K. A. W. Sultan objected to the fact that 'the public was not given an opportunity to make a choice'.¹⁰ In a similar letter, Joseph Ajowi wrote that '[i]f KANU was really democratic, it could have given the opposition party a chance to contest all the seats so as to allow the public to know which party is popular. But now we are at sea.'¹¹

In excluding the KPU, the government aimed not only to restrict political debate but also to deny the opposition access to the 'economic resources and patronage' available at local government level.¹² Cherry Gertzel has highlighted how competitive and fractious the contests were for control of KANU district branches ahead of the elections.¹³ MPs sought to exercise and increase their influence within councils which were still 'a major source of both development and patronage' by supporting particular candidates.¹⁴ This was one of the factors that led some to join the KPU. In Kilifi, a councillor on the Malindi and Mambui Urban Council had decided to run on a KPU ticket 'as a token protest against "brotherisation and bad organisation in the local KANU's branch".¹⁵ Unable to see this protest through, the councillor returned to KANU, and claimed that 'the KPU offered no satisfactory alternative to KANU's policies and development aims'.¹⁶ But even though KANU had total control over every local authority in Kenya by the end

⁸ Ibid.

⁹ Odinga Speaks, *Daily Nation*, 8 August 1968, p. 4.

¹⁰ D. K. A. W. Sultan (Nairobi), Letter - 'Some observations on the civic polls', *Daily Nation*, 10 August 1968, p. 6.

¹¹ Joseph Ajowi (letter), 'Opposition has a role to play', *Daily Nation*, 12 August 1968, p.6.

¹² Mueller, 'Government and opposition', p. 416-7.

¹³ Gertzel, *The Politics of Independent Kenya*, pp. 161-166.

¹⁴ Ibid., pp. 161-166.

¹⁵ 'Blow for KPU at coast as seven resign', *Daily Nation*, 10 August 1968, p. 3.

¹⁶ Ibid.

of August, whether the party structure could be depended upon to discipline councillors remained far from certain.

For the councillors who were elected in August 1968, the system they worked in was soon to change dramatically. Yet in October 1968, the government maintained it was staying the course on the reforms announced the previous year. The Minister for Local Government, Lawrence Sagini gave a statement to parliament updating the House on progress made in implementing Sessional Paper No. 12.¹⁷ He confirmed that a new local government bill would soon be drafted; and promised that in the next two years a review commission would be established to consider local authority boundaries and a more detailed examination of local government finances would take place.¹⁸ Yet the review commission was never appointed, and the local government bill that was eventually passed was radically different in content from that implied by the minister in October 1968.

Along with local council elections, parliamentary elections were expected to take place in 1968. These were postponed and eventually took place in December 1969. Throughout the year the government's focus was on the polls. Concern about the KPU deepened when another opposition MP entered the House in May after a relatively free and fair by-election in Siaya district.¹⁹ During the campaign the KPU candidate 'explained how KPU was formed as a result of the government's failure to honour promises it made in the 1963 KANU manifesto'.²⁰ KANU's independence manifesto had placed great emphasis on its aim of moving towards universal primary education. Yet KANU's record since 1963 on education was variable, and stories of intractable, disruptive and costly disputes between the Ministry of Education, local authorities, Kenya National Union of Teachers (KNUT) and the Teachers Service Commission came to dominate the national media in May and June of 1969. Strikes and threats of strikes, which were especially common in Nyanza Province, were uncomfortable for the government, particularly so after the president confirmed on 1 June that elections would be held that year. In June, two thousand teachers in South Nyanza went on strike, following the dismissal the

¹⁷ Republic of Kenya, *Office Report*, House of Representative, First Parliament, Tenth Session, 16 October 1968, cols 1851-1854, col. 1851.

¹⁸ Ibid.

¹⁹ John Okumu, 'The by-election in Gem: an assessment', *East Africa Journal*, 6:6 (1969), pp. 9-17.

²⁰ Ibid.

previous month of one thousand teachers.²¹ The strike only ended when the Ministry of Local Government provided the council with funds to pay the teachers.²²

The teachers' strikes were knocked off the front page, and indeed cancelled out of respect, when Tom Mboya was shot dead in Nairobi in early July. As the most high-profile Luo politician in the cabinet, Mboya's death – widely believed at the time to have been sanctioned by Kenyatta – reinforced the idea that there were two governments in Kenya: 'the official one in Nairobi...and the real one at Gatundu run by the Kikuyu inner caucus'.²³ Mboya's murder led to violent protests; in response, Gikuyu were transported to Gatundu (Kenyatta's home) to take an oath 'to guarantee that the Kenyan flag would never leave the House of Mumbi'.²⁴ In October, Kenyatta made a formal visit to Nyanza to open a new hospital at Kisumu. He publicly criticised Odinga and the crowd became increasingly hostile. In the ensuing melee, Kenyatta's bodyguards shot and killed at least one hundred people.²⁵ The next day one newspaper ran with the headline: 'I'll crush you'; whether the president's threat was intended for just the crowd, or the KPU more broadly became clear in the following days.²⁶ The government immediately detained twenty-two KPU supporters, including Oginga Odinga, and on 30 October the KPU was officially banned.

A few days later, the Local Government (Transfer of Functions) Bill was introduced into parliament. The bill emerged unexpectedly and was drafted without consultation. Simple and brief, the Assistant Minister for Local Government summarised its contents: 'the government has decided that, with effect from 1st January 1970, the three major services, education, public health and roads, together with the income from graduated personal tax, shall be transferred from the county councils to the central government.'²⁷ Although the bill was short, its significance was not lost on some members of the House. Hassan Wario, member for Isiolo South, described it as 'a small and dangerous bill', whilst in an unusual intervention, the speaker, Humphrey Slade insisted on explaining the 'abnormal' nature of the

²¹ 'No salary – so S. Nyanza teachers strike', *Daily Nation*, 6 June 1969, p. 9.

²² 'Ministry helps pay S. Nyanza teachers', *Daily Nation*, 16 June 1969, p. 4.

²³ Jeremy Murray-Brown, *Kenyatta*, (London, 1972), p. 317.

²⁴ Atieno Odhiambo, 'Hegemonic enterprises and instrumentalities of survival', p. 241.

²⁵ Throup and Hornsby, *Multi-Party Politics in Kenya*, pp. 13-15.

²⁶ Atieno Odhiambo, 'Hegemonic enterprises and instrumentalities of survival'.

²⁷ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Twelfth Session, 4 November 1969, cols. 1435-1482, col. 1436.

bill, which proposed that the 'House should delegate to some other authority...the power...actually to amend the laws which have been made by this House'.²⁸ Slade referred by this, to the section of the bill which stated that 'the President may, by regulations, make such amendment to the Exchequer and Audit Act and the Local Government Regulations, 1963, as may be necessary'.²⁹ The reasoning used to justify the bill was seemingly uncontroversial. Assistant Minister Munoko outlined how, as demand for services had grown since independence, county councils had become increasingly dependent on central government grants.³⁰ Given the considerable size of these grants, Munoko argued, the government should have greater control over how services were run and funds were spent. He insisted that it was not councils' fault that they had failed to meet public demand, and he rejected the 'general picture of corruption and inefficiency in local government as being a major cause of many councils going bankrupt.'³¹

During the two debates on the bill, members repeatedly recalled the teachers' strikes that had taken place throughout the year as evidence of councils' failures. Vociferously supporting the bill, Martin Shikuku stated that in his constituency there were:

72 classes where the students have paid their school fees which are not functioning. The fees have been taken from the parents and yet the local authority is not providing the services. As a matter of fact, they have robbed my people; they have robbed the parents in my constituency of their money and have provided no services. Are we to leave this robbery to continue with nobody doing anything about it?³²

Shikuku claimed that anyone who opposed the bill would 'only be playing politics'.³³ As later chapters reveal, Shikuku was not one to toe the party line; he became known in the 1970s as something of a troublemaker and rebel. In 1975 he was detained for three years after suggesting in parliament that KANU was 'dead'.³⁴ Therefore his support for the bill, can be seen to suggest that even critics of the

²⁸ Ibid., col. 1454, col. 1485.

²⁹ David Himbara, *Kenyan Capitalists, the State and Development* (Nairobi, 1994), p. 118.

³⁰ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Twelfth Session, 4 November 1969, cols. 1435-1482, col. 1436.

³¹ Ibid., col 1437.

³² Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Twelfth Session, 5 November 1969, cols. 1503-1519, col. 1507.

³³ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Twelfth Session, 4 November 1969, cols. 1435-1482, col. 1468.

³⁴ Robert Jackson and Carl Rosberg, *Personal Rule in Black Africa: Prince, Autocrat, Prophet, Tyrant* (Berkeley, 1982), p. 104.

state never actually quite saw the value of local government. But for the Member from Isiolo, the value of local government – and the consequences of its disempowerment were perfectly plain: ‘A person with primary education at least, in my constituency, has a chance of getting a job in the county council. But if we do away with these services and bring them all to the central government, what shall I do with that Standard IV man?’ he asked the House.³⁵ The answer for Shikuku was simple: turn councillors ‘into agents of the central government’, who would then be given funds from the centre to dispense under government supervision.³⁶ This proposal perfectly captured the way that service delivery was conceived of within a neo-patrimonial framework. Mention of the democratic value of local government was conspicuously absent throughout both debates on the bill.

When debate on the bill resumed on the second day, the Assistant Minister appeared to have run out of justifications for the bill, concluding lamely that the ‘main purpose’ of the bill was to ‘help the county councils, lighten their burden, and so that they can feel happier’.³⁷ Munoko’s somewhat lacklustre support for the bill revealed a degree of opposition to the proposals from the Ministry of Local Government itself.³⁸ Those opposed to the bill – including the Minister for Local Government – ‘were overruled by more powerful ministers’ observed Patricia Stamp.³⁹ One of the most powerful ministers at the time, Attorney General Charles Njonjo, by the second day of debate had lost patience for parliamentary procedure altogether. He said ‘on a point of order’, that the bill was ‘short’, and so should be voted on without further delay.⁴⁰ Njonjo went on to state that ‘we know what we are talking about, it is precise, and we want this legislation’.⁴¹ Speaking as a cabinet member and close adviser of the president, Njonjo’s use of ‘we’ served to remind the House that the legislation had the personal support of the president. The sense of urgency however was hard for supporters of the bill to justify. The House was due to go into recess on 5 November; the same day of the second debate on the bill

³⁵ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Twelfth Session, 4 November 1969, cols. 1435-1482, col. 1456

³⁶ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Twelfth Session, 5 November 1969, cols. 1503-1519, col. 1515

³⁷ *Ibid.*, 1509.

³⁸ Stamp, ‘Governing Thika’, p. 73.

³⁹ *Ibid.*, p. 73.

⁴⁰ Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Twelfth Session, 5 November 1969, cols. 1503-1519, col. 1508.

⁴¹ *Ibid.*

(in committee). After this, MPs would begin in earnest their re-election campaigns ahead of the December polls. Jean-Marie Seroney accused the government of trying to 'sneak it in through the back door at the eleventh hour...when the minds of many people are preoccupied with other things.'⁴² Whilst the Member from Bureti agreed, Alexander arap Biy pointed to the fact that the front and back benches were almost empty.⁴³ Njonjo's attempt to bring the bill to vote was rebuffed by the chairman of the committee, Dr De Souza. He considered the bill to contain 'far reaching changes in our political structure', and thus would not 'allow it to be pushed through in ten minutes'.⁴⁴ Yet a longer debate did not change the outcome, the government had spoken, and the bill passed that day.

Self-help versus self-government: Kenyatta's vision of local development

The passage of the Transfer of Functions Act has been analysed and explained in two ways. The official narrative – put forward by the government at the time – identified the poor performance of councils as the main justification for the bill. By this reasoning, after five years of local authorities underperforming, the government was forced to step in. In response to mounting public dissatisfaction, and believing that the central government could more efficiently and effectively administer the three main services, councils were 'temporarily' relieved of their main responsibilities. Scholars of post-colonial Kenya have tended to favour an alternative narrative. In these accounts, the government's actions towards local authorities formed part of a broader trend that saw the consolidation in the late 1960s of Kenyatta's 'bureaucratic-executive' state.⁴⁵ In this way, the popular forces contained in different representative institutions were systematically weakened in favour of an imperial presidency and centrally-controlled bureaucracy. Thus the experience of local government is seen to correspond with that of the party, trade unions, cooperatives, and to a lesser extent, the legislature, all of which had enjoyed a degree of autonomy in the years following independence.

In light of the previous chapter, this section argues that in order to bridge and nuance the official and academic narratives of the Transfer of Functions Act, it

⁴² Republic of Kenya, *Official Report*, House of Representatives, First Parliament, Twelfth Session, 4 November 1969, cols. 1435-1482, col. 1445 .

⁴³ Ibid., cols. 1439-40.

⁴⁴ Ibid., col. 1508.

⁴⁵ Bienen, *Kenya: The Politics of Participation and Control*, pp. 44-48.

is useful to consider in greater depth how Kenyatta regarded and responded to the expectations of *uhuru* confronting his government. Jomo Kenyatta appears Machiavellian in much of the academic literature; he is presented as a leader whose tight control of political power was used to ensure the economic accumulation of a narrow, ethnic elite.⁴⁶ In these accounts, 1969 is often identified as the 'turning point', when 'President Kenyatta and the circle around him became "the state".'⁴⁷ This inner circle consisted of a small group of Kikuyu politicians, most of whom, like the president, came from Kiambu. The group included Mbiu Koinange, James Gichuru, Njoroge Mungai and Charles Njonjo, and were variously referred to as 'the Gatundu Courtiers', 'the Family', the 'Kiambu cabal' and the 'inner cabinet'.⁴⁸ They ensured that control of state institutions, notably the provincial administration, the military, the police, and the civil service, rested with the Kikuyu, and that the economic opportunities provided by the state were channelled primarily into the hands of Kikuyu 'Big Men' who then used these resources to maintain their patron-client networks.⁴⁹

Protecting the interests of this elite whilst maintaining legitimacy amongst the wider population became increasingly difficult for the government in the late 1960s and 1970s. The economy began to slow, inflation started to rise, foreign direct investment declined, as did real wages. The departure of expatriates in the early 1960s had provided the regime with a stock of land and civil service jobs which went some way in assuaging the immediate popular demands that surfaced after independence. Between 1962 and 1967, 1.17 million acres in the 'White Highlands' were transferred via the Million Acre settlement scheme which aimed to deal directly with 'Kikuyu land hunger' and to promote 'an African landed middle class'.⁵⁰ As Wasserman notes, the Million Acre Scheme was deliberately used to 'stabilise the new government by weakening rural unrest'.⁵¹ Yet as the resources

⁴⁶ See for example Peter Anyang' Nyong'o, 'State and society in Kenya: The disintegration of the nationalist coalitions and the rise of presidential authoritarianism 1963-78', *African Affairs*, 88:351 (1989), pp. 229-251, p. 241.

⁴⁷ Himbara, *Kenyan Capitalists*, p. 118-9.

⁴⁸ Nyong'o, 'State and society in Kenya Tamarkin, p. 241; Richard Hodder-Williams, 'Kenya After Kenyatta', *The World Today*, 36:12 (1980), pp. 476-483; Atieno Odhiambo, 'Hegemonic enterprises', p. 240; Tamarkin, 'The roots of political stability'.

⁴⁹ Throup, 'The construction and deconstruction of the Kenyatta state'.

⁵⁰ Gary Wasserman, 'Continuity and counter-insurgency: The role of land reform in decolonizing Kenya, 1962-70', *Canadian Journal of African Studies*, 7:1 (1973), pp. 133-148, p. 135.

⁵¹ *Ibid.*, p. 135.

available to the regime started to diminish in the latter half of the 1960s, the question of how to manage or meet expectations became harder to answer. This contributed to the formation of the KPU, whose ideological and policy challenge required a response from the regime. Kenyatta reacted by ensuring that the power to control state resources ultimately rested with the executive. In this way, David Himbara highlights a number of 'extraordinary episodes' in 1969 of 'executive sabotage of fiscal management'.⁵² The Transfer of Functions Act allowed the central government to retain all major taxing powers and the associated revenue. The Act also rebalanced the relationship between local authorities and the provincial administration. From 1970, the administration's dominance in district development committees; and land, agriculture and education boards augmented the role that administrators played in patronage politics. There was a parallel loss of resources for the party and local authorities. Partly as a consequence of these processes of state centralisation, 'the growth and instability of the 1960s', Charles Hornsby observes, 'gave way to stability, slower development and the entrenchment of Kikuyu power' in the 1970s.⁵³

In analysing how Kenyatta and his inner circle triumphed over their KPU opponents, Branch and Cheeseman suggest that the 'the Kenyan elite' succeeded in presenting 'a political platform tailored to their own vested interests as a set of policies intended to benefit all'.⁵⁴ Here they dismiss the possibility that a genuine 'political theology' might have underpinned the processes of institution-building and class formation that they highlight and document. For John Lonsdale this is a mistake. He makes the case for taking seriously the notion that Kenyatta was guided by his own 'moral theory of patronage' and civic virtue.⁵⁵ Importantly, acknowledging Kenyatta's 'political theology' makes it possible to reconcile the fact that at the same time as the government was attacking local self-government, it was actively encouraging a movement of local self-help known as *harambee*.

⁵² Himbara, *Kenyan Capitalists*, p. 118.

⁵³ Hornsby, *Kenya: A History Since Independence*, p. 220.

⁵⁴ Branch and Cheeseman, 'The politics of control', p. 25.

⁵⁵ John Lonsdale, 'Jomo Kenyatta, God and the Modern World', in Jan-Georg Deutsch, Peter Probst, and Heike Schmidt (eds.), *African Modernities: Entangled Meanings in Current Debate* (Oxford, 2002), pp. 31-65.

E. S. Atieno Odhiambo argues that, with the banning of the KPU, 'Kenyatta's type of ethnicity' triumphed over Oginga Odinga's.⁵⁶ Kenyatta's conception of Gikuyu traditions and values, David Throup observes, had evolved and been articulated in the 1920s and 1930s whilst working as a writer and publisher. During this time Kenyatta 'created a Kikuyu subnationalist ideology, which legitimised the accumulation of land and capital...within the framework of a revitalised traditional mythology'.⁵⁷ This ideology, Atieno Odhiambo writes, meant that as president, Kenyatta 'was obligated to the Agikuyu in specific ways, but to Kenya in general ways. He chose to be self-regarding and inclusive towards all Gikuyu, the limit of his moral ethnicity, and to be other-regarding towards the rest of the Kenyan society, his subjects.'⁵⁸ John Lonsdale takes this argument even further by suggesting that implicit to Kenyatta's political theology was a belief that 'one could, and should, do rather little for fellow Africans outside one's own moral community'.⁵⁹ Kenyatta's emphasis on intra-ethnic obligation found expression in his independence motto *harambee*. Kenyans were told to 'pull together' and mobilise local resources to initiate development projects. Kenyatta was far more enthusiastic about this kind of local self-help than he was about local self-government. Indeed the vitality of the *harambee* movement, particularly in the 1970s, stood in stark contrast to the generally lethargic condition that most county councils found themselves in. To Henry Bienen, this was a logical preference for the regime; 'local participation through concrete self-help projects' did not contain the same inherent challenge as 'participation in competitive politics' did.⁶⁰ It also focused the responsibility for development services onto patrons and clients within separate moral communities rather than the state.

Harambees generally followed a similar formula: a desired project such as a school, health centre, or agricultural service, would be identified by people in a community. A fundraising committee would form, combining local politicians and members of the administration. The local population and businesses would be expected to contribute small donations. National politicians would preside over

⁵⁶ E. S. Atieno Odhiambo, 'Democracy and the ideology of order in Kenya', in Michael Schatzberg (ed.), *The Political Economy of Kenya* (New York, 1987), pp. 177-201, p. 178.

⁵⁷ Throup, 'The construction and deconstruction', p. 37.

⁵⁸ Atieno Odhiambo, 'Hegemonic enterprises', p. 242.

⁵⁹ Lonsdale, 'Jomo Kenyatta, God and the Modern World'.

⁶⁰ Bienen, *Kenya: The Politics of Participation and Control*, p. 57.

large fundraising *baraza*, and publicly announce their donations to the project. Most often, *harambees* funded the capital costs of a project; recurrent costs would then be transferred to local or central government. To an extent the *harambee* movement was anti-local government, as it tended to focus the imaginary developmental contract between subject and citizen in theatrical displays of a relationship with particular individuals, usually involved in national politics and often co-ethnics, rather than in the more mundane and bureaucratic world of local government. *Harambee* was neo-patrimonialism performed; whereas county councils, conventionally, required a more detached, procedural and impartial approach to political representation and service delivery.

The Transfer of Functions Act made it much harder for county councils to participate in local patron-client networks as the next section explores. By removing GPT funds and service responsibilities from local authorities, councils were only partially able to fulfil the role of patron. Angelique Haugerud distinguishes between two aspects that made up this role:

To keep his ... pyramid of followers intact, a patron distributes personal favours (assisting in obtaining employment, commercial loans, school admission, trade or import licences, land, and so on). In addition, successful politicians must bring (or appear to bring) to their constituencies improvements such as roads, schools, health centres, and mains water.⁶¹

From 1970 county councils were only really able to distribute personal favours, but even this incurred costs that had to be financed. No longer providing visible local improvements, local authorities' rent-seeking practices were increasingly regarded as illegitimate in the eyes of communities and national politicians.

'What in God's name are they doing?': Kilifi and Kakamega councils post-1970

In the wake of the Transfer of Functions Act, Goran Hyden considered what was next for local government in Kenya, asking: 'Will the local authorities remain as they are – with no important and attractive functions? Will they be totally abolished? Or will there be a major reconstruction of the whole local government system in Kenya?'⁶² This section seeks to answer these questions for the period from 1970 to 1978, by looking at how the actions of Kilifi and Kakamega county

⁶¹ Haugerud, *The Culture of Politics*, p. 46.

⁶² Goran Hyden, 'Local government reform in Kenya', *East Africa Journal*, 7:4 (1970), pp. 19–24, p.19.

councils altered after 1970. The primary rationale for the transfer of functions had been to address the growing deficits in councils' budgets. However, this trend was not immediately reversed in 1970. Instead councils had to cope with the loss of their main revenue sources, GPT and a reduction in the level of government grants they received. Despite this, they still had to maintain staff salaries and run the few mandatory services left to them, including nursery schools, cattle dips and market centres. This meant that in order to subsist, even at the most basic level, councils were forced to explore new ways to collect revenue. Kilifi County Council approached this task creatively. The finance and general purposes committee decided in 1972 that it was 'high time' the rates of all licences were raised, and thus instituted a uniform increase of 50 percent.⁶³ They furthermore decided that trade application forms could be 'another source of revenue' so resolved to sell them at five cents each, and traders were charged fifty cents per day for operating in the council's open market.⁶⁴ On top of this, fees were applied to a myriad of other occupations that had previously operated outside of the state's control, including dog dealers and radio repairmen. For some the charges were modest, but for a significant number the new charges amounted to a major financial burden: poultry keepers were to pay fees of KSH 500 per year as were hawkers in clothes and building contractors.⁶⁵

The council's weak financial position was reflected in the vitality of the committees. Meetings that had lasted several days in the 1960s tended to be finished by lunchtime from 1970 onwards. Only the Trades and Markets Committee continued to have a lengthy list of agenda items at each meeting, which was indicative of the council's post-1970 financial strategy. Required to seek out new revenue sources, the council tried to reposition itself as the primary gatekeeper to the local economy. Through attempts to control what activities were permitted where, and by whom, the council sought to ensure that it retained a stock of patronage goods, and that these goods brought an economic return to the council. Thus, council business came to be dominated by discussions over access to trading centres and markets; the allocation of plots; and the development of ranching opportunities. In contrast to the Trades and Markets Committee, the Social Services

⁶³ Finance and general purposes committee minutes, KCC, 13 January 1972, Kilifi County Council Archive.

⁶⁴ Ibid.

⁶⁵ Ibid.

Committee, after 1970 found it had very little business to attend to. Indeed the chairman of the committee repeatedly pleaded with members in 1972 to send it items for the agenda.⁶⁶ In terms of 'development' services, the council's actions were negligible. In spite of the new revenue sources identified in 1972, the council was still unable to provide the finance for bursary awards budgeted for the year, and could only just meet its expenditure on staff salaries and councillors' allowances which ran at KSH 109,908 per month.⁶⁷ The bursary allocation for the whole year had been KSH 99,000.⁶⁸

At the last meeting of 1972, Kilifi's councillors were informed that President Kenyatta had received the funds gifted by the councillors a few months earlier.⁶⁹ Earlier in the year, councillors had been informed that at a recent meeting of ALGAK, delegates had decided that all councillors across the country should donate one thousand shillings out of their allowances to present to the president 'as thanks for his generous actions to postpone the local government general elections to the year 1974'.⁷⁰ The circumstances that led to the extension of councillors' terms by two years were something of a mystery, even to members of parliament. Trying to deduce why the 'the ignorant, useless, councillors' were allowed to remain in office and collect their allowances for a further two years, Martin Shikuku vaguely recalled that a 'delegation' had called on the president early in 1971, and that Kenyatta had decided – in disregard of the law - to postpone the election.⁷¹ These two practices, of sending delegations to the president, and of offering tributes, became part of the *modus operandi* for local authorities in the late-Kenyatta state. Only through appealing directly to the president could councils negotiate an improvement in their dispensation.

When the elections were finally held in 1974, Kilifi councillor Paul Kambi Ngala assured fellow members that 'there would be no doubt of their being returned to the offices if their performances could be appreciated by the public'.⁷²

⁶⁶ Social services and housing committee minutes, KCC, 7 September 1972, CA/8/72, KNA, Nairobi.

⁶⁷ Finance and general purposes committee minutes, KCC, 15 August 1972, CA/8/72, KNA, Nairobi.

⁶⁸ Ibid.

⁶⁹ Full council minutes, KCC, 21 December 1972, CA/8/72, KNA, Nairobi.

⁷⁰ Full council minutes, KCC, 20 April 1972, CA/8/72, KNA, Nairobi.

⁷¹ Republic of Kenya, *Official Report*, House of Representatives, Second Parliament, Second Session, 28 July 1971, cols. 2744-2794, col. 2759.

⁷² Full council minutes, KCC, 22 May 1974, CA/8/72, KNA, Nairobi.

Yet the results indicated that the public was far from appreciative of the councillors. Of the thirty-three sitting councillors, only seven were re-elected in 1974 to serve on a smaller council, reduced to twenty members.⁷³ A letter to the *Weekly Review* written two years later, was clear on why ‘during elections many councillors are merely dropped’.⁷⁴ Sojon arap Kirui wrote that council services were ‘almost at a standstill’, ‘operating perpetual overdrafts’, to the point that most county councils had become ‘mere “employment agencies”’.⁷⁵ ‘This situation’ arap Kirui wrote, ‘had tended to tarnish the image of councillors’.⁷⁶

Figure 8: Income/expenditure by department, Kakamega County Council, 1974.

| Department | Income KSH | Percentage of total | Expenditure KSH | Percentage of total |
|------------------|--------------------------|------------------------|--------------------------|------------------------|
| Administration | 103,945 | 5.3 | 1,023,138 | 51.9 |
| Works | -/- | -/- | 41,432 | 2.1 |
| Councillors | -/- | -/- | 105,110 | 5.5 |
| Community | 41,329 | 2 | 260,170 | 13.2 |
| Veterinary | 74 | -/- | 49,962 | 2.5 |
| Markets | 985,235 | 50 | 264,662 | 13.4 |
| Water Supply | 11,521 | 0.9 | 15,718 | 1 |
| Cess | 49,296 | 2.5 | 2,039 | 0.2 |
| Licences | 674,333 | 34.2 | 26,024 | 1.3 |
| Miscellaneous | 104,018 | 5.1 | 5,990 | 3.4 |
| Conservancy | 852 | -/- | -/- | -/- |
| Probable surplus | -/- | -/- | 176,361 | 8.9 |
| Total | KSH 1,970,605 | 100% | KSH 1,970,605 | 100% |

In Kenyan Shillings. Source: HW/16/67, KNA, Kakamega.

The argument that the only significant service that local government provided was as an ‘employment agency’ appeared to hold some truth in Kakamega. Over 50 percent of the council’s expenditure in 1974 was spent on salaries for the 101 employees and allowances for the thirty-eight councillors.⁷⁷ Expenditure on councillors’ allowances alone accounted for more than the combined expenditure on public works and veterinary services.⁷⁸ The only capital programmes the council

⁷³ KCC minutes 1974, Kilifi County Government Archive.

⁷⁴ Sojon arap Kirui (letter), ‘The mess in our councils’, *Weekly Review*, 13 September 1976, p. 2.

⁷⁵ Ibid.

⁷⁶ Ibid

⁷⁷ Annual Report KMGCC 1974, HW/16/67, KNA, Kakamega.

⁷⁸ Ibid.

initiated were financed by a loan from the Local Government Loans Authority and the National Housing Corporation. As in Kilifi, Kakamega County Council had pursued a similar fiscal strategy since 1970; in 1974 80 percent of its revenue derived from markets and licences.⁷⁹ Yet the council's attempts to exert greater control over markets and traders did not go unchallenged. In December 1975, the council had to revoke its decision to issue licences to hawkers selling new clothes after shopkeepers based in the councils' markets protested. This seemingly trivial dispute escalated into a protracted struggle between hawkers, shopkeepers, the council, the local MP and the provincial administration.⁸⁰

Shadrack Okova, MP for Lurambi South took up the matter of hawkers passionately.⁸¹ He asked 'where on earth' the council had obtained 'authority to ruin the businesses of our traders who have put a lot of effort in building and running shops in various markets'.⁸² He accused the councillors of sitting in 'ivory towers', unaware that the new hawkers were undercutting shopkeepers in the markets. If the council insisted on issuing licences to hawkers, he proposed somewhat ludicrously that the licence fee be fixed at KSH 6,000 per year. Early in 1976 the council had to call a special meeting to discuss the issue further.⁸³ A delegation of hawkers had lobbied the district commissioner who in turn had asked the council to 'possibly pardon' the new clothes dealers.⁸⁴ However, the council's clerk had also met with the Kenya National Chambers of Commerce who supported the ban on hawkers in new clothes operating in the market.⁸⁵ Over the following months rumours and mutual suspicion reigned. Finally the government decided to study the matter fully, and in September the district commissioner announced the decision. He was 'applauded when he informed the council that all restrictions imposed on hawkers licences had been lifted'.⁸⁶ In 1977 thirty new items of fees and charges were introduced including the KSH 1,200/per annum fee for hawking

⁷⁹ Ibid.

⁸⁰ Full council minutes, KMGCC, 19 December 1975 to 31 March 1978, HW/13/11, KNA, Kakamega.

⁸¹ Full council minutes, KMGCC, 19 December 1975, HW/13/11, KNA, Kakamega.

⁸² Ibid.

⁸³ Special meeting minutes, KMGCC, 12 February 1976, HW/13/11, KNA, Kakamega.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Full council minutes, KMGCC, 24 September 1976, HW/13/11, KNA, Kakamega.

in new clothes.⁸⁷ Similar disputes were taking place across the country at the time, as different elected representatives tried to cast themselves as the legitimate spokesmen for different levels of entrepreneurship. What is significant about the outcome in Kakamega, is that it was the decision of the district commissioner that ultimately stuck; even without any legal standing, the provincial administration – as agent of the president – could overrule all other political actors and bureaucratic personnel.

‘An incongruous assembly of charlatan opportunists’: Popular perceptions of councils and councillors

The measures taken by Kilifi and Kakamega councils after 1970 to remain solvent were replicated in local authorities across Kenya at this time. Such actions however did little to improve the already poor reputation of local government. Press coverage of civic affairs in the 1970s depicted a general picture of councils in complete disarray. The assumption evident in newspaper reports throughout the 1970s was that councillors were, at best, inept, and at worst highly corrupt. Stories highlighted councils in financial ruin;⁸⁸ councils where workers were perennially unpaid and/or on strike;⁸⁹ councils that had raised rates and fees indiscriminately;⁹⁰ and councils accused of corruption or other forms of scandal and political intrigue.⁹¹ Somehow it was permissible for these kinds of criticisms to be levelled at local government, whereas similar accusations – which were equally valid – could not be made in respect of central government. Perhaps this was because the press took their cue from national politicians; parliamentarians often used the National Assembly to lambast councils and councillors.

The substance of MPs criticisms generally emphasised three issues. First, the question of whether any useful functions remained with county councils after 1970 was repeatedly raised. In this way, Waruru Kanja asked the Minister for Local

⁸⁷ Republic of Kenya, *Kenya Gazette*, 13 May 1977, Vol. LXXIX – No. 20 (Nairobi, 1977), p. 507.

⁸⁸ ‘Council in danger of total collapse’ *Daily Nation*, 8 July 1973, p. 3; ‘Council faces collapse’ *Daily Nation*, 11 June 1974, p. 5.

⁸⁹ ‘Council workers to strike’, *Daily Nation*, 6 February 1976, p. 4; ‘Walk-out threat to Council’, *Daily Nation*, 14 April 1971, p. 21.

⁹⁰ ‘Threat of rates boycott over new increases’, *Daily Nation*, 12 February 1976, p. 5; ‘Council proposes rate increases’, *Daily Nation*, 23 August 1979, p. 10.

⁹¹ ‘Council scandal ‘could involve a million’’, *Daily Nation*, 29 September 1975, p. 4; ‘The Machakos row’, *Daily Nation*, 24 October 1976, p. 6; ‘Councils told to rid their names of corruption’, *Daily Nation*, 6 July 1971, p. 24.

Government 'with all due respect' if he could tell the House 'what the county councils do?'⁹² Similarly the member for Kisumu Rural admitted in 1973 that 'when we took over the functions from them [county councils], apparently nobody ever thought as to what they would be doing afterwards'.⁹³ Others were less circumspect; MP Owala-Orwa stated baldly in 1971 that 'the county councils are dead'.⁹⁴ The second issue, connected to the first, concerned the perceived injustice of councils' fiscal and regulatory policies. One MP captured the national mood when he asked in 1973 'for how long is the county council going to continue collecting taxes from the *wananchi* without providing any service to them?'⁹⁵ Martin Shikuku offered a more vivid illustration of this tension between taxes and services. He told a story of an 'old woman' who went to market every day 'with her little basket':

She has to pay the entrance fee and this is very painful to the old woman. Sometimes she goes to the market and sits there and she does not buy or sell anything; she goes out of the market, having paid her 20 cents or 40 cents and then she goes home. Then the following market day, she comes back again and pays 20 cents or 40 cents so as to be allowed to get into the market, and once more she does not sell anything. Now, she goes on paying this fee without getting anything. Now, this is all right as far as the local council is concerned, but what do the people in that local council area get? Nothing, Mr. Speaker, because the money has been consumed by a few individuals.⁹⁶

Shikuku's final insinuation that profits were being 'consumed' by individuals spoke to the third complaint commonly raised in parliament, that councillors were motivated by self-interest, and were lacking in intellect and moral character. Thus Wilson Ndolo Ayah suggested in 1972 that 'we have men and women in the county councils who have no interest in what they are doing'.⁹⁷ For Ayah, councillors were only interested in becoming a 'millionaire'.⁹⁸ The Member for Kitui East on the other hand, blamed illiteracy and lack of education for the poor performance of councillors. He asked the House: 'How do you expect ignorant people to make laws

⁹² Republic of Kenya, *Official Report*, House of Representatives, Second Parliament, Third Session, 15 November 1972, cols. 1530-1556, col. 1551.

⁹³ Republic of Kenya, *Official Report*, House of Representatives, Second Parliament, Fourth Session, 3 April 1973, cols. 140-186, col. 147.

⁹⁴ Republic of Kenya, *Official Report*, House of Representatives, Second Parliament, Second Session, 26 March 1971, cols. 1328-1351, col. 1346.

⁹⁵ Republic of Kenya, *Official Report*, House of Representatives, Second Parliament, Fourth Session, 30 March 1973, col. 87.

⁹⁶ Republic of Kenya, *Official Report*, House of Representatives, Second Parliament, Third Session, 16 November 1972, cols. 1578-1616, col. 1581.

⁹⁷ *Ibid.*, col. 1532.

⁹⁸ *Ibid.*, col. 1532.

for our councils?...we do not want to see councillors who know nothing else but rearing of cattle and who can neither read nor write anything.’⁹⁹

This tendency to ignore structural issues and isolate the problems of local government in the failures of individuals did not go completely unchallenged. Indeed, one KANU backbencher boldly asked in 1972: ‘How can we tell councillors that it is wrong for them to continue doing what they are doing now, that pinching here and there when the same thing is happening in this hon. House?’¹⁰⁰ The press was careful not to draw such direct comparisons between the actions of councillors and national politicians, and yet newspapers did highlight the central government’s failure to develop sustainable plans for local government. Such criticisms increased after the abolition in 1973 of GPT, which had continued to serve as the main revenue source for municipal councils after 1970. Direct taxation was ultimately abandoned in favour of indirect taxation; the Ministry of Finance instituted a sales tax on most basic commodities and consumer products. The *Weekly Review* in 1976 highlighted the impact that this decision had had on councils:

The result has been an unsuccessful improvisation by the central government in an effort to cope with the deficits which some of the more complex local government authorities have incurred in their budgeting since the abolition of GPT. It is, indeed, precisely because the central government has no ready solution to the financial problems of the local government authorities that it has tended to approve such desperate revenue raising measures as the Nairobi city council embarked upon recently.¹⁰¹

The fact that the central government had ‘no ready solution to the financial problems’ of local authorities led the Ministry of Local Government in 1975 to formally request consultancy assistance from the International Monetary Fund (IMF). The IMF was asked ‘to examine and review the whole field of financial relationships between central government and local government, and recommend the changes necessary to strengthen the financial base of these local government authorities so that they might administer the functions presently accorded to them by the central government more effectively.’¹⁰² The draft interim report of the IMF group began by stating that ‘government policy on the intended role of local

⁹⁹ Ibid., col. 1544.

¹⁰⁰ Republic of Kenya, *Official Report*, House of Representatives, Second Parliament, Third Session, 15 November 1972, cols. 1530-1556, col. 1548.

¹⁰¹ Hilary Ng’weno, ‘The mess in Kenya’s councils’, *Weekly Review*, 30 August 1976, p. 3.

¹⁰² Ngei to Witteven, 7 March 1975, JA/13/1, KNA, Nairobi.

authorities remains to be clearly spelled out.¹⁰³ It went on to note that 'central government decisions...would appear to have contributed to the deterioration in the financial position of local bodies'.¹⁰⁴ The final report was presented to the government at some point in 1976. To the great frustration of ALGAK, its contents were never made public.¹⁰⁵ Five years later in April 1981 during a debate in parliament, it was claimed that the IMF's recommendations were 'still being studied by the government'.¹⁰⁶

The fact that technocrats at the Ministry of Local Government were at least going through the motions of trying to restore the viability of local government was symptomatic of an enduring tension in post-colonial Kenya between persistent bureaucratic norms and pervasive neo-patrimonial practices. As Branch and Cheeseman note, the legitimacy of the Kenyatta regime rested on its particular mix of 'rational-legal' and 'charismatic' authority.¹⁰⁷ This might partly explain why the government's official stance towards local government was upheld so doggedly throughout the 1970s in disregard of the system's apparent failure. The shell of local government that endured throughout the 1970s allowed the government to retain certain democratic credentials, important to both domestic and international audiences. Thus at a meeting of ALGAK in October 1977, the Minister for Local Government, R. S. Matano, restated the familiar platitudes about the democratic foundation provided by local government. He told the association that there was 'no doubt that the government is committed to the continued existence of a strong healthy local government system in this country, as this is the basis of our democracy in which the power of the vote rather than the sword is enshrined.'¹⁰⁸ Yet the fact that Matano held this post was indicative of how Kenyatta's inner cabinet truly regarded the institution. Matano – who a decade earlier had served on the Hardacre Commission – was also at this time the acting secretary general of KANU. Although theoretically powerful, Matano was likely chosen for this role on the basis that he did not have the skills or popularity to organise the party and

¹⁰³ 'Draft interim: IMF study of local government finances', October 1975, JA/13/1, KNA, Nairobi.

¹⁰⁴ Ibid.

¹⁰⁵ ALGAK AGM minutes 1976-1980, JA/1/3, KNA, Nairobi.

¹⁰⁶ Republic of Kenya, *Official Report*, House of Representatives, Fourth Parliament, Third Session, 23 April 1981, cols. 1328-1587, col. 1345.

¹⁰⁷ Branch and Cheeseman, 'The politics of control', p. 24.

¹⁰⁸ Speech Minister for Local Government, 28 October 1977, JA/1/3, KNA, Nairobi.

build a power base. These low expectations of Matano were confirmed in 1976 after a largely unsuccessful national KANU recruitment drive; public apathy - Matano dubiously claimed - was 'the result of contentment'.¹⁰⁹

Conclusion

In July 1978 the *Daily Nation* printed a letter of complaint it had received from R. J. Majaliwa concerning the performance of Kilifi County Council:

Since the take-over by the government of some services the council has failed to find alternative ways of getting revenue apart from overtaxing poor Wananchi on licences...What surprises the taxpayers is the fact that the meagre revenue that is collected is spent on staff salaries and nothing else.¹¹⁰

A moral critique of the council's apparently unjust fiscal policies, this kind of analysis had become pervasive by the end of the 1970s. After the transfer of functions, government ministers did not refute this narrative. That central government policies might have contributed to the financial difficulties councils faced was less commonly suggested; councillors and officers were themselves held to blame. Branded as ignorant and corrupt, the legitimacy of councillors inevitably eroded, as councils, lacking resources and bound by bureaucracy, found themselves unable to replicate the more informal approach to the provision of development services favoured by Kenyatta which were dependent upon access to the president's clientelist networks.

The limited resources that councils controlled were not sufficient for anything beyond the provision of employment. In responding to the needs and demands of their constituents, councillors only had their allowances to call on. Thus negotiating with the Ministry of Local Government or sending delegations to the president to ask for improved conditions and a better dispensation became a major activity for councils and ALGAK after 1970.¹¹¹ However, this only further contributed to the crisis of legitimacy councillors were facing as they were seen to be more concerned with their personal enrichment than with local development. Even a professional journal wrote in 1974 that 'councillors as individuals do not place due emphasis on the public responsibility entrusted to them, but on

¹⁰⁹ 'KANU public apathy', *Weekly Review*, 5 April 1976.

¹¹⁰ R. J. Majaliwa (letter), 'This is a waste', *Daily Nation*, 6 July 1978, p. 7.

¹¹¹ Address by Minister for Local Government to ALGAK, 15 October 1976, JA/1/3, KNA, Nairobi.

imaginary benefits that will accrue to themselves as persons after becoming councillors.¹¹² This narrative took no account of the clientelist pressures placed on councillors 'from below'. Yet as the next chapter will show, councillors were constantly having to try to respond to the needs of their constituents and ensure their own modest advancement. After 1970, it became effectively impossible for councillors to balance these two demands. The government retained the shell of local government but allowed the institutions to fail financially. Daniel arap Moi's presidency did not lead to the revitalisation of local government as an institution, but it did see the individuals occupying local office brought into the president's patron-client network in a way that contrasted with the approach and neglect of his predecessors.

¹¹² E. K. Mbogori and H. J. Nyamu, 'The role of local government in public administration', *The Journal of the Kenya Institute of Administration*, (1974), pp. 9-16, p. 9.

Chapter Four: Co-opting councillors: Local government in the “nyayo” state, 1979-1990

Introduction

The previous chapter examined the impact that the Transfer of Functions Act had on the capacity and vitality of county councils. It placed this within the broader context of late 1960s and 1970s, when state power was systematically centralised in the hands of the president and his close advisors. This chapter looks at the experiences of county councils under president Moi’s one party state. It shifts the focus from official policy to the lived experiences of councillors. Given the poor public reputation of councillors by the end of Kenyatta’s presidency, it might have been expected that local government would slip even further into political oblivion. This chapter demonstrates that this was not the case; councillors were recognised and acknowledged by other figures of authority in a way that they had not been previously. And even whilst councils as institutions continued to lose funds and autonomy, councillors were able to develop new strategies for extracting resources and opportunities. These made it possible for some councillors to regain local legitimacy, as they could once again contribute to *harambee* and help kith and kin in various ways. In accounting for this shift in the status of councillors, the chapter compares the different ways that Kenyatta and Moi chose to engage with district level politics. Whilst Kenyatta sought to rule through regional bosses and provincial commissioners, Moi developed multiple channels and institutions that allowed him to exercise greater surveillance and control at the local level. Resulting from a policy ostensibly intended to decentralise district planning, local government re-entered the regime’s frame of vision. Councillors continued to present themselves as ‘leaders of the grassroots’, and so were considered useful allies to more powerful patrons. In this way, councillors became members of district networks of clientage, and were recognised and rewarded by the president when he toured the country.

The chapter begins by considering the reasons why people continued to stand for election as councillors in this period. Given the state of decay the local government had reached by the end of Kenyatta’s presidency, it is not self-evident why candidates continued to seek positions in local councils. By examining the motivations and expectations of councillors, the section reveals that despite both the limitations of office and the considerable demands made upon councillors for

patronage, there remained a sense that local government still provided avenues for pursuing opportunities for individuals, and the communities they represented. The second section explores the existing literature on governance in Moi's one-party state. In particular it focuses on changes to the structures, relationships and resources existing at the local district level. This provides the necessary context to examine the case studies of Kilifi and Kakamega. The third section does so by focusing on the different relationships that the two councils had with national politicians, and the impact this had on the vitality of local government in the respective regions. It is argued that Kakamega's councillors benefitted from the tenure of their regional 'big man' Moses Mudavadi in the Ministry of Local Government, and his place in Moi's inner circle. By contrast, Kilifi's councillors did not enjoy the same level of recognition from their MPs, which resulted in fewer resources trickling down from the centre. The chapter argues that a distinction emerged between the provincial administration's stance towards local government and that of members of parliament; this provides further insights into the institutions that Moi strengthened and those that he weakened during his tenure. The sense of insecurity amongst MPs during the 'nyayo' regime put a strain on the relationship between different elected leaders at constituency level. This context is important for understanding how and why local politics changed after 1992 with the reintroduction of multi-partyism, which is examined in Chapter Six.

Life as a councillor: Expectations and realities

In 1983 Walter Oyugi wrote that 'local government in rural Kenya has had little impact on the people. Many do not know who their councillors are, since they are never affected by the activities of their councillors.'¹ This section offers a critique of this statement, by introducing councillors from Kilifi and Kakamega who served during the late 1970s and 1980s, whose oral histories will be drawn upon throughout the chapter. All of these individuals offer a window into how the changes effected by the Moi regime were felt in local councils. It is worth stressing that councillors were themselves products of the local government system, shaped by and reflecting the experiences and discourses encountered at county council halls. All these men became involved in the bundle of processes and behaviours which constituted 'the state'; their recollections of themselves and the government

¹ Oyugi, 'Local government in Kenya', p. 135.

are thus mediated by the fact that they generally self-identified as political 'insiders'. Contrary to the impression offered by MPs during debates in parliament in the 1970s, the experience of these individuals shows that councillors could be motivated to stand for a complex mix of reasons. Councillors tended to cite pressure from their community and elders; and would invoke the idea that they were 'development conscious' and a 'man of the people'. Yet as this section also shows, many saw local government as providing opportunities to fulfil personal responsibilities, and as a stepping stone to higher office, and more lucrative posts.

Narrating why they decided to stand for election, many councillors stressed that the idea was not their own, rather they were encouraged to stand by those who were impressed by the initiative and generosity they had shown towards their community when outside of politics. In this way, public manifestations of generosity were commonly interwoven with the pursuit of local status. Edward Indai who was first elected to Kakamega County Council in 1983 recalled the contribution he made whilst living and working in Kisumu to his home area on the weekends:

I would participate in activities, weekend activities of our people here. We were doing *harambee* you know. And *harambee* was the activity of the day. So I used to donate to schools, to women groups, to some, where people are... in hospital, if a lady has given birth and she doesn't have how she can be kept, she had a bill I could pay, some sort of things. So people came to know then they said no we need you.

The previous councillor in 1983, had stayed in the council for some time... He had money, he had property and the reason why, I am given to understand, he was boasting that there is nobody who can go in the council. "I am the man, I will die there". So when I came, I started donating small things for schools, what...desks, chairs, and so on.. then people said no maybe this man can help us in this area. So they had to elect me...²

Indai had spent much of his adult life outside of Kakamega. Born in 1936, he had left the district after school, working first in Nairobi then in Kampala, then again in Nairobi and finally in Kisumu. A surprising number of Indai's fellow councillors had also been absent from the local political scene in the 1960s and 1970s. Returning to Kakamega after relatively successful careers, they could contribute to 'development' projects, whilst bearing no responsibility for the perceived 'lack of development'. This was implied by Lawrence Itolondo, Kakamega councillor from 1983 to 1992. He said he was 'provoked to run' after he got into a

² Edward Indai, interview, 31 August 2013, Webuye (Kakamega).

dispute with a local leader.³ On the campaign trail he found 'there were very few activities going on', and so toured the district and spoke of 'development'.⁴ He thought that he won the election 'because I had participated in various activities of education, health activities, communication activities. I was very helpful to the community.'⁵ A similar sentiment underlay Peter Kombo's explanation of why he was elected to the council in 1988. A famous local musician who had toured the country in the 1960s and 1970s, Kombo claimed that 'people convinced me to stand and that is why I tried and I tried and I went through...You know I was a man of the people. Because of music.'⁶

The argument that councillors were 'convinced to stand' was commonplace. In Kilifi, councillors often stressed that it was the 'kaya elders' who had encouraged them to run for office, again because they were impressed by their development activities.⁷ Kenga Chai recalled his election in 1988 in this way:

There is a kaya called kaya Kauma and it is the kaya elders who sat and looked around the community and settled on me as their choice; that is when I got a message. I went there and told them I did not have money for campaigns and they said they didn't want any money and were impressed by my initiatives of starting a nursery school that grew to a primary school now called Mikuluni.... Yes I started the nursery school and I used to pay the teacher and I almost got arrested for starting a school without facilities like toilets. So all that development interested the kaya elders and that is why they endorsed me.⁸

The general argument that councillors were called to serve their communities after having distinguished themselves locally through their good works, was usually supplemented by a narrower, more individualistic explanation for why people ran for local office. Peter Kombo said on joining Kakamega County Council in 1988 his aim was to try to educate his sons: 'I have got four of them; that was my benefit.'⁹ His co-councillor Lawrence Itolondo had the same aim in mind. As a widower with

³ Lawrence Itolondo, interview, 26 August 2013, Sigalagala (Kakamega).

⁴ Ibid.

⁵ Lawrence Itolondo, interview, 26 August 2013, Sigalagala (Kakamega).

⁶ Peter Kombo, interview, 25 August 2013, Ilesi (Kakamega).

⁷ 'Kaya elders' protect sacred forest clearings at the coast, that are important within Mijikenda ritual, traditional and political authority. For a discussion of their role in politics see Justin Willis, 'The King of the Mijikenda, and other stories about the kaya: heritage, politics and histories in multi-party Kenya', in Derek Peterson and Giacomo Macola (eds.), *Recasting the Past: History Writing and Political Work in Modern Africa* (Athens, 2009), pp. 233-250.

⁸ Kenga Chai, interview, 19 January 2013, Kilifi town (Kilifi).

⁹ Peter Kombo, interview, 25 August 2013, Ilesi (Kakamega).

eight children, he was disheartened to find on joining the council that they were 'getting peanuts'.¹⁰ Nonetheless, he said 'that was my aim' – paying his children's school fees – 'I wanted to ensure they all lived well. It's a struggle to get fees now, back then it wasn't as expensive as it is now. Unless you are organised you won't educate your children.¹¹ Being a councillor was one way of getting 'organised'; so too was becoming part of the local KANU committee. Both Morris Mangi and Benson Tsoka – two Kilifi councillors who served during the 1980s – had positions in KANU. Tsoka appeared especially 'organised'; his strategy for personal advancement centred on entering the world of 'politics' which involved apprenticing himself to veteran politician Marko Hare, who had been a councillor intermittently since the 1950s.

After my O-Levels I joined politics and I was working with the former councillors like Marko Hare, who by that time was having three locations that is Vitengeni, Sokoke and Mwahera. That's why 1987 Sokoke ward [created through subdivision] was vacant therefore I contested and joined politics that year...You know I was at home, I was doing farming ... by that time I was having some cattle because if you want to succeed you have to do something that is useful here, so you have to follow the councillor of that time so that when your time comes and by that time I was the chairman of KANU of my location.¹²

Tsoka frames the path to councillorship both in terms of being a good client to local patrons and in terms of being a good leader. A 'leader' in this instance, was not simply a generous patron, but someone who took pride leading by example, and upholding 'model' behaviour. As Tsoka explained: 'You know formally if you are a leader - a chief or a councillor - you have to put more effort in keeping of livestock, therefore myself I was a farmer. You have to cultivate and keep cattle...'¹³ This association between being a good leader and a 'progressive' farmer had its roots in post-war development discourse.¹⁴ That these ideas continued to resonate with prospective 'leaders' and their supporters in the 1980s reveals that despite the informal, or neo-patrimonial character of the state under Moi, 'normative' notions of political leaders continued to exist alongside clientelist expectations. Councillors

¹⁰ Lawrence Itolondo, interview, 26 August 2013, Sigalagala (Kakamega).

¹¹ Ibid.

¹² Benson Tsoka, interview, 31 January 2013, Sokoke (Kilifi).

¹³ Ibid.

¹⁴ Frederick Cooper, 'Modernizing bureaucrats, backward Africans, and the development concept', in Frederick Cooper and Randall Packard (eds.), *International Development and the Social Sciences: Essays on the History and Politics of Knowledge*, (Berkeley, 1997), pp. 64-92.

claimed these clientelist expectations came as a shock on entering local government service. And yet by presenting themselves as good patrons on the campaign trail, most councillors were in fact aware of the expectation of patronage, even if they were unprepared for the volume and frequency of the demands made upon them. Edward Indai found that ‘every morning they will come for you’, ‘they’ being his supporters, neighbours, and constituents.¹⁵ At the end of Kenyatta’s presidency, councillors were receiving a monthly allowance of between four and five hundred shillings.¹⁶ This was increased in 1981 when Stanley Oloitiptip, newly appointed as Minister for Local Government, raised the monthly allowance of councillors to KSH 1,200 shillings and KSH 1,400 for committee chairman.¹⁷ Despite this increase in councillors’ official remuneration, the councillors elected in 1983 still found the personal demands on them very difficult to manage, as Lawrence Itolondo explained:

People come and come and come [to get financial assistance]. School fees, what do you do? But you see, if you are a leader you should be able to...where you are able, you should let them understand that you are not refusing, you don’t have it at that time. So if you think you are getting your allowance next week, tell them to come. But if you are very hostile, they start talking about that, you are very hostile.¹⁸

Itolondo’s strategy of being transparent about his situation, and helping where possible, was not shared by musician Peter Kombo: ‘When he comes [someone looking for help]; I run away. Because I had no money. Because they [constituents/clients] are very expensive. It needs you have enough money. If you don’t have enough money, you can’t manage.’¹⁹ As the last chapter demonstrated, councillors’ ability to manage the needs of their supporters declined significantly after the Transfer of Functions Act. This chapter argues that this shifted slightly during the first half of Daniel arap Moi’s presidency, when councillors were incorporated more fully into the executive’s patron-client networks. The next section explains further the changes brought about by Moi on succeeding to State House after Kenyatta’s death in December 1978.

¹⁵ Edward Indai, interview, 31 August 2013, Webuye (Kakamega).

¹⁶ ‘Civic leaders set to get pay rises’, *Daily Nation*, 7 October 1981, p. 5.

¹⁷ Ibid.

¹⁸ Lawrence Itolondo, interview, 26 August 2013, Sigalagala (Kakamega).

¹⁹ Peter Kombo, interview, 25 August 2013, Ilesi (Kakamega).

'The DC...was everything': Restructuring the state under Moi

Moi came to power in the knowledge that a section of powerful Kikuyu politicians and businessmen were opposed to his rule.²⁰ A campaign in 1976 to change the constitution, thereby preventing Moi, the vice-president, from assuming the presidency, had been quashed by Kenyatta, Charles Njonjo and Mwai Kibaki (discussed further in Chapter Five).²¹ Yet with Kenyatta's death on 22 August 1978, it seemed likely that these forces would marshal again against the acting president before an election was called. Beyond the immediate factional struggles over state power, the new president was faced with a challenging economic climate. Kenyatta had enjoyed high growth rates in the 1960s and a cash crop boom in the 1970s. He had relied on the 'Africanisation' of land and jobs to build coalitions and co-opt regional leaders.²² By the time Moi took power, these resources had been depleted. Moreover, population growth, land shortage, youth unemployment and urbanisation had all added further pressure on the government. Throughout the first half of the 1980s import and export trade remained significantly below the level that had been attained during much of the 1970s.²³ To maintain his position, the new president both had to neutralise his challengers, and find new resources, coalitions and strategies through which to build his regime and consolidate power. The first of these tasks was seemingly achieved without too much difficulty. In October 1978 Moi was elected unopposed as president of KANU and thus president of Kenya. In the intervening two months, all those rumoured to be considering challenging Moi had pledged their loyalty to him.²⁴ In the following years, Moi slowly rebalanced the ethnic composition of key posts in the cabinet, the provincial administration and the army. Even though the number of Kalenjin in key positions increased steadily, Moi carefully retained enough members of the old guard, and ensured that new allies – in particular Luhya politicians – were rewarded with places in government.²⁵

²⁰ Hodder-Williams, 'Kenya after Kenyatta'.

²¹ David Throup, 'Elections and political legitimacy in Kenya', *Africa*, 63:3 (1993), pp. 371–396.

²² Throup, 'The construction and deconstruction of the Kenyatta state'.

²³ Geoffrey Gertz, 'Kenya's trade liberalization of the 1980s and 1990s: Policies, impacts, and implications', background paper Carnegie Endowment (2008).

²⁴ Vincent Khapoya, 'The politics of succession in Africa: Kenya after Kenyatta', *Africa Today*, 26:3 (1979), pp. 7–20.

²⁵ Karuti Kanyinga, 'Ethnicity, patronage and class in a local arena: 'High' and 'low' politics in Kiambu, Kenya, 1982-92', in Peter Gibbon (ed.), *The New Local Level Politics in East Africa: Studies on Uganda, Tanzania and Kenya* (Uppsala, 1994), pp. 66-86.

By the end of the 1980s, Charles Hornsby argues, Kenya had become a 'near feudal society' wherein Moi – kinglike – 'ruled an apathetic population through force'.²⁶ This characterisation of Moi's rule, as more autocratic, coercive and indeed corrupt is common within the literature. Some, including Stephen Brown and James Kariuki go as far as to categorise Moi as a 'dictator'.²⁷ In contrast, Angelique Haugerud offers a far more nuanced reading of local state-society interactions under Moi which emphasises the *performance* of state power and the *performance* of citizen compliance.²⁸ An even more sympathetic analysis is offered by some scholars who highlight the populist rhetoric and reforms of Moi's first term.²⁹ In explaining why this populism was not maintained, D. P. Ahluwalia has argued that the president 'became a victim of the unrealistic popular expectations' brought on by regime change and 'fuelled by Moi's populist policies'.³⁰ The existence of two such different characterisations of Moi, on the one hand, the 'populist' and on the other, a 'dictator' is mainly explained in the literature in terms of different periods of his rule. Thus scholars highlight certain 'turning points' which led to a further tightening of state control, most notably the coup attempt of 1982, and the judicial inquiry into Charles Njonjo in 1983-84.³¹ In addition, the worsening economic climate of the 1980s is often highlighted as an important factor that affected Moi's style of governance and the level of centralised control exercised by the end of the decade.³²

Taking into consideration the different perspectives and vantage points of observers also helps explain the sometimes quite contradictory accounts of Moi and his presidency. From the centre - and to external commentators - the stability of the Kenyatta state was replaced by a more corrupt, chaotic and competitive regime which neither delivered a consistent, national development policy, nor protected the limited democratic freedoms that existed within the one-party state. Yet when a

²⁶ Hornsby, *Kenya: A History Since Independence*, p. 398.

²⁷ Stephen Brown, 'Authoritarian leaders and multiparty elections in Africa: How foreign donors help to keep Kenya's Daniel Arap Moi in power', *Third World Quarterly*, 22:5 (2001), pp. 725-739; James Kariuki, 'Paramoia': Anatomy of a dictatorship in Kenya', *Journal of Contemporary African Studies*, 14:1 (1996), pp. 69-86.

²⁸ Haugerud, *The Culture of Politics*.

²⁹ Ogot, 'The politics of populism'; D. P. Ahluwalia, 'Democratic transition in African politics: The case of Kenya', *Australian Journal of Political Science*, 28:3 (1993), pp. 499-514.

³⁰ Ahluwalia, 'Democratic transition in African politics: The case of Kenya'.

³¹ Khapoya, 'Moi and beyond'.

³² Throup and Hornsby, *Multi-Party Politics in Kenya*, pp. 47-50.

'decentralised' view is taken, it is clear that there were 'winners' – as well as "losers" in the 'nyayo' state, and that rewarding loyalty was a consistent strategy in Moi's pursuit of legitimacy and security. This was manifest in the way that the pattern and operation of clientelist networks changed. Not only did Moi move to redirect patronage flows from State House away from Murang'a to the Kalenjin areas, he also attempted to weaken the power of existing regional bosses in order to create 'his own personal following in the countryside'.³³ This was evident in the changing nature of *harambees*, which increasingly came to be used for large-scale projects driven by the president himself. Moi's personal share of overall *harambee* contributions stood at just under one percent for much of the 1980s and 1990s, which was noticeably more than Kenyatta had distributed before him.³⁴ Yet much like Kenyatta, Moi also treated *harambee* as a kind of substitute for local government. Speaking at the Kenya Institute of Administration in 1985, the president described the theory of *harambee* in quite similar terms to the colonial model of local government: 'Harambee initiatives are the grassroots voice of the people, indicating what they want and what they are prepared to do to achieve it. The harambee spirit is one that we must take seriously as the cornerstone for local resources mobilisation.'³⁵

Analysing the changing nature of patron-client relationships in the 1980s, Charles Hornsby has argued that fewer state resources and greater demographic pressure 'shattered the stable' clientelist networks of Kenyatta's era.³⁶ Increased competition for scarce resources made it harder for district bosses to 'deliver the patronage needed to secure their positions'.³⁷ This analysis overlooks the ways in which Moi interacted differently with his clients, and the influence this had on his public reputation. Only by taking seriously Bethwel Ogot's statement – sycophantic though it may have been - that central to Moi's regime was a 'concern for the common man', is it possible to reconcile the critical literature on the Moi state with the often warm recollections of councillors and other political clients.³⁸

³³ Barkan and Chege, 'Decentralising the state', p. 437.

³⁴ Lynch, *I Say to You*, pp. 120-122.

³⁵ Daniel arap Moi, 'The role of *harambee* in district development,' speech at the Kenya Institute of Administration seminar, 1985, quoted in Barbara Thomas (1987).

³⁶ Charles Hornsby and David Throup, 'Elections and political change in Kenya', *The Journal of Commonwealth & Comparative Politics*, 30:2 (1992), pp. 172-199, p. 176.

³⁷ *Ibid.*, p. 176.

³⁸ Ogot, 'The politics of populism', p. 194.

Kenyatta had delegated considerable authority to provincial commissioners, and allowed members of parliament to build up their own personal following. The policies introduced by Moi were intended to weaken these alternative centres of power, and ensure that access to state resources always depended on presidential approval. One way in which this was manifest was through the attempted revival of the party; KANU came to be used as 'an instrument for political and social control under the guidance of the Office of the President.'³⁹ Jennifer Widner argues that KANU domination of public life was so pervasive that Kenya had effectively become a 'party-state' by the mid-1980s. As a critique to Widner, Gabrielle Lynch suggests that Moi 'added the party to a growing arsenal of instruments' which were used to ensure executive control of district and location level politics.⁴⁰ As well as through reinvigorating the party, this was also achieved through greater emphasis on the district administration.

Late in 1982, Moi announced a new policy known as 'District Focus for Rural Development':

We will henceforth be looking upon each district as the basic operational unit...each district team will become the major force and instrument for the design of rural development. This will create for the people and their chosen representative a whole new world of opportunity.⁴¹

The policy had been proposed by a Working Party on Government Expenditure which recommended in 1982 that the decentralisation of government services could serve as 'part of a strategy to save money'.⁴² Indeed on the basis of the policy, the national development plan for 1984 to 1988 committed to decreasing the level of government grants to local authorities from K£9.9 million in 1983/4 to K£8.56 million by the end of the plan.⁴³ Examining the evolution of this new policy, David Leonard notes that similar recommendations had been made by officials in the 1970s, but in 1982 'they fell on different ears'.⁴⁴ He suggests that because of Moi's involvement in KADU - the *majimbo* party at independence - he was more inclined to favour a policy of decentralisation. Yet he also accepts that District Focus did not

³⁹ Widner, *The Rise of a Party-State*, p. 198.

⁴⁰ Lynch, *I Say to You*, p. 117-8.

⁴¹ Daniel arap Moi, quoted in Barkan & Chege, 'Decentralising the state', p. 431.

⁴² David Leonard, *African Successes: Four Public Managers of Kenyan Rural Development* (Berkeley, 1991), pp. 203-209, p. 204.

⁴³ Republic of Kenya, *National Development Plan, 1984-1988* (Nairobi, 1984), p. 174.

⁴⁴ Leonard, *African Successes*, p. 204.

in fact devolve 'authority to elected local governments'.⁴⁵ Thus despite the rhetoric of grassroots participation, it was primarily an exercise in deconcentration, which strengthened the hand of local administrators rather than local politicians.

District Focus emerged in response to two political imperatives. First, as Barkan and Chege argue, it was a means to reduce the power of provincial commissioners and members of parliament.⁴⁶ Second, it offered a way to redistribute state resources, ostensibly in a more regionally equitable and responsive manner. In effect, it allowed for the creation of multiple new patronage channels. District Focus was rolled out in 1983 and involved the rejuvenation of District Development Committees (DDCs) originally established under the Special Rural Development Programme of 1967-74. The revived DDCs were given a key role in district development budgeting in 1984, and from this point onwards, all development projects which required state funding had to be approved and accounted for by the DDC. Locational and divisional committees were also set up, and by 1986 any project under review in the DDC had to have been considered and approved first by these lower tier committees.⁴⁷ Writing in 1987, Barbara Thomas noted that members of DDCs 'compete, often quite fiercely, for the limited funds allocated to the committee by the Provincial Development Committee'.⁴⁸ These members included local MPs, who were no longer able to lobby cabinet ministers in Nairobi, and instead were forced to spend more time in their districts, submitting themselves to the authority of the administration. The hierarchy within the district was summed up by councillor Benson Tsoka from Kilifi in this way:

The DC's office was an Office of the President... a councillor could not hold a *baraza* without the consent of the DC. And the DC was having much authority and was everything in the district... All the MPs were under the DC because the DC was the boss. He could cancel a *baraza* or a meeting of the MP or a minister because of security. So they were more powerful [than MPs].⁴⁹

The outcome of District Focus, Barkan and Chege argue, was that it 'reduced the access of MPs both to the centre and to the grassroots.'⁵⁰ It also meant that MPs'

⁴⁵ Ibid., p. 204.

⁴⁶ Barkan and Chege, 'Decentralising the state'.

⁴⁷ Ibid., p. 446.

⁴⁸ Barbara Thomas, 'Development through harambee: Who wins and who loses? Rural self-help projects in Kenya', *World Development*, 15:4 (1987), pp. 463-481, p. 475.

⁴⁹ Benson Tsoka, interview, 31 January 2013, Sokoke (Kilifi).

⁵⁰ Barkan and Chege, 'Decentralising the state', p. 447.

access to development resources to fund *harambees* was largely dependent on their relationship and standing with the president. This will be demonstrated later in the chapter when comparing Kilifi and Kakamega.

The policy of District Focus also had implications for local authorities. According to the policy's official 'blue book', councils were expected to have a 'special relationship' with DDCs.⁵¹ The clerks and chairmen of local authorities were members of DDCs, and clerks also sat on the executive committee. In order to secure funding from the Ministry of Local Government, councils had to have their proposed projects vetted first by the DDC.⁵² In 1984, out of 105 projects approved by Kakamega DDC, thirty-three of them were initiatives of the county council.⁵³ A further control was introduced in 1987 which stipulated that '[t]he methods which a local authority intends to use for raising revenue from within the district should have the concurrence of the DDC since such methods may have a significant effect on the development process in the district.'⁵⁴ Malcolm Wallis has suggested that the policy 'emphasis on central bureaucracy...further marginalised the position of local government within the development planning system'.⁵⁵ A similar argument was made by Walter Oyugi who wrote in 1993 that 'there is no evidence so far to indicate that the local authorities have benefitted as a result of the new relationships'.⁵⁶ Arguably however, the very inclusion of officers and members of local authorities in DDCs served to confer on councillors and officials a measure of significance and authority that had been all but destroyed over the course of the 1970s. It was not that Moi deliberately and consciously sought to rebuild local government but rather that in focusing on the district, councils inevitably re-entered the government's frame of vision, and consequently its operations.

'*Harambee*' – 'let's pull together' – had been Kenyatta's rallying cry since independence. Moi made his national motto '*nyayo*', meaning footsteps. This was intended to reassure Kenyans, Western allies, and international corporations that Moi would be following the capitalist path set out by his predecessor. For local

⁵¹ Republic of Kenya, *District Focus for Rural Development* (Nairobi, 1987), p. 3.

⁵² Malcolm Wallis, 'District planning and local government in Kenya', *Public Administration and Development*, 10:4 (1990), pp. 437–452.

⁵³ Ibid.

⁵⁴ *District Focus for Rural Development*, p. 3.

⁵⁵ Ibid., p. 443.

⁵⁶ Walter Oyugi, 'Local government in Kenya: A case of institutional decline', in Philip Mawhood (ed.), *Local Government in the Third World: The Experience of Tropical Africa* (2nd ed., Pretoria, 1993), pp. 109–143, p. 127.

authorities, 'nyayo' meant the continuation of many of the patterns of informal engagement between councils and president that had become the *modus operandi* of cash-strapped local authorities in the 1970s. The practices of sending delegations to State House; offering tributes to the president; pledging loyalty to KANU and Moi; and relying on *harambees* to fund local development continued to be routine in the 1980s. Delegations were sent to Moi or senior ministers to try to negotiate a better settlement for a council. These efforts were usually rewarded with some kind of concession or patronage, and ultimately reinforced for councillors the idea that all opportunities rested on the goodwill of Moi.

With fewer financial resources to draw on, Moi had to find alternative ways of responding to the demands of this deconcentrated clientelist system. Subdividing local authorities was one strategy commonly used. By dividing a local government area – or indeed a district – new elected, official and staff positions were created, and a community was seemingly given new resources to control. Adept at making something out of nothing, Moi also sanctioned the informal and illegal allocation of market plots and trust land held by local authorities to councillors and other clients. This kind of corruption, whilst not new, quite possibly reached a new scale in the 1980s, and was certainly conducted in plainer sight. For councils, what this ultimately amounted to was an even greater blurring of lines between public and private interests, state- and non-state-led development. Thus although the bureaucratic façade of local government was upheld, informally, councillors – like MPs – were forced to participate in wider clientelist networks, and cooperate much more closely with members of the administration and the local KANU hierarchy.

District Focus had the effect of reenergising local political actors and civil servants by making a locus within the district where important plans and decisions could be made in a seemingly participatory and consensual fashion. Yet whether decisions were genuinely decentralised is an area of debate, and the influence of councillors and council officials in DDCs was decidedly limited. Kakamega councillor Edward Indai recalled:

We had District Development Committee where we were. It was just a body of itself, but we could get somebody to attend. The chairman is the DC. But you see the, you can, maybe you have moved a motion in the council, it has been accepted by the council for the funding, then it goes through the DDC. When it reaches there, maybe they will accept it then go to central government for funding. But you see you will find sometimes the money

coming to fund the project you have initiated it has been diverted by orders...⁵⁷

By this point, central government grants to county councils were almost negligible. District Focus thus was useful to councils in that it created an additional avenue through which local authorities could attempt to access funding for projects. Within DDCs, the supremacy of the district commissioner was irrefutable, and even in councils, it was quietly accepted that the DC was in charge. Peter Kombo of Kakamega said, 'the district commissioner was our boss. He was a member of appointed councillors.... Actually he can finish you. He can finish you. You have a Local Government Act, then if you mess up, you can be expelled away from the council.'⁵⁸ The sense that the DC had the power to unilaterally dismiss a councillor either by invoking a technicality in the Local Government Act, or by calling on superiors within KANU, the administration or the Ministry of Local Government seemed to be widespread. As Nyikuli Mukaramoja said, 'even when you are a councillor, you can't talk against your DC. You must give respect to DC.'⁵⁹ Those who did not respect the DC, Mukaramoja claimed, would be reported 'up', then 'when you are working, you will just get a notice that says "we regret ... that your duties are now no longer required".'⁶⁰ In this way most learnt the lesson that: 'As a councillor, if you want to succeed, live well with the local administrators; seek advice and also accommodate their views because you should all speak in one voice.'⁶¹ In a similar vein, Lawrence Itolondo admitted his successful career in the council was largely due to the fact that he was 'very careful about' his relationship with the DC - 'we worked very closely, I had to follow the rules which are imposed'.⁶² He found that 'if you are very powerful and they like you, you have a lot of leeway over what you can ask for from the government. They may not refuse.'⁶³ Itolondo was aware on joining Kakamega County Council that he should 'never try to clash with them' [the administration] and so instead, tried to 'accommodate them'.⁶⁴ This sense that some councillors and district commissioners had a close rather than combative relationship in the 1980s is consistent with Malcolm Wallis'

⁵⁷ Edward Indai, interview, 31 August 2013, Webuye (Kakamega).

⁵⁸ Peter Kombo, interview, 25 August 2013, Ilesi (Kakamega).

⁵⁹ Nyikuli Mukaramoja, interview, 29 August 2013, Malava.

⁶⁰ Ibid.

⁶¹ Kenga Chai, interview, 19 January 2013, Kilifi Town (Kilifi)

⁶² Lawrence Itolondo, interview, 26 August 2013, Sigalagala (Kakamega).

⁶³ Ibid.

⁶⁴ Ibid.

assertion that district commissioners considered councillors useful. He observes that DCs saw 'the maintenance of local government as being of importance for their political 'law and order' role', because it enabled them 'to keep in touch with the views and activities of local leaders'.⁶⁵

The notion that councillors could still claim to be or indeed were recognised as local leaders in this period is significant. It goes against Oyugi's suggestion that most people did not know who their councillors were.⁶⁶ His argument was made in light of the very limited services provided by county councils. But councillors established and sought to maintain their reputations not necessarily through the councils themselves but through the unofficial duties and obligations that came with being a councillor; through supporting neighbours with school fees, and funeral costs, and other forms of assistance such as helping people get identity cards, and interacting with chiefs and district officers on behalf of constituents. As was noted earlier, such 'obligations' were for some councillors a considerable financial burden. Foremost in public expectations of councillors was that they would organise and donate to local *harambees*. This sense that in order to fulfil their responsibilities councillors had to blur the lines between 'local government' and 'self-help' was expressed by Lawrence Itolondo:

You would start with the council, involve the council, then come to your community and organise a harambee. You organise one, people come and donate, council donates some shillings, then you've started. During my period on the council...how many secondary schools were started in my period? One, two, almost eight! And they were started on a *harambee* basis...So I served, we started delivering what we had promised people! We did a lot of *harambee*, *harambee* were very common, especially for education. Even health services. Road construction was not simple because it was not easy to get graders and so on but you would organise people to carry out, to do something by hand.⁶⁷

The idea that 'you would start with the council' when trying to build momentum for a *harambee* was demonstrated at a meeting of Kilifi County Council in June 1989.⁶⁸ Councillor Harry Wamubeyi asked his fellow members to support two fundraising projects active in his location. The first was for a church; an activity which did not fall under the remit of state-led development, and the second was to construct a

⁶⁵ Wallis, 'District planning', pp. 447-8.

⁶⁶ Oyugi, 'Local government in Kenya', p. 135.

⁶⁷ Lawrence Itolondo, interview, 26 August 2013, Sigalagala (Kakamega).

⁶⁸ Full council minutes, KCC, 26 June 1989, Kilifi County Government Archive.

primary school, technically a function of the Ministry of Education since 1970.⁶⁹ The members agreed to donate one hundred shillings each, and instructed the treasurer to withdraw the funds from their allowances and divide the donation between the two projects. When introducing the proposal, Wamubeyi noted that one of the *harambees* 'would be presided by Hon. N. K. Ngala...and the other meeting presided by Hon. M. B. Keah'.⁷⁰ As two local MPs, it was expected that Ngala and Keah would play a prominent role in the public event. The success of any *harambee* was usually dependent on the relationship between local organisers and 'important leaders or patrons both within and outside the community'.⁷¹ This is explored in the next section by examining the relationship that councillors in Kilifi and Kakamega had with national politicians in the 1980s, and the influence this had on the scale and scope of the activities that councillors were able to engage in.

'Big men' and 'little men': Kilifi and Kakamega compared

As the previous chapters have highlighted, throughout the period under discussion, Kilifi and Kakamega county councils had different resource bases. This was the outcome of environmental, demographic and historical factors. But it was also the result of the different relationship that each council had to the centre. This section demonstrates this in reference to Kilifi MP Noah Katana Ngala's tenure as Assistant Minister for Local Government (1979-82), and Moses Mudavadi of Kakamega's period as Minister for Local Government (1983-89). Both were allies of Moi but only Mudavadi succeeded in any meaningful way to use his cabinet position and friendship with the president to 'assist' his home councils.

Figure 9: Number of councillors returned to office, Kilifi County Council, 1979-1992.

| | 1979 | 1983 | 1988 | 1992 |
|---------------------------------------|------|------|------|------|
| No. of councillors | 19 | 19 | 29 | 32 |
| No. served on previous council | 4 | 7 | 9 | 5 |

Source: Compiled from Kilifi County Council minutes, Kilifi County Government Archive.

Figure 9 reveals the high-turnover of councillors on Kilifi County Council at each of the elections held between 1979 and 1992. In 1979 only four members of the council were returned to office. Less than a year into the fifteen new councillors'

⁶⁹ Ibid.

⁷⁰ Full council minutes, KCC, 26 June 1989, Kilifi County Government Archive.

⁷¹ Barbara Thomas, 'Development through harambee', p. 475.

first term, a corruption scandal was exposed. It first emerged when councillor Emmanuel Kombe prepared a confidential report for the finance sub-committee. On 27 November 1980, a special full council meeting was held for the members to discuss the actions of the council's clerk, S. J. Mulewa.⁷² After hours of debate, the councillors presented the officers with a fifteen point list of Mulewa's wrongdoings which included abuses related to the council's land, funds, assets, and staff, as well as the all-encompassing crime of 'making the Kilifi County Council his own property'.⁷³ The members resolved to dismiss the clerk and reclaim misappropriated land and funds. To do this, they concluded that a delegation would have to be sent to Nairobi to discuss the matter with the minister.⁷⁴ On 18 December 1980 a delegation consisting of three councillors and two officials called on the Minister for Local Government Stanley Oloitiptip and Assistant Minister Katana Ngala in Nairobi to lobby on five issues. Along with the clerk, the delegation also sought to have its annual grant increased; an outstanding loan converted into a grant; an agreement that councillors as well as chairmen would be entitled to car loans; and ministry approval for higher fees and charges for 1981.⁷⁵ Two weeks later, the delegation reported back to the council.⁷⁶ The minister had approved Mulewa's dismissal, but on every other issue had been more circumspect.

Although the delegation had not secured any concrete concessions from the minister in person, the assembled councillors praised their efforts, and expectations were high that good news would be forthcoming.⁷⁷ The fact that Kilifi's MP Katana Ngala had been present may have given the members hope that he would personally intervene and lobby on his council's behalf. Elected in 1974 to represent Kilifi North, Katana Ngala was the eldest son of Ronald Ngala, the latter described by Hornsby as 'the only national-level Mijikenda leader' in the 1960s and early 1970s.⁷⁸ Ngala junior never established for himself either the kind of local following or national stature that his father had had, and as George Gona writes, 'during his term as MP of the area he came under increasing scrutiny from an

⁷² Special full council minutes, KCC, 27 November 1980, Kilifi County Government Archive.

⁷³ Ibid.

⁷⁴ Full council minutes, KCC, 8 December, 1980, Kilifi County Government Archive.

⁷⁵ Special meeting minutes, KCC, 30 December 1980, Kilifi County Government Archive.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Hornsby, *Kenya: a History Since Independence*, p. 273.

emerging elite in the area for his lacklustre performance.⁷⁹ The council was also dismayed by his lack of interest in local affairs. In the first full council meeting of 1981, the minutes noted that '[t]he chairman was disappointed by the Members of Parliaments' failure to turn up though he had officially invited them.'⁸⁰ Two months later and the chairman once again 'informed the members that he had officially invited the Members of Parliament for Kilifi district so that they together could discuss the ways and means of improving the district but unfortunately all had not turned up.'⁸¹ The next MP to attend a council meeting was Francis Tuva the representative for Malindi South who was the Assistant Minister for Urban Development and Housing at the time. During his visit in October 1981 he told the members 'that MPs were always prepared to attend council meetings whenever they were invited in writing of the issues needing their attention and advice' [*sic*].⁸² Yet this statement did not tally with the council's experience. Katana Ngala never visited the council during his tenure in the Ministry of Local Government, and to the councillors, there was no evidence that their MP was acting with their interests in mind. Indeed the fact that a new constituency was created for Ngala in the election of 1988 (Bahari) signalled his very weak position within the local politics of Kilifi.⁸³

Without active patrons taking an interest in the council - injecting it with resources and recognising it within the local area - Kilifi County Council continued to stagnate. The fierce contests that took place in other local authorities between councillors and staff, and between members over committee positions did not regularly feature in Kilifi in the 1980s. The peaceable nature of the council was explained by Loyce Thoya, a nursery school supervisor who had worked for the council for twenty-nine years. Thoya commented that 'fighting would come when you have things that you want to divide, but if you come and you have nothing to divide, then you just talk and go.'⁸⁴ A similar sentiment was expressed by Councillor Tsoka, who on joining in the council in 1988 found that 'by that time, they [councillors and council staff] were just co-operating. You know most councillors were not educated, and if you are not educated, then you can do nothing other than

⁷⁹ George Gona, 'Changing political faces on Kenya's coast, 1992-2007', *JEAS* 2:2 (2008), pp. 242-253, p. 247.

⁸⁰ Full council minutes, KCC, 29 January 1981, Kilifi County Government Archive.

⁸¹ Full council minutes, KCC, 24 March 1981, Kilifi County Government Archive.

⁸² Full council minutes, KCC, 29 October 1981, Kilifi County Government Archive.

⁸³ Gona, 'Changing political faces'.

⁸⁴ Loyce Thoya, interview, 24 January 2013, Watamu (Kilifi).

expectation because of the illiteracy.⁸⁵ By this Tsoka meant that he and most of his fellow councillors struggled to negotiate opportunities for themselves and their constituents because they did not have the education or literacy skills necessary to navigate local government bureaucracy. A similar sentiment was expressed by Kenga Chai when asked about how decisions on staff appointments were made: 'Truly speaking during that time, we did not know what was happening but I know posts were advertised and the DO [district officer] was also involved.'⁸⁶

Tsoka - who had apprenticed himself to an elder councillor since leaving school - found the realities of life as a councillor disappointing. He only chose to serve one term, and in 1992 applied instead to be the area chief. The incumbent, Charles Parsi, had reached retirement age; the two swapped positions with Tsoka becoming the location chief, and Parsi the local councillor. To Tsoka, the provincial administration offered the kind of job security that elected office had lacked:

You know, if you are leaders you have to focus, because politics is not reliable in life. But if you are a chief, you are also a leader, but the chief is more powerful than the councillor because that is a government sector. It is the coordination. And if you are a chief, your job is secured because, right now, you are a councillor, in the next five years the community can refuse to give you their votes. What shall you do? So I thought as a youth I can be employed as a government man so that I can serve my family, government and community at large.⁸⁷

Here Tsoka expresses the difficulties he encountered trying to pursue personal accumulation and community leadership within the confines of the county council. Although he had tried during his five years in office to use his 'common sense' to acquire plots and get jobs for his supporters, he ultimately concluded that, 'at the end of the day, you give more than you get'.⁸⁸ The internal limitations of the local government system were compounded by the failure of the district's leaders to lobby on the council's behalf at the centre, and to ensure that state patronage reached Kilifi's grassroots. For these reasons, by the early 1990s, Kilifi County Council remained largely peripheral to the district's political and development agenda. Yet in Kakamega this was not the case.

On succeeding to the presidency, Moi attempted to construct 'a new Kalenjin-centric state, based upon a precarious alliance between ...[his] Kalenjin

⁸⁵ Benson Tsoka, interview, 31 January 2013, Sokoke (Kilifi).

⁸⁶ Kenga Chai, interview, 19 January 2013, Kilifi Town (Kilifi).

⁸⁷ Benson Tsoka, interview, 31 January 2013, Sokoke (Kilifi).

⁸⁸ Ibid.

and Moses Mudavadi's Abaluhya'.⁸⁹ The two had first become acquainted in the 1950s whilst they both worked in the North Rift; Moi as a head teacher and Mudavadi as a district education officer. The connection formed at that time became something of a Kenyan political legend, and was often called upon to explain 'Mudavadi's preeminent position in the inner sanctum of President Daniel arap Moi's State House and power structure'.⁹⁰ Moi appointed Mudavadi as Minister for Local Government in 1983, which had not been 'such an illustrious ministry until Mudavadi took over'.⁹¹ That a key ally and close confidant was given this ministerial post arguably provides further evidence of Moi's greater interest in local government compared to his predecessor.

In order to understand the politics of Kakamega County Council in the 1980s, the influence of Mudavadi has to be accounted for; as Peter Kombo said in reference to Mudavadi's death in 1989, 'that is why we lost everything'.⁹² Looking back, former council chairman Lawrence Itolondo regretted that he and his fellow councillors had not fully appreciated Mudavadi and what he did for the community:

We didn't understand him. If we'd have understood him, we'd have gone further. He believed in his base home, even though he was a minister for the government. But he had a lot of opposition from people like Shikuku, Nabwera, Angatia and so on... So when he came to Kakamega, he made sure that some councils were created, to bring closer development to the people, like Malava, Mumias, even Vihiga... So even us at the council, I remember when you went to the council they had no lorry, nothing. But eventually through the Minister of Local Government we bought two lorries, we bought two graders for roads in the district. He was very handy at that time, but we didn't realise. We only realised at the time he died in 1989.⁹³

The idea that 'closer development' could be achieved through creating new councils is worth noting. The theory and language of 'closer administration' in Kenya had its origins in - and was widely associated with - the 'Mau Mau' Emergency. Yet despite this connection, grassroots campaigns for 'closer administration' had galvanised communities across Kenya since independence who considered that a new district,

⁸⁹ Hornsby and Throup, 'Elections and political change in Kenya', p. 175.

⁹⁰ 'Moi and Mudavadi: A history of old family ties', *The Standard*, 10 February 2013, accessed online at: <http://www.standardmedia.co.ke/article/2000077014/moi-and-mudavadi-a-history-of-old-family-ties>.

⁹¹ Barrack Muluka, 'Patriarch's footprint in the sands of time', *The Standard*, 2 February 2014, accessed online at: <http://www.standardmedia.co.ke/article/2000103714/patriarch-s-footprint-in-the-sands-of-time>.

⁹² Ibid.

⁹³ Lawrence Itolondo, interview, 26 August 2013, Sigalagala (Kakamega).

location, council or ward would empower local voices and bring additional resources. To Moi and his inner circle, approving these requests had a short-term political logic of appeasing local constituents. But in the long-term, the effects of subdivision have been questionable. In the case of local authorities, the practice led to a surge in the number of small, uneconomic authorities that had neither the capacity nor the resources to provide even the most basic services such as refuse collection.⁹⁴ In 1963 there were forty districts and forty-five local councils in Kenya.⁹⁵ By the time the new constitution was passed in 2010 there were 265 districts and 175 local authorities.⁹⁶ The great majority of these new districts and councils were created after 1992, but the pattern and logic underlying this practice had been established during the era of the one-party state.

Figure 10: Growth in number of local government authorities, 1963-2010.

| Type of authority | 1963 | 1982 | 1991 | 2010 |
|---------------------------|-----------|-----------|-----------|------------|
| County Councils | 38 | 38 | 39 | 67 |
| City & Municipal Councils | 7 | 10 | 20 | 46 |
| Town & Urban Councils | .. | 24 | 39 | 62 |
| Total | 45 | 72 | 98 | 175 |

Source: Figures from 1963, 1982 and 1991 from John Cohen (1993); 2010 figures from Rocaboy *et al* (2013), p. 166.

When Mudavadi entered parliament in 1979 there were seven local authorities in Western Province.⁹⁷ By 1988, the minister had created a further four local authorities for his home province, and two urban councils had been upgraded to town council status.⁹⁸ As in other parts of Kenya, the growth in the number of local authorities in Western Province in the 1980s mainly occurred through the creation of urban councils. Establishing new authorities was one way for Mudavadi to lessen the competition for resources between the sixteen Luhya sub-clans and respond to demands from his own Maragoli constituency based around Vihiga. Rather than bringing new resources, the subdivision of local authorities primarily

⁹⁴ Hornsby, *Kenya: A History Since Independence*, p. 445.

⁹⁵ John Cohen, 'Importance of public service reform: The case of Kenya', *JOMAS*, 31:3 (1993), pp. 449-476.

⁹⁶ Kempe Ronald Hope, *The Political Economy of Development in Kenya* (New York, 2012), p. 183

⁹⁷ The seven local authorities in 1979 were: Kakamega Municipal Council, Bungoma County Council, Kakamega County Council, Bungoma Town Council, Webuye Town Council, Busia County Council, and Busia Urban Council.

⁹⁸ The four new local authorities were: Mumias Urban Council, Luanda Urban Council, Vihiga Town Council and Kapsokwony Urban Council.

offered a way to share existing resources differently, with the addition of some extra central government funding. One of the main benefits of establishing a new council was that it created new local elected offices, and additional employment opportunities. The responsibility for and control of councils' staff establishments was a fiercely coveted and contested duty across the local government system. This led to frequent wrangles between clerks and councillors, and between councillors aligned to different council officials. One of the local authorities created out of Kakamega County Council was Vihiga Urban Council. Established in 1981, it was elevated to a town council in 1986 and a municipal council in 1991. Bernard Chahihu was employed as the council's clerk from 1988. The antagonism between the councillors and clerk's office was soon revealed to the new employee who had not worked in local government before:

There was a kind of mutual hostility and in some cases mutual contempt. Councillors were usually very happy to get rid of their clerks, in a simple vote of no-confidence. There was a very high-turnover of town clerks in our local authorities. So people developed also some methods of survival. Occasionally you find some clerks simply...taking orders literally from the councillors. And that was dangerous because the councillors were not the most informed people, those were elected people, they were rabble-rousers, noise-makers, and if you were not able to tell them off, chances were you would make some very, very awkward mistakes that would later on embarrass you. Embarrass everybody. So the relationship wasn't very healthy, it wasn't mutually beneficial. But eventually I got to know how they thought and acted, thank God they never voted me out.⁹⁹

Chahihu's disdain for the less-educated councillors was intensified by their constant requests for him to create employment opportunities for their supporters. The fact that 'the effectiveness of a councillor seemed to be determined by how many people he was able to employ', soon became his 'biggest headache'.¹⁰⁰ Councillor Mukaramoja claimed that by his time, vacant positions were not advertised, instead councillors rotated filling the posts with their relatives and friends. He explained: 'you know during those days you just fight to get your relative or your friend when there is a job. You see, you have to work hard... So during that time we were not advertising, we were just recommending'.¹⁰¹ Rather than having a general duty to create employment for anyone residing in the

⁹⁹ Bernard Chahihu, interview, 27 August 2013, Mbale (Vihiga).

¹⁰⁰ Ibid.

¹⁰¹ Nyikuli Mukaramoja, interview, 29 August 2013, Malava.

council's area, most councillors considered themselves personally responsible only for 'their people'; their family and friends.

The importance of prioritising family and clan when negotiating employment opportunities was underlined by Lawrence Itolondo:

Yes in this world, for God, you must clean your house first. For you to help another person you must be able to help your people first, then help the outsiders. That thing was there, I would not have seen a relative who is qualified, and who wants a job, and it's there, let him come and get it!¹⁰²

In consequence, most councils were overstuffed and salaries tended to dominate recurrent expenditure. Excluding the hundreds of nursery teachers on the county's payroll, in 1985, Kakamega County Council had 272 employees.¹⁰³ Just over a decade earlier, the council's annual report recorded only 101 employees.¹⁰⁴ This expansion in the council's labour force was partly the outcome of new workers employed in local authority markets. Since 1970 when markets became central to all county councils' revenue raising capacities, the number of market attendants had increased significantly. The use of employment as a form of patronage was a political strategy that Mudavadi embraced; he was widely known for only employing his co-ethnic Maragoli and Luhya.¹⁰⁵ Although flagrantly nepotistic, such practices endeared him to his supporters, including councillor Edward Indai: 'He was helpful to his people. He employed so many people in the ministry, in every ministry he went he employed many of his tribesmen.'¹⁰⁶

In 1985 the government introduced a constitutional amendment which brought senior local government officers under the authority of the Public Service Commission (PSC). The inclusion of local government officers in the PSC was intended to ensure that qualified personnel rather than people of the 'right' ethnicity were engaged by councils. The move was also designed to protect officers from councillors bent on enacting retribution when their demands were not met. Edward Indai, and his fellow councillors, sometimes resorted to extreme measures to censure the Kakamega County Council's clerk: 'You see sometimes the relationship was bad. It is one time when I was there... councillors came and locked the door, they put on a very *big* padlock and they said [to the clerk] "you cannot

¹⁰² Lawrence Itolondo, interview, 26 August 2013, Sigalagala, (Kakamega).

¹⁰³ Annual Report 1985, KMGCC, HW/16/8, KNA, Kakamega.

¹⁰⁴ Annual Report 1974, KMGCC, HW/16/67, KNA, Kakamega.

¹⁰⁵ Barrack Muluka, 'Patriarch's footprint in the sands of time', *Standard*, 2 February 2014.

¹⁰⁶ Edward Indai, interview, 31 August 2013, Webuye (Kakamega).

come in here”!¹⁰⁷ When chief officers came under the protection of the PSC in 1985, this started to change; Indai regretted that councillors then had ‘no authority’, and could not ‘sack the town clerk’.¹⁰⁸ Yet even with the protection of the PSC, chief officers could still be vulnerable to pressure from councillors. They were obliged to act on the instructions of the minister or the president, even when these instructions violated the law, or were contrary to the ‘public good’. A particular example of this remembered by Bernard Chahihu occurred in the early 1990s when Chahihu was on annual leave. On a tour of Western Province, President Moi summoned all the region’s councillors to State Lodge. During the meeting one of the councillors called out from the crowd: ‘We councillors don’t have security of tenure. We get voted in, then voted out, and it’s like we never actually did anything. So after that there’s nothing to show for our service. How do we get on?’¹⁰⁹ According to Chahihu, the president resolved that the acting clerk should see that all the councillors received a parcel of public land. On his return to work, Chahihu was dismayed to discover that the allotted land was in an area where the council had planned to build rental houses on to increase its revenue. The district commissioner advised Chahihu not to challenge the decision, since it had been sanctioned by the president.

This episode is representative of broader trends apparent throughout much of Moi’s presidency. That Moi yielded to the councillors’ demands, demonstrated a willingness to appease ‘grassroots politicians’ which had not been shared by his predecessor. He used multiple channels of patronage to try to maintain a degree of local legitimacy without allowing powerful rivals to emerge. Although ‘corruption’ was not new, it was reaching new hands, and often came in new forms. The most common form by this period was land. Acquiring and selling land and market plots was one of the main ways that councillors could access additional resources that allowed them to fulfil their patrimonial obligations.¹¹⁰ With the cash generated through this trade, supplemented by their allowances, councillors could organise and contribute to *harambees*. To those in higher office, this kind of initiative provoked mixed feelings. On the one hand, members of parliament had to encourage ‘self-help’ and grassroots development, but on the other hand, effective

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Bernard Chahihu, interview, 27 August 2013, Mbale (Vihiga).

¹¹⁰ Lawrence Itolondo, interview, 26 August 2013, Sigalagala (Kakamega).

councillors represented a threat. This ambivalence was implied by Clerk Bernard Chahihu who explained: ‘The politician in this country has never been for enlightened leadership at the grassroots. It’s a pity... they want them to build schools, to build roads, but they don’t want to be challenged.’¹¹¹ Councillor Peter Kombo agreed: ‘MP actually is a tough man. He doesn’t cooperate with councillors because he believes that if he works with councillors, in future they will overthrow him because they are close to people.’¹¹² Parliamentarians’ anxieties about ambitious councillors were not unfounded. Nyikuli Mukaramoja often found himself ‘thinking of the top post’ when he toured his ward and met his supporters. He asked himself ‘if I have been here why can’t I try this other post?’¹¹³

Most councillors claimed that it was because of their popularity and legitimacy with local communities that MPs were anxious of their ambitions. In this way, Morris Mangi of Kilifi stressed that his ‘public rallies exceeded those of the MP’.¹¹⁴ There was a tension in the relationship between local and national leaders. As was discussed in Chapter Three, since independence MPs had to be seen as both responsive to the demands coming from below, and had to try to limit and manage those expectations. Councillors were less burdened with that responsibility, and were free to ‘speak’ for the ‘*wananchi*’, whatever their demands. Councillors such as Edward Indai concluded that MPs actively sought to limit the resources reaching councillors:

You see those people who were letting down the councillors were MPs. MPs feared councillors...So MP feared if councillors are on the ground, meet people all the time, are with the community all the time, and if we give them more money, you will go there for one term then the councillor will [unseat you]. You see, that was the thing.¹¹⁵

Such anxiety and mutual suspicion did not seem to define the relationship between Moses Mudavadi and Kakamega County Council. Peter Kombo, the same councillor who described Mudavadi as a ‘dictator’ concluded that he ‘was actually a good man. When you send him a letter requesting him to push you up, he will just help you’.¹¹⁶ Mudavadi used his influence to increase opportunities in Kakamega, thereby

¹¹¹ Bernard Chahihu, interview, 27 August 2013, Mbale (Vihiga).

¹¹² Peter Kombo, interview, 25 August 2013, Ilesi (Kakamega).

¹¹³ Nyikuli Mukaramoja, interview, 29 August 2013, Malava.

¹¹⁴ Morris Mangi, interview, 1 February 2013, Tezo-Roka (Kilifi).

¹¹⁵ Edward Indai, interview, 31 August 2013, Webuye (Kakamega).

¹¹⁶ Peter Kombo, interview, 25 August 2013, Ilesi (Kakamega).

preserving and improving his own position. He recognised that local authorities were part of the region's clientelist networks and so used his discretion as minister to intervene in council business. The most memorable example of this cited by councillors occurred in 1988 when Mudavadi blocked Lawrence Itolondo's election as council chairman. After being elected by his peers, Itolondo and his colleagues were called to Mudavadi's house in Vihiga. There he instructed them to replace Itolondo with a different councillor. Peter Kombo recounted the incident in similar terms to Itolondo:

So when the time came, he [Mudavadi] sent the DC to come and tell us to meet him. When he came, actually he was a man of, let me say he was a dictator. He was a dictator... But we had to change from the person we elected and we replaced with his person; we were forced...He told us if we don't follow his views he can actually break up the council.¹¹⁷

Itolondo recalled how Mudavadi had demanded deference from the assembled councillors, proclaiming: 'I'm the Minister for Local Government, and what I expect from you, is for you to respect me. Everybody all over the country respects what I say. The president is number one, and I'm number two. So the local government is mine.'¹¹⁸ The given explanation for why Mudavadi preferred a candidate other than Itolondo, was that the other 'had had his education in America'.¹¹⁹ The disgruntled councillors suspected the real reason was that the installed councillor was a Maragoli like Mudavadi. For several months the council could not decide how to proceed:

We talked, and talked, and talked. And I realised the Local Government Act, the Minister with a stroke of a pen they can dissolve that council. Because he would just announce that he has dissolved Kakamega County Council. People did not understand that, but when I realised what he was talking about at the meeting... That was Moses Mudavadi. When he wanted me to reply, I made up my mind, I didn't even consult my fellow councillors. I learned that he can dissolve this council, and if he dissolves this council that these people [the councillors] have campaigned for, with the few money they had, they'd go home because of me, and because of me - that's not fair. I said to the minister, I've heard all that you've talked, but its unfortunate that the election was done, and I won. But for the interests of the county council and the people of Kakamega I am stepping from the chairmanship now. So I stepped down.¹²⁰

¹¹⁷ Ibid.

¹¹⁸ Lawrence Itolondo, interview, 26 August 2013, Sigalagala (Kakamega).

¹¹⁹ Ibid.

¹²⁰ Ibid.

Itolondo's decision to step aside was ultimately made after realising that his fellow councillors - who had used their money to campaign - would have no opportunity to regain their funds if the council was dissolved. Yet added to this calculation was the suggestion that Itolondo sacrificed himself for the good of the community. This characteristic slippage between private and public interests imaginatively linked the needs of individual councillors with the well-being of the whole community. A year later Moses Mudavadi died, an election was called, and Itolondo took back the chairmanship.

Conclusion

This chapter has examined how the position of councillors altered after Daniel arap Moi succeeded to the presidency. It has argued that whilst representative institutions were systematically weakened and neglected in the late-Kenyatta state, under Moi's presidency, councils – like KANU – found themselves reincorporated into the state's architecture and became part of the 'arsenal of instruments' used by the president to exercise control and reward support.¹²¹ Although councils as institutions remained without significant funds or functions, the revival of District Development Committees served to expand the number of avenues available to councils when trying to secure funding for a project. Throughout this period, *harambees* remained integral to the unofficial duties of councillors. The expectation that councillors would organise and contribute to fundraising efforts put considerable strain on councillors who found it difficult to balance their individual needs and responsibilities with those of their wider community. To meet these responsibilities, councillors relied on the patronage of Moi and his close allies, who permitted them to appropriate land, and on occasions dispensed cash hand-outs. Working well with the administration was essential, and conflicts were fought between councillors and officers, rather than between councils and the government.

The dynamic between councils and members of parliament also shifted during this period. In previous decades, it had been clear where MPs stood in local clientelist hierarchies. Put in a more insecure position by Moi in the 1980s, MPs became anxious about the local legitimacy that councillors claimed to enjoy. For some, this led to a distancing between councils and MPs. Kilifi County Council did not benefit from Katana Ngala's tenure in the Ministry of Local Government. By

¹²¹ Lynch, *I Say to You*, p. 118.

contrast, Moses Mudavadi - secure in the knowledge that he was the 'president's number two' - fostered a close relationship with councillors in Western Province, and used them to strengthen his position in relation to other Luhya leaders.

The contrast between Kilifi and Kakamega was not only the product of the individual dynamics between the two councils and their MPs, but rather also can be seen as reflecting the different economic positions of the two case studies. In this way, the comparison confirms Barbara Thomas' observation that in poorer areas in the 1980s, 'the links between patron and local community were not as strong as in the more affluent locations, and the momentum for projects and project assistance generated by patrons was not as great.'¹²² Noting that this correlated with population densities, communication infrastructure, and organisational capacities, Thomas also added that poorer locations were less effective at making 'the same level of demand upon the members of parliament and other patrons as wealthier communities'.¹²³ This further explains why Kilifi's councillors appeared less able to balance the competing demands of councillorship when compared with their Kakamega peers. The next chapter develops this argument further in relation to Nakuru Municipal Council where both the relative wealth of the town, and the power of its MPs ensured that councillorship remained a viable political career throughout this period.

¹²² Thomas, 'Development through harambee', p. 476.

¹²³ Ibid., p. 476.

Chapter Five: ‘The capital of Kenyan politics’: Nakuru Municipal Council, 1970 – 1990

Were there council officials who had allocated themselves with council houses? Were there councillors who had done the same? Were there council houses which were allocated to relatives of either council officials or councillors through favouritism? Were there some plots dished out in a similar manner? Ask any *mwananchi* in any urban area in Kenya and the chances are that all the questions listed above can be answered by the word “yes”.¹

Introduction

Turning to Nakuru Municipal Council, this chapter examines how the politics and performance of local government in urban areas differed from the experience in county councils after the transfer of functions. In light of the arguments developed over the previous two chapters, it poses a number of related questions. First, did town councillors approach local government service with different expectations to their rural counterparts, and did the institutions of municipal councils offer better opportunities for members to meet their personal and communal obligations? Second, how effectively did Nakuru Municipal Council function as a service provider? Given that unlike county councils, urban local authorities remained responsible for delivering key services within their areas of jurisdiction, what challenges did the council face administering its mandated functions? Third, the chapter considers the different ways in which the Kenyatta and Moi regimes interacted with Nakuru town and its elected leaders. Whilst neither Kilifi nor Kakamega figured particularly prominently in the government’s hierarchy of local constituencies, Nakuru by contrast played an important role in national politics under both presidents. How this impacted on the municipal council, and individual councillors is considered throughout.

It is shown that municipal councillors were able to combine an ethos of service with a strategy for personal accumulation in a way that proved difficult for their rural equivalents. The resources available in Nakuru offered opportunities for civic leaders to increase their business interests and local status, whilst still maintaining an acceptable standard of local services. There were close connections between municipal councillors and other political and business leaders within the

¹ ‘Have ‘extra’ houses of councillors vanished?’, *Daily Nation*, 27 January 1980, p. 6.

wider Nakuru area, who formed something like a property-owning class; despite their personal rivalries there was a sense that they were connected by a shared set of interests. In the mid-1970s, these broader political networks came under considerable pressure and scrutiny as fraught divisions between elites within the Kikuyu community played out in the town. Nakuru became the 'centre of some of the most tumultuous political events' of this period, and when Moi succeeded to the presidency, he co-opted leaders of the municipal council, as part of his strategy to secure 'the capital of Kenyan politics'.² The close relationship between the president and a core group of councillors in the 1980s allowed members to access resources at a time when the council's own funds and assets had been largely depleted. Although Nakuru Municipal Council had managed to withstand the fiscal pressures it faced for much longer than its rural counterparts, by the end of the 1980s decades of poor planning on the part of central government had left the council weakened institutionally and financially.

The evidence presented in this chapter corresponds with Patricia Stamp's observations about councillors who served on Thika Municipal Council in the late 1960s and 1970s. Stamp wrote that 'individual human histories intertwine to make up the history of the [council], which in turn is connected with and responds to events in the province's and Kenya's history.'³ Stamp devotes a considerable part of her analysis to the 'struggle over the town as a resource for petty bourgeois advancement'.⁴ Although she argues that councillors had 'little loyalty to their constituents' and were primarily motivated by the prospect of profiting from their position, she also suggests that 'one should not overstress the self-interest of the councillors either'.⁵ In order to unpack the tensions between 'profit' and 'service', it is first necessary to examine the resources that municipal councils controlled, and the dynamic between revenue and services that existed in urban centres. This is important for understanding why the politics of municipal councils were more closely scrutinised by the centre. The chapter thus begins by examining the financial position of the council in the late-Kenyatta period, describing how the institution and resources it controlled were used by councillors and officers to expand their own clientelist networks. The fact that municipal councillors had

² 'Isaiah Mathenge', *Weekly Review*, 28 May 1993, pp. 8-9.

³ Stamp, 'Governing Thika', p. 106.

⁴ *Ibid.*, p. 100.

⁵ *Ibid.*, p. 115, p. 128.

access to and controlled significant resources made their loyalty of greater significance to national politicians than in the case of county councils. Furthermore, that Nakuru had a large population, poised between the two most politically powerful ethnic blocs in the country, also gave the town a political significance of its own. The interplay between Nakuru and national politics in the 1970s is considered in the second section of the chapter. It examines the attempts by different factions within the regime to determine the trajectory of the nation's political future through control over Nakuru's civic and parliamentary leaders. The final section examines the council's experience during Moi's one-party state; although it was seen primarily as a 'Kikuyu town', Moi moved to co-opt the leaders of the municipal council to ensure stability was maintained, and guarantee that the district's 'history of radicalism' was conclusively over.⁶ Those councillors who deviated from the party line soon found themselves subject to the unflinching discipline of the Nakuru KANU chairman, who controlled the district at the president's behest.

The scale of services in Nakuru Town

Presenting the annual estimates for the 1970 financial year, the chairman of Nakuru's finance committee praised the 'very adequate reserve' in the council's General Fund.⁷ Councillor Chepkoigat went on to observe that 'it might be appropriate to query the necessity of presenting a balanced budget, as from past results we have averaged improvement in excess of KE40,000 per year.'⁸ The council's secure financial position had been maintained in the 1960s despite the many changes the town had undergone. For Nakuru, the 1960s was a time of transition. As Chapter Two described, the town had been 'the capital of the White Highlands' during much of the colonial era. This changed rapidly in the years immediately after independence, when the number and dominance of European and Asian residents diminished quickly. The first African mayor of Nakuru, Geoffrey Kamau celebrated this fact in the last meeting of the council in 1969 before the general election, noting that: 'Nakuru used to be known as the white and brown man's town during the colonial regime. It was never dreamt, therefore, that an African face would appear along the main streets of the town carrying on any form

⁶ 'Seeking to establish peace', *Weekly Review*, 20 November 1998, p. 8.

⁷ Budget meeting minutes, NMC, 13 November 1969, GY1/171, KNA, Nakuru.

⁸ Ibid.

of business.⁹ The 1960s had seen a substantial expansion in African commerce in the town following from the government's policy of 'Africanisation'. Coupled with this was a more general easing of the regulations affecting African entrepreneurs, and an expansion in the availability of loans to small businesses.¹⁰ The gradual transfer of ownership of industry from Asian to African hands, together with the departure of many white settlers in the district had altered the town's demographic. The change had not apparently damaged the economy: Nakuru was celebrated as a 'boom town'.¹¹ It was a major agricultural market centre that had new local industries and a growing population, all of which contributed to the municipal council's relative wealth. Taking stock of his six years in office, mayor Geoffrey Kamau reminded the members that through their efforts they had, since 1963, managed to double the number of schools in the town, build four new housing estates, attract new industries, and were in the final stages of completing the new Town Hall, all thanks to the 'rates and taxes' of Nakuru citizens.¹² At the end of the 1960s therefore, the financial picture in Nakuru contrasted starkly with that in the country's county councils.

The Hardacre Commission reported that in 1965, the combined surplus balance of Kenya's six municipal and one city council had totalled over K£1.5 million.¹³ In comparison, county councils had a combined net deficit of K£98,000 in the same year.¹⁴ Explaining the difference between municipal and county finances, the report highlighted a number of factors. It noted that municipal councils were able to levy site rates, and that income generated this way accounted for slightly more than that obtained through GPT. This meant that municipal councils were not reliant on government grants, which constituted just 3.5 percent of municipal councils' revenues, compared with 33 percent in county councils.¹⁵ The report highlighted that 'income producing services', which included housing and water, were in most cases financially self-supporting.¹⁶ In addition, education expenditure was not as great in the municipalities. Yet despite these important differences, the

⁹ Special council minutes, NMC, 19 November 1969, GY1/171, KNA, Nakuru.

¹⁰ Frank Furedi, 'The development of anti-Asian opinion among Africans in Nakuru District, Kenya', *African Affairs*, 73:292 (1974), pp. 347-158.

¹¹ 'Nakuru: A boom town', *Daily Nation*, 8 August 1971, p. 32.

¹² Special council minutes, NCM, 19 November 1969, GY1/171, KNA Nakuru.

¹³ *Report of the Local Government Commission of Inquiry*, p. 36.

¹⁴ *Ibid.*, p. 33.

¹⁵ *Ibid.*, p. 36.

¹⁶ *Ibid.*, p. 36.

Hardacre report also stressed that municipal councils were exhibiting a similar trend to counties, with annual expenditure exceeding revenue.

The decision to not include municipal councils in the reforms of 1970 must have been made in light of their financial self-sufficiency. Yet in the decade that followed, the trends that Hardacre had highlighted continued, and were compounded by a series of government actions that were undertaken without regard to the financial implications these would have on municipal councils. The IMF's 1975 report on local government finances examined the position of Nakuru Municipal Council.¹⁷ Its findings, summarised in Figures 11 and 12, revealed that recurrent expenditure had risen each year without a corresponding increase in revenue. Expenditure on Nakuru's general fund had grown at an average of 17 percent for each year from 1971 to 1974. In explaining this trend, the IMF underlined the adverse impact that the abolition of GPT in 1973 had had on municipal councils, which was replaced by a compensating grant, scheduled to be phased out by 1980. In Nakuru, GPT had accounted for 30 percent of total revenue in 1972. In the short term, the council was buffered against the worst impacts of this decision due to a significant expansion of the municipal boundaries in 1972. This, combined with the 1974 increase in the site levy from 5 to 5.5 percent, had increased revenue flows. Nonetheless, the overall budgetary position of the council had worsened since 1970. A contributing factor had been a rise in teachers' salaries. As the IMF noted 'these increases are negotiated at the central government level and are beyond the control of local authorities'.¹⁸ In 1975 teachers' salaries accounted for 40.4 percent of total recurrent expenditure, and 71.4 percent of the education budget. The number of teachers employed by the municipal council had grown from 195 in 1971 to 402 in 1975; central-government mandated salary increases for these teachers represented over 80 percent of the rise in expenditure on the general account. Over the same period, the number of council workers increased far more modestly from 1,008 to 1,060. The government's decision to abolish school fees for standards one to four, announced in December 1973, and to provide free health care including drugs and dressings, also had serious consequences on the council's general fund. The financial implications of these

¹⁷ 'Draft interim: IMF study of local government finances', October 1975, JA/13/1, KNA, Nairobi.

policies had not been studied nor discussed with councils before they were announced; part of a general pattern, discussed in Chapter Three, of government directives introduced under Kenyatta without any forewarning.

Figure 11: Expenditure, Nakuru Municipal Council, 1971-75.

| Expenditure items | 1971 | 1972 | 1973 | 1974 | 1975 |
|-------------------|----------------|----------------|----------------|----------------|----------------|
| Education | 163,410 | 193,567 | 224,765 | 395,660 | 354,860 |
| Administration | 75,950 | 68,693 | 45,770 | 41,525 | 58,255 |
| Public Health | 101,040 | 133,826 | 162,870 | 185,26 | 195,310 |
| Social Services | 800 | 8,097 | 39,160 | 51,505 | 68,375 |
| Works | 107,280 | 121,249 | 189,060 | 199,145 | 200,865 |
| Housing | 16,540 | 14,285 | -/- | -/- | -/- |
| TOTAL | 466,020 | 529,717 | 661,625 | 783,100 | 877,665 |

In Kenyan Pounds. Source: IMF Draft Interim Report, 1975 p. 110. JA/13/1, KNA, Nairobi.

Figure 12: Revenue, Nakuru Municipal Council, 1971-75.

| Revenue items | 1971 | 1972 | 1973 | 1974 | 1975 |
|---------------------|----------------|----------------|----------------|----------------|----------------|
| Rates | 107,910 | 108,343 | 120,983 | 240,000 | 250,000 |
| GPT | 168,240 | 147,734 | 169,947 | 100,000 | 149,310 |
| Education Grant | -/- | -/- | -/- | 180,000 | 20,000 |
| Fees and charges | 213,180 | 225,319 | 275,065 | 242,905 | 305,895 |
| Surplus deficit (-) | 23,310 | -58,321 | -95,630 | -182,195 | -152,460 |
| Capital expenditure | 49,487 | 22,670 | 81,995 | 21,194 | 31,500 |
| TOTAL | 489,330 | 481,396 | 565,995 | 600,905 | 725,865 |

In Kenyan Pounds. Source: JA/13/1, KNA, Nairobi.

The IMF experts' report was never made public and there is no evidence that the recommendations to increase government grants and add further sources of revenue, were ever acted upon.¹⁹ In the long-term, the failure of the Ministry of Local Government to provide a coherent programme for municipal council finances was to have severe consequences, as will become clear later in the chapter. The growing deficit in the council's general fund was not replicated in the other two major accounts, the housing and water funds. The council estimated that the

¹⁹ IMF Draft Interim Report, 1975 p. 3, JA/13/1, KNA, Nairobi.

1974/5 financial year would end with a surplus of K£40,895 in the water fund, and K£28,485 surplus in the housing fund.²⁰ By 1978 the general fund had an accumulated deficit of -£371,803.²¹ The chairman of the finance committee admitted that the council had only managed to escape 'being declared bankrupt' thanks to the accumulated surpluses in the housing and water funds that together came to K£396,385. Yet still the chairman dismally noted that '1978 appears to be our turning point from bad to worse.'²² The housing fund's revenue derived from rents on council properties. In 1976 the council was landlord to 4,832 housing units ranging in size across twenty-one housing estates.²³ These included single-room 'bachelor' accommodation to three-bedroomed 'family-style' housing, with rents ranging from twenty shillings to 460 shillings a month. Housing development had been a priority for the government and the council since independence. Nakuru's population had risen from roughly 38,000 in 1962 to just under 93,000 by 1979; costs of constructing adequate, affordable and well-planned housing for this urban workforce took up a considerable share of the council's capital expenditure throughout Kenyatta's presidency.²⁴ Capital costs were usually financed by external loans from the National Housing Corporation, the Housing Finance Company of Kenya, and the Local Government Loans Authority.²⁵ Housing development took various forms: Nakuru Municipal Council built rental-purchase properties, mortgage housing and provided several site and service schemes. Each of these offered different patronage opportunities to councillors.²⁶

In every respect, the activities of municipal councils were on a different order to their county council counterparts. As Richard Stren notes, by 1973, municipal councils were spending 2.76 times as much on capital and recurrent expenditures as they had been spending a decade earlier at independence.²⁷ Out of this total of K£19,686,000 for all municipal councils, the two largest items of

²⁰ Budget meeting minutes, NMC, 18 November 1974, GY2/223, KNA, Nakuru.

²¹ Budget meeting minutes, NCM, 17 October 1977, GY1/255, KNA, Nakuru.

²² Ibid.

²³ Social services and housing committee minutes, NMC, 28 September 1976, GY1/244, KNA, Nakuru.

²⁴ Rose Obudho, 'The post-colonial urbanisation process', in William Ochieng and Robert Maxon (eds.), *An Economic History of Kenya* (Nairobi, 1992), pp. 405-444, p. 407, p. 410.

²⁵ M. S. Muller, *Local Authority Housing in Kenya* (Nairobi, March 1978).

²⁶ Stamp, 'Governing Thika'.

²⁷ Richard Stren, *Housing the Urban Poor in Africa* (Berkeley, 1978), p. 43.

expenditure were education (18 percent) and housing (16 percent).²⁸ In addition to these key services, Nakuru Municipal Council was also responsible for the town's roads, health centres, water and sewerage systems, markets and bus parks. It ran canteens and beer halls, supervised the racetrack, and was responsible for the town's mortuary and cemetery. Despite the increasingly difficult position the council was in financially, throughout the 1970s and 1980s it remained at the centre of urban life through residents' reliance on the council's services. Consequently, the reputation, resources and influence of local councillors were far greater in towns, where time served on the council was often used as a platform to expand individual business interests and to run for higher office, as the next sections explore.

Figure 13: Occupations of elected councillors, Kilifi and Nakuru, 1968.

| Nakuru MC | Number | Kilifi CC | Number |
|---|--------|--|--------|
| Trader | 4 | Trader | 3 |
| Businessman | 4 | Businessman | 2 |
| Clerk | 5 | Clerk | 1 |
| Salesman | 3 | Shop-keeper | 2 |
| Doctor | 1 | Farmer | 12 |
| Accountant | 1 | KANU official | 2 |
| Laboratory assistant | 1 | Auctioneer | 1 |
| Bodyguard | 1 | Hotel-keeper | 1 |
| Total | 20 | Total | 20 |
| Source: Republic of Kenya, <i>Kenya Gazette</i> , 9 August 1968, Vol. LXX - No. 36 (Nairobi, 1968), p. 823. | | Source: Kilifi DC to Coast PC, 3 August 1968, CA/8/72, KNA, Nairobi. | |

Called to serve and accumulate: Councillorship in the town

Just as the resources controlled by municipal councils were far greater than those available to county councils, the profile of the average councillor differed also. As previous chapters have discussed, the socio-economic background of county councillors was in most cases not entirely dissimilar to that of their constituents. Generally motivated both by a desire to accumulate and to serve, after the transfer of functions it became increasingly hard for county councillors to fulfil these two expectations. For municipal councillors, balancing these two demands proved less difficult, at least for a while. Importantly, the fact that Nakuru Municipal Council managed to uphold a decent level of local services throughout this period, meant

²⁸ Ibid., p. 43.

that the legitimacy of the council, and the authority and status of office bearers was more secure. Recalling their time in office, many of Nakuru's councillors focused on recounting the services they had rendered. After a career as a banker in Nairobi, councillor Barrack Okul moved to Nakuru where he was 'upset by the services' provided by the municipal council.²⁹ He was elected in 1983, and served for several years as the chairman of the finance committee. Okul framed his legacy primarily in terms of the services he provided during his nine years in office:

So we built primary schools, fifteen of them, and five secondary schools. We built three hospitals and one market. And tarmacked the main road passing through the main street, up to now it is still there. Then we also tarmacked KANU street going down. And I was happy during our time, during my time, the municipal council of Nakuru in education was number one or number two in Kenya.³⁰

By quantifying his achievements in this way, Okul revealed an enduring notion of service that rested on the delivery of visible development outputs. Yet as will become clear later in this chapter, the precise ways in which these services were provided often diverged quite significantly from conventional local government procedure.

Councillor Isaac Kirubi, who was elected in 1968 and served as the mayor between 1970 and 1974 also emphasised the concrete achievements of his time in office:

Well I think I did a reasonable job, because I developed quite a number of housing estates which are here. I also started tenant purchasing housing. Nakuru was very clean, better than it is now. Roads were very good, and we increased the number of tarmac [sic], we increased the number of markets, wholesale and resale, and we built council estates.³¹

Kirubi had been educated at Alliance High School, the first secondary school in Kenya to admit Africans. Included in its alumni were a great number of Kenyatta's cabinet ministers. After school, Kirubi studied medicine at Makerere University in Uganda. In the early 1960s he established a medical practice in Nakuru, which he continued to operate throughout his tenure as a councillor. Although in a sense one of the most educated of Nakuru's councillors, as Figure 13 shows, most of Kirubi's fellow members either identified as part of a professional or entrepreneurial class. This is significant for understanding how councillors could extract opportunities

²⁹ Barrack Okul, interview, 19 March 2013, Nakuru Town.

³⁰ Ibid.

³¹ Isaac Kirubi, interview, 10 May 2013, Nakuru Town.

from their positions. Most councillors either entered local government as property-owners, or used their time in office to acquire land or buildings. During a meeting of the finance committee in December 1968, the town clerk presented one sitting councillor's request for a loan from the council and National Housing Corporation to build a private house.³² Similar applications had been received in the past and the committee accepted in principle that the council could guarantee such loans. Able to access loans, councillors also had the power to allocate vacant plots. It was relatively common for municipal councillors to establish during or after their time in office a hotel or housing complex, or other form of business. This ranged from modest enterprises such as those of councillor Nelson Ndegwa, who during his ten years on the council opened a petrol station and set up a taxi business, to far more lucrative ventures such as the hotels owned by mayors Joseph Thuo and Daniel Kanyi.

The control of rental housing was a key resource that allowed councillors to accumulate both capital and influence within the town. To councillors, the value of this resource increased in time both as the housing shortage intensified and as the quality of the council's other services declined. Thus in 1983, against the advice of the town clerk and treasurer, the councillors rejected a proposal to raise rents across the housing estates, even though they were calculated as sitting below market rates.³³ In 1980, a year after leaving office, former councillor Benson Karuku blew the whistle on the scale of corruption in housing allocation.³⁴ The *Daily Nation* reported his allegations that councillors and officials were manipulating residents of the Old Pangani estate who were due to be rehoused as part of a USAID funded redevelopment:

Coun. Karuku alleged that some councillors were allocating the tenant-purchase houses to themselves, their relatives and friends, while the former residents of the estate were being left out. He also claimed that some of the councillors were buying houses at cheap prices through the back door from residents who have been allocated plots. He said the councillors then rented the houses to other people and made huge profits. Coun. Karuku said other councillors were also approaching some of the 200 residents who are to be allocated with houses, when they are completed, and offering to buy them.³⁵

³² Finance committee minutes, NMC, 17 December 1968, GY1/161, KNA, Nakuru.

³³ NMC finance committee minutes, 18 March 1983, Nakuru County Government Archive.

³⁴ 'Councillors are accused', *Daily Nation*, 13 May 1980, p. 3.

³⁵ Ibid.

It is clear from Karuku's statement that he regarded the actions of his peers as immoral if not illegal - despite the apparently guiltless reflections of former councillors decades later. Those interviews insisted that 'corruption' was something distinct from the practices common during their era. It was seen as a crime of other men, who came earlier or later in the municipal council's history, and who used their time in office to enrich themselves. On the other hand, those who claimed that they used their position to access opportunities for others insisted that this was legitimate behaviour, and evidence of their good leadership. Councillor Okumu served as the chairman of the housing, stores and allocation committee in the 1980s. He was remembered, he claimed, for 'the way I was giving houses'.³⁶ 'Because I was following the right channels, I was not giving, because this is a friend's daughter or what, ok I used to, of course, think of my campaigners, but not too much, the way some people are doing it now.'³⁷ Even by following 'the right channels', he could still 'think of [his] campaigners', providing the favours he offered were not excessive. This kind of behaviour, Okumu insisted, was permissible. His colleague, George Kamotho explained this informal agreement more fully:

Now what we did in our time, we were given five plots, each councillor, not by secret, open, then you were told, because you have people behind you, you allocate this plot to them instead of coming to us, then that is what happened. I was given five plots and I divided to my supporters to the needy person if I can see your position I give it to you, I only retain one, then I give to my daughter, so this was our system.³⁸

This 'system' differed fundamentally from the procedures set out by the Ministry of Local Government. In a circular sent out in 1983, following from a similar instruction three years earlier, the ministry reiterated the inviolability of the system of plot allocation committees.³⁹ Councillors were told that they were 'expected to act with honesty, integrity and impartiality in dealing with plot allocation'.⁴⁰ '[T]he slightest abuse of responsibility' the circular underlined 'would

³⁶ Benson Okumu*, interview, 12 April 2013, Nakuru Town.

³⁷ Ibid.

³⁸ George Kamotho*, interview, 20 March 2013, Nakuru Town.

³⁹ Ministry of Local Government circular no. 19/82, 19 January 1983, Nakuru County Government Archive.

⁴⁰ Ibid.

be disastrous to local authorities'.⁴¹ Yet as 'corruption' often involved the complicity of council officials, the Ministry of Lands, and the provincial administration, this rhetorical rejection of corruption was not supported by actual sanctions. Clearly, the illegal and irregular practices that occurred at the municipal council were not unique to Nakuru, but rather were replicated across Kenya's public institutions at this time. Yet in Nakuru these practices were exercised with particular ease because of the town's unique political context. The next section examines the role that civic leaders played in district politics, and the significance of district politics for national elites.

'A virtual state within a state': Nakuru and national politics, 1970-78

As many powerful Kikuyu figures gravitated around Nakuru, where they came to zealously hover around Kenyatta, they acquired awesome political power and influence to the extent that Nakuru became a virtual state within a state, with Kenyatta's cronies keeping an iron grip on local affairs, often in utter disregard of the law. Indeed, during Kenyatta's time, Nakuru had the most arrogant and intolerant administrators and politicians...⁴²

In the latter half of Kenyatta's presidency, Nakuru 'consistently made headlines as the centre of some of the most tumultuous political events in the country's history'.⁴³ The municipal council was not immune from the effects of these events. Yet it is difficult to precisely deconstruct the interplay between national and civic politics. Part of the difficulty lies in the fact that Nakuru district was the site of two connected but distinct conflicts. The first was between so-called 'radical' parliamentarians, and the government. With the dissolution of the KPU, the issues of landlessness and uneven development were taken up by a group of backbench MPs, led by Kikuyu businessman and former detainee J. M. Kariuki. The second conflict took place within the establishment, and was primarily a succession struggle between those allied to Vice-President Moi and those who supported Njoroge Mungai's campaign to take over from his uncle, Jomo Kenyatta. This broader politics was felt in Nakuru where different factions within the ruling party competed for control over the town's KANU branch, parliamentary seats, and the municipal council.⁴⁴ In order to understand Moi's relationship with Nakuru and the

⁴¹ Ibid.

⁴² 'Hot bed of Kenya politics', *Weekly Review*, 6 October, 1995, p. 10.

⁴³ 'Isaiah Mathenge', *Weekly Review*, 28 May 1993, pp. 8-9.

⁴⁴ Ibid.

municipal council after 1978 it is important to consider the legacies of these struggles.

After the KPU was banned in 1969, there arose within KANU a strong group of backbench MPs who vocally challenged the economic policies and development model the government had followed since independence. Forty apparently 'radical' MPs entered parliament in the elections of 1969. They criticised the government's close relationship with Western powers, and its emphasis on growth at the expense of a more redistributive politics.⁴⁵ As David Throup has commented, 'Kenya's parliament has never been so outspoken, nor more effective as a legislative check upon the executive, than during the middle years of Kenyatta's presidency.'⁴⁶ Yet whereas the KPU had been seen largely as a Luo party, the same could not be said of KANU's new backbenchers. A multi-tribal alliance, leading figures in the unofficial parliamentary opposition group included Kalenjin John Seroney and Luhya Martin Shikuku. In 1974 J. M. Kariuki was elected to represent Nyandarua North. Kariuki, a former detainee and successful Kikuyu businessman, had become the 'heir to the populist cause' since the KPU's proscription in 1969.⁴⁷ As Rok Ajulu argues, due to his ethnicity, J.M., 'was capable of subverting Kikuyu sub-nationalism from within', thus posed 'the most serious political threat to the Kenyatta coalition.'⁴⁸

In Nakuru, Mark Mwithaga was the leader of this more radical strand within KANU.⁴⁹ Speaking in the National Assembly in 1970, Minister for Local Government, Dr Kiano, likened Mwithaga to Napoleon, 'because Napoleon was a very small man and he defeated the whole of Europe, and in this House, we have been very much aware of his presence – Mr. Mwithaga – despite his size.'⁵⁰ Mwithaga had become the MP for Nakuru town in 1966 after stepping down from the municipal council a year earlier. During the 'little general election' he defeated his KPU challenger Achieng' Okeno gaining over a thousand more votes. Although Mwithaga stood against a KPU candidate, he was not unsympathetic to the cause of land redistribution in the district. Indeed during his parliamentary career, Mwithaga

⁴⁵ Hornsby, *Kenya: A History Since Independence*, pp. 223-225.

⁴⁶ Throup, 'Elections and political legitimacy in Kenya', p. 379.

⁴⁷ Widner, *The Rise of a Party-State*, p. 75.

⁴⁸ Rok Ajulu, 'Thinking through the crisis of democratisation in Kenya: A response to Adar and Murunga', *African Sociological Review*, 4:2 (2000), pp. 133-157, p. 143.

⁴⁹ 'Seeking to establish peace', *Weekly Review*, 20 November 1998, p. 8.

⁵⁰ Republic of Kenya, *Official Report*, House of Representatives, Second Parliament, First Session, 16 June 1970, cols. 1462- 1511, col. 1475.

increasingly became known as an advocate for former 'squatters' working closely with the Nakuru District Ex-Freedom Fighters Organization (NDEFFO), one of the land-buying companies of this era. Re-elected in 1969, Mwithaga defeated all his opponents including mayor Kamau who gained a dismal fifteen votes.⁵¹

Figure 14: Photograph of President Kenyatta by Lake Nakuru



From left to right: Mayor Geoffrey Kamau, President Kenyatta, Vice-President Moi, Mark Mwithaga, Kimunya Kamana taken late 1960s.

Source: Kimunya Kamana personal collection.

The president's insistence that there could be no 'free things' in an independent Kenya jarred with the scale of private accumulation by Kenyatta's inner circle witnessed at the time. Of particular significance was the rise of a voluntary association known as GEMA (Gikuyu, Embu, and Meru Association) which was 'ostensibly established to further the social welfare of its members and to protect the cultural traditions of the ethnic communities'.⁵² In reality, GEMA became an immensely powerful private investment fund whose members included business leaders and their political allies most of whom had ties to the Kenyatta family. The substance of the 'radicals' critique was bolstered in 1972 by the report of the International Labour Organization, which highlighted regional variations in employment and 'development', confirming 'the privileged position of Central

⁵¹ N. Gatheru Wanjohi Working Paper No. 412, 'The Politics of Land, Elections and Democratic Performance in Kenya: A Case Study of Nakuru District.', Working Paper No. 412 (Institute for Development Studies, University of Nairobi, 1985).

⁵² Branch, *Kenya: Between Hope and Despair*, p. 132.

Province' in relation to other areas of the country.⁵³ The 'populist' cause resonated strongly in Nakuru where the transfer of settler land into African ownership had tended to reproduce the district's inequality rather than reverse it. As Frank Furedi noted, in 1974 'of those Africans that owned land 91 per cent held only 21 percent of the total – each holding less than three acres. At the other end of the social hierarchy, 2 percent of the owners held 69 percent of total land'.⁵⁴

GEMA's organising secretary, Kihika Kimani, controlled the Ngwataniro Farmers Company, one of the biggest land buying companies of the district.⁵⁵ Throughout the 1970s, Kimani 'led the war on everything anti-establishment, real or imagined'.⁵⁶ In his struggle to ensure that Nakuru did not become a radical stronghold of opposition, Kimani clashed repeatedly with Mwithaga. The company was used, by Kimani and others, as a 'platform to win parliamentary and civic seats in Nakuru district and to gain access to central state politics'.⁵⁷ In 1972 Kimani successfully ousted Mwithaga as leader of the district KANU branch. Mwithaga's Nakuru Town seat was challenged in the general election of 1974 by municipal councillor Amos Kabiru Kimemia, an ally of Kimani's. Between Mwithaga, Kimemia and a third Kalenjin candidate, the election was close, but Mwithaga retained his seat, gaining 309 more votes than Kimemia.⁵⁸ Nakuru town was the only constituency in the district that was not taken by an ally of Kimani's in the 1974 general election. Kimani himself had been elected as MP for Nakuru North after his opponent, Koigi wa Wamwere was held in custody for a large portion of the campaign period.⁵⁹

The tension and division in the town after the election surfaced at a 'Kenyatta Day' party held on 22 October at the Old Town Hall. The event was closed down by the police after crowds tried to 'close in on Mr Mwithaga'.⁶⁰ Earlier, Mwithaga had reportedly 'referred to some "richmen", who were trying to confuse

⁵³ Widner, *The Rise of a Party-State*, p. 77.

⁵⁴ Frank Furedi, *The Mau Mau War in Perspective* (London, 1989), p. 210.

⁵⁵ 'Mungiki saga', *Weekly Review*, 20 November 1998.

⁵⁶ 'Hot-bed of radicalism', *Weekly Review*, 15 March 1985, pp. 6-12.

⁵⁷ Karuti Kanyinga, 'The legacy of the white highlands: Land rights, ethnicity and the post-2007 election violence', in Peter Kagwanja and Roger Southall (eds.), *Kenya's Uncertain Democracy: The Electoral Crisis of 2008* (London, 2010), pp. 66-85, p. 75.

⁵⁸ Wanjohi, 'The politics of land, elections and democratic performance in Kenya', p. 37.

⁵⁹ Ibid.

⁶⁰ 'Police close down Nakuru party', 22 October 1974, *The Standard*, p.7.

the affairs of Nakuru because of their riches'.⁶¹ Incidents involving the police would become more common for Mwithaga and his allies in the following years. One such incident occurred a few weeks later when the recently ousted mayor Isaac Kirubi was arrested 'for mutilating a 5/- note'.⁶² Kirubi had lost the mayoral race to Silas Mburu Gichua, a newcomer to the council, who 'owed [his] political achievements to Kimani's patronage'.⁶³ Reporting the arrest, the *Daily Nation*, wrote that Kirubi had been involved 'in a political argument related to recent political changes in Kenya' when the supposed crime took place.⁶⁴ He was refused bail but was released after the charge was overturned by the High Court. Later that month he was arrested again for driving under the influence of alcohol.⁶⁵ Kirubi's difficulties with the security services fitted with a broader pattern whereby 'overzealous state officials... framed radical politicians with trumped up charges'.⁶⁶ These '[f]rame-ups and stage-managed confessions ... occurred frequently in Nakuru', especially between 1974 and 1978.⁶⁷

On the evening of 1 March 1975, J. M. Kariuki disappeared. Earlier that day a bomb had exploded on a bus travelling to Mombasa, killing seventeen people.⁶⁸ The next day the remains of a body were discovered in the Ngong Hills outside Nairobi. This information was not made public for another ten days. During that time, stories linking Kariuki to the bombing and to 'subversive' activities in Lusaka emerged in the newspapers.⁶⁹ Yet despite these attempts to undermine his reputation, many believed that J. M.'s assassination had been sanctioned by 'the Family'. A parliamentary select committee made up of many of J. M.'s allies, including Mwithaga, was called to examine the murder. The committee's report suggested 'that members of the police force under Family control may have been involved in the murder'.⁷⁰ It identified Nakuru mayor Mburu Gichua as worthy of further investigation. Later Mwithaga recalled that several months before Kariuki's disappearance, Gichua and Kariuki had been at a hotel in Nakuru when the

⁶¹ Ibid.

⁶² 'Ex-mayor charged with mutilating a 5/- note', *The Daily Nation*, 12 November 1974, p. 3.

⁶³ 'Mungiki saga', *Weekly Review*, 20 November 1998, pp. 5-7.

⁶⁴ 'Ex-mayor charged'.

⁶⁵ 'Nakuru's ex-mayor out on bond', *Standard*, 18 November 1974, p. 2.

⁶⁶ 'Mungiki saga', *Weekly Review*, 20 November 1998, pp. 5-7.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Branch, *Kenya: Between Hope and Despair*, p. 114.

⁷⁰ Widner, *The Rise of a Party-State*, p. 105.

president's son, Peter Muigai Kenyatta, and Mayor Gichua threatened them, saying: "You have brought trouble here from Nyandarua [J. M.'s constituency] Be warned: This is Nakuru and we can finish you at any time!"⁷¹

The crackdown on 'radicals' continued throughout 1975. Wanjohi writes that Mwithaga's election had been seen by GEMA as 'a direct defiance of the government by the electorate'.⁷² In retaliation, they 'placed the entire town under a police rule of the most brutal type'.⁷³ In July 1975, Mwithaga's election was nullified by the High Court after a petition was received from the GEMA candidate Amos Kiberu Kimemia.⁷⁴ On the night of the by-election, Mwithaga was jailed and charged with a number of offenses including assault, theft and property damage.⁷⁵ Despite being imprisoned, Mwithaga still triumphed over Kimemia, and another by-election was held. A Kalenjin, William Komen, was finally elected because, according to Mwithaga, 'his family had campaigned for him whilst he was incarcerated'.⁷⁶

By the end of 1975, the government's crusade against the 'radicals' was complete. J. M. was dead, and Seroney had been detained, along with Martin Shikuku, Mark Mwithaga and several others. Yet with the defeat of the informal opposition, the GEMA elite's attention turned to the question of Kenyatta's successor and how to ensure that the presidency never left Kikuyu hands. Again, Kihika Kimani played a leading role, spearheading a campaign in 1976 to 'change-the constitution' so as to prevent Vice-President Moi succeeding to State House. Nakuru was 'the launching pad' for this movement, which ultimately failed after Attorney-General Charles Njonjo issued a statement saying that discussion of Kenyatta's death would be treated as treason.⁷⁷ There was also a 'final plan' to assassinate Moi and his allies on Kenyatta's death which Gabrielle Lynch documents.⁷⁸ It was believed that a police unit in the Rift Valley, ostensibly tasked with tackling stock theft, trained for this mission from 1974.⁷⁹ Yet although the

⁷¹ 'JM Kariuki: The Untold story', *Daily Nation*, 2 March 2000.

⁷² Wanjohi, 'The politics of land, elections and democratic performance', pp. 19-20.

⁷³ *Ibid.* p. 19-20.

⁷⁴ 'Petition against Mwithaga's election succeeds', *The Standard*, 28 July 1974.

⁷⁵ Wanjohi, 'The politics of land, elections and democratic performance'.

⁷⁶ 'Former MP outwitted rivals to win two elections from behind bars', *Standard Digital*, 16 August 2014, accessed online at: <http://www.standardmedia.co.ke/lifestyle/article/2000131661/former-mp-outwitted-rivals-to-win-two-elections-from-behind-bars?pageNo=1>.

⁷⁷ 'Hot bed of Kenya politics', *Weekly Review*, 6 October, 1995, p. 10.

⁷⁸ Lynch, *I Say to You*, pp. 104.

⁷⁹ 'Hot bed of Kenya politics', *Weekly Review*, 6 October, 1995, p. 10.

'Kiambu elite' was suspected of masterminding this scheme, 'ultimately the plot came to nothing'.⁸⁰

Figure 15: Photograph of Mayor Mburu Gichua welcoming President Kenyatta to Nakuru, 10 March 1976.



Source: 320 KEN 1556/139, KNA, Nairobi.

Kenyatta's death in August 1978 signalled the end of the monopoly that the GEMA elite had enjoyed over Nakuru's politics since 1975. 'Dismantling' Kihika Kimani's 'regime in the district became the number one political priority of the Kalenjin political elite who took over the reins of power from Kenyatta'.⁸¹ This included Kimani's influence in the municipal council; Mburu Gichua, the *Weekly Review* recalled, 'was the first to go'.⁸² In December 1978, divisions in the council were made public, after a group of thirteen councillors tried to call an emergency meeting which they claimed was blocked by the mayor, town clerk and Ministry of Local Government.⁸³ In February 1979 the council passed a unanimous vote of no confidence in the mayor. Gichua was accused by a 'group of eleven' of a number of

⁸⁰ Lynch, *I Say to You*, p. 104.

⁸¹ 'Mungiki saga', *Weekly Review*, 20 November 1998, pp. 5-7.

⁸² Ibid.

⁸³ 'Civic row hots up in Nakuru', *Daily Nation*, 30 December 1978, p. 10.

petty abuses including using the council's ceremonial car for unofficial duties and not paying for petrol; a demonstration that accusations of corruption could be powerful tools against those who lacked political protection.⁸⁴ Alongside Gichua, the town clerk was also turned on by the councillors and was suspended, then dismissed in early 1979.⁸⁵ At the general elections later that year, Kimani and all his allies lost their seats. '[W]ith the slate cleaned in Nakuru', the *Weekly Review* observed, 'a new era is about to dawn in the area, an era that may bring unity and peace where chaos has reigned in the past five years.'⁸⁶ The next section considers the ways in which this prediction was fulfilled over the following decade. It is shown that although Moi succeeded in stabilising the 'capital of Kenyan politics', this did not in turn lead to peace, unity and an end to chaos.⁸⁷ Instead, these tussles continued within the ruling party, which became much more involved in the affairs of the municipal council.

All the president's men: Moi and the municipality

With Kihika Kimani's downfall, an opportunity arose within the district for a new power-broker to emerge. A relatively unknown figure came forward; Kariuki Chotara, then the KANU vice-chairman for Nakuru district. In 1979, Chotara was nominated to Naivasha Urban Council and replaced Kimani as district KANU chairman. In 1983, he was nominated to parliament, where he stayed until his death in 1988. Chotara, the *Weekly Review* notes, was 'arguably the most powerful power-broker the district has ever produced.'⁸⁸ Chotara's ascent to power shifted the balance of power within the Kikuyu community. With a few exceptions, 'the leaders of the post-independence Kikuyu community had always come from loyalist backgrounds', whereas Chotara was a former Mau Mau leader, and 'had no connections to the business elite and to "establishment" politics.'⁸⁹ His position was sustained with the patronage of the president, hosting regular *harambees* under the guise of Nakuru's KANU youth wing.⁹⁰ Chotara used the party to tightly monitor and discipline councillors in the district. In doing so, Moi and Chotara cultivated a

⁸⁴ 'Nakuru council in stormy meeting', *Daily Nation*, 23 February 1979, p. 5.

⁸⁵ 'Town Clerk is still in office', *The Standard*, 24 February 1979, p. 4.

⁸⁶ 'Nakuru: Kihika Kimani is out, so is everyone else', *Weekly Review*, 16 November 1979, pp. 18-19.

⁸⁷ 'Isaiah Mathenge', *Weekly Review*, 28 May 1993, pp. 8-9.

⁸⁸ 'Nakuru East: Backdrop of memories', *Weekly Review*, 4 September 1992, pp. 18-19.

⁸⁹ Widner, *The Rise of the Party-State*, p. 149.

⁹⁰ *Ibid.*, p. 149.

core group of clients who, through their unstinting support for the president and the party, were able to stay in office for extended periods.

That the municipal council - and Nakuru town more broadly - were effectively co-opted by the regime is worth highlighting, particularly in light of the contrasting experience of other urban authorities in the 1980s. Nairobi City Council, which like Nakuru had been used as a platform by Kikuyu politicians to launch their careers and extend their business empires, was taken over by a government-run commission in March 1983, and elected local government only returned to the capital in 1992.⁹¹ That this fate was avoided in Nakuru was arguably because the councillors - in particular the long-serving mayor and deputy, Daniel Kanyi and Raphael Korir - always sung 'the same tune as their district chairman.'⁹² Yet similar to the experience of county councils described in the previous chapter, the favour of the president did not prevent the deepening erosion of the municipality's institutional capacity and official resources. The financial decline of Nakuru Municipal Council continued, making it more and more dependent on hand-outs from the president, and increasingly reliant on *harambees* to deliver services. Famed once as the 'cleanest town in East Africa', Nakuru's descent into a state of neglect in the 1980s - which continued after 1992 - was a visible manifestation of the council's chronic incapacity.⁹³ As this situation worsened, the 'peace' of the first half of the decade started to give way to suspicion. From 1986, Nakuru was once again scrutinised as a potential site of opposition and radicalism linked to the emergence of 'Mwakenya'; a group of dissidents committed to overthrowing the government.⁹⁴ Nakuru councillors again became embroiled as municipal, district and national politics intersected in sometimes perplexing ways.

In the election of 1979 roughly half of Nakuru's municipal councillors were returned to office.⁹⁵ Four years later there was even less of a turnover in the town's civic representatives, with 'only two former councillors ... dethroned'.⁹⁶ The electoral success of Nakuru's councillors in 1983 was somewhat atypical. In Kisumu,

⁹¹ Bob Hendriks, 'City-wide governance networks in Nairobi: Towards contributions to political rights, influence and service delivery for poor and middle-class citizens?', *Habitat International*, 34:1 (2010), pp. 59-77.

⁹² 'Nakuru politics remains as confused as ever', *Weekly Review*, 25 July 1986, pp. 3-5.

⁹³ 'Now it's a dirty town', *Daily Nation*, 29 May 1978, p. 7.

⁹⁴ Branch, *Kenya: Between Hope and Despair*, p. 112-18.

⁹⁵ Councillor Nakuru County Government Archive? GY1/270 GY1/274

⁹⁶ 'Majority recapture Nakuru civic seats', *Daily Nation*, 29 September 1983, p. 4.

more than three quarters of the incumbents were 'ousted en masse'.⁹⁷ Indeed a great number of councillors in Nakuru remained in office throughout the 1980s and chose to retire only in 1992 with the reintroduction of multi-partyism. The real contests took place before the elections when candidates fought for the KANU nomination. This process of clearing candidates was controlled by Chotara; in 1983 he disqualified many civic and parliamentary candidates, then two years later instructed them to return their KANU life membership certificates.⁹⁸ Councillor Barrack Okul recognised that most of those who succeeded in becoming councillors did so on the basis of their loyalty to the party, rather than on their skills or vision:

We had one party, we had one party state which was KANU, and once you were nominated, it was as good as you are elected. And the main agenda was not, what are you going to do, it is how you know how to speak, orators, they can talk a lot and do very little. And that is how you know because you are being elected just around their areas, so the main issue was not development, no. It was just, how you cope with your friends and where you come from. Where you come from also mattered in that time.⁹⁹

The question of 'where you came from' was more complicated in Nakuru town, where the vast majority of urban residents continued to identify with ancestral homes. The politics of the 1970s described above, whilst primarily a struggle between GEMA and the 'radicals', was also on one level, a struggle between 'northern' and 'southern' Kikuyu. This rivalry between those who came from around Nyeri, in the northern part of Central Province, and those who came from Kiambu and Murang'a in the south added another layer of complexity to the political networks of the time. Moi's presidency did not bring a systematic reversal of the power balance between Kikuyu and Kalenjin in the district. The municipal council remained dominated by southern and northern Kikuyu, as did most of Nakuru's parliamentary seats. Although Chotara - and by implication his supporters - was later described as a 'Kalenjin proxy', the degree of collaboration that existed between politicians of different ethnicities in the district is significant in light of the apparent fracturing of such consensus after 1991.¹⁰⁰

Nakuru's municipal councillors benefitted from the proximity of the president. In the 1970s, Moi had purchased a three thousand acre farm at Kabarak,

⁹⁷ 'Ex-councillors ousted en masse', *Daily Nation*, 29 September 1983, p. 4.

⁹⁸ 'Office abuse in Nakuru', *Weekly Review*, 18 January 1985, pp. 9-10.

⁹⁹ Barrack Okul, interview, 19 March 2013, Nakuru Town.

¹⁰⁰ 'No role for power-brokers this time round', *Weekly Review*, 4 September 1992, pp. 17-18.

only twenty-five kilometres from the town.¹⁰¹ This allowed him – like his predecessor – to use Nakuru as a ‘strategic operations centre’.¹⁰² Moi played a visible and active role in town life. Indeed councillor Barrack Okul recalled that the council ‘had a lot of interaction [with Moi]. Because any function, he had to be there... Occasionally we used to be called if there was a problem to Kabarak, his home. Or to State House here for discussion and a briefing.’¹⁰³ All in all, he kept a ‘very close eye’ on the council.¹⁰⁴ Late in 1980, the councillors decided to capitalise on the president’s presence in the district, and invited him to act as the guest of honour for a *harambee* it was arranging.¹⁰⁵ The council was trying to raise fourteen million shillings to fund the construction of seventy new classrooms. The *harambee* fund drive was evidence of the council’s faltering ability to render its basic services. In the past, the council had relied on external loans to fund capital development. But in the final years of Kenyatta’s presidency, it became increasingly difficult to acquire these loans, which resulted in a decline in school construction. As the town’s population continued to grow, the impacts of this this lack of investment became more serious. Unable to fund the construction from its existing revenue, the municipal council set about organising an ambitious *harambee*, chaired by the district commissioner. Every section of society was expected to contribute. Council staff ‘donated’ KSH 64,000 out of their wages and an extra twenty shillings was added to all council and government licence applications. Even school children were requested to give twenty-five shillings each.¹⁰⁶ All businesses in the town were asked to donate; the Pyrethrum Board’s donation was pitched at 200,000 shillings, whilst local watch dealers were expected to give one hundred shillings each.¹⁰⁷

School construction was for councillor Okul a standout success of his time in office. He attributed this achievement to the councillors’ superior organisational skills and the cooperation and goodwill of parents, rather than to the effectiveness of the council as a bureaucratic and service providing institution:

¹⁰¹ Andrew Morton, *Moi: The Making of an African Statesman* (London, 1998), pp. 13.

¹⁰² ‘Hot bed of Kenya politics’, *Weekly Review*, 6 October 1995.

¹⁰³ Barrack Okul, interview, 19 March 2013, Nakuru Town.

¹⁰⁴ Ibid.

¹⁰⁵ Harambee fund for Nakuru Municipality schools meeting minutes, 30 December 1980, Nakuru County Government Archive.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

And I'm happy, during my time, we built seventeen primary schools, five secondary schools – without assistance, only through the donation that each child coming to school to pay this. And the parent understood and agreed, because we couldn't wait for local authority, because the local authority had no money, the municipal council had no money.¹⁰⁸

This categorical repudiation of the council's institutional capacity is all the more revealing coming from the former chairman of the finance committee. Okul admits that an effective councillor was one who could persuade people to participate more regularly and generously in *harambees*, rather than in the work of the committees. The pressure to donate to self-help projects was greatest when Moi himself was the host. In 1983 the municipal council gave KSH 20,000 to a fundraising campaign for the Rift Valley Provincial Hospital, being led by the president.¹⁰⁹ Councillors were responsible for collecting donations from their constituents to fund an upgrade of the facility, which was run by the Ministry of Health. This was a politics of personalised relationships, through which councillors used council resources to establish themselves as petty patrons, but also used their position to extract the resources needed for service provision. The council's donation was made in spite of the fact that Okul anticipated that 1984 would financially, 'be the most difficult year', since the government had withdrawn grants-in-aid.¹¹⁰ A month earlier the councillors had authorised a donation of KSH 5,000 to be presented by the mayor and his deputy to the president at his constituency in Baringo.¹¹¹ The minutes record no details regarding what the '*harambee*' was raising money for, yet the approval of the Minister for Local Government and permanent secretary was noted. That an increasing share of the council's meetings, its financial resources, and the work of officials was being taken up organising and participating in *harambees*, including those for projects outside of the municipality, reveals the extent to which service provision had come to occupy an ambivalent space between state and non-state actors. Whilst this had been the case in county councils for some time, this kind of theatrical politics was more recent in Nakuru.

The fact that Moses Mudavadi, Minister for Local Government, permitted these donations is not surprising. Never a technocrat, the president's self-styled number two encouraged councillors to engage in *harambees* and patronage politics.

¹⁰⁸ Barrack Okul, interview, 19 March 2013, Section 58, Nakuru.

¹⁰⁹ Full council meeting, NMC, 28 June 1983, Nakuru County Government Archive.

¹¹⁰ Budget meeting minutes, NMC, 24 November 1983, Nakuru County Government Archive.

¹¹¹ Finance committee minutes, NMC, 20 June 1983, Nakuru County Government Archive.

Mayor Kanyi believed that the council succeeded in minimising the effects of its negative financial trend because the ministry was always co-operative. Speaking of Mudavadi, he commented 'Also, that minister thought my work was good, he said, "if you think it's good, go ahead and pass it and carry on with the work, I will come and approve later".'¹¹² Looking back, councillor Okumu was less positive about the impact that the understanding between Kanyi and Mudavadi may have had on the council: 'it would be better for the council to be independent. Why I say is because...I think you understand that there are some councillors who are getting more pay than the others, and why? It's because maybe the mayor is known to the minister, and that's why he approves the budget.'¹¹³ Compared to some of his colleagues, mayor Kanyi was less obviously qualified to manage Kenya's fourth largest town. He left school at a relatively young age and went to work on an orange farm and later as a milk seller. He started his own small business in town, then was elected to the council in 1974. In Daniel Kanyi, Moi found a willing ally. Kanyi repeated the 'Nyayo philosophy' of 'love, peace, and unity' at council meetings, and would frequently tell members 'to forget tribalism, nepotism and sectionalism'.¹¹⁴ Thirty years later, Kanyi continued to use this language to describe the work of councillors:

Once you come in you take care of the town, forget politics, politics comes in only when you are electing the mayor. Thereafter it is development. So we developed. I am proud to have. Even now when I go to the Council, the workers there really love me. Yeah, they say, nowadays sometimes we don't get our salaries, not during my time.'¹¹⁵

Kanyi contradicted this claim that 'politics' only arose during the mayoral election, when describing how personal and policy differences were resolved, off the record and outside of the council hall. The night before full council meetings, Kanyi hosted a 'caucus' at his residence, where the members would go through each agenda item until an agreement was reached.¹¹⁶ Councillor Okul remembered that 'anybody who [had] a serious problem [would] express it there.'¹¹⁷ This meant that for the most part, full council meetings were a mere formality. When disagreements could not be

¹¹² Daniel K. Kanyi, interview, 16 April 2013, Nakuru Town (KiSwahili).

¹¹³ Benson Okumu*, interview, 12 April 2013, Nakuru Town.

¹¹⁴ Full council minutes, NMC, 21 October 1983, Nakuru County Government Archives.

¹¹⁵ D. K. Kanyi, interview, 16 April 2013, Nakuru Town (KiSwahili).

¹¹⁶ Ibid.

¹¹⁷ Barrack Okul, interview, 19 March 2013, Nakuru Town.

solved in this way, the district or provincial commissioner would intervene, as Councillor George Kamotho recalls: ‘The DC was a nominated councillor, he used to represent the government, and he would say, “this is what the government wants”. Sometimes it became difficult for us, even for a mayor, or deputy mayor to say no to what the DC said’.¹¹⁸

The efficacy of this system for disciplining councillors began to crack in 1985. From then on, the petty rivalries between councillors became more serious as the affairs of the municipal council and the district KANU branch became more closely intertwined. It began in January 1985 when three KANU officials, including two sitting councillors, were suspended ‘for allegedly abusing their party office’.¹¹⁹ A month later the full council sat to consider the suspensions. Councillor Kamotho wisely noted that as ‘the item on the agenda was the first of its kind to be discussed by this council...it was difficult for the members to know how to go about it’.¹²⁰ His fellow members agreed and finally the two accused were invited to speak. Both men recited their history with the party and the council, Joseck Thuo having first been elected in 1963 and Benson Karuku in 1967. Thuo recalled that on 11 January, he had ‘convened a meeting of the sub-branch party officials’ in his capacity as Nakuru town divisional chairman.¹²¹ At the meeting he was suspended from the party, for reasons not stated. Thuo said he had ‘direct loyalty to His Excellency the President’, with Karuku going one step further proclaiming he was a ‘true Nyayo man by blood’.¹²² Unsure how to proceed, the council decided to grant the accused two months to clarify their situation with KANU headquarters.

Five months later, divisions in the council again drew national press attention after Councillor Joseph Miano held a press conference at which he accused Kariuki Chotara ‘of bullying councillors in the area’.¹²³ Miano had written a letter to the managing director of a local company, Holman Brothers, to make a complaint about one of their employees - a fellow councillor - Josephat Mwaniki. After this emerged, Chotara instructed Miano to apologise in writing. Instead, Miano held a press conference where he criticised Chotara. Miano quickly realised

¹¹⁸ George Kamotho*, interview, 20 March 2013, Nakuru Town.

¹¹⁹ ‘Office abuse’ in Nakuru, *Weekly Review*, 18 January 1985, p. 9-10.

¹²⁰ Special council meeting, NMC, 19 February 1985, Nakuru County Government Archive.

¹²¹ Ibid.

¹²² Ibid.

¹²³ Ibid.

his error and retracted his statement. Yet the damage had been done. At a KANU rally attended by Mayor Kanyi and MP Amos Kimemia, Chotara 'sat back and listened to leaders castigate his critics and also heap praises on him'.¹²⁴ This continued in the municipal council. At the first meeting in June, Kanyi 'strongly disassociated himself and the entire council from the utterances of one member of the council against the Nakuru district KANU Chairman.'¹²⁵ Another councillor added that on reading Miano's remarks in a newspaper he had been 'shocked that the said member had dragged other councillors into the issue.'¹²⁶ The councillors unequivocally aligned themselves to Chotara, in the knowledge that their political fortunes rested entirely on the favour of the KANU chairman.

There was however, one councillor who did not quake at the idea of invoking Chotara's wrath. Kimunya Kamana had been a long-serving staff member of the municipal council, rising to the position of Deputy Housing and Estates Officer, before he became a councillor. Prior to this, he had been the chairman of the Nakuru District Ex-Freedom Fighters Organization (NDEFFO). In July 1986 the *Weekly Review* reported the 'strange' news that Kamana, acting as KANU branch organising secretary, had 'suspended' nine members of the municipal council from the party, including the mayor and deputy mayor, 'both of whom' the paper note 'appeared to be in the good books of the KANU hierarchy in the district.'¹²⁷ This appearance was confirmed when Moi directed that Kamana be disciplined, describing his actions as 'outrageous and malicious'.¹²⁸ Two days later, Chotara announced that Kamana had been suspended from KANU. The reasons for Kamana's statement were never fully explicated, but the consequences became clear in January the following year when he was detained and later charged with taking an oath of allegiance to Mwakenya and was sentenced to four and a half years in jail, which he spent at the 'nyayo house torture chambers' with scores of other political prisoners.¹²⁹ It had appeared towards the end of 1986 that Kamana would be pardoned by Chotara.¹³⁰ His suspension from the party, along with that of

¹²⁴ 'Paeons for Chotara: Unprecedented show of support for branch chairman', *Weekly Review*, 24 May 1985, pp. 14-15.

¹²⁵ Full Council minutes, NMC, 7 June 1985, Nakuru County Government Archive.

¹²⁶ Ibid.

¹²⁷ 'Nakuru politics remains as confused as ever', *Weekly Review*, 25 July 1986, pp. 3-5.

¹²⁸ Ibid.

¹²⁹ 'New tolerance', *Weekly Review*, 24 October 1986, p. 6.

¹³⁰ Ibid.

Thuo, Karuku and Mark Mwithaga had been lifted by the chairman.¹³¹ But then he was detained, and during his hearing he accused Chotara of also having taken the oath to Mwakenya.¹³² Kanyi used the first meeting of 1987 to make clear that he condemned Kamana, disassociating himself and the entire council 'from the activities of the imprisoned member'.¹³³ He 'said it was shocking to learn that such a person lived amongst us'.¹³⁴ 1987, Kanyi stressed, would be "The Year of Discipline".¹³⁵

Kanyi's public disavowal of Kamana was a performance probably enacted for the benefit of the district commissioner. The seditious councillor had cast a shadow over the loyalty of the entire membership, the costs of which were clear to all gathered: 'You were to be loyal to the President, that was *lazima* - that was a must. Because if you were not loyal to the president, then nothing, you would get nothing that would uplift your council.'¹³⁶ The favour of the president was essential for 'uplifting the council', and making councillorship into a viable - let alone profitable - activity. The council's official resources had continued to decline throughout the 1980s, leaving the institution effectively bankrupt, as Figure 16 shows. In the four years between 1984 and 1988 the deficit on the general fund had grown from K£438,597 to K£1,104,629. The water fund was also running on a deficit, with only the housing fund continuing to produce a surplus, ensuring that the council was not declared bankrupt. If the councillors were not able to access the patronage resources of Chotara and Moi, then their capacity to act as leaders and patrons would be vastly restricted. Despite Kanyi's assurances that his council was loyal, he nevertheless went on to lose his seat as mayor. In 1988, Kariuki Chotara died, and in the months that followed Kanyi was replaced by his deputy, Raphael Korir who became the first Kalenjin to lead Nakuru town. There followed a 'quiet political season' in Nakuru which lasted until the early 1990s, as the next chapter explores.¹³⁷

¹³¹ 'Olive branch: suspended officials get another change', *Weekly Review*, 1 August 1986, p. 8.

¹³² 'Strange nominations: Chotara announces the names of three new councillors', *Weekly Review*, 27 February 1987, pp. 5-6.

¹³³ Full council minutes, NMC, 30 January 1987, Nakuru County Government Archive.

¹³⁴ *Ibid.*

¹³⁵ *Ibid.*

¹³⁶ Benson Okumu*, interview, 12 April 2013, Nakuru Town.

¹³⁷ 'Quiet passing of a quiet man', *Weekly Review*, 13 April 1990, p. 11.

Figure 16: Annual budget estimates, Nakuru Municipal Council, 1984-89.

| General Fund | | | |
|---------------------|------------|-------------|-----------------------------|
| | Income | Expenditure | Accumulated surplus/deficit |
| 1984/85 | £1,224,915 | £1,227,021 | -£438,597 |
| 1986/87 | £1,742,851 | £1,724,900 | -£495,066 |
| 1988/89 | £2,486,665 | £2,678,428 | -£1,104,629 |
| Water Fund | | | |
| 1984/85 | £258,087 | £243,289 | £145,637 |
| 1986/87 | - | - | - |
| 1988/89 | £762,250 | £699,966 | -£168,077 |
| Housing Fund | | | |
| 1984/85 | - | - | £800,805 |
| 1986/87 | £680,540 | £554,292 | - |
| 1988/89 | £864,164 | £717,323 | £1,475,093 |
| All Funds | | | |
| 1984/85 | £1,767,370 | £1,716,453 | £597,845 |
| 1986/87 | - | - | £815,847 |
| 1988/89 | - | - | £202,387 |

Source: Minutes of annual budget meetings, 21 December 1984, 29 August 1986 and 21 June 1988, all from Nakuru County Government Archive.

Conclusion

For much of the 1970s and 1980s, Kihika Kimani and Kariuki Chotara 'bestrode Nakuru like colossuses, anointing their protégés to leadership positions in the district and building little kingdoms of their own.'¹³⁸ The municipal council was one of those kingdoms. The councillors who enjoyed the patronage and support of these district bosses were able to use their positions and access to extract opportunities for themselves and their supporters. Those who crossed these political masters often found themselves detained, excluded from KANU or denied leadership within the council. Cultivating such clientelist networks only became more important as the council's official resources declined. The town's growing population continually placed the council in a position where demand for services outstripped available resources. The actions – or inaction – of the central government compounded this fiscal crisis. In time, the municipal council was forced, like counties had been, to find alternative ways of meeting popular demands. This arrangement, which relied on *harambees*, Moi's patronage, and the Ministry of Local Government turning a blind eye, supplemented the council's 'official' efforts. Together this enabled the

¹³⁸ 'No role for power-brokers this time round', *Weekly Review*, 4 September 1992, pp. 17-18.

council to go on providing services whilst councillors attended to advancing their reputations as good leaders. As the next chapter will show, this way of governing the town could not be maintained after 1990. The lives of councillors and the work of the council became inordinately harder when Nakuru officially came under the control of an opposition party.

Chapter Six: 'Anything but civic': Multi-party local government, 1990-2002

Councillors have little to show for their election in 1992, but most have fought, some physically, each other, plotted to overthrow their mayors and chairpersons or simply made their meetings anything but civic, indeed ungovernable. The burning issues that affect an increasing hapless electorate have yet to be addressed... local authorities operate under the strangulating fetters of the Central Government... Even if the Ministry frustrates most authorities, these civic leaders have not demonstrated that they can come up with functional ideas to raise and collect revenue, keep urban areas clean, provide clean drinking water, residential housing, the list is endless. From where the electorate stands, the on-going elections in local authorities are sad and empty rituals.¹

Introduction

At the start of the 1990s, after more than twenty years of institutional decay and neglect, prospects for the future of local authorities in Kenya looked bleak. Since the Hardacre Commission of 1966 and the Transfer of Functions Act of 1970 there had been very little sustained, high-level interest in the viability of local authorities as service providers. Lacking funds and functions, councillors – particularly in rural authorities – pursued their individual and communal interests largely outside of the confines of council offices. The return of multi-party democracy to Kenya in 1992 however, had a demonstrable impact on the way the central government engaged with local authorities. In turn, this led national politicians to take a much greater interest in the politics and policies underpinning the local government system. This chapter considers these struggles for control at the local level, and the way this influenced and intersected with national politics. Increased competition at both the national and local level encouraged a new frenzy of patronage politics and violence. Within this overall trend there were significant regional variations. In some areas, additional resources flowed into the hands of councillors whilst in other areas, the regime simply authorised another round of plunder of public resources. The chapter uses the case studies to explore the changing dynamic between the government and an opposition council (Nakuru), a KANU council (Kilifi) and a 'swing' council (Kakamega). Whilst much of the literature concerning this period emphasised the regime's attempts to undermine – sometimes violently

¹ 'Civic polls a sad and empty ritual', *Sunday Nation*, 4 August 1996, p. 6.

– the evolution of pluralistic politics, this chapter seeks to show that even the compromised form of multi-party democracy that emerged at this time altered the way the local state worked, and its relationship to the centre.

In their extensive analysis of the 1992 election, Throup and Hornsby devote remarkably little attention to the contests for local government office in the 136 councils that existed at the time.² Whilst they provide considerable detail and discussion of the candidates who competed at constituency level, the authors focus more on the personalities than on their place in local networks of power. This fits with much of the literature that focuses on the post-1992 era, which appears to assume that developments and trends at local level correlated directly with national politics. In this way, the outcome of parliamentary and presidential elections has been seen fundamentally as an embodiment of Kenya's specific ethnic composition and distribution. An example of this kind of analysis is found in Walter Oyugi's article on the 1992 election. Examining the role of ethnicity in the electoral process, Oyugi presents a straightforward portrait of the interplay between local and national politics, writing:

The 1992 contest was perceived differently by key ethnic actors. For the incumbent ruling coalition – the Kalenjin and their kinsmen in the Rift Valley, it involved the defence of the existing structure of privilege...For the former rulers – the Kikuyu – it presented an opportunity for politico-economic 'resurrection'. For the others (the Luo and the Luhya especially), 1992 was their turn "to eat also".³

This preoccupation with ethnic voting, or what Lonsdale calls 'political tribalism' has been a dominant feature of the post-1992 literature, and was tied to the emergence of ethnic, electoral violence in 1992, 1997, 2007-08.⁴ This work has tended to look at 'the dynamics of how ethnicity gets polarised "from above" within the struggle for state power'.⁵ But this focus on national elites denies local actors agency and obscures the ways in which individuals and groups jockey for power and influence in sub-national spaces. Yet control of these local networks of power became of even greater importance to elites competing for national power. As

² Throup and Hornsby, *Multi-Party Politics in Kenya*, p. 450.

³ Walter Oyugi, 'Ethnicity in the electoral process: the 1992 general elections in Kenya', *African Journal of Political Science*, 2:1 (1997), pp. 41-69, p. 49.

⁴ John Lonsdale, 'Moral ethnicity & political tribalism', in Preban Kaarsholm and Jan Hultin (eds.), *Inventions and Boundaries: Historical & Anthropological Approaches to Ethnicity & Nationalism* (Roskilde, 1994), pp. 131-50.

⁵ Jacqueline Klopp, 'Can moral ethnicity trump political tribalism? The struggle for land and nation in Kenya', *African Studies*, 61:2 (2002), pp. 269-94.

Karuti and Cowen show in their examination of the 1997 election, understanding the form politics took in Kenya after 1992, requires looking beyond tribal or ethnic explanations, to an incorporation of the local and 'its interplay with the commanding heights of state power'.⁶ They suggest that multi-partyism brought to the fore the kinds of communal, local politics, that had previously, 'played a major part in intra-party electoral contest' in Kenya.⁷ Accessing and analysing such communal politics, Southall and Wood suggest, 'requires local knowledge, not easily available'.⁸ It is for this reason, they argue, that local government politics has been overlooked in most studies on Kenya's democratic transition.⁹

Part of the difficulty in this kind of work, both practically and intellectually, is the inherently messy and often seemingly petty ways in which local competition manifests itself. Attempts to situate political struggles over local government in a broader, national political picture are therefore rare. Tom Wolf's paper on the 1992 election is unusual in that it does consider the experiences of local authorities. Wolf examines the rewards and reprisals that befell councillor candidates who stood in KANU and non-KANU zones in 1992.¹⁰ He argued that precisely because of the lack of domestic and international media interest in local government affairs, the electoral experience of local authorities provided a more honest picture of the state of democracy at that time. Given that 'no one outside the locality will ever know about such events, [local government politics] provides space for actions which more genuinely reflect, perhaps, the real values and intentions of both regime operatives and members of local communities.'¹¹

In cataloguing the experiences of different candidates, Wolf identified a pattern of financial rewards that were bestowed upon KANU activists and opposition defectors, and financial sanctions for political opponents. He notes that pro-opposition parties – without access to government resources – had more limited instruments at their disposal: these included social ostracism, and threats of

⁶ Michael Cowen and Karuti Kanyinga, 'The 1997 elections in Kenya: the politics of communality and locality', in Michael Cowen and Liisa Laakso (eds.), *Multi Party Elections in Africa* (New York, 2002), pp. 128–71.

⁷ Ibid.

⁸ Southall and Wood, 'Local government and the return to multi-partyism in Kenya'.

⁹ Ibid.

¹⁰ Thomas Wolf, 'Paying the price?: The personal gains and losses of local government activists in the 1992 Kenya general election', paper presented at the Thirty-Seventh Annual Meeting of the African Studies Association, Toronto, Canada, November 3-6 (1994).

¹¹ Ibid., p. 6.

physical violence. In conclusion, Wolf observed that the 'widespread hounding of individuals at such a low tier in the system does seem directly associated with the recent move to pluralism.'¹² This violence he argued, should not be seen as an outcome of 'ideologically-based' competition, but rather as 'a crucial part of political entrepreneurship and clientage-building', as well as 'the more general process of in-group self-definition'.¹³

Wolf's emphasis on 'political entrepreneurship' is significant. Literature on the post-1990 era has identified that politics became more violent, 'tribal', and expensive, but it is the rise in 'ethnic violence' that has tended to attract the most scholarly interest. This chapter shows that understanding the sometimes violent ways in which ethnic competition was manifest after 1990 requires greater attention to the struggles to access patronage resources at local and national level. This argument is in keeping with Roger Southall's analysis of the 1997 elections.¹⁴ After the opposition failed again in 1997 to field a common candidate and unseat Moi, Southall proposed that 'the real conundrum of Kenyan politics', was why the opposition 'who are scarcely divided by anything resembling a political principle, found it impossible to coalesce'.¹⁵ The answer, Southall offered, had to lie 'in the minutiae of ethnic politics... the web of patronage-client relations, and the realisation of individual politicians that membership of the political class brings access to the spoils system.'¹⁶

Demands on the state's 'spoils system' grew immensely in the 1990s, as politics became infinitely more expensive. This is clear from the increasing frequency of *harambees*: in 1991 there were ninety-seven reported *harambees*, the following year – which ended with an election – 203 *harambees* took place.¹⁷ The amount collected also grew enormously; between 1991 and 1992 the value of *harambee* contributions increased six-fold.¹⁸ This pattern was repeated in the run up to the 1997 election. Moi was 'the principal patron', with his donations forming

¹² Ibid. p. 18-19.

¹³ Ibid. p. 18-19.

¹⁴ Roger Southall, 'Moi's flawed mandate: the crisis continues in Kenya', *ROAPE*, 25:75 (1998), pp. 101-111.

¹⁵ Ibid. p. 109-110.

¹⁶ Ibid., pp. 109-110.

¹⁷ Anne Waiguru, 'Corruption and patronage politics: 'Harambee' in Kenya', in Charles Sampford et al., (eds.), *Measuring Corruption* (Aldershot, 2006), pp. 251-263, p. 256 .

¹⁸ Ibid., p. 256.

5 percent of the decade's total collections, up from one percent in the 1980s.¹⁹ Consequently, 'the governing elite had an insatiable desire for funds'.²⁰ Thus although donors had reasoned that multi-party democracy would lead to a reduction in corruption, in fact, the reverse was probably true.

The first section of the chapter briefly details the emergence in 1990 of a sustained campaign for political change in Kenya, and examines the impact this had on the regime. It looks at the domestic and external factors that led Moi to allow opposition parties to form, and outlines the support bases of the various parties that contested the 1992 election. The section also introduces William ole Ntimama who served as the Minister for Local Government from 1989 to 1995. A regime hardliner, Ntimama took an uncompromising position towards anti-KANU forces, and used his ministerial post to intervene in local politics around the country, nowhere more so than in his own area of Narok. Ntimama figured in a renewed call for *majimboism* – discussed briefly in the chapter – which emerged from sections in KANU, partly in a response to multi-partyism and the perceived threat this posed to certain communities' land rights. The following section looks at Nakuru Municipal Council and considers the way the government's approach towards the town changed when it came under opposition control. All of the main political parties enjoyed some level of support in Nakuru town. In the council, this led to a period of extreme volatility where mayors were under constant attack from within the ranks of councillors. The third section compares the experience of Nakuru – the 'opposition town' – with that of a 'swing council' – Kakamega – and a KANU stronghold, Kilifi. Western Province was divided after 1992 between KANU and the opposition. In the years that followed, KANU attempted to win back, through force and co-option, opposition MPs and councillors. In this context, where multiple leaders jostled for influence, Kakamega's councillors found themselves with an array of possible patrons all intent on winning their support. This contrasted with the experience in Kilifi, where the return of multi-partyism had little impact on the almost entirely KANU council, except insofar as councillors expected greater recognition and rewards from the state. The final section examines the factors that led the government to design and adopt a local government reform programme in 1997.

¹⁹ Ibid., p. 256.

²⁰ Hornsby, *Kenya: A History Since Independence*, p. 585.

The 1990s saw international financial institutions strongly advocating for public sector reforms in Africa, with a particular emphasis on decentralisation. This context is important. However, to understand why the government was receptive to this message – which appeared to run counter to the logic of centralised politics - it is necessary to explore the profound effect that the return of competitive, plural politics had firstly on the relationship between local and central politicians, and secondly between politicians and their publics.

The return of multi-partyism

'All in all, it was a most eventful year', noted the *Weekly Review* at the close of 1990.²¹ Indeed, 1990 proved a decisive moment in Kenya's political history, and a turning point for the one-party state. Whilst Moi's control over state institutions was as strong as ever, the regime's credibility was crumbling in the face of a collapsing economy. The government's increasingly authoritarian approach to dissent in the final years of the 1980s led a number of leading politicians to defect from KANU. The introduction of 'queue voting' in the 1988 general election had served as a catalyst for the opposition movement.²² The collapse of the Soviet Union from 1989 symbolised a new era of opportunity; in Kenya and across Africa, commentators wrote of 'new winds of change' and a 'Second Liberation'.²³ Both to activists within Kenya and to Kenya's foreign partners, Moi's style of governance was becoming harder to justify as democracy movements swept parts of Eastern Europe and Africa. A series of crises in 1990 further weakened the regime's credibility and bolstered the confidence of those championing political reform, not only politicians, but also leading religious figures, the Law Society of Kenya, and sections of the media.

In February 1990, Foreign Minister Dr Robert Ouko was discovered dead near his home in Kisumu. Arguably, the 'most powerful and securely ensconced Luo Minister' at the time, Ouko's murder served as a catalyst which propelled reform minded politicians to openly campaign for multi-party democracy.²⁴ The main figures in the initial movement were Kenneth Matiba, a former cabinet minister, and Charles Rubia, who had become rich and powerful during his tenure as Mayor

²¹ 'A tumultuous year', *Weekly Review*, 21 December 1990, p. 4.

²² Oyugi, 'Ethnicity in the electoral process', p. 46.

²³ Stephen Riley, 'Africa's 'new wind of change'', *The World Today* 48:7 (1992), pp. 116–19.

²⁴ Throup and Hornsby, *Multi-Party Politics in Kenya*, p. 58.

of Nairobi in the 1960s. Their campaign quickly 'transformed the long-repressed underground movement for multi-party democracy into a mass movement which for the first time threatened the government's control'.²⁵ For this, they soon found themselves detained, as did Raila Odinga, son of Oginga Odinga. Under considerable pressure to reform, a KANU review committee was set up, the members of which 'were eventually sufficiently chastened to recommend a number of limited political reforms.'²⁶ Yet in spite of these serious challenges to the regime, few commentators would have predicted that just two years later, Kenyans would go to the polls for the first multi-party national elections since 1963.

Moi's decision in December 1991 to allow opposition parties to legally register was a response both to domestic and international circumstances. The final, decisive turning point came in November 1991 at a meeting of the donor Consultative Group for Kenya in Paris. Long tolerant of Moi's excesses, the donor group - in the new post-Cold War world - found itself less patient with the government, and its resistance to implement economic and political reforms. The Group told the Kenyan representatives that future aid would be contingent on the enactment of political reforms. Given that in the 1991/92 fiscal year, 'aid agency resources [had] comprised 73.6 percent of the total capital budget', it was not too surprising when, a couple of weeks after the meeting, Moi repealed Section 2A of the constitution, allowing opposition parties to legally form.²⁷

Profiling and characterising the different opposition parties that emerged in the early 1990s can be problematic. As Haugerud points out: 'opponents of the Moi regime...formed fragile, shifting coalitions that had quite disparate ideological and historical roots.'²⁸ Mid-way through 1991 a coalition of veteran politicians, Kikuyu, Luhya, and Luo, came together to form the Forum for the Restoration of Democracy (FORD). Over the course of 1992 FORD split into two wings, which eventually registered as different parties and fielded separate candidates. Ford Asili - meaning 'original' in KiSwahili - was led by Kenneth Matiba and Martin Shikuku and mainly drew its support from areas in southern Kikuyuland, Nairobi and parts of Western Province. Ford Kenya was run by Oginga Odinga, and was composed of a

²⁵ Ibid., pp. 61-2.

²⁶ 'A tumultuous year'.

²⁷ Cohen, 'Importance of public service reform', p. 92.

²⁸ Haugerud, *The Culture of Politics*, p. 19

'multitribal alliance of the younger and more radical professionals'.²⁹ A third group entered the opposition maelstrom, the Democratic Party (DP) led by former vice-president Mwai Kibaki, whose defection from KANU was a serious blow to the regime. The DP found its support amongst the business elite that had thrived under Kenyatta and from Kibaki's northern Kikuyu base around Nyeri.

The breakdown into regional factions critically hampered the opposition's ability to challenge the regime. At the start of 1992, the opposition looked certain to prevail. But divided, the three parties proved unable to unseat KANU and Moi. Although the incumbent received only 36.4 percent of the vote in the December elections of 1992, that was sufficient to hold off his main challengers Matiba, Kibaki and Oginga Odinga, who gained 24, 19.5 and 17.5 percent of the vote respectively. An amendment had been passed by the National Assembly in April 1992 which required the winning presidential candidate to receive 25 percent of the vote in at least five provinces.³⁰ As Julie MacArthur notes, this provision was intended to 'slow the opposition movements by ensuring they would need more than just a majority of the popular vote and hence would not be able to merely rely on the large ethnic percentages of Mwai Kibaki's Kikuyu or Oginga Odinga's Luo.'³¹ It worked; Moi was the only candidate to get over 25 percent in more than three provinces, and he gained over a half a million more votes than Matiba, his closest rival.³² The parliamentary results showed clear regional patterns: KANU dominated the Rift Valley, North-Eastern and Coast Provinces, and did well in Western and Eastern Provinces; FORD-Kenya led in Nyanza; FORD-Asili in Nairobi and Central Province; and DP was strongest in Central, winning some seats in Eastern.

Forced by circumstances, Moi remained resistant, both before and after the elections, to meaningfully opening up political space. Having warned the international community that Kenya risked descending into tribal violence with the advent of multi-partyism, he – or at least his supporters – went on to actively encourage such violence. Clashes in the Rift Valley and along its western border and at the coast throughout 1992 bespoke the beginning of politically instrumental,

²⁹ Joel Barkan, 'Kenya: lessons from a flawed election', *Journal of Democracy* 4:3 (1993), pp. 85–99.

³⁰ Ibid.

³¹ Julie MacArthur, 'How the West was won: Regional politics and prophetic promises in the 2007 Kenya elections' *JEAS* 2:2 (2008), pp. 227–241, p. 229–230.

³² Throup and Hornsby, *Multi-Party Politics in Kenya*, p. 437.

'ethnic', electoral violence in Kenya, which would again feature at the polls in 1997 and 2007.³³ The politics of land and belonging which underlay the 'clashes' of 1991-92 were as much about patronage and the control of state resources as they were about notions of autochthony and identity, as Jacqueline Klopp has clearly demonstrated.³⁴ Klopp explores the case of North Narok to show how William ole Ntimama, the local MP, when threatened by the rise of opposition parties in the early 1990s, articulated inflammatory, anti-Kikuyu rhetoric in an attempt to weaken the appeal of his challengers and legitimise the use of violence. A former chairman of Narok County Council and Minister for Local Government from 1989, Ntimama as a figure, exemplifies how national figures could be deeply embedded in local politics; simultaneously wielding tremendous power whilst being ever vulnerable to challenge and defeat, as other patrons with access to different resources sought to win the support of local clients.³⁵

Moi's selection of Ntimama to replace Moses Mudavadi as Minister for Local Government after his death in 1989 was to have serious repercussions on how the ministry was governed and its approach to councils across Kenya. After his election as an MP in 1988, Ntimama quickly established a reputation for himself; the *Weekly Review* described him in 1990 as 'a well known hawk, both in matters of national politics and in his own backyard.'³⁶ Ntimama was one of a group of Kalenjin and Maasai KANU hard-liners who resurrected a campaign for *majimbo* as a response to multi-partyism.³⁷ In the 1950s and 1960s the debate about *majimbo* encompassed a range of voices with slightly different motivations and interests. The 1990s iteration of the *majimbo* debate was narrowly focused on land rights at the coast and in particular in the Rift Valley, where the desire to defend 'KAMATUSA' (Kalenjin, Maasai, Turkana, and Samburu) interests from Kikuyu 'outsiders' galvanised communities.³⁸ Ntimama's support for *majimbo* - even whilst serving in the Ministry of Local Government - was public knowledge and was widely regarded

³³ Republic of Kenya, *Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya*, chaired by Hon. Mr. Justice A. M. Akiwumi (Nairobi, 2002); David Anderson and Emma Lochery, 'Violence and exodus in Kenya's Rift Valley, 2008: Predictable and preventable?', *JEAS*, 2:2 (2008), pp. 328-43.

³⁴ Jacqueline Klopp, 'Electoral despotism in Kenya: Land, patronage and resistance in the multi-party Context' (PhD McGill University, 2001).

³⁵ Ibid.

³⁶ 'Ntimama', *Weekly Review*, 24 August 1990, p. 15.

³⁷ Klopp, 'Electoral despotism in Kenya'.

³⁸ Throup and Hornsby, *Multi-Party Politics in Kenya*, pp. 190-198.

as driven by an exclusionary approach to land. Dubbed both a 'tribalist' and a fighter against the 'recolonisation of Maasailand', Ntimama sanctioned the use of violence as a tool to ethnically cleanse Narok and ensure his own electoral success.³⁹

Ntimama was as inclined to intervene in the affairs of local authorities as he was in the politics of Narok. After the 1992 election 'a power struggle between the local councils and the central government' took shape targeting specifically those authorities that had come under opposition control.⁴⁰ Whilst a comprehensive breakdown of the local government results was never released, the pattern of support broadly mirrored the parliamentary results.⁴¹ Most notable were the results of the municipal councils. The opposition took control of Nairobi, Nakuru, Kisumu, and Kitale, along with all of the urban authorities in Central Province.⁴² In opposition, these councils had to contend with a hostile ministry, whilst also having to defend their majority against the concerted efforts of KANU activists to retake control. In Nakuru, as the next section discusses, this kind of politicking appears to have taken up a considerable amount of councillors' time, to the overall detriment to the quality of municipal services.

'When we were in opposition it was so hostile in Kenya': Nakuru Municipal Council after 1992

In the run up to the elections of 1992, the fragile political peace that had existed in Nakuru town broke down. As the previous chapter described, many of the Kikuyu councillors who sat on the municipal council throughout the 1980s enjoyed a cordial, cooperative relationship with the president. This enabled the council to continue to provide at least some services in spite of their near bankruptcy. But from the early 1990s, stories began to emerge with increasing regularity, of disputes between councillors, officers, the ministry and the administration.⁴³ In 1990, competition between councillors over the committee chairmen positions marked a breakdown in the council's internal relations; ethnic divisions came to the

³⁹ 'A cast of powerful men: William Ole Ntimama', *Weekly Review*, 7 October 1994, pp. 9-10. 'Quit notice issued to journalists', *Weekly Review*, December 4 1992, p. 9.

⁴⁰ Richard Stren, Mohamed Halfani and Joyce Malombe, 'Coping with urbanization and urban policy', in Joel Barkan (ed.), *Beyond Capitalism vs. Socialism in Kenya and Tanzania* (Boulder, 1994), pp. 175-200, p. 187.

⁴¹ Southall and Wood, 'Local government'.

⁴² Ibid.

⁴³ For example see Michael Njuguna, 'Ntimama endorses Nakuru elections', *Daily Nation*, 13 September 1990, p. 4.

fore, which in time, became manifest in the opposition parties that gained traction in the town.⁴⁴ Nakuru from 1991 became a major battleground in the struggle between the ruling party and multiple opposition forces. The Ministry of Local Government, under Ntimama's command, deliberately moved to undermine and weaken the power of opposition councillors in the town, which was seen from the centre as an opposition stronghold. No longer able to access state patronage, the council was even less able to execute its mandated functions, leading to growing discontent amongst residents.

In September 1992, the *Weekly Review* looked forward to the forthcoming elections in Nakuru, speculating on the impact that multi-partyism would have on the way politics worked in the district.⁴⁵ 'All the factors that make the district a political furnace' it wrote, had 'set the stage for an intriguing set of battles'.⁴⁶ 'Tribalism, radical politicians, power-brokers, and king-makers' were the factors highlighted by the *Review*, but it could have also included reference to the fact that all four of the major political parties enjoyed some level of support in the district.⁴⁷ With KANU, DP, Ford-A, and Ford-K all competing for control of the municipal council and the district's parliamentary seats, it was no longer the case that individual 'power-brokers and king-makers' could determine who was able to access state patronage.⁴⁸ Most of the sitting councillors - whose political careers had been built on their connections within KANU - chose not to stand for re-election in 1992. For former mayor Daniel Kanyi, the decision was simple: 'It was clear if I remained in KANU I would not make it, and there was no way I would defect to DP though it was my people's party. I would not be at peace because Moi was my friend, while DP belonged to my people.'⁴⁹ That he calculated his options in this way reveals how firmly the lines were drawn in Nakuru between different ethnic communities and their corresponding parties.

In the election for the Nakuru Town constituency, Ford-Asili candidate Dr Lwali Oyondo won with 45 percent of the vote to KANU's 16 percent, with both and

⁴⁴ Michael Njuguna, 'MP accuses ministry of causing feud in council', *Daily Nation*, 2 September 1990, p. 32.

⁴⁵ 'No role for power-brokers this time round', *Weekly Review*, 4 September 1992, pp. 17-18.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Daniel Kamau Kanyi, interview, 16 April 2013, Nakuru town.

DP receiving 14 percent of the vote.⁵⁰ This breakdown was mirrored in the winners of the nineteen elected seats on the municipal council: FORD-A, twelve; FORD-K, two; KANU, four; and DP, one.⁵¹ This balance between the parties however altered soon after the election when Ntimama nominated a further six KANU councillors, including the immediate former mayor Raphael Korir. In every local authority, the minister nominated additional KANU councillors who were often former members, or those who had lost the popular vote. When it came to electing the mayor or chairman, these additional KANU members in many councils swung the balance back in favour of the government. In Nakuru, the Ford-Asili candidate beat the KANU opponent by one vote.⁵² The new mayor of Nakuru town was ex-councillor Kimunya Kamana who had been jailed in 1987 for allegedly being a member of 'Mwakenya'. Kamana's ascent to power signalled to the establishment – both within KANU and the Democratic Party which included many former GEMA members – that Nakuru Municipal Council was firmly against the governing regime.

It did not take long before the council was embroiled in a confrontation with the administration and KANU. In May 1993, six hundred kiosks at the municipal market were demolished, leading to violent protests in the town. Who was behind the demolition order became a subject of intense speculation, accusation and counter-accusation.⁵³ The council claimed that KANU youth-wingers had carried out the move at the direction of the provincial administration.⁵⁴ The KANU district chairman insisted that the bulldozing was the work of the municipal council, and had been ordered by Mayor Kamana. The incident became a subject of national controversy, seen by the opposition as symptomatic of the government's nefarious approach since the election towards the opposition, and opposition held councils. Mwai Kibaki toured the demolition site, and Kenneth Matiba, leader of Ford-Asili accused the government of trying to 'dissolve the council'.⁵⁵ When councillors tried to arrange an informal meeting to discuss the demolitions, the clerk refused to sanction it.⁵⁶

⁵⁰ Throup and Hornsby, *Multi-Party Politics*, p. 621.

⁵¹ 'Nakuru', *Weekly Review*, 19 February 1993, p. 9-10.

⁵² Annual meeting minutes, NMC, 26 February 1993, Nakuru County Government Archive.

⁵³ 'Buck passing over demolitions', *Weekly Review*, 21 May 1993, pp. 7-8.

⁵⁴ 'Nakuru town: Another flare-up of violence', *Weekly Review*, 14 May 1993, pp. 14-15.

⁵⁵ 'Govt. plans to dissolve council', *Daily Nation*, 15 May 1993, p. 3.

⁵⁶ 'Nakuru town: Another flare-up of violence'.

The mysterious kiosks demolition came just over a month after reports emerged of a controversial circular sent by the Ministry of Local Government to all local authorities. The *Weekly Review* claimed that the circular 'clarified' that the position of council chairman or mayor was 'merely ceremonial', stating that '[i]n some local authorities, mayors and council chairman have appointed themselves to executive offices which do not exist.'⁵⁷ Chairmen were instructed that they were not permitted to act or comment on behalf of their council 'without the express written authority' of their clerks, who were of course, appointed by central government.⁵⁸ Furthermore the circular detailed cuts to the 'perks enjoyed by civic heads', which included limiting their access to official transport, telephones and offices.⁵⁹ News of the circular, the *Weekly Review* reported, 'outraged most councillors in opposition parties, who [saw] it as essentially designed to pull the rug from under the feet of opposition-run local authorities.'⁶⁰ Ford Asili organising secretary described Ntimama's actions as a 'clear manifestation of the KANU government's undemocratic creed', whilst Ford-K secretary general suggested that the minister 'was taking away through the back door what the recent general elections gave to the people's representatives'.⁶¹ Public outrage over the circular led the minister to give a live television address to 'dispel rumours'.⁶² In spite of this, the *Daily Nation* concluded that 'the minister is trying to use chicanery to achieve what his party failed to achieve through the ballot box.'⁶³

The council's view of the government did not improve in the year that followed. By June 1994, the council was owed KSH 119 million by its debtors, including several government departments.⁶⁴ Mayor Kamana publicly suggested that the council's operations, and its efforts to collect revenue were being 'frustrated' by the government because he was an opposition mayor.⁶⁵ But Kamana was not to remain for much longer in the mayor's parlour.⁶⁶ In August 1994, he was

⁵⁷ 'Stirring up a hornet's nest', *Weekly Review*, 2 April 1993, pp. 8-9.

⁵⁸ Ibid.

⁵⁹ 'Cut 'em down to size', *Weekly Review*, 26 March 1993, p. 12.

⁶⁰ Ibid.

⁶¹ 'Opposition up in arms against local govt minister', *Daily Nation*, 24 March 1993, p. 22.

⁶² 'Ntimama's circular is an example of doublespeak', *Daily Nation*, 26 March 1993, p. 6.

⁶³ Ibid.

⁶⁴ 'Nakuru owed Sh119m', *Daily Nation*, 9 June 1994, p. 4.

⁶⁵ Ibid.

⁶⁶ Ibid.

replaced by a KANU councillor, Michael Rotich.⁶⁷ Rotich got the support of KANU's four elected and six nominated councillors, along with two members of the opposition. Closely linked to the Kalenjin kingmakers of the district, Rotich encountered serious opposition during his tenure as mayor. A group of councillors calling themselves the 'Club 18' 'relentlessly battled to eject him from the mayor's parlour', and on one occasion were forcefully removed from the council by the police.⁶⁸ Curiously, the leader of the 'club' was fellow KANU councillor, Alicen Chelaite.⁶⁹ Chelaite succeeded as mayor of Nakuru after the elections of July 1996; she too, was quickly subject to a 'brutal and cruel...political assault'.⁷⁰

Born in Baringo in 1945, Chelaite worked as a typist then secretary in a series of government offices throughout the 1960s and 1970s. In 1979 she was nominated to Nakuru Municipal Council to represent women's interests.⁷¹ As the provincial chair of '*maendeleo ya wanawake*', a women's development organisation, Chelaite was known to the district KANU branch. But Chelaite's relationship with the ruling party was not without conflict. She resigned from *maendeleo ya wanawake* when the organisation became officially affiliated with KANU in the 1980s.⁷² She remained in KANU after 1992, but found herself often in battle with nominated councillors, especially after she won the mayoral seat and defeated her rival Michael Rotich:

It was between me and another man... we were all from one party KANU, but the councillors from the opposition party they backed me, and the other one remained with KANU members and they were in the minority. And they were always consulting president and saying, "we cannot be ruled by a woman. President please help us, please give us money to buy the councillors from opposition, not to vote for this woman..." Moi gave money, but because of grace of God, I defeated him. I emerged the winner with many votes.⁷³

After just a month in office however, Chelaite also found herself subject to attack from within KANU. A meeting was held at a Nakuru hotel owned by former mayor Raphael Korir (1988-92) at which Chelaite was removed from her position as KANU

⁶⁷ 'Mayor resigns, citing foul play', *Daily Nation*, 2 August 1994, p. 4.

⁶⁸ 'Indefinitely postponed: Ntimama calls off mayoral elections until further notice', *Weekly Review*, 12 July 1996, pp. 4-5.

⁶⁹ 'Her worship the Mayor', *Weekly Review*, 26 July 1996, pp. 4-5.

⁷⁰ 'Besieged', *Weekly Review*, 6 September 1996, pp. 5-6.

⁷¹ Alicen Chelaite, interview, 22 April 2013, Rongai (Nakuru).

⁷² Alicen Chelaite, interview, 22 April 2013, Rongai (Nakuru).

⁷³ Ibid.

district women's leader, having earlier been ousted as Rift Valley representative of *maendeleo ya wanawake* at the intervention of KANU. According to the *Weekly Review*, opposition to the new mayor came from the province's 'Kalenjin kingmakers' who objected to her 'anti-corruption' crusade within the council; the fact that she had 'climbed the political ladder without seeking the patronage of the power barons' in the province; and her 'bipartisan appeal in Nakuru'.⁷⁴ She held the post until the general elections of 1997 when she ran for the parliamentary seat of Nakuru Town, losing to David Manyara Njuki, DP.

The rapid turnover of mayors in Nakuru after 1992 bespoke a general anxiety amongst councillors that mayors were 'eating' and 'eating alone'.⁷⁵ Many new councillors entered local government to discover the resources of the local state much depleted. Ironically, the belief that their KANU predecessors had already plundered the council may have led to an escalation in corruption. Particularly in urban areas, the 1990s saw a rise in irregular dealings in public land, as one of the few remaining resources available to distribute.⁷⁶ In the struggle to access patronage, the new demands and discipline of party politics were quickly abandoned. Even the most organised party, KANU, failed to avoid descending into internecine battles at district level. The unstable and ephemeral nature of political parties since 1992 has continued to reflect the overarching logic of Kenya's neo-patrimonial system.⁷⁷ In local authorities, the role of the town clerk as gatekeeper to the spoils system was strengthened from 1992. This was discovered by councillor Silas Wachira on joining the municipal council:

especially the areas that were being dominated by opposition, there was some fear, because you could not be able to interact well with the government, so the DC, the PC, the president, all these people belonged to ruling party. And because by then, when we were in opposition it was so hostile in Kenya, nobody wanted to hear, especially the ruling government, they didn't want to hear people who were in the opposition. So it became so hard for you to even get an access of even anything else over and above your salary because the town clerk, basically was from the ruling party so there's no way he could deal with you, and he knows dealing with you will mean, mean the government to sack him or transfer him from that place. So it was a bit difficult, so somehow maybe the only thing people could do by

⁷⁴ 'Besieged'.

⁷⁵ Silas Wachira, interview, 12 April 2013, Nakuru Town.

⁷⁶ Roger Southall, 'The Ndungu report: Land & graft in Kenya', *ROAPE*, 32:103 (2005), pp. 142-51.

⁷⁷ Nic Cheeseman, Gabrielle Lynch and Justin Willis, 'Democracy and its discontents: Understanding Kenya's 2013 elections', *JEAS*, 8:1 (2014), pp. 2-24.

that time ... maybe land, a few plots here and there, somebody sometimes you ask for a plot you are given one, then instead of using that one plot to build, you sell, and maybe you can get one every year or two years. So those are the things that are normally helping us to survive or to go through.⁷⁸

As Chapter Five described, under the Local Government (Amendment) Act of 1984, the minister alone was empowered to appoint and dismiss senior officers in all local authorities. No longer subject to sanction by councillors, clerks and treasurers enjoyed a level of impunity, which only increased after 1992 when senior officers became even more important as the ministry's 'eyes and ears'. In Nakuru, councillors believed the town clerk to be responsible for corruption and incompetence amongst the senior staff, leading - they argued - to the council's financial woes.⁷⁹ Relations hit an all time low when the 'Group of 18' mentioned earlier - which included some KANU members - tried to sue the town clerk and deputy treasurer. In January 1997, the clerk was finally transferred, yet for residents of the town, years of infighting had had serious consequences on the quality of urban services, as the *Daily Nation* reported:

Lack of water, frequent power failure, poor roads ... and rising insecurity in the town will undoubtedly remain major impediments to investment and other economic activities...Would be investors in Nakuru town have blamed the situation on laxity, corruption and infighting between the councillors and the former clerk. The outgoing clerk, as the chief executive of the council, had no time for the councillors. The town clerk who was expected to guide the councillors in committee meetings, spent a good deal of his time trying to save his skin from the wrath of the councillors. On their part, the councillors spend most of their time fighting the town clerk. As the war intensified at the Town Hall, the morale of workers continued to decline as corruption and indiscipline took root.⁸⁰

The sense of Nakuru as a town in decline came across clearly in this and other press reporting. In reality the problems of the municipal council extended far beyond the actions of the town clerk. Throughout the 1980s, the council had managed to negotiate its chronic fiscal crisis thanks to the patronage of the president. Yet after 1992, it became increasingly apparent that years of financial mismanagement and a lack of investment had left the town's infrastructure in a state of dereliction. An on-going water supply crisis was one of the more serious ways in which the council's incapacity was manifested. A range of narratives were called on to explain the town's water shortage, with the relative significance of corruption, incompetence

⁷⁸ Silas Wachira, interview, 19 March 2013, Nakuru Town.

⁷⁹ 'Council riddled with graft - leaders', *Daily Nation*, 10 October 1995, p. 16.

⁸⁰ Francis Mureithi, 'Daunting task for new clerk', *Daily Nation*, 28 January 1997, p. 7.

and central government obstruction emphasised differently by councillors, residents and government officials. A statement from a group of FORD Asili councillors in 1995 attributed the problems to the fact that two of the council's boreholes were situated on plots that had been allocated to the daughter of a senior minister and a former mayor.⁸¹ They claimed that the plot owners had disconnected the water, although they offered no explanation why.⁸² The council's minutes, which were prepared by officials, recorded that all of the town's water sources – mainly boreholes – were underperforming and in need of repair and maintenance.⁸³ But financing such works was not easy. In August 1993, the council had budgeted that its water fund would end the next financial year with a surplus of K£17,833, estimating annual revenue and expenditure to meet K£2,575,410 and K£2,557,577 respectively.⁸⁴ However, less than a year later, Mayor Kamana announced that government departments still owed the council KSH 50 million in unpaid water bills, roughly equivalent to K£2,500,000.⁸⁵ Kamana even threatened to disconnect the provincial hospital's water supply to force the government to settle its debts.⁸⁶

The town's unresolved water shortage might have been one of the factors in the electorate's mind at the local elections of December 1997. The Democratic Party won thirteen seats, KANU won four, and the National Development Party and Ford Asili each gained one councillor.⁸⁷ With just two exceptions, the municipal council was made up of entirely new members. This resounding rejection of the former councillors however, did not lead to an improvement in the council's internal relations nor its service provision. The second term of multi-partyism was also marked by wrangling between mayors, accusations of corruption directed against the town clerk and serious water shortages. The infighting seen in KANU in 92-97 was then repeated within the Democratic Party. The perception that there was nothing left for the councillors who came in in the 1990s continued. Yet this was not the view taken by the press and many Nakuru residents, who watched dismayed, as 'corruption, nepotism and incessant feuds' reached a crescendo in late

⁸¹ 'Council riddled with graft - leaders', p. 16.

⁸² *Ibid.*, p. 16.

⁸³ Special meeting minutes, NMC, 18 March 1993, Nakuru County Government Archive.

⁸⁴ Budget meeting minutes, NMC, 5 August 1993, Nakuru County Government Archive.

⁸⁵ 'Shortage of water worsens', *Daily Nation*, 24 May 1994, p. 17.

⁸⁶ 'Nakuru owed Sh119m', *Daily Nation*, 9 June 1994, p. 4.

⁸⁷ 'DP selects councillors', *Daily Nation*, 18 February 1998, p. 20.

2000.⁸⁸ The *Daily Nation* alleged that ‘nearly all vacant public land was allocated [mid 2000] to various private developers with the blessing of the councillors.’⁸⁹ Furthermore, ‘the councillors drew the wrath of residents when they allocated themselves sixty-four stalls at the main matatu terminus’.⁹⁰ In 2000, the municipality’s water supply was privatised through the creation of the Nakuru Quality Water and Sanitation Services (NAQWASS), whose shareholders included sitting councillors and senior officers. NAQWASS – a trial project supported by GTZ, the German government’s development organisation - did not last for long: councillors were forced to relinquish their shares after the supply was sabotaged and diverted.⁹¹ After five months the president ordered the Ministry of Water Resources to take over the supply after visiting Nakuru and being petitioned by residents.⁹² For councillor Gitu Kuria the failure of the water company was easily explained: ‘Politics. You see we were in the opposition, Nakuru Municipal Council by that time, it was opposition. The government does not want to hear, its opposing government, which had gone along with the project...they are not seeing donors, the donors are helping the Kenyans, the society, our people, they don’t see it, they see it politically’.⁹³ Blaming the government for all of the council’s woes was an obvious way to absolve councillors of any responsibility. But by comparing Nakuru with Kilifi and Kakamega, it is apparent that whilst the central government was without doubt partisan in its treatment of local authorities, even KANU councillors struggled to access the resources they expected to receive for remaining loyal to the party.

‘Moi became very handy after 1992’: KANU in Kakamega and Kilifi

The level of contestation witnessed in Nakuru was not matched in many places other than Nairobi. Indeed in some regions of Kenya, the transition to multi-party politics proceeded far less dramatically. At the coast, it was only in Mombasa Municipal Council that opposition parties gained some traction. Elsewhere in the province, KANU continued to dominate local government. In Kilifi, the twenty-seven

⁸⁸ ‘The council’s ailments are legion: Corruption, nepotism and incessant Feuds’, *Daily Nation*, 16 November 2000, p. 8

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Samuel Owour and Dick Foeken, *Water Reforms and Interventions in Urban Kenya: Institutional Set-up, Emerging Impact and Challenges*, ASC Working Paper 83 (Leiden, 2009).

⁹² Ibid.

⁹³ Gitu Kuria, interview, 31 March 2013, Nakuru Town.

councillors elected in 1992, were a combination of new members and old-hands including one councillor who had been a member of the council, on and off, since 1961.⁹⁴ Only two councillors were not members of KANU and both represented wards in Rabai. With the eight nominated KANU councillors, the opposition councillors were completely overcome. The new chairman, Ramos Mwachiru, ended the first meeting of the council in March 1993 by encouraging members to be leaders in the location and sub-location meetings of the District Development Committees.⁹⁵ But, the chairman conceded 'chiefs are not willing to invite Councillors in some meetings because they regard councillors as mere politicians.'⁹⁶ One ward where this was not a problem was Sokoke. The new councillor, Charles Pasi, was the retired local chief who had served since 1971.⁹⁷ On reaching retirement age, Pasi had run for the council and supported the incumbent councillor Benson Tsoka in his bid to become the chief. Despite a long career as a civil servant, Pasi had become interested in politics at a young age, serving as Ronald Ngala's driver in the 1960s.

That it was possible to move between the positions of chief and councillor suggested that the authority symbolised by 'government' - in all its forms - continued to appeal to many aspiring individuals at the coast. In the run up to the elections, Moi had attempted to demonstrate the ruling party's commitment to the region by establishing the Coast Development Authority (CDA). The Coast Development Authority created a special economic zone at the coast, and was responsible for coordinating all development projects in the province.⁹⁸ As a gesture, the CDA was intended to shore up support for the ruling party in a region that scored poorly on many development indicators. An even more self-serving gesture was the creation in 1990 of Kilifi Town Council, carved out of the existing local authority. As Chapter Four discussed, the creation of new districts and local authorities and the upgrading of existing councils was a hallmark of Moi's methods in the late 1980s and early 1990s, and was - in the economic context of the time - one of the few routes available to the regime in its efforts to court grassroots

⁹⁴ Comparison full council minutes of 26 June 1992 with 25 February 1993, KCC, Kilifi County Government Archive.

⁹⁵ 'Kilifi special council minutes', 9 March 1993, Kilifi County Council Archive.

⁹⁶ Ibid.

⁹⁷ Charles Pasi, interview, 23 January 2013, Kilifi Town.

⁹⁸ Coast Development Authority Act, 1990.

support.⁹⁹ This process created jobs which were an important form of patronage.¹⁰⁰ Then again, given that communities were often expected to pay for the new administrative buildings through *harambee*, the overall benefits of bringing government 'closer to the people' were often quite limited.¹⁰¹ Nonetheless the strategy still appealed, and was replicated at lower levels. Kenga Chai, Kilifi councillor from 1988 to 1997, counted the subdivision of his location in Kauma as one of the great achievements of his tenure.¹⁰² But the creation of Kilifi Town Council removed valuable resources from the control of the county council, notably revenue and urban land. For councillors such as Kenga Chai, this made it even harder to sustain clientelist networks. Coming from a more humble background than Charles Pasi, Chai's pre-council career consisted of working as a houseboy, shopkeeper and vegetable seller. He came to the attention of the local kaya elders after having set up a nursery school on his own. They supported him in his campaign to become a councillor in 1988. But in 1997 he did not have the resources or inclination to 'buy the voters' during the KANU nominations, and so did not contest the election.¹⁰³

As the coast was a safe KANU zone, the regime did not need to channel resources to win seats. By contrast, in 'swing' constituencies, such as Kakamega, the government actively sought to buy back support for the ruling party after 1993. The amendment that required the winner of the presidential race to win 25 percent of the vote in five provinces had greatly enhanced the significance of Western Province within the national poll. Three months before the election, the *Weekly Review* noted that as Moi, Odinga and Kibaki could each rely on their 'home provinces' of the Rift Valley, Nyanza and Central, Western Province was 'expected to be one of the provinces that [would] tip the scale'.¹⁰⁴ Luhya 'unity' however did not prevail at the election. Moi did win the presidential vote with 40.9 percent to Matiba's 36.3 percent and Odinga's 17.9 percent, but the province's twenty parliamentary seats were split between KANU, which won ten constituencies and

⁹⁹ Mai Hassan, 'A state of change: district creation in Kenya after the beginning of multi-party politics', paper presented at *Kenya at Fifty Conference*, John Hopkins University, 26-27 September 2013.

¹⁰⁰ Anne Bigsten and Karl ove Moene, 'Growth and rent dissipation: the case of Kenya', *Journal of African Economies*, 5:2 (1997), pp. 177-198, p.185-187.

¹⁰¹ Hornsby, *Kenya: A History Since Independence*, p. 586.

¹⁰² Kenga Chai, interview, 19 January 2013, Kilifi Town, held in KiSwahili.

¹⁰³ Ibid.

¹⁰⁴ 'A changing political scenario', *Weekly Review*, 30 October 1992, p. 12-13.

FORD Asili and Ford K, who took seven and three seats respectively.¹⁰⁵ In Kakamega district, Ford Asili won five out of the seven constituencies, with KANU taking the other two. Two years later however, only one opposition MP remained in Kakamega. Four high-profile defections had seen Apili Wawire (Lugari), Javan Ommani (Lurambi), Japeth Shamalla (Shinyalu) and Magwaka Ashiono (Ikolomani) cross the floor - presumably having been bought off - then returned to office as KANU members after by-elections. A similar process occurred in Kakamega County Council, as Councillor Lawrence Itolondo recalls:

So when multi-partyism came in 1992, FORD Asili swept the council also, the elected, we were only those old KANU people, we only went back - three of us. The rest were opposition... I was in KANU. But we campaigned here, it was hot...So I didn't want to go for the chairmanship because I knew as KANU I would not win as KANU. But it didn't take long. After two years we, KANU, were able to recapture that seat... We were able to manipulate the FORD Asili people. Moi was a very shrewd politician. He meant what he was saying. He was the president, so he wanted to marshal the support of his party as the president. And that's how he managed. In 1992 he would not have won. Like in Kakamega, it was ...MPs were all FORD Asili. It was only Dr Wameyo that was in KANU. And Angatia... So Moi become very handy after 1992.¹⁰⁶

The president 'marshalled support' for KANU by distributing hand-outs to his supporters.¹⁰⁷ Councillor Peter Kombo was one beneficiary of the president's patronage. First elected in 1988, Kombo lost his seat in 1992. He regained it in 1997 after Moi gave him KSH 50,000 - roughly \$800 at the time - which made him 'very strong' in his campaign.¹⁰⁸ Explaining why he was given the funds, Kombo said: 'He knew that if you are a KANU man and you are a campaigning, you will campaign for him, so you should be given something.'¹⁰⁹

However, not all could be won back to the ruling party. Councillor John Mugalla, a close school friend of rising KANU star Joshua Angatia, broke with the party after the death of his nephew during the ethnic clashes along the border between Kakamega and Nandi in 1991-92.¹¹⁰ Having served since 1988 as a KANU

¹⁰⁵ Throup and Hornsby, *Multi-Party Politics*, pp. 625-627.

¹⁰⁶ Lawrence Itolondo, interview, 26 August 2013, Sigalagala (Kakamega).

¹⁰⁷ Musambayi Katumanga, 'By ballot, *pesa* or rungus: the dialectics of the 1997 electoral politics in Western Province and Trans Nzoia District of Kenya', in Marcel Rutten, Alamin Mazrui and Francois Grignon (eds.), *Out for the Count: The 1997 General Elections and Prospects for Democracy in Kenya* (Kampala, 2001), pp. 513- 534, p. 523.

¹⁰⁸ Peter Kombo, interview, 25 August 2013, Ilesi (Kakamega).

¹⁰⁹ Ibid.

¹¹⁰ John Mugalla, interview, 26 August 2013, Kakamega County, (KiSwahili).

sub-branch chairman, his defection to FORD-Asili was not taken lightly by the district branch. Mugalla was summoned by a district officer and taken to Kakamega town to meet with the DC and Angatia, who tried to persuade him to return to the party, offering land and money for his supporters. Mugalla refused, believing that the money and land would never materialise. The need for a cautious approach to the president's promises was confirmed by councillor Edward Indai, who explained:

when multiparty was coming... the president would say "I am coming to Kakamega, I would like to see all the councillors there." So when he comes to Kakamega, "how many councillors are here?... Are you the chairman? I am authorizing you to give every councillor one plot." And you know you would be given those plots and you see the allotment is difficult. He is just trying to play you...Thereafter you regret.¹¹¹

The promise of plots was not only made in 'swing' constituencies or before elections. In 1994 whilst staying at State House Mombasa, Moi directed that Kilifi's councillors should all be allocated plots.¹¹² In May 1997, with the general and local elections in sight, Kilifi's clerk was pressed by a number of councillors to fulfil the overdue promise. It was suggested to the clerk that 'the plot allocated to the council for a hotel site appeared excessive for that purpose, the same should be re-planned so that the extra portion be allocated to the sitting councillors.'¹¹³ The clerk commented that it would be:

prudent to dispose-of part of the plot to realise funds to enable the council to settle its financial obligations and to facilitate the development of the remaining plot as intended. He advised that, whilst it would be improper to stand in the way of the process of implementing the aforementioned award, it would be in the greater public interest to spare a reasonable portion of the plot for the benefit of the Council to facilitate the revitalisation of its administration and to enhance its capacity to render efficient services.¹¹⁴

The clerk's advice was rebuffed; of the fifty acres in question, the members resolved to keep six in the name of the council, allocating the remainder to themselves and others. Also present at the meeting was the council's Senior Administrative Officer, Stephen Vinya, who remembered that:

the councillors by that time could not know the value of land. So, the grabbing was not there. But it came a time when the president said when

¹¹¹ Edward Indai, interview, 31 August 2013, Webuye (Kakamega).

¹¹² Special meeting minutes, KCC, 27 May 1997, Kilifi County Government Archive.

¹¹³ Ibid.

¹¹⁴ Ibid.

he came here, that he could not want to see poor councillors, so every councillor should work hard, to make sure, that he has something, together with something to give to his electorate. So everybody of course had to look for his ways and means to make sure that he had something. But when they were doing that, of course they had to interact with what was happening in other local authorities. And they happened to learn that people were getting plots, sell them, get money! And of course, by that time everybody now, Kilifi County Council having all the beaches, beach plots they started of course getting plots, in the proper way. Because grabbing could be something else. But they had to apply, and they had chances of course to see the president all the time, so they had to look for plots, plan for them, get those papers... then they take them to the president.¹¹⁵

Vinya's claim that councillors acquired plots 'in the proper way' was not supported by the findings of the *Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land* published in 2004.¹¹⁶ Known as the Ndung'u report, the commission provided extensive details on the patterns and mechanics of 'land grabbing' under presidents Kenyatta and Moi. And importantly, it showed 'the extent to which illegal or irregular transactions in public land in Kenya [were]...made possible through administrative and professional corruption.'¹¹⁷ Thus the complicity of council clerks and administrative officers, such as Stephen Vinya, was vital. The scale of 'land-grabbing' in local authorities by elected members and officials was highlighted in the report.¹¹⁸ Councils were responsible for trust land which was held 'on behalf of the local inhabitants'.¹¹⁹ The report found that:

The illegal allocation of Trust land and other lands reserved for the use of communities is a sad testimony to the dismal failure of local authorities in terms of governance. Instead of playing their role as custodians of local resources including land, county and municipal councils have posed the greatest danger to these resources. Records reveal that most illegal allocations of lands within their jurisdictions were sanctioned by the councils. In fact, the most pronounced land grabbers in these areas were the councillors themselves... The corruption within central government has been replicated at the local level through the activities of county and municipal councils. The human conflicts within local communities over resources are a reflection of this failure of local government.¹²⁰

¹¹⁵ Stephen Vinya, interview, 1 February 2013, Kilifi town.

¹¹⁶ Republic of Kenya, *Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land* (Nairobi, 2004).

¹¹⁷ Ambreena Manji, 'The grabbed state: Lawyers, politics and public land in Kenya', *JOMAS*, 50: 3 (2012), pp. 467- 492, p. 469.

¹¹⁸ Republic of Kenya, *Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land* (Nairobi, 2004).

¹¹⁹ *Ibid.*, p. 32.

¹²⁰ *Ibid.*, p. 147.

Mid-way through the decade, the ‘failure of local government’ was a fact few would dispute.¹²¹ What was surprising however, was the emergence of a reform programme designed to rectify some of the endemic problems affecting local authorities. This was surprising because it seemed to run counter to the logic of politics. Moi had been able to stay in power in 1992 by ensuring that those in opposition – particularly at the local level – remained excluded from state patronage. KANU’s majority in local authorities increased in the years that followed, as it became clear that access to the spoils system depended on party affiliation. For this to work, it was necessary that local authorities remained weak financially, and that they continued to lack any form of autonomy from the Ministry of Local Government. Furthermore, the weak auditing capacity of councils was useful in that it allowed corruption and land-grabbing to proceed without being brought formally to the attention of central government officials. The reforms introduced in the final years of Moi’s presidency were ostensibly intended to address these issues. Yet as the next section discusses, there was also a political logic to the policies developed, which reflected Kenya’s strained relations with its international creditors, and the changing nature of the relationship between central and local political patrons.

The road to reform

Presenting the 1997/98 budget, Minister for Finance, Musalia Mudavadi – son of Moses – announced plans for the ‘Kenya Local Government Reform Programme’ (KLGPR).¹²² After decades of government inaction, this programme – whilst not fundamentally transformative – would prove to be a decisive turning point for local government, both for councils as service providers, and for councillors as providers of patronage. This section examines the road to reform, asking what factors led the government to finally focus on the longstanding problems affecting local authorities. Whilst no single explanation can account for this development, it is argued here that donor pressure for ‘decentralisation’ came at an opportune moment in the 1990s, when it offered the government a policy instrument with which it could negotiate a range of different political and fiscal problems that had become particularly acute in the multi-party era. The first of these was urban governance;

¹²¹ ‘Poor services blamed by councils on corruption’, *Daily Nation*, 16 May 1997, p. 20; ‘Civic bodies must be made efficient’, *Daily Nation*, 18 October 1997, p. 6.

¹²² Republic of Kenya, *Official Report*, House of Representatives, Seventh Parliament, Seventh Session, 19 June 1997, pp. 994-1019, p. 1018.

Kenya's opposition-controlled municipal councils were used after 1992 to critique the government by highlighting the appalling state of urban services. The situation in the country's major towns was regularly decried in the national press.¹²³ Although Kenya's newspapers had for decades admonished local authorities for their ineptitude and corruption, the tenor of these accusations increased after 1992 when a more liberal media environment allowed for regular features that revealed the scale of corruption and land-grabbing across the regime. Against these criticisms of local government, there arose a counter-defence of councillors from political elites. As this chapter has demonstrated, competitive party politics dramatically destabilised district politics throughout the country, which in turn made members of parliament more dependent on local political actors. As the balance of power shifted ever so slightly in the favour of these 'leaders of the grassroots' the need to provide more resources for councillors became apparent to MPs. Yet in the resource-scarce context of the 1990s, only donors were in a position to provide additional funding to the country's growing number of local authorities. World Bank assistance was forthcoming; 'decentralisation' was again in vogue amongst international development practitioners and international financial institutions. The coincidence of all these factors led to the beginning of a reform process that key stakeholders, in particular the Association of Local Government Authorities of Kenya (ALGAK), had been desperately seeking for over twenty years.¹²⁴

Speaking at a workshop on local government in March 1996, former mayor of Nakuru Raphael Korir proclaimed that '[l]ocal authorities will go down in history as havens of corruption, nepotism, tribalism and ceaseless wrangles'.¹²⁵ Since the early 1990s, Kenya's urban residents and their political leaders had been staunchly calling for an overhaul of urban service delivery. This campaign began in 1993 when a convention was held – drawing over a thousand participants – on the theme 'the Nairobi We Want'.¹²⁶ This mass meeting on 'the problems of public service management', was later replicated in Kisumu. As Stren *et al* note, '[b]y the end of

¹²³ For example see: 'New study focuses on Kenya's urban rot', *Daily Nation*, 13 March 1995, p. 27-28. 'Urban shame rooted in archaic framework', *Business Week*, 28 October 1997, p. 2.

¹²⁴ Minutes ALGAK AGM 1969-1980, JA/17/2, JA/17/3, JA/17/4, JA/1/5, JA/13, KNA, Nairobi.

¹²⁵ 'Outdated laws killing civic bodies - KANU man', *Daily Nation*, 19 March 1996, p. 23.

¹²⁶ 'Creating the Nairobi we want', *Weekly Review*, 30 July 1993, pp. 7-9.

1993, Kenya's urban elites had begun to mobilise themselves to reverse the decay in urban life'.¹²⁷ At the election a year earlier, opposition candidates had dominated municipal authorities. Although the balance of power in some of these councils shifted back in KANU's favour over the following years, the fact that Kenya's towns were being used as platforms to criticise the government has to be considered when understanding why a programme of local government reform was finally designed and implemented in Moi's last term in office.

Ostensibly in response to the criticisms emanating from the country's urban centres, Moi appointed a commission of inquiry into local government mid way through 1995. The commission's seven terms of reference ranged from the extremely vague instruction 'to enquire generally or in particular into any other matter (related)', to the specific direction to consider dividing Nairobi City Council into boroughs.¹²⁸ Included in the seven was the instruction to look at the 'future structure, powers, legal frame-work, functions, financing and staffing of local authorities'; in essence, the whole local government system.¹²⁹ Yet this was not how the commission's mandate was presented in the press. Indeed rather than a complete examination of the problems affecting local authorities, the commission was widely seen as established to recommend upgrading the four main municipalities (Mombasa, Kisumu, Nakuru and Eldoret), to city status. In this way, the *Daily Nation* reported in July 1995 that Attorney General Amos Wako had 'officially launched the Commission of Inquiry on the elevation of four municipalities'.¹³⁰ Seen in the light of the regime's intermittent stand-offs with these municipal councils, the commission appears as a half-hearted gesture aimed at appeasing opposition councillors with the prize of city status.

Just under thirty years after the Hardacre Commission had toured the country, the exercise was repeated. The 'Omamo Commission' led by Odongo Omamo was expected to report its findings and recommendations in December 1995. Yet as 1996 drew on, to the dismay of local and central government stakeholders, the report remained undisclosed. Speaking in parliament in October 1996, leader of the Democratic Party, Mwai Kibaki, lambasted KANU's habit of burying government reports, sardonically asking what had also happened to the

¹²⁷ Stren *et al*, 'Coping with urbanization', p. 187.

¹²⁸ 'Govt to establish four more cities', *Daily Nation*, 27 May 1995, pp. 1-2.

¹²⁹ *Ibid*.

¹³⁰ 'Wako launches city inquiry commission', *Daily Nation*, 5 July 1995, p. 20.

'sensitive' report on 'devil worship', which he concluded must still be being read by the 'holy spirits'.¹³¹ Although the full report was never made public, a brief summary isolating a series of issues was released. The fifteen points highlighted resembled the commission's terms of reference in their vagueness and specificity.¹³² A short paragraph recommended a reversal in the transfer of functions, whilst a much longer section outlined a proposal to establish a 'presidential competitive award and initiative' to encourage councils to focus on keeping their areas clean.¹³³ Readers expecting to find useful insights and recommendations may have been prepared for their disappointment at the preamble which praised the 'positive political culture of multi-party democracy at the grassroots'.¹³⁴ Regarding the issue of municipal upgrades, the report noted a broad desire amongst Kenyans for improved services, concluding that 'to meet the people's expectations, the four municipalities should perform better' by getting 'greater support and commitment on the part of the central government'.¹³⁵

The weak substance of the summary report suggested either that the government's interest in local authorities remained superficial, or that the commissioners had simply not undertaken the task thoroughly enough. Either way, even though the Omamo Commission did not produce a valuable, public document, its establishment did have the effect of bringing the problems of local authorities into sharper focus, particularly for members of parliament. A few weeks after the commission began its work, a KANU MP tabled a motion to have councillors' allowances paid from the central government's consolidated fund. Debate on the proposal revealed a profound shift in the way that MPs viewed local councillors.¹³⁶ Whereas before 1992, many MPs had either been dismissive of councillors or fearful of their ambitions, after 1992, MPs were forced to realise that councillors played an important role as brokers between vote-seeking parliamentarians and the electorate. In the context of competitive, multi-party politics, the reciprocal relationship between patron and client swung further in the favour of clients, who

¹³¹ Republic of Kenya, *Official Report*, House of Representatives, Seventh Parliament, Sixth Session, 22 October 1966, col. 2244 .

¹³² Republic of Kenya, *A Confidential Report of the Commission of Inquiry on Local Authorities in Kenya* (Nairobi, 1995).

¹³³ *Ibid.*, p. 7, p. 9-10.

¹³⁴ *Ibid.*, p. 2.

¹³⁵ *Ibid.*, p. 5.

¹³⁶ Republic of Kenya, *Official Report*, House of Representatives, Seventh Parliament, Fourth Session, 19 July 1995, pp. 1570- 1587.

found themselves – more so than ever before - in a position to choose their patron. The mover of the motion, Rotino began thus:

All of us, as Members of Parliament, depend very much on these civil leaders because they are the people who are at the grassroots. They are the people who liaise with the electorate. They are the people who, when we go down to our constituencies, give us the insight on what is going on with the local communities...Every weekend, we have Harambees and other functions within the community and they are our contacts as Members of Parliament. They are the people who we depend on.¹³⁷

Opposition MP Obochwa seconded the motion he argued that ‘we need to strengthen our local authorities and in so doing, the councillors need to be paid handsomely so that they can attend to their duties.’¹³⁸ Speaking in support of the motion an assistant minister in the Office of the President, MP Sunkuli, made clear that those ‘duties’ included contributing to *harambees*. He went on to stress that ‘councillors require this money’; a message he believed should not be lost because of ‘people who will quote Lancaster House conference and the colonial days’.¹³⁹ Sunkuli’s forceful insistence that leadership and nation-building in Kenya required different things from those imagined before and at independence challenged the received wisdom of the ‘local government model’ that continued to inform official thinking. Over the next fifteen years, the issue of councillors’ remuneration would resurface again and again, representing a more fundamental questioning about the fiscal relationship between centre and local authorities, which will be discussed further in the final chapter. The debate ended with the motion delayed until the Omamo Commission reported.

By the mid-1990s, the ‘problems’ of local government were many and varied. Together these domestic conditions, Paul Smoke argues, ‘provided opportunities for reform’.¹⁴⁰ The realisation that the central government had been forced to burden the debt of local authorities, ‘which had for years failed to repay international donor loans’ likely only strengthened the argument in favour of

¹³⁷ Ibid., p. 1571.

¹³⁸ Ibid., p. 1573.

¹³⁹ Ibid., p. 1579.

¹⁴⁰ Paul Smoke, ‘The evolution of subnational development planning under decentralization reforms in Kenya and Uganda’, in Victoria Beard, Faranak Miraftab and Christopher Silver (eds.), *Planning and Decentralization: Contested spaces for public action in the global south* (Abingdon, 2008), pp. 89-105, p. 91.

reform.¹⁴¹ This argument was being made by the international community in many African countries in the era of structural adjustment.¹⁴² The focus of Kenya's creditors shifted in the 1990s from an emphasis on economic liberalisation and to a lesser extent political pluralism towards greater attention on public sector reforms and decentralisation. 'Decentralisation', was seen 'as one of the major tools to improve public service delivery'.¹⁴³ The first signs of renewed donor interest in decentralisation in Kenya came in the late 1980s with the 'Small Towns Development Project', a capacity-building scheme focused on twenty town councils, which was supported by the German Organization for Technical Cooperation (GTZ).¹⁴⁴ The success of this led to the Kenya Local Government Reform Programme; designed and implemented initially in collaboration with the World Bank. A technical secretariat was established in the Ministry of Local Government in 1995; an advisor to the programme described it as a 'comprehensive effort to rationalise central-local fiscal relations, improve local government financial management and revenue mobilisation, and enhance participation in local service delivery'.¹⁴⁵ Although technically based in the Ministry of Local Government, the involvement of the minister appeared minimal. Indeed, Francis Lotodo, who replaced ole Ntimama in January 1997 was reported as saying three months later that '[s]omebody somewhere must give me a solution' to the problems affecting local authorities, suggesting that he was oblivious to the fact that a team of consultants at the Harvard Institute for International Development were, that year, busily preparing reports to inform the long-awaited reform process.¹⁴⁶

In June 1997, Mudavadi ended his budget speech by outlining a number of new measures designed to improve the revenue sharing arrangements between central and local governments. These were not initially introduced under the banner of the KLGRP, nor was the World Bank's involvement in designing the

¹⁴¹ Ibid., p. 91.

¹⁴² Yvon Rocaboy, François Vaillancourt and Réjane Hugounenq, 'Public Finances of Local Government in Kenya', in (eds.), Bernard Dafflon and Thierry Madiès, *The Political Economy of Decentralization in Sub-Saharan Africa* (Washington, 2003), pp. 161-206, p. 163-4.

¹⁴³ Jesper Steffensen, Per Tidemand, Harriet Naitore, 'A comparative analysis of decentralization in Kenya, Tanzania and Uganda', *Nordic Consulting Group* (Washington, 2004).

¹⁴⁴ Paul Smoke, 'Local government fiscal reform in developing countries: Lessons from Kenya', *World Development*, 21:6 (1993), pp. 901-923.

¹⁴⁵ 'Lotodo rejects Omamo report', *Daily Nation*, 20 March 1997, p. 44.

¹⁴⁶ Ibid.

reforms mentioned. Nevertheless the plans detailed by Mudavadi were the beginnings of the KLGRP, which until 2004 was funded by the World Bank, followed by the UK's Department for International Development (2004-2006) and the European Union (2006-2010). The first item outlined by the minister was the Road Maintenance Levy, which was to be raised by 28 percent. Local authorities would receive 20 percent of the funds collected, and this would rise to 50 percent over time. In addition, the government committed to providing K£8.5 million that year to local authorities as a contribution in lieu of rates. Mudavadi also announced his intention to amend the Trade Licensing Act so as to phase out central government's role in local licencing, to allow for a move towards a Single Business Permit, under the responsibility of local authorities. Arguably the most important item elucidated by the minister was the announcement that a new devolved fund would be introduced from the 1999/2000 financial year. The Local Authority Transfer Fund (LATF) would initially allocate 5 percent of annual income tax collections to local authorities. These 'miscellaneous' aspects of the budget did not attract much parliamentary or press attention. However, their impact over the following decade was immense. Of all the reforms introduced as part of the KLGRP, LATF was of greatest consequence for councillors, as the next chapter explains.

Conclusion

In many ways, by the end of Moi's presidency in 2002, local authorities were in a more secure position than they had been for over thirty years. The reforms introduced from 1998 onwards were the outcome of a complex mix of factors, internal and external to Kenya. Just as the ideas of the metropole in the 1940s had led to an ambitious programme for local government in colonial Kenya, so too were the reforms of the 1990s, in part, dependent on international institutions who advocated the decentralisation of service delivery and greater community participation. National politicians are likely to have seen the appeal of decentralisation in slightly different terms to the international community. Since 1992, politics had become more competitive and consequently more expensive. Members of parliament needed councillors to shore up local support and councillors needed resources to give to *harambees* to maintain their own legitimacy. The shortage of resources was manifest across Kenya's local authorities, in both opposition and government controlled councils, municipals and counties. Whilst the politics of each local authority were unique and complex, the struggle to access

and control the local state's limited resources manifested itself in remarkably familiar ways. These struggles, which often played out in public, had degraded the reputation of councillors, particularly as they came at a time when the performance of councils, notably those in urban areas, was the subject of intense popular criticism. For national politicians, reforming the fiscal relationship between the central government and local authorities, and the creation of a number of devolved funds was a means to provide councillors with some of the resources they needed to fulfil their responsibilities to their constituents and their patrons. The final chapter explores how successfully this worked out in practice.

Chapter Seven: Kenya reborn - or ‘the same old glorified councillors of yore’?

As the dust settles on the recently concluded elections, if at all the dust will settle, Kenyans have to wake up to the reality of devolved government. Cynics and optimists are agreed on one thing: the government is in *mashinani* (the grassroots). Finally the wish by the majority of Kenyans to have the government on their doorsteps has been fulfilled.¹

Introduction

On 4 March 2013 Kenyans went to the polls in the first elections held under a new constitution. Their ballot papers listed candidates for four new political offices: governor, senator, members of county assemblies (MCAs), and women’s representative. No longer on the ballot were local government aspirants. Under the new constitution, local authorities were dissolved, and their staff and assets were taken over by new sub-national authorities: county governments. Fifty years after Kenyan independence, British-style local government was finally abandoned in favour of a different system of devolved government. This concluding chapter considers the pathway to local government’s replacement. It looks at the new system and how it relates to the debates over and experiences of local authorities discussed in previous chapters. The design of devolution represents a major departure from the colonial local government model, yet in practice, early observation suggests that county governments and MCAs are operating and behaving in much the same way as their local authority predecessors did before them.

Writing in the *East African* in 2005, Bosire Ogero recalled that in 1997 all political parties had agreed on the need to strengthen local government.² ‘Where then did we lose the focus’ he asked, ‘what ... do we do with the local authorities in Kenya? Do they serve any role? Do we abolish them? If we are to retain them, what

¹ Tom Odhiambo, ‘Political and cultural centres must move closer together for true devolution’, *Daily Nation*, 12 May 2013, accessed online at: <http://www.nation.co.ke/lifestyle/lifestyle/Political-and-cultural-centres-must-move-together-for-devolution/-/1214/1850092/-/ryrrjgz/-/index.html>.

² Bosire Ogero, ‘Local authorities are in a mess - don’t abolish them!’, *The East African*, 3 January 2005, accessed online at: <http://allafrica.com/stories/200501040755.html>.

role should they play?'.³ Ogero's concern that local government reform had fallen off the government's agenda was not without reason. In the same year that Musalia Mudavadi, Minister of Finance announced plans for a comprehensive programme of local government reform (1997), the government also agreed to begin a process of constitutional review. Over the next twelve years, these two processes became entangled. Not dissimilar to the events of 1960-63, efforts to implement local government reform were side-lined by a broader public debate about devolution, *majimbo* and a new constitutional order. The first half of the chapter considers these two developments. It begins by exploring the impacts that the Kenya Local Government Reform Programme (KLGRP) had on councillors and the institutions of local government, arguing that although Local Authority Transfer Fund (LATF) improved the situation for councillors, it was in no way transformative; councillors still struggled to meet their own expectations and those of their supporters. Public rhetoric about local authorities remained highly critical, even after Kibaki came to power in 2002, promising to professionalise local government. The chapter then turns to the process of constitutional review, which concluded in August 2010 - over a decade after it began - when a national referendum was held and Kenyans voted in support of a new constitution. It had taken a change of government, two rejected draft constitutions, and a national crisis for the political elite and Kenyan public to come to an agreement on the future structure of executive power and devolution of government.

The second half of the chapter critically considers the disjuncture between popular expectations of devolved government, and what is known of the way that the local state in Kenya has historically worked in practice. Differences between the old and new systems are drawn out, to show what aspects of the colonial local government 'model' have been retained, and what has been discarded. This offers important insights into the interplay between peoples' expectations of the state, and the potential this has to shape not only the way the state 'works', but also crucially, how these norms can become institutionalised. Previous chapters have highlighted three main criticisms of local authorities, broadly related to local government financing; the powers and autonomy of councils; and the personnel (elected and official), who occupied positions in local councils. Examining the

³ Ibid.

details of the present system, it might appear that many of the enduring tensions over finance and powers to have been resolved. Popular critique has encouraged the creation of a new model; a model it is argued, which better reflects common ideas and expectations of the central government's responsibility to local leaders and the constituencies they represent. County governments are now reliably and generously funded by the centre. Their powers and autonomy are enshrined in the law. Yet there is one clear continuity between the old and new system, that is, the kinds of people who occupy local political office, and most importantly, the contradictory demands made upon them by their supporters. Like councillors, MCAs continue to represent and serve those who they live amongst. As such, these 'leaders of the grassroots', are likely to find themselves faced with many of the same dilemmas and disappointments as their forbearers were. What they, and all the councillors discussed in this thesis reveal, is the profound tension that exists in Kenya between a legal-rational model of government, and a patrimonial one. This tension is particularly discernible when councillors are considered. They show that patronage politics has not – as much of the literature implies – been cultivated only or primarily by national elites intent on securing their ethnic constituencies. Rather, the continuing salience of a neo-patrimonial logic confirms the considerable agency of Kenya's citizens, whose longstanding demand for greater resources to be placed in the hands of local leaders has finally been granted.

Reform in action : 'we were jobless...when LATF came, things got improvement'

Reviewing progress made in implementing the Kenya Local Government Reform Programme, Paul Smoke concluded in 2004 that Kenya was 'finally moving in the right direction after many years of rhetoric and minimal action.'⁴ He noted that 'key central government players that once all but ignored local governments', were now 'pushing reforms and raising popular expectations.'⁵ This positive assessment came five years after the Local Authority Transfer Fund Act was passed in December 1998.⁶ Beginning from the next financial year, local authorities were legally entitled to receive 5 percent of national revenue collected through income tax. In addition,

⁴ Paul Smoke, 'Kenya: Erosion and reform from the center', in Dele Olowu and James Wunsch (eds.), *Local Governance in Africa: The Challenges of Democratic Decentralisation* (Boulder, 2004), pp. 211-236, p. 231.

⁵ Ibid. p. 231.

⁶ Local Authority Transfer Fund Act, 1998.

the Road Maintenance Levy and government Contributions in Lieu of Rates (CILORs) further formalised and strengthened the intergovernmental fiscal transfer system. The impact this had on local government finances was immediate. By 2003/04 central government transfers constituted 32.5 percent of local authorities' revenues, growing to 42.86 percent by 2007/08.⁷ This influx of funds had a positive impact on councillors; as Peter Kombo of Kakamega remembers, 'LATF changed [things]. Because we were jobless. When LATF came things got improvement... We were councillors but no money. But when LATF came we actually did a lot.'⁸

LATF was established to 'improve local service delivery'; 'enhance economic governance'; 'strengthen stakeholder participation' and "eliminate local authorities' outstanding debts".⁹ There were formal restrictions governing the use of LATF funds. In order to receive its disbursement, councils had to prepare a budget, with no more than 45 percent spent on personal emoluments, at least 10 percent on repair and maintenance and 20 percent on 'anti-poverty policies'.¹⁰ In reality, whether these restrictions were consistently enforced appears doubtful. Indeed, the formal objectives of LATF were poorly met. In 2005, Kenya's Institute of Economic Affairs continued to decry the 'all round poor performance of local authorities'.¹¹ Claims that councillors had misappropriated LATF funds quickly emerged.¹² For MP Musa Sirma, such actions were understandable: 'councillors have never had a way of earning a living', he told the House, '[a]n hungry person will have to look for a way of taking that money.'¹³ Festo Shisanya, a nominated councillor in Kakamega explained one of the means by which councillors accessed such funds:

The council was to be given some money to run it. We used to call that money LATF... And when you want to start projects, like you want to start to make, you want to make good where our local women are drawing water, some road or paths ...then we were to ask

⁷ Rocaboy, Vaillancourt and Hugounenq, 'Public Finances of Local Government in Kenya', p. 195.

⁸ Peter Kombo, interview, 25 August 2013, Ilesi (Kakamega).

⁹ Morris Odhiambo, Winnie Mitullah, Kichamu Akivaga, *Management of Resources by Local Authorities: The Case of Local Authority Transfer Fund in Kenya* (Nairobi, 2005), p. 64.

¹⁰ Rocaboy *et al*, 'Public Finances of Local Government in Kenya'.

¹¹ Institute of Economic Affairs, 'What next for Kenya's local authorities?', *Bulletin of the Institute of Economic Affairs*, 59 (2005), pp. 1-8, p. 1.

¹² Republic of Kenya, *Official Report*, House of Representatives, Eighth Parliament, Sixth Session, 13 June 2002, p. 1115-1133, p. 1120.

¹³ Republic of Kenya, *Official Report*, House of Representatives, Ninth Parliament, Third Session, 24 November 2004, pp. 4501-4521, p. 4502.

people to come here or at the chief's centre to form another committee which we call LASDAP [Local Authority Service Delivery Action Plan] ...Then, there, you can call all *wananchi* to come there. They start debating "our first priority is road", or "our first priority is water", or "our first priority is a school"... just like that. Then when they have listed all those priorities, they are taken to the full council meeting. Each ward is bringing its arrangements. Then they say, okay, for Iguhu now we are going to make this road, from this end up to that end you, will spend this much...the problems we used to go through are that, you identify about KSH 500,000 to make the road, but what they will do, the councillors, they have got interest in that money. They go to hire the contractors, then a contractor is asked "how much can you charge us for doing this work", he says "we want KSH 300,000." The councillor tells him "no make it KSH 450,000 so that the rest you give me, it is me who is giving you this job". So you see LASDAP money was spent in that manner. You see there was no ward, there was no councillor, who was transparent. There wasn't, and that money could not do the actual work it is meant to do. No, no, no. That is what I saw.¹⁴

This description suggests two ways in which LATF improved the situation for councillors. First, as Shisanya explained, a shrewd councillor could often find a way to misappropriate funds, providing the means for their own self-advancement, and the resources required to meet the personal demands placed on them by their constituents. Second, it created a means for local development projects – spearheaded by councillors – to be publicly funded. In the past, similar small-scale initiatives tended to be build through *harambee* placing financial responsibility on locally elected leaders rather than local or national government. LATF's success in this regard arguably contributed to the creation of a similar scheme at constituency level. The Constituency Development Fund (CDF) established in 2003, was designed to 'replace *harambee* as the focus of local development'.¹⁵ CDF was one of the most significant policy innovations of Kibaki's government, and its creation was intended to de-politicise the culture and practice of *harambees*. Yet as Nic Cheeseman notes, whilst CDF may have 'modified the structure of patronage in Kenya', it did not alter 'its basic logic'.¹⁶ Instead it formalised and legitimised this logic, by creating a bureaucratic system that provided all MPs with resources to perform their role as patron. This is important, and will be discussed further in the second half of the chapter.

¹⁴ Festo Shisanya, interview, 27 August 2013, Khayega (Kakamega).

¹⁵ Nic Cheeseman, 'Kenya since 2002: The more things change the more they stay the same', in Abdul Raufu Mustapha and Lindsay Whitfield (eds.), *Turning Points in African Democracy* (Suffolk, 2009), pp. 94-113, p. 104.

¹⁶ *Ibid.*, p. 105.

Even with LATF, councillors still struggled to satisfy the needs of their neighbours. Levi Ahindukha who joined Kakamega County Council in 1997 considered the financial resources of the council insufficient to enable him to have enough of a tangible impact in his ward:

[the council] could not pay us well so that we can also do many things, projects at home. What can you do with seven thousand shillings? What can you do with eleven thousand shillings at that time? Because they did not have good sources of income. ... there was no money coming, it was coming, but very little in terms of local authority transfer fund, LATF, it was very little. The highest they could give was about 30,000 shillings to one ward. That's why we could not manage to do a lot of progress in our areas.¹⁷

The implication in Ahindukha's statement is that he expected the council to be provided with the resources it needed, so that councillors could take an active part in their wards' development, and 'do a lot of progress'. This conception of a councillor's role was little altered from the ideas expressed by Pekeshe Ndeje, discussed in Chapter Two. Not only were local authorities still failing to participate adequately in the theatrical politics of development, but they also could not provide their members with real opportunities to advance economically. Aggrey Atira, who served on Kakamega with Ahindukha, admitted that he was drawn to local government by the belief that it would provide him with the means to improve his financial situation:

I used to think that the salary would be good when I join the council. I was expecting so many things including plots but they were not there... Many councillors have left the council poor. They went there walking and left there walking. Those who have left the council with something are those who were doing some form of business...Others were sleeping, just depending on their council allowance. Those ones just left the council empty-handed.¹⁸

Kilifi's councillors saw the introduction of LATF as a way to ensure they did not leave 'empty-handed'. During the last meeting of 1999, they were presented with a supplementary budget which outlined roughly how they were expected to spend the KSH 11,083,93 (approximately \$189,000) the council had been allocated through LATF.¹⁹ The thirty-one councillors' first thought was to try to increase their

¹⁷ Levi Ahindukha, interview, 26 August 2013, Kakamega Town.

¹⁸ Aggrey Atira, interview, 25 August 2013, Butso (Kakamega).

¹⁹ Minutes full council, KCC, 30 December 1999, Kilifi County Council Archive. For 1999/2000 financial year, LATF disbursements constituted two percent of national income tax rather than the five percent specified in the LATF Act.

allowances to at least KSH15,400 per month. This hurriedly added agenda item was refused by the clerk, who maintained that the council did not have the funds.²⁰

Previous chapters have explored differences between the profile and opportunities accorded to county and municipal councillors. Yet the steady degradation of municipal councils' institutional capacities, assets and financial resources meant that even in towns such as Nakuru, by the late 1990s, it was not appreciably easier for civic leaders to meet the demands placed upon them. This was the experience of Nakuru councillor Gitu Kuria who was elected in 1997 and stepped down five years later. The introduction of LATF half way through his term in office did not make being in politics any easier for him:

By being elected as a councillor, actually somebody has a lot of hectic time, I never knew that the public were so demanding, because when you are elected, the public are demanding their rights because they are tax payers, but what they are demanding from you after they elected is two different things. They come a lot, tell these problems "our children are being chased away from school", "my child has no uniform", "has no school fees", "my wife is sick", "my child is sick", "I need to go to the hospital", "I need medicine"; so they are too demanding. And by that time, you know, you are representing about fifty thousand people, all coming to you very early in the morning. You wake up and find them outside your house. Mama should be prepared because when you are a leader, she wakes up very early and makes a lot of tea, because every visitor has to have some...I said I would never go back into the field. I met the expectations of the people, but then you find that people are very petty. I have told you, and I will repeat, it's not for a common man...Politics is not for the poor.²¹

After five years on the council, Kuria decided that his 'leadership skills' could be better used in other forums. His early exit from politics came at a moment of great change in Kenya. At the elections of 2002, Daniel arap Moi stood down, in accordance with an agreement made with donors in 1991 to only serve a further two terms. The divisions that had prevented the opposition from unseating KANU in 1992 and 1997 were finally overcome. Two months before the December elections, the National Alliance Rainbow Coalition (NARC) formed through a merger of the National Alliance Party of Kenya and the Liberal Democratic Party, and selected Mwai Kibaki as the party's candidate. Kibaki won with 62 percent of the

²⁰ Ibid.

²¹ Gitu Kuria, interview, 31 March 2013, Nakuru Town.

vote, and in parliament, NARC candidates took 125 seats to KANU's sixty-four, with the remaining twenty-one seats taken by five smaller parties.²²

The peaceful transfer of power from Moi to Kibaki was described at the time by Stephen Ndegwa as 'the most significant political event' in Kenya's history since independence.²³ During his inauguration speech, Kibaki promised to bring Kenya 'out of the present wilderness and malaise onto the promised land'.²⁴ Elected on an anti-corruption platform, he pledged to 'bring back the culture of due process, accountability and transparency in public office'.²⁵ This apparent commitment to restoring Kenya's bureaucratic norms also applied to local authorities. During the election campaign, Kibaki had promised to make local government office a place for 'professionals' rather than 'politicians', recycling one of the persistent themes in the debate on local government.²⁶ The call for 'professionals' to enter local government suggested that after several years in operation, the impacts of the reform programme had been marginal. Indeed the reputation of local authorities had little improved, as the article in the *Daily Nation* that this thesis began with, attests to.²⁷ Despite Kwamchetsi Makokha assessment, made in 2001, that local authorities were 'a study in failure'; abolishing local government was not in the NARC manifesto.²⁸ Instead, the party spoke of professionalising these institutions by ensuring that councillors were 'qualified people with proven track records' who would be able to 'streamline financial management and service delivery'.²⁹

To oversee this process, Kibaki appointed a former Mombasa councillor, Karisa Maitha, as Minister for Local Government. In the days after this was announced, Kinuthia Wamwangi - a citizen of Thika who went on to become the head of the Transitional Authority responsible for overseeing the implementation of devolved government - felt compelled to write a letter to the *Daily Nation* to

²² David Anderson, 'Briefing: Kenya's elections 2002 - the dawning of a new era?', *African Affairs*, 102:407 (2003), pp. 331-342.

²³ Stephen Ndegwa, 'Kenya: Third time lucky?', *Journal of Democracy*, 14:3 (2003), pp. 145-58.

²⁴ Mwai Kibaki, 'Kibaki and Moi speech excerpts', BBC Monitoring: Media Reports, accessed online at: http://news.bbc.co.uk/1/hi/not_in_website/syndication/monitoring/media_reports/2615369.stm

²⁵ Ndegwa, 'Kenya: Third time lucky?.'

²⁶ Clay Muganda, 'Party under obligation to fulfill promises', *Daily Nation*, 21 January 2003, p. 11.

²⁷ Kwamchetsi Makokha, 'These mayors should be our last', *Daily Nation*, 6 July 2001, p. 8.

²⁸ Ibid.

²⁹ Ngumbao Kithi, 'Race hots up in mayoral elections', *Daily Nation*, 21 January 2003, p. 11.

warn the new minister 'not to celebrate too early for his appointment because the task ahead is phenomenal.'³⁰ At first it looked like Maitha might prove the naysayers wrong. He instantly became known as 'Hurricane Maitha' for the 'vigour and enthusiasm' he brought to the post.³¹ The *Daily Nation* wrote in January that he 'might be just what the doctor ordered'.³² A month later *The Standard* noted that 'every place he goes ... Karisa Maitha leaves some shattered jobs and a few broken hearts'.³³ However, commentators quickly became concerned that the minister was not thinking about the 'bigger picture', targeting 'individuals' when he should have developed 'a strategy for institutional reform'.³⁴ By October, the minister's initial flurry of activity was remembered bitterly:

Early this year, Kenyans were upbeat that, finally, the new Government would shake up and turn around the local authorities that have long been known for sloth and sleaze...For a while, there was some semblance of order in the councils. They appeared to be putting their acts together and the public was beginning to see a change in service delivery. But that was short-lived. Things soon went back to "normal". Garbage heaps have again become mountains, water taps are perpetually dry in many urban centres and roads are in a pathetic state.³⁵

A month before this damning appraisal was published, parliamentarians had held lengthy discussions on the Ministry of Local Government's budget. The substance and tone of this debate reflected an on-going shift in the way national politicians regarded local councillors. Their sympathetic portrayal of councillors continued to contrast with the litany of complaints and criticisms found in the press at the time. MPs appeared not to agree with the suggestion made by the *Daily Nation* that councillors were simply 'masquerading as grassroots leaders'; rather they took it in turns to argue to the contrary.³⁶ The Minister for Tourism and Information claimed he had realised since his election that 'councillors are the ones

³⁰ Kinuthia Wamwangi (letter), 'After the cabinet, the focus should turn to local authorities', *Daily Nation*, 9 January 2003, p. 10.

³¹ 'Slow down now, Mr Maitha', *Daily Nation*, 23 January 2003, p. 8.

³² Ibid.

³³ 'Hurricane Maitha is now wreaking havoc', *The Standard*, 28 February 2003, accessed online at: <http://allafrica.com/stories/200302280023.html>.

³⁴ 'Slow down now, Mr Maitha'. 'Reform local government', *Daily Nation*, 11 July 2003, accessed online at: <http://www.nation.co.ke/oped/-/1192/263218/-/qhdsdz/-/index.html>.

³⁵ 'Probe other councils too', *Daily Nation*, 30 October 2003, p. 8.

³⁶ Makokha, 'These mayors should be our last'.

who are constantly in touch with the Wananchi'.³⁷ This 'realisation' was shared by the member for Kitutu Chache, Jimmy Angwenyi, who said: 'In my constituency, my councillors are in touch with my people more than I am because I only go there over the weekend...Why can we not facilitate these people as they are also representatives of our people? They are representatives of the taxpayers.'³⁸ The call to 'facilitate' councillors was a reference to their allowances. On this point, MPs were in agreement that councillors were not fairly compensated; Angwenyi went on to argue that councillors should be paid salaries instead of 'allowances'. He saw this as important for MPs' own survival: 'These councillors give us votes and we depend on them... right now we are dealing with a demoralised group of leaders who are very dangerous.'³⁹

This bid to raise councillors' allowances was clearly, on one level, simply a self-serving strategy designed to ensure further support from councillors. That MPs deemed this important suggests how much more significant and valuable councillors had become to elite politicians in the multi-party era. Whereas in the 1960s and 1970s, local government had been retained – albeit increasingly in shell form – as a symbol of the government's steadfast commitment to a democratic model of government based on the British tradition, after 1991, local government was retained for a very different reason; MPs needed councillors to get votes. The interest shown by MPs in councillors' allowances was perhaps, however, more than just a political calculation. Indeed, they welcomed the minister's newfound understanding– as they saw it – of 'the dilemma of councillors'.⁴⁰ This 'dilemma' was best articulated by James Omingo the MP for South Mugarango:

When I went home last weekend, I met one of the councillors who told me he would rather resign... He claimed to have sold all he had to be able to join the council yet he is living like a pauper. In fact, that is why most of them steal. That is why they may steal someone's chicken, yet they are elected. How do you expect a whole (*sic*) council man who is called councillor not to attend a funeral which is in his neighbourhood just because he had not had his allowance paid in the last few months?⁴¹

³⁷ Republic of Kenya, *Official Report*, House of Representatives, Ninth Parliament, Second Session, 30 September 2003, pp. 2626-2657, p. 2630.

³⁸ Republic of Kenya, *Official Report*, House of Representatives, Ninth Parliament, Second Session, 30 September 2003, pp. 2626-2657, p. 2638.

³⁹ *Ibid.*, p. 2640.

⁴⁰ *Ibid.*, p. 2630.

⁴¹ *Ibid.*, p. 2647.

This sympathetic vignette hints at a number of moral dilemmas and contradictions facing councillors. Omingo described with disbelief the fact that someone who had sold everything 'he had' to get 'elected' could still end up 'living like a pauper'. Furthermore, that they were 'called councillor' – a title connoting status and leadership – and yet were forced to dodge public functions such as funerals where they would be expected to make a contribution to the family of the deceased, was an aberration, unconscionable to this MP. It went against the moral and social order, which was underpinned by an expectation that election was an assured route to resources. Whilst Omingo was claiming to relay an individual councillor's experiences, the implication was that it was a universal problem of life as a councillor, a life that was ultimately unsustainable and unrewarding.

After three years in operation, LATF had neither transformed the experiences of councillors nor the institutions of councils themselves. Despite 'Hurricane Maitha's' early, 'visible activities', by the end of NARC's first year in office, councillors felt betrayed.⁴² The public were similarly disappointed, and in January 2004, the *Daily Nation* conceded that 'many Kenyans today have given up hope of ever having local authorities that perform'.⁴³ Journalist Morris Odhiambo went on to criticise the Constitution of Kenya Review Commission for failing to 'effectively address the place of local authorities' in a devolved system.⁴⁴ The next section of this chapter looks in more detail at the process of constitutional review, and how this intersected with, and to an extent eclipsed the agenda of local government reform.

In pursuit of 'real devolution': Constitutional reform, 1997-2010

Multi-partyism failed to produce the kind of transformation in Kenyan politics that advocates had hoped for.⁴⁵ The entrenched power of KANU in the 1990s further signalled to reformers the urgent need for constitutional review. A new constitution was seen by a range of different activists, civic and professional organisations, as

⁴² Njeru wa Mugane (letter), 'Councillors deserve better pay', *Daily Nation*, 4 December 2003, p. 10.

⁴³ Morris Odhiambo, 'Clean up councils prudently, Hurricane', *Daily Nation*, 14 January 2004, p. 9.

⁴⁴ Ibid.

⁴⁵ Stephen Ndegwa, 'The incomplete transition: The constitutional and electoral context in Kenya', *Africa Today*, 45:2 (1998), pp. 193-211.

essential for the consolidation of democracy.⁴⁶ The constitution was viewed by critics to concentrate 'largely unchecked power in the executive', and in Nairobi, 'at the expense of the regions'.⁴⁷ Campaigners continued to agitate for reform after 1992, and in 1997 – with another election in sight – Moi seemingly compromised, establishing the Constitution of Kenya Review Commission (CKRC). The task of forming the commission, however, became highly contentious; KANU sought to control the process to the exclusion of opposition politicians, civil society, and other stakeholders. In protest, a parallel review was initiated by the National Convention Executive Council; an organisation composed of activists, religious leaders and politicians. After mediation by the chairman of the government's commission, Yash Ghai, the two processes officially merged in April 2001. The CKRC held public hearings throughout much of 2001 and 2002, and on the basis of this the CKRC prepared a draft constitution which was published in September 2002. Included in the draft were proposals for new provincial and district councils, a bicameral legislature and the creation of the post of prime minister. Before the draft could be voted on Moi dissolved parliament.

On coming to power, Kibaki pledged a new constitution within one hundred days of NARC taking office. Five years, two drafts and one referendum later, Kenya's constitution remained in place.⁴⁸ NARC's 'reforming zeal' quickly gave way to inertia, with some observers acidly noting that, once the opposition had taken office, the old constitution 'did not seem so bad'.⁴⁹ The new government established a National Constitution Conference early in 2003 which sat on and off for much of 2003/4. The convention – known ubiquitously as 'Bomas' (the name of the conference centre), had over six hundred delegates, and was mandated to make revisions on the Ghai draft. The convention marked the second stage of the reform process as set out in the Constitution of Kenya Review (Amendment) Act of 2001. This followed the period of public consultation and drafting (2001/2) and was to be proceeded by the ratification by parliament of the constitution.⁵⁰

⁴⁶ Tom Wolf, 'Kenya's new constitution: triumph in hand, testing times ahead?', *Konrad-Adenauer-Stiftung International Reports*, 3 (2011), pp. 52-66, p. 52.

⁴⁷ *Ibid.*, p. 53.

⁴⁸ Jill Cottrell and Yash Ghai, 'Constitution making and democratization in Kenya (2000-2005)', *Democratization*, 14:1 (2007), pp. 1-25.

⁴⁹ *Ibid.*, p. 14.

⁵⁰ Alicia Bannon, 'Designing a constitution-drafting process: lessons from Kenya', *The Yale Law Journal*, 116:8 (2007), pp. 1824-1872, p. 1836-7.

Negotiations at Bomas were lengthy, with delegates disagreeing on three 'contentious issues': the future structure of the executive, devolution and kadhi courts.⁵¹ The government ultimately walked out in protest at proposals for devolution and a strong prime minister elected by parliament. The High Court then ruled that the constitution would have to be put to a national referendum. The government insisted on having the opportunity to alter the Bomas Draft before the referendum. At a series of retreats held in the first half of 2005, Kibaki's allies set about amending the Bomas Draft, where they succeeded in weakening 'many of its provisions.'⁵² When the government presented its amended draft constitution - known as the 'Wako Draft' after Minister of Justice Amos Wako - mid-way through 2005, the structure of devolution it contained was quite different to the Bomas original.⁵³ Firstly, the Wako draft did not propose to reinstate the senate, as the Bomas had. The absence of an upper house was seen as highly significant by many observers: '[d]evolution...has no real basis if there is no senate. It is the mere delegation of tasks rather than genuine devolution of decision-making authority to lower levels of government.'⁵⁴ A second difference lay in the number of devolved tiers the two constitutions proposed. Whilst Bomas had advocated for regional, district and locational councils, the Wako draft detailed a system of district governments only. Regarding the functions of devolved bodies, the two constitutions listed a similar array of services and responsibilities for district governments: agriculture; health; cultural activities; pollution; transport; animal control and welfare; trade development and regulation; district planning and development; education (pre primary, primary and secondary); implementation of national policies on conservation and resources; public works and services; fire services. These were broadly the same functions that had been assigned to local authorities in 1963. In addition both constitutions proposed to dissolve the provincial administration and have local authorities entirely replaced by the district government system.

⁵¹ Ibid.

⁵² Nelson Kasfir, 'Agency across changing sites: the path to Kenya's 2010 constitution', in Lucy Koechlin and Till Forster (eds.), *The Politics of Governance: Actors and Articulations in Africa and Beyond* (New York, 2015), pp. 52-71, p. 57.

⁵³ Republic of Kenya, *Kenya Gazette* (Supplement No. 63), 22 August 2005, 'The Proposed Constitution of Kenya' (Nairobi, 2005).

⁵⁴ Preston Chitere et al., *Kenya Constitutional Documents: A Comparative Analysis*, CMI (Norway, 2006), p. 21.

The other main difference between the two drafts was the structure of the executive outlined in each. The Bomas draft advocated a 'split executive', with a directly-elected president and prime minister elected from within parliament, whereas in the Wako draft, the prime minister was to be nominated by the president. By the time the draft was put to a national referendum in November 2005, NARC had split over the issue of the constitution. Now 'effectively in the opposition' Raila Odinga's party led the 'No' campaign against the constitution. During the months leading up to the referendum, Kenyans were divided 'both on the merits of the new constitution and the process by which it had been cobbled together.'⁵⁵ Ultimately the majority rejected the Wako Draft in November 2005 with 57 percent voting against the constitution.

The success of the 'No' campaign was partly the product of the organisational strength of Odinga's 'Orange' movement (orange being the 'no' symbol on the voting card). The campaign tried to use the referendum as a vote on the performance of Kibaki's government, confidence in which had dropped after a series of corruption scandals.⁵⁶ But more than this, the result of the referendum also reflected popular views on the Wako constitution itself, and the process that had produced it.⁵⁷ It was, Michael Chege argues, seen by the majority as 'a Trojan horse for continued Kikuyu dominance.'⁵⁸ And opponents criticised it for being 'bereft of the devolution provisions of the Bomas draft'.⁵⁹ Debate over devolution had dominated public discourse since the start of the constitutional review process. Reflecting in 2008 on the contours of this debate, Yash Ghai notes that there was 'little common understanding of *majimbo*'.⁶⁰ Despite this he still asserts that 'the overwhelmingly majority of Kenyans have endorsed devolution (even if they differ on the modalities)'.⁶¹ Ghai underplays the very varied understandings amongst the public and politicians of what devolution might entail, and yet insists that 'the

⁵⁵ Hornsby, *Kenya: A History Since Independence*, pp. 739-40.

⁵⁶ Karuti Kanyinga and James Long, 'The political economy of reforms in Kenya: The post-2007 election violence and a new constitution', *African Studies Review*, 55:1 (2012), pp. 31-51.

⁵⁷ Hornsby, *Kenya: A History Since Independence*, p. 741.

⁵⁸ Michael Chege, 'Kenya: Back from the brink?', *Journal of Democracy*, 19:4 (2008), pp. 125-139, p. 132.

⁵⁹ Yash Ghai, 'Devolution: Restructuring the Kenyan state', *JEAS*, 2:2 (2008), p. 211-226, p. 212.

⁶⁰ *Ibid.*, p. 213.

⁶¹ *Ibid.*, p. 225.

demand for devolution was for positive reasons'.⁶² This stood in contrast, he suggested, to the motivations behind the push for regionalism in the early 1960s. Yet a close reading of the CKRC's final report reveals a muddled picture of 'what the people' said in public hearings, and how this informed the commission's commentary and recommendations.⁶³ This is particularly evident in the way local government was treated in the report. The CKRC noted that '[t]here was wide support for local government, which people said should be strengthened to support the state in local administrative, management and development activities.'⁶⁴ Yet instead of advocating for a more aggressive programme of local government reform the report concluded that 'that the way forward is to design a system of devolution which agrees with the reasons given for it by the people. These demands, expressed in terms of devolution, are as much criticisms of the present political system and how it has been used as amounting to a desire for a particular alternative structure.'⁶⁵ That the overriding sentiment expressed by the public in hearings was one of dissatisfaction with the contemporary political system is highly significant. As Stephanie Diepeveen explains, 'what united *wananchi* across the districts ... was not an image of the ideal system of government', instead what emerged in the hearings was a 'disillusioned public united in their dissatisfaction with their experiences of politics'.⁶⁶ This observation is crucial for understanding why local government had no place in the constitutional order of either the Bomas or Wako drafts. To policy-makers and constitution-writers, the overwhelming desire expressed by much of the public to break with the political system of the past, was such that the reform of local authorities was no longer an acceptable or adequate response to the problems of over centralisation and lack of local participation in decision-making. It might provide a stop-gap, as one MP implied in November 2004, but ultimately such reform would only function as 'preparation for the real devolution' which would come through replacing the constitution'.⁶⁷ For Ghai, 'local

⁶² Ibid., p. 214.

⁶³ Constitution of Kenya Review Commission, *The Final Report of the Constitution of Kenya Review Commission* (Nairobi, 2005).

⁶⁴ Ibid., p. 235.

⁶⁵ Ibid., p. 237.

⁶⁶ Stephanie Diepeveen, "The Kenyas we don't want': Popular thought over constitutional review in Kenya, 2002', *JOMAS*, 48:2 (2010), pp. 231-258.

⁶⁷ Republic of Kenya, *Official Report*, House of Representatives, Ninth Parliament, Third Session, 24 November 2004, pp. 4501-4521, p. 4507.

government had lost its authority' and so the object of devolving 'power to all local levels' necessitated new bodies and systems, with new names.⁶⁸

After the defeat of the Wako constitution, it was not clear if and when the review process would resume. The split in the NARC coalition continued up to the election of December 2007 when Odinga's Orange Democratic Movement (ODM) challenged Kibaki's Party of National Unity (PNU).⁶⁹ The disputed results and crisis that followed ensured that constitutional reform stayed at the centre of political debate. The mediation of the crisis by an AU Panel of Eminent African Personalities and former UN Secretary General Kofi Annan led to agreement on four agenda items dealing with: i) the immediate end to the crisis; ii) addressing the humanitarian situation; iii) the establishment of a power sharing government; and iv) political, judicial and constitutional reform.⁷⁰ The latter was managed by a committee of experts, with the assistance of a reference group and parliamentary select committee.⁷¹ Tasked with 'harmonising...previous drafts', the committee of experts set to work in December 2008.⁷² Less than two years later, and a new constitution had been drafted, reviewed by the government, presented to the public and voted on in a national referendum. The new constitution received huge public support with 68 percent voting in favour of its adoption.⁷³

Scholars offer different analyses to explain why the constitutional reform process was able to progress in 2008-10 when past efforts had all stalled. For Karuti and Long, a key factors was that the process was controlled by experts and technocrats, rather than politicians.⁷⁴ Nelson Kasfir challenges this interpretation, noting that the committee of experts had to make significant decisions when 'harmonising' the drafts, favouring the most reform-oriented version, the Bomas draft.⁷⁵ Even so, politicians were not excluded from the process. The parliamentary select committee, formed of PNU and ODM members, made 'sweeping changes to the revised harmonised draft', which was eventually passed by parliament, within

⁶⁸ Ghai, 'Devolution: Restructuring the Kenyan state', p. 215.

⁶⁹ Nic Cheeseman, 'The Kenyan election of 2007: An introduction', *JEAS*, 2:2 (2008), pp. 166-184.

⁷⁰ Karuti and Long, 'The political economy of reforms in Kenya'.

⁷¹ *Ibid.*

⁷² *Ibid.*, p. 40.

⁷³ Eric Kramon and Daniel Posner, 'Kenya's new constitution', *Journal of Democracy*, 22:2 (2011), pp. 89-103.

⁷⁴ *Ibid.*

⁷⁵ Kasfir, 'Agency across changing sites'.

the strict time-frame set out in the National Accord and Reconciliation Act.⁷⁶ The fact that there was considerable public pressure for the process to reach a conclusion was certainly significant, as was the ‘grand compromise’ reached by Raila and Kibaki to maintain a presidential system *and* introduce devolution.⁷⁷

The issue of devolution remained contentious during the review process. Raila’s ODM preferred a three tier structure along the lines of the Bomas Draft, whilst Kibaki’s PNU sought fewer sub-national authorities. An agreement was reached on a two-tier system with forty-seven county governments contiguous with the pre-1992 district boundaries.⁷⁸ County governments consist of a county assembly and county executive. County assemblies have a speaker, members of the county assembly (MCAs) elected to represent a ward, and nominated MCAs. The county executive is made up of a directly elected governor and deputy, and a county executive committee, whose members are nominated by the governor, with the approval of the assembly. The constitution reintroduced the senate; members of which are directly represented and mandated to protect counties’ interests in the upper house. The new system came into effect after the elections of March 2013, when city, municipal and county councils were dissolved, and replaced by county governments.

Conclusion: ‘pathways to a new Kenya’?

Observers in and outside of Kenya have celebrated the ‘remarkably ambitious and rigorous experiment in democratic decentralization’ that the country has begun to undertake.⁷⁹ The scale of these ambitions was summed up by a World Bank report, subtitled ‘pathways to a new Kenya’:

Kenya’s new constitution marks a critical juncture in the nation’s history. It is widely perceived, by Kenyans from all walks of life, as a new beginning... Its vision encompasses a dramatic transformation of the Kenyan state through new accountable and transparent institutions, inclusive approaches to government and a firm focus on equitable service delivery for all Kenyans through the newly established county governments.⁸⁰

⁷⁶ Ibid., p. 63.

⁷⁷ Joel Barkan and Makau Mutua, ‘Turning the corner in Kenya: A new constitution for Nairobi’, 10 August 2010, *Foreign Affairs*, available online <https://www.foreignaffairs.org/articles/east-africa/2010-08-10/turning-corner-kenya>.

⁷⁸ Ibid.

⁷⁹ Suberu, ‘Federalism and decentralization’, p. 32.

⁸⁰ World Bank, *Devolution without Disruption: Pathways to a Successful New Kenya* (Nairobi, 2012), p. 1.

Through the new constitution, Kenya was offered 'a new beginning'; this narrative of a nation reborn has infused much of the academic and popular commentary on devolution. The notion that devolved government could and would 'fix' Kenya's broken politics and lead the country into a new era of 'good governance' has come under remarkably little scrutiny from scholars of Kenya and experts on decentralisation. The constitution-writers' ambitions for devolution were wide-ranging, encompassing the hopes that it would 'promote democratic and accountable exercise of power'; 'foster national unity'; and 'promote social and economic development'.⁸¹ The rationale for such aspirations has been supported by enthusiastic observers, such as Kempe Hope, who states – without reservations – that devolved government will lead to enhanced citizen participation; better service delivery; a reduction of regional inequalities, instability and poverty; and lessen corruption.⁸² Decentralisation is, he concludes 'an unambiguously desirable phenomenon'.⁸³ Such enthusiasm stems from the diagnosis that most, if not all of Kenya's governance problems are symptoms of the state's historic over-centralisation.⁸⁴ Corruption, tribalism and political violence are thereby seen as the outcomes of Kenya's 'imperial presidency'. By bringing government 'closer to the people', and ending the 'winner takes all' approach to the presidency, it was assumed that the state would become more accountable and responsive to local needs and that the political culture of national elites would adjust accordingly.

Long-time observer of Kenyan politics, Tom Wolf, shares the enthusiasm of the World Bank. He writes that the new constitution 'represents a radical break from the past in terms of significant improvements in all areas of governance'.⁸⁵ This assumption is explored in this final section, which applies Jean-Pierre Olivier de Sardan's concepts of 'official norms' and 'practical norms' to the study of the new county government system. Dissatisfied with the pervasive and often ambiguous application of the term 'neo-patrimonialism' in the study of African states, Olivier de Sardan proposes that the 'gap' between - and coexistence of - a bureaucratic

⁸¹ See Chapter 11 Article 174, The Constitution of Kenya, 2010.

⁸² Kempe Ronald Hope, 'Devolved government and local governance in Kenya', *African and Asian Studies*, 13:3 (2014), pp. 338-358.

⁸³ *Ibid.*, p. 346.

⁸⁴ Mueller, 'The political economy of Kenya's crisis'; Godwin Murunga, 'Governance and the politics of structural adjustment in Kenya', in Godwin Murunga and Shadrack Nason'o (eds.), *Kenya: The Struggle for Democracy* (New York, 2007), pp. 263-300; Cheeseman, 'Kenya since 2002'.

⁸⁵ Wolf, 'Kenya's new constitution', pp. 65-66.

mode of governance and a (neo)-patrimonial logic can be more precisely analysed and understood through examining the official and practical norms that govern actors and institutions of the state. Official norms, he writes, are 'largely identical to those in force in the North'.⁸⁶ This study has considered the 'official norms' of local government, referred to for the most part in this thesis, as the 'colonial local government model'. The official norms of the new system of county governments – codified in the 2010 constitution and other pieces of legislation – represent a major departure from those of the colonial local government model. In its design, devolution addresses many of the enduring criticisms of the former local government system. This exemplifies 'the ways in which governance arrangements emerge, are articulated and transformed through social agency', and most importantly, can become institutionalised.⁸⁷ However, this is yet to be accompanied by an associated shift in the 'practical norms' of county governments. Practical norms, Olivier de Sardan explains, 'are the various informal rules, tacit or latent, that underpin those practices of public actors which do not conform to formal professional and bureaucratic norms.'⁸⁸ Clear continuities are emerging between the practical norms of county governments and their local authority predecessors, the reasons for which are considered in the conclusion.

At the heart of the colonial local government model was an assumption that people would be more willing to pay taxes for local services that they could easily see and access. This belief was seemingly supported by the experience of African local councils before independence. From the mid-1920s, the vast majority of Kenya's native councils chose to raise the value of their local rate, year on year, to support local services, particularly education. Yet as independence drew nearer, this success in collecting taxes began to break down. The trend continued after 1963, when – as was shown in Chapter Two – local authorities struggled to meet their revenue raising targets. Kenya's councillors had expected independence to

⁸⁶ Olivier de Sardan, 'Abandoning the neo-patrimonialist paradigm: For a pluralistic approach to the bureaucratic mode of governance in Africa', in Lucy Koechlin & Till Forster (eds.), *The Politics of Governance*, pp. 75-92, p. 78.

⁸⁷ Lucy Koechlin, 'Introduction: The conceptual polysemy of governance', Lucy Koechlin & Tim Forster (eds.), *The Politics of Governance: Actors and Articulations in Africa and Beyond* (New York, 2015), pp. 1- 24, p. 4.

⁸⁸ Jean-Pierre Olivier de Sardan, 'The delivery state in Africa: Interface bureaucrats, professional cultures and the bureaucratic mode of governance', in Thomas Bierschenk and Jean-Pierre Olivier de Sardan (eds.), *States at Work: Dynamics of African Bureaucracies* (Leiden, 2014), pp. 399-429, p. 408.

bring an end to taxation, and a rapid expansion in local services. Such 'development', it was assumed, could and should be funded by the central government. This general feeling was captured by Walter Hardacre during the commission of inquiry into local government. After meeting with scores of delegations of councillors, and other stakeholders, Hardacre suggested 'the idea that central government take over GPT, and finance local authorities by way of grants.'⁸⁹ This suggestion, made in 1966, essentially sums up the intergovernmental fiscal arrangement contained in the new county government system.

In the mid-1960s, central government grants constituted around 33 percent of county councils' revenues, which were responsible for many of the same functions as county governments are today (with the significant exception of primary education, which has remained under central government control contrary to the proposals presented in the Bomas and Wako drafts). The constitution guarantees that county governments must be allocated at least 15 percent of national revenue.⁹⁰ This figure has been the subject of forceful debate, with many voices calling for a greater share to be allocated to counties.⁹¹ In 2013/14, central government transfers constituted roughly 80 percent of county governments' total revenue.⁹² By comparison, under the previous system, central government transfers represented roughly 37 percent of local authorities' revenues in 2005/06. Own-source revenue in 2013/4 was just 20 percent of county government's budgets. It was prudent to estimate for a small share in counties' first year, but these low expectations appear to have continued. Kilifi County Government's budget estimates for 2015/16 anticipate local revenue representing just 15.3 percent of the total, whilst the figure in Nakuru is only marginally higher at 20.4 percent, out of a total estimated annual revenue of KSH 9.87 billion, equivalent to £61.67 million, for 2014-17.⁹³

⁸⁹ Malindi Hearings 16-17 June 1966, JA/7/10, KNA, Nairobi.

⁹⁰ See Chapter 12, Article 201, The Constitution of Kenya, 2010.

⁹¹ Ibid.

⁹² Republic of Kenya, *Office of the Controller of the Budget: County Governments, Annual Budget Implementation report, FY 2013-14*, p. xii, accessed online at: <http://cob.go.ke/publications>.

⁹³ County Government of Nakuru, *County Treasury Medium Term Expenditure Framework Budget, Original Estimates 2014/15-2016/17*, April 2014, accessed online at: http://www.nakuru.go.ke/wp-content/uploads/2014/05/Nakuru_PBB_Final_Budget_2014.pdf.

This arrangement, whereby the bulk of counties' funds come from central sources, but are managed by locally elected politicians is quite unusual within the range of contemporary and historic devolution experiences.⁹⁴ Indeed not only does it represent a significant reversal of the colonial local government model but it also runs counter to the logic of more recent decentralisation theory, advocates of which insist that collecting a substantial share of own revenue is crucial for fostering accountability and transparency at the local level.⁹⁵ Yet it is important to note that county governments' revenue-raising powers are actually quite limited and are essentially comparable to those of their local government predecessors.⁹⁶ In 1963, the central government delayed transferring revenue-raising powers to the regional authorities set up by the *majimbo* constitution; this move successfully weakened the regions and contributed to their eventual disbandment.⁹⁷ The Transfer of Functions Act passed in the final days of 1969, restored all major taxing powers to the centre. Unwelcome competition from local authorities, was certainly one of the factors that led to the Act, but – put simply - local authorities have never been very good at collecting revenue; the evidence so far, suggests that county governments are no better. In 2013/14, county governments only raised 48.5 percent of the budgeted target for own-source revenue, with some counties such as Kakamega performing far worse.⁹⁸ Kakamega only reached 11.6 percent of estimated revenue.⁹⁹

Reflecting on these trends, Nic Cheeseman, writing in the *Daily Nation*, unknowingly echoed the words of Wilfred Havelock. He concluded that county governments 'will need to cut their cloth accordingly.'¹⁰⁰ Fifty seven years earlier, the Minister for Local Government had said the same when addressing the members of Nandi ADC. Yet Havelock's insistence that 'each council would have to

⁹⁴ World Bank, *Devolution without Disruption*.

⁹⁵ Roy Bahl and Richard Bird, 'Subnational taxes in developing countries: The way forward', *Public Budgeting & Finance*, 28:4 (2008), pp. 1-25. For a critique of county government's revenue raising powers see 'Devolution without disruption', pp. 68-88.

⁹⁶ Jamie Boex and Roy Kelly, 'Fiscal decentralization in Kenya: A small step or giant leap?' (Washington, 2011), p. 1.

⁹⁷ Gertzel, *The Politics of Independent Kenya*, p. 33.

⁹⁸ Republic of Kenya, Office of the Controller of the Budget, *Annual Budget Implementation Review Report FY 2013/2014*, August 2014, p. 3, accessed online at: <http://cob.go.ke/publications/>.

⁹⁹ *Ibid.*, p. 4.

¹⁰⁰ Nic Cheeseman, 'While devolution may work, is it sustainable?', *Daily Nation*, 8 August 2015, accessed online at: <http://mobile.nation.co.ke/blogs/While-devolution-may-work/-/1949942/2825284/-/format/xhtml/-/xyptksz/-/index.html/>

cut its coat according to its cloth', was rejected at the time by his audience in Nandi. Their spokesman, Senior Chief Elijah told the minister that the government had a responsibility to support local authorities 'once established', 'to the extent that was necessary for the provision of satisfactory services.'¹⁰¹ The same argument was made by local authorities after independence. The councillors who were elected in 1963 had great expectations of what local government would do for them as individuals, and for the communities they represented. It was widely assumed that an African government would provide councillors with all that was needed to hasten the eradication of 'poverty, ignorance and disease' in their wards, and speed up the supply of education to all. This was not the case. Instead, Kenyatta's government preached that there could no 'free things'; that councillors had to be fiscally responsible; and councils had to 'cut their cloth accordingly'. This tension between the expectations and realities of *uhuru* provoked real debate over the model of government bequeathed to Kenya, and the policies pursued by the party in power. Instead of looking to the government to provide, Kenyatta told Kenyans they had to 'pull together' and help themselves. *Harambee* was the preferred model and mechanism for grassroots development. Throughout much of his and Moi's presidencies, *harambee* provided a system through which external resources could be used to fund infrastructure projects and services within constituencies. In the absence of well-resourced and functioning local authorities, *harambees* enjoyed considerable popular support, and were used by elites to maintain their claims to authority. This system started to break down after 1991, with the overt politicisation of *harambees* by the governing regime. The elected opposition, excluded from state spoils, found it much harder to deliver and perform the role of patron. Thus when NARC came to power in 2002, abolishing *harambees* was one of its first acts in government. The Constituency Development Fund (CDF) which was brought in to replace *harambee*, legitimised the notion that the role of elected leaders extended beyond policy formation and government oversight. Indeed, it offered a way for MPs to be 'simultaneously developmentalist-interventionist and populist-clientelist', all the while whilst working within a bureaucratic, legal-rational framework.¹⁰²

¹⁰¹ Minutes, Nandi ADC, 28 January 1958, JA/12/27, KNA, Nairobi.

¹⁰² Cooper, *Africa Since 1940*, p. 88.

By retracing this history it is possible to see the 'official norms' laid out in the new constitution as the outcome of much more than the 2007/08 election crisis, and even more than the culmination of the past two decades of campaign for democratic reform. By committing at least 15 percent of national revenue to sub-national authorities, the new dispensation affirms the long-held belief amongst many in Kenya, that elected leaders should provide for their constituencies, and that 'the government' should facilitate this. Popular pressure for more resources to be available to local communities has found form in the constitution. Yet even this apparent victory has not ended the call for more resources to be channelled to the 'grassroots'. The main opposition coalition in parliament and the Council of Governors have both campaigned since 2013 to substantially increase the share of the national budget allocated to counties. In April 2015, a draft bill was released which proposed to allocate 45 percent of national revenue to counties, and to reintroduce the CDF and create Ward Development Funds for MCAs.¹⁰³ The bid to introduce ward development funds is curious given that the creation of such discretionary spending funds for MCAs has already become part of the 'practical norms' of county governments.¹⁰⁴ Many counties voted to allocate MCAs 'ward development funds' in 2013/14. Kakamega, 'without prior budgetary provision' released KSH 10 million to each ward, roughly £63,000 each, as a ward development fund.¹⁰⁵

Examining in greater depth the Auditor-General's report on Kakamega County Government's first year in office reveals a number of other continuities in terms of the behaviour of MCAs. They are deploying many of the same strategies developed by councillors to extract greater resources and opportunities from the local state. For example, Kakamega's MCAs over-claimed their 'sitting allowances'

¹⁰³ Republic of Kenya, *Kenya Gazette (Supplement No. 41, Senate Bills No. 5)*, 17 April 2015, 'The County Allocation of Revenue Bill 2015', (Nairobi, 2015).

¹⁰⁴ The attempts by Nakuru, Trans Nzoia, and Garissa counties to create Ward Development Funds were reported by Patrick Kibet in 'Members of County Assembly propose development fund for wards', *Standard Digital*, 13 July 2013, accessed online at: <http://www.standardmedia.co.ke/article/2000088252/members-of-county-assembly-propose-development>; Nicholas Wamalwa, 'Ward Development Fund for Trans Nzoia', *the Star*, 16 May 2014, accessed online at: <http://allafrica.com/stories/201405161493.html> and; Stephen Astariko, 'Ward Fund bill is for Garissa is ready', *the Star*, 13 February 2014, accessed online at: <http://allafrica.com/stories/201402130674.html>.

¹⁰⁵ Republic of Kenya, *Report of the Auditor-General on the Financial Operations of Kakamega County Executive for the Period 1 July 2013 to 30 June 2014*, p. 2, accessed online at: <http://www.kenao.go.ke/index.php/reports>.

by approximately KSH 65 million (£410,000); much of which was paid for committee and assembly meetings that supposedly, though doubtfully, took place over weekends and public holidays.¹⁰⁶ An extreme case was the House Business Committee, which never met during the year, yet its twenty-five members still claimed for a combined total of 224 sessions.¹⁰⁷ The Auditor General's report also condemned the 'extravagant, unaccounted for expenditure' on regional conferences and foreign tours, which MCAs claimed further allowances and expenses for.¹⁰⁸ Making 'educational tours' to other councils became a common practice amongst local authorities in the 1990s and 2000s as participation in the trips entitled councillors to claim a daily allowance. This kind of opportunism, however, is harder to justify in light of the salaries MCAs now receive. Local political office has been reformulated into a 'job' rather than a position of voluntary service. A normal member of a county assembly began their first term with a monthly salary of KSH 79,200 (£495).¹⁰⁹ In November 2013, eight months after the election, the Salaries and Remuneration Commission increased their salaries and allowances after strikes had brought many county governments to a standstill. Under the new agreement, MCAs receive KSH 180,000 (£1,125), are entitled to mortgages valuing KSH 3 million, and – after fifty years of campaigning – car loans of up to KSH 2 million.

At an institutional level, there are also clear continuities in the practical norms of county councils and county governments. There have been innumerable reports of seemingly new political spats between governors, senators, MCAs and county assembly speakers, which feature daily in Kenya's main newspapers. Yet how 'new' these divisions are is debatable; contemporary tussles for resources and political authority resemble in nature those that characterised local government for decades. In the past these struggles were often fought between councillors and chief officers, who held executive power and were appointed by the central government. The 'biggest headache' for clerks were the constant requests by

¹⁰⁶ Republic of Kenya, *Report of the Auditor-General on the Financial Operations of Kakamega County Assembly for the Period 1 July 2013 to 30 June 2014*, pp. 9-13, accessed online at: <http://www.kenao.go.ke/index.php/reports>.

¹⁰⁷ Ibid., p. 10.

¹⁰⁸ Republic of Kenya, *Report Auditor-General on the Financial Operations of Kakamega County Executive 2014*, p. 9.

¹⁰⁹ 'SRC finally gives county assembly members pay increase', *Business Daily*, 28 November 2013, accessed online at: <http://www.businessdailyafrica.com/SRC-finally-gives-MCAs-pay-increase/-/539546/2092408/-/s0cab/-/index.html>.

councillors for the local authority to provide employment to their supporters. The local state's role as 'employment agency' seems to have been recycled. Of counties' total expenditure in 2013/14, an average of 45.7 percent was spent on personal emoluments; over double the amount allocated to 'development' expenditure.¹¹⁰

The media has strongly criticised these emerging practical norms of county governments.¹¹¹ Incredulous at the 'goodies' MCAs were trying to apportion themselves, Amnesty International's East Africa director Muthoni Wanyeki called in September 2014 for a 'tax boycott'.¹¹² To most observers, the dysfunction in county governments is a product of the actions and attitudes of MCAs. Thus the *Daily Nation* wrote in March 2015 that it was 'no longer in doubt', that 'MCAs are a general nuisance'.¹¹³ The columnist asked '[w]hy do we need 2,526 MCAs yet they are just the same glorified councillors of yore?'.¹¹⁴ The councillors of 'yore' were also blamed for the failures of the former local government system. Throughout Kenya's post-colonial history, public rhetoric about councillors consistently focused on the personal deficiencies of councillors who were deemed by the press to lack the education, skills and moral character needed to hold public office. Lambasted as 'little more than common criminals', the academic literature tended to mirror this portrayal.¹¹⁵ Southall and Wood conclude that councillors were 'on the whole, poorly educated and materially motivated', and they suggest that councillors' 'ignorance and rapaciousness' made them incompatible with 'any system of government'.¹¹⁶

Previous chapters have challenged this depiction by exploring the multiple motivations that have driven different councillors, and their individual struggles to

¹¹⁰ Republic of Kenya, *Office of the Controller of the Budget: County Governments, Annual Budget Implementation report, FY 2013-14*, p. 7, accessed online at: <http://cob.go.ke/publications>.

¹¹¹ Moses Mirikau Ombayo (letter), 'Time for MCAs to turn a new leaf in leadership', *Daily Nation*, 24 October 2014, accessed online at: <http://www.nation.co.ke/oped/Letters/Time-for-MCAs-to-turn-a-new-leaf-in-leadership/-/440806/2498386/-/10ft975z/-/index.html>.

¹¹² Muthoni Wanyeki, *The East African*, 6 September 2014, accessed online at: <http://www.theeastafrican.co.ke/OpEd/comment/Time-for-a-tax-boycott-as-MCAs-join-the-fun/-/434750/2443386/-/aednldz/-/index.html>.

¹¹³ Larry Madowo, 'Yes, we do not need all these MPs and MCAs, get rid of them!', *Daily Nation*, 3 March 2015, accessed online at: <http://mobile.nation.co.ke/lifestyle/Yes-we-do-not-need-all-these-MPs-and-MCAs-get-rid-of-them/-/1950774/2640242/-/format/xhtml/-/k30x6xz/-/index.html>.

¹¹⁴ Ibid.

¹¹⁵ 'Action on councils too long in coming', *Daily Nation*, 22 November 2000, p. 6.

¹¹⁶ Southall and Wood, 'Local government and the return to multi-partyism', p. 523, p. 524.

meet the demands of their constituents whilst ensuring their own moderate self-advancement. The councillors discussed in this thesis were not motivated by 'narrowly defined self-interest', as some theorists of neo-patrimonialism assume.¹¹⁷ Nor were they driven only by a desire to 'serve'. The balance between 'self-interest' and 'service' – along with other motivations – varied by individuals and over time. Since taking office, MCAs have been characterised in much the same way as councillors were. There is little recognition of the demands placed upon them, instead, they have been derided as the 'weakest link' in the new dispensation.¹¹⁸ Peter Aling'o has warned that 'MCAs pose the biggest threat to Kenya's 'noble' constitutional devolution project', advocating for urgent intervention 'to ensure that the popular will of the people – devolution – is not subverted to serve the interests of a few political elites.'¹¹⁹ That Aling'o categorises MCAs as 'political elites' is highly significant. It fits with a popular and academic narrative which ascribes 'bad governance' to the self-serving behaviour of elites. But MCAs are not 'political elites'; they are embedded in their communities, elected to represent their neighbours and extended family. There is not the same kind of separation between them and their constituents as members of parliament enjoy. The difference between the two elected posts was also set out in electoral law; a candidate for the National Assembly must have a post-secondary school qualification, whilst MCAs do not. In this way, they occupy a similar – if marginally better – social space than councillors did before them, and thus are faced with many of the same 'dilemmas'.

Evidence of such enduring 'dilemmas' can be found in a national poll conducted by Transparency International in June 2014. It found that only 21 percent of those interviewed had had contact with their MCA in the first year of devolution.¹²⁰ In the context of the report, the implication was that low levels of contact indicated a failure of leaders to engage with citizens, and abide by the

¹¹⁷ Ole Therkildsen, 'Working in neopatrimonial settings public sector staff perceptions in Tanzania and Uganda', in Thomas Bierschenk and Jean-Pierre Olivier de Sardan (eds.), *States at Work: Dynamics of African Bureaucracies* (Leiden, 2014), pp. 113- 144, p. 124.

¹¹⁸ 'Are MCAs the missing link in devolution?', *The Star*, 11 February 2015, accessed online at: <http://www.the-star.co.ke/article/are-mcas-missing-link-devolution>.

¹¹⁹ Peter Aling'o, 'The tyranny of Kenya's MCAs', Institute for Security Studies, *ISS Today*, 15 January 2015, accessed online at: <http://www.issafrica.org/iss-today/the-tyranny-of-kenyas-mcas>.

¹²⁰ 'Is it my business? A national opinion poll on devolution and governance in Kenya', *Transparency International*, p. 7, accessed online at: <http://tikenya.org/index.php/opinion-polls>.

constitution's requirements for 'citizen participation'. But the report also notes that 79 percent of this contact occurred 'at social gatherings such as burials, *harambees*, among other events'.¹²¹ Recalling the tale told by MP Omingo earlier in this chapter about a councillor who could not 'attend a funeral' because of the anticipated cost, it's likely that MCAs - like councillors - find themselves facing enormous demands wherever they go.¹²² As councillor Gitu Kuria remembered 'each day you wake up, you get about fifteen persons outside your door!'¹²³

This is the 'political reality in Kenya' David Ndihi has argued; 'development patronage and provision of welfare ... have long been an integral part' of leaders' responsibilities, as seen from the vantage point of voters.¹²⁴ However, it is important to stress that such expectations are not static nor reflective of an essentially African social context, politics or 'mentality'. As Ole Thierkildsen explains, not only are neo-patrimonial features present in hierarchical institutions everywhere, but these features or practices are learnt within institutions themselves. Informal norms he emphasises 'are largely produced within the [state] apparatuses themselves. It is less culture, than history and organisation that explains the characteristic features of African states.'¹²⁵ In light of this, it is reasonable to reflect - as Agnes Cornell and Michelle D'Arcy have - on whether devolution has the potential to produce a 'new form of politics' in Kenya.¹²⁶ Although Cornell and D'Arcy offer little analysis of the existing 'form of politics' beyond the familiar observation that 'the centralisation of the state...[had] created the kind of politics that led to violence', they tentatively conclude that 'devolution has created opportunities for ambitious men from outside of the core national and local elites to win these new positions and put themselves in a powerful position to challenge old national elites.'¹²⁷ Behind this statement is an assumption that politics

¹²¹ Ibid. p. 6.

¹²² Republic of Kenya, *Official Report*, House of Representatives, Ninth Parliament, Second Session, 30 September 2003, pp. 2626-2657, p. 2647.

¹²³ Gitu Kuria, interview, 31 March 2013, Nakuru Town.

¹²⁴ David Ndihi, 'Money for small things: Experience and lessons of Kenya's Constituency Development Fund', in Mark Baskin and Michael Mezey (eds.), *Distributive Politics in Developing Countries: Almost Pork* (London, 2014), pp. 49-81, p. 50.

¹²⁵ Thomas Bierschenk, 'Sedimentation, fragmentation and normative double-binds in (West) African public services', in Thomas Bierschenk and Jean-Pierre de Sardan (eds.), *States at Work* (Leiden, 2014), pp. 221-245, p. 240-41.

¹²⁶ Michelle D'Arcy and Agnes Cornell, 'Plus ça change? County-level politics in Kenya after devolution', *JEAS*, 8:1 (2014), pp. 173-191, p. 173.

¹²⁷ Ibid., p. 173, p. 187.

is made 'from above'. Yet as this thesis has argued, political agency has never been the preserve of Kenya's elite. The high expectations surrounding devolution are premised on the belief that if government is brought closer to the people, it would become less corrupt, more accountable, and deliver better development outcomes. The history of local authorities however, does not support this. In fact it has been shown that when government is 'closer to the people', the tensions between contrasting ideas of what the state should be and do become more pronounced. This tension has been examined through the lens of councillors, and through the story of local government more generally. The thesis has explored why different councillors ran for local office, and what this revealed about grassroots' views of 'government'. All the councillors considered saw 'local government' as offering them individual opportunities. The precise nature of these expectations varied between cases and over time. Some simply hoped that their allowances would enable them to pay their children's school fees; others had grander ambitions; all it seemed longed for car loans. Most were disappointed by the realities of local office. This was not because opportunities were non-existent; Nakuru's councillors did acquire urban land and property; Kilifi and Kakamega's also had some success obtaining plots and jobs for their supporters. The disappointments stemmed from the difficulties encountered balancing their own needs with those of their electorate.

Councillors were judged on their ability to deliver tangible benefits to their communities. These benefits usually took the form of small-scale infrastructure projects: a borehole, cattle-dip, new school classroom or dispensary. After county councils lost their main source of funding in 1970, even these seemingly minor projects were difficult to deliver through the bureaucratic channels of local government. Therefore the work of councillors shifted to the informal domain. This continued for much of the 1970s and 1980s, when councillors used *harambees* to earn, show, and maintain their local support and legitimacy. Yet *harambees* were not the only demands placed on councillors. They were also turned to by their constituents for all sorts of personal needs, such as school fees, medical bills and funeral costs. Living amongst their supporters, these requests were a constant part of life as a councillor. It was for this reason that some quit local office and remembered the experience bitterly.

The multiple expectations of councillors were not equalled by the opportunities available in councils. Their allowances never sufficed; hence the constant campaign for enhanced salaries. Previous chapters have examined the different strategies developed by councillors to extract greater opportunities; the practical norms of local authorities. Sometimes these depended on council institutions, for example to acquire the title deed to a plot of land, or go on an 'educational tour' to another council and claim an allowance. In other cases these strategies were seemingly independent of local government. Councillors were part of complicated patronage networks that connected local and central politicians, and were used by the governing regime to maintain popular support through the distribution of state resources by regional and district bosses, or the president himself. Throughout the period of the one-party state, to protect their position at the lowest-rung of these networks, councillors had to be faithful members of KANU. Their loyalty to their political and administrative superiors was paramount. The non-compliant were not only excluded from these clientelist networks, but often found themselves expelled from local government altogether, and any other positions of authority they held. This began to change after 1991 when politics everywhere became more competitive and expensive. The 'gains and losses' of councillorship were amplified and the value of councillors to MPs increased. Councillors' demands for greater resources for the first time coincided with the interests of national politicians who needed councillors to campaign for and represent them all the time in their constituencies. This shift in the balance of power between national and local leaders was followed by the announcement of a local government reform programme which introduced a new system of grants for councils. The Local Authority Transfer Fund eased the 'dilemma' of councillors, but it did not resolve it; many councillors still 'went there walking, and left there walking'.¹²⁸ This was how Aggrey Atira, Kakamega councillor expressed the disappointments of life as a councillor; disappointments that did not tally with mainstream expectations of political office as an assured route to prosperity.

By contrast, today's members of county assemblies are not likely to 'leave there walking'; neither literally nor figuratively. The salaries that councillors persistently expected have finally been granted. As this concluding chapter has

¹²⁸ Aggrey Atira, interview, 25 August 2013, Butso (Kakamega).

described, devolution has been designed to correct the longstanding criticisms of the British model of local government. Representatives are not required to serve voluntarily; they are paid salaries and can access loans; they are not expected to be impartial policy-makers but are given funds to enable them to actively contribute to local development projects in their wards. The triumph of these new official norms reflects popular agency and decades of debate over local government. The new system was to bring Kenya into the promised land of good governance, yet as this chapter has also shown, such a transformation in the politics of the grassroots is yet to emerge. Whether it will in time is difficult to predict. The hope that simply devolving power and resources to the local level would lead in and of itself to a 'new politics' appears doubtful. Much will depend on whether the holdover of local government's practical norms to county governments will be accepted by the electorate. These norms, of course, were not just the preserve of local authorities. Rather all of Kenya's government institutions have and continue to combine bureaucratic and (neo)-patrimonial practices. It has been argued that this combination reflects the contradictory expectations of 'government' held by both those in office and their supporters. Devolution has not resolved this. Indeed, now that the rewards of local office are so vastly improved, these expectations have undoubtedly been raised also. Assuming the public service demands and welfare needs of Kenyans continue to exceed the capacity and resources of national and county governments, then it is probable that MCAs, like councillors, will also find queues of constituents outside their door each morning waiting for 'tea'. Until those queues cease to form, there can be little hope for a 'new politics', nor new practical norms to emerge.

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