

Privatization of Municipal Services in East Africa – A Governance Approach to Human Settlements Management

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Foreword

Living and working conditions within most cities and towns in East Africa have been deteriorating over the last decade or so with the increasing growth in urban populations. Growing numbers of urban residents are living in sub-standard housing within informal settlements and slums with little or no basic services. The deterioration is also reflected in decaying infrastructure manifested in excessively pot-holed roads, poor storm drainage, mounting garbage heaps and unreliable electricity and water supplies.

A wide range of factors accounts for this state of affairs. Firstly, the revenue base of most urban local authorities in the sub-region are inadequate to cater for their rapidly expanding populations. Secondly, existing revenue collection mechanisms are generally ineffective and what little is collected tends, in many cases, to be mismanaged. Thirdly, because the municipalities are generally financially weak, they have to rely on substantial assistance from the central governments, which often undermines their independent decision-making and operational autonomy. Fourthly, physical maintenance of the limited urban infrastructure that is available has been seriously neglected, further exacerbating the problem of access.

The challenge facing governments and urban local authorities today is the reorientation of policies, strategies and instruments of municipal management in order to improve efficiency and social equity in the delivery of services. Meeting this challenge partly entails the institutionalization of an enabling framework that will permit community-based organizations (CBOs), non-governmental organizations (NGOs), individual households and the private sector (both formal and informal) to contribute towards the provision and maintenance of urban services. This also entails strengthening the public sector's capacity to safeguard standards and protect the public from the negative consequences of private provision of infrastructure and services.

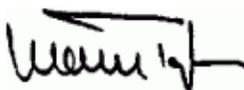
In exploring innovative solutions to the foregoing problems, UNCHS (Habitat), with financial assistance from the Ford Foundation, embarked on a research project on *Privatization and Financing of Municipalities in a Decentralized Environment: A Governance Approach to Human Settlements Management*. The objective of the project was to review and evaluate the privatization of municipal services in the East Africa region and based on the findings to provide authenticated information and options to policy makers on designing effective institutional and regulatory frameworks for policy reforms that promote good governance through greater devolution of power and responsibilities to local authorities, the private sector and civil society groups, better mobilization and management of financial resources and building of partnerships with the private and community sectors.

UNCHS considers the development of sustainable human settlements and provision of affordable shelter for all as essential for both social and economic development and has therefore consistently pursued several strategies designed to achieve these objectives while focusing considerable intellectual attention at alternative models suited to the circumstances of developing countries.

It is my hope that the information contained in this report will assist the three East African countries to formulate and implement more effective urban governance policies and strategies so as to enable them to deal with the new realities of an increasingly urban world.

I wish to take the opportunity to once again thank the Ford Foundation, Office for Eastern Africa, for its financial support which enabled the research project to be undertaken. I very much appreciate Ford Foundation's sponsorship of this work, and hope that, like many others of the Foundation's sponsored research, it will prove to be path breaking and useful enough to be applied in several municipalities.

I also thank the national consultants who carried out the research and provided information on privatization in the respective countries. These include Ms. Stella Magoye (Uganda) and Mr. Jonah Ichoya (Kenya); Mr. Fred Lerise (United Republic of Tanzania). Their painstaking work made available the data on which this analytical report is based. Finally, I wish to thank Ms. Stella Sipho Moyo and Ms. Cecilia Kinuthia-Njenga, who coordinated and synthesized the research and produced this report, and Mr. Don Okpala, the overall supervisor of the research project.



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Acronyms and Abbreviations

AWN	– Africa Water Network
CCM	– Chama Cha Mapinduzi
CBO	– Community Based Organization
CDA	– Community Development Association
CDC	– Community Development Committee
CDI	– City Development Index
DCC	– Dar es Salaam City Commission
DDC	– District Development Committee
DFRD	– District Focus for Rural Development
DRDSL	– Domestic Refuse and Disposal Services Limited
ESAF	– Economic Structural Adjustment Facility
GDP	– Gross Domestic Product
IMF	– International Monetary Fund
KANU	– Kenya African National Union
Ksh	– Kenya Shilling
KWAHO	– Kenya Water and Health Organization
LC	– Local Council
LG	– Local Government
LGLA	– Local Government Loans Authority
MoLG	– Ministry of Local Government
NETWAS	– Network for Water and Sanitation
NGO	– Non-governmental Organization
NIGP	– National Income Generation Programme
NRM	– National Resistance Movement
NWSC	– National Water and Sewerage Corporation
PMO	– Prime Ministers Office
PTA	– Parents Teachers Association
RC	– Resistance Councils
RCCs	– Refuse Collection Charges
RDCs	– Refuse Disposal Charges
SAP	– Structural Adjustment Programme

SDP	– Sustainable Dar es Salaam Project
STWSP	– Small Towns Water and Sanitation Project (Danida)
SWM	– Solid Waste Management
UDA	– Usafiri Dar as Salaam
UPE	– Universal Primary Education
URT	– United Republic of Tanzania
UTC	– Uganda Transport Company
USh	– Uganda Shilling
US	– United States
WDD	– Water Development Department

Executive Summary

Discussion on the relative efficiency of the private and public sector in delivering urban services has spanned the last two decades. It has also paved the way for the new thinking and practices that accompany political and economic reforms both of which have been in vogue during the 1990s in most African countries. The changing role of the public sector in managing the city has also become apparent in desire by central governments to decentralize functions to lower tiers or levels of government to promote closer relationships between local administrations and citizens, and in the increasing trend of shift of responsibility from direct provision of services and infrastructure to regulating and/or facilitating the private sector in accomplishing tasks which were once the domain of the public sector.

Decentralization as a political and administrative process epitomizes a shift in the locus of power from one level of government to another in the same way that privatization shifts responsibility from government to the non-state sector. Increasing revenue pressure on central governments has led many to consider decentralization as an alternative political and administrative strategy. New roles and responsibilities are emerging for both the public and private sectors aimed at promoting development and improving urban management.

The dilapidated state of municipalities and the near total collapse of municipal infrastructure and services in several countries have lent greater emphasis to this trend. It has generally been taken as a given that decentralization and privatization of municipal services provision would ensure greater efficiency and effectiveness. Consequently, several countries including countries of the East Africa subregion (Kenya, Uganda and the United Republic of Tanzania) have in recent years embarked on some of these processes. The efficacy and effectiveness of these strategies are not necessarily self-evident.

This report presents the findings of a study designed to determine the nature, extent of progress and effectiveness in decentralization and privatization of municipal in East Africa. The study sought to identify and measure improvements, if any, that have taken place in the provision and access to municipal services to the population following privatization of municipal services. An essential aspect of the research report is an analysis of experiences of mobilization of municipal financial resources to support sustainable urban development and the extent to which various services have become more accessible and affordable to local populations. The overall objective of the study is to contribute to the improvement of provision of municipal services, hence to improving the living and working conditions of the people in the cities. The goal of the study is also to constructively contribute to the current debate on privatization of municipal services through an empirical analysis of the East African experience.

The study, which is based on empirical research involved reviewing literature on privatization of municipal services in the three East African countries, undertaking case studies to enable detailed information collection and analysis and face-to-face meetings with municipal council officials and representatives of private sector companies. A regional workshop held in Naivasha, Kenya in April 1998, for senior municipal managers from the three East Africa countries provided additional information and insight for this report. Although the study focused mainly on two municipal services – namely, solid waste (refuse) management and water supply, other privatized municipal services are also considered. Case experiences are drawn from Nairobi, Dar es Salaam, Kampala, Mwanza, Jinja, Mombasa and Eldoret.

Privatization of Solid Waste Management

Solid waste management is the municipal service in which greatest attempts at privatization have been made. In Nairobi, Kenya recent urban growth and increased waste generation have outstripped the city's capacity to provide an adequate and efficient waste management service resulting in gross urban decay and an increased involvement by city residents and actors other than the Nairobi City Council (NCC) in solid waste management (SWM) activities. In 1988, private firms, namely, Bins Service Limited and Domestic Refuse Disposable Services Limited were registered under the Company Act, with the objective to manage, collect and dispose solid waste from industries, institutions, commercial establishments and high income residential areas, at a time when the NCC performance was only 21.54% leaving about 2870 tonnes uncollected daily.

By 1997, the NCC privatized garbage collection and street sweeping as a pilot scheme in Nairobi's Central Business District (CBD) on a management contract basis. Kenya Refuse Handlers Ltd. as the lowest bidder was awarded the contract for an agreed sum of US\$20,275 per month. The cost implications to the NCC is that it has been able to re-deploy 525 workers and vehicles to their departments, saving US\$ 30,000 exclusive of fuel and vehicle maintenance costs. Such privatization has seemed to boost the Council's performance efficiency and effectiveness from 40–90%. Delays in payments to the contractors – Kenya Refuse Handlers Limited however, are negatively affecting their operations.

Other than the officially contracted solid waste management company, Kenya Refuse Handlers, NCC does not licence any private entrepreneurs to collect waste. Hence it is not possible to know exactly how many private solid waste entrepreneurs operate within the city. The NCC however, estimates that there are probably 100 such firms most of which operate as small scale firms. Since private solid waste collection in Nairobi is relatively a new phenomenon all the firms currently operate in open competition, except in the CBD.

In Dar es Salaam, before the decision to privatize solid waste collection and disposal, the City Commission (DCC) was only able to manage between 2–4% of the waste generated daily, there was a serious crises in the city centre and at market sites. It is estimated that 1929 tonnes of solid waste are generated daily in the City. After privatization in 1994, when M/S Multinet Africa Co. Ltd. was awarded the sole contract, there was a remarkable improvement in solid waste management with up to 75% of the waste generated in privatized zones being collected. However, the amount of waste collected dropped due to some implementation and contractual problems which seriously affected revenue collection and actual collection of waste from designated areas of privatization. This resulted in a situation in which the services could not be extended to other areas.

Reviewing the achievements and constraints faced during what they called the first phase of privatization, the DCC decided to embark on a second phase of the privatization of solid waste management. During this phase, more private companies were to be involved. It was felt that the solid waste problem was much larger and that the one firm contracted during the first phase was not adequate. Today, five private firms have been contracted to collect solid waste in specific areas in the city. Although they continue to face some of the problems faced by the single contractor in phase one, especially the non-payment of refuse collection charges by the city residents the service has improved. There had been no sufficient preparations to involve and raise awareness of the people on this new strategies to clean the city and the responsibilities of individuals and other stakeholders. Thus, inadequate revenue collection has to a great extent affected the performance of contractors.

For the City of Dar es Salaam, privatization of solid waste has meant the transfer of powers and responsibilities of collecting refuse to capable private firms or individuals. This was effected by contracting through competitive bidding. The tendering and evaluation processes involved all the departments responsible for solid waste management.

Commercialization of Water Services

The most common form of privatization in the water sector is commercialization. According to the Eldoret Municipal Council in Kenya, commercialization denotes the operation of enterprises on business-like principles with an eye to efficiency and profitability. It entails forming and registering of water and sanitation companies with the majority shares owned by local authorities and governed by their policies, rules and regulations. The only example that exists of commercialization of water and sanitation in Kenya is that of Kericho, Eldoret and Nyeri, where the municipalities have been allowed to form companies and enter into contracts under the Local Government Act.

Over the years, it has become increasingly clear that sustainability in service provision cannot be assured, owing to insufficient financial resources to ensure adequate maintenance of the related infrastructure. It has also been realized that the performance and management of these services have continued to deteriorate

owing to a combination of a number of factors, such as non–cost recovery tariffs; delays in approval of tariff increases; diversion of water revenue to meet unrelated expenditure; difficulties in the recruitment and retention of professionally and technically qualified top and middle level management staff; deferred maintenance of facilities, high water losses; and low billing and collection efficiency.

Based on these factors, the three municipal councils are introducing a commercialization strategy as a means of ensuring sustainability and efficiency in the delivery of water and sanitation services. At the moment, although positive results are expected following the privatization of water services, no conclusions can be drawn as it is a new strategy yet to be tested.

In Uganda, the long–term goal for the water sector is to ensure a full cost recovery for services provided, but with the provision of cross subsidized safe water services for the low income groups. The study in Uganda assesses the prospects of privatization of water delivery systems in sixty small towns which are not served by the centralized National Water and Sewerage Corporations (NWSC).

More detailed descriptions and analysis of the various attempts at privatization of these municipal services are presented in the following pages. A brief outline of the main overall findings and conclusions is given below.

Summary of Findings

1. The process of privatization of municipal services is in varying degrees relatively recent in practically all the countries under study, viz: Kenya, Uganda and the United Republic of Tanzania. In some of the countries, the processes are just in the planning stages or on pilot/trial basis.
2. There still exists some conceptual confusion or ambivalence about what privatization actually involves. Some understand it as **contracting or leasing out** tasks and responsibilities to private sector firms, while the local(municipal) government retains overall supervisory and regulatory control; some understand it as **commercialization** of services by municipal departments or parastatals, and some understand it as total and complete **transfer of responsibilities for providing the service** to private sector firms who set their own prices, etc.
3. In practice, however, privatization in all the three countries largely takes the form of contracting out provision of services to private sector firms with the municipal government authority retaining overall monitoring and supervisory powers and of course the power of the purse in paying the private sector contractor.
4. Where real privatization of municipal services has actually taken place as in aspects of solid waste management, it has largely been selectively piece–meal, serving or operating effectively mainly in the middle and higher–income residential neighbourhoods whose residents can afford to pay for the services, thus leaving a large proportion of the poor and low–income neighbourhoods where residents cannot afford to pay for the privatized services unserved.
5. Overall preliminary assessment of the privatization of waste collection in the countries of the East African sub–region indicates that in neighbourhoods where it is applied, it is more efficient than collection by the municipal authorities themselves but this is rarely city–wide. It would appear that addressing social equity, that is, making municipal services available and accessible to the poor through cross–subsidization would seem to be feasible only through contracting but not through pure privatization.
6. There is as yet, an absence of clear policies on privatization as well as absence of appropriate legislation to support and guide privatization of municipal services. Both central and local (municipal) government authorities are understandably, ambivalent about the necessity to privatize certain municipal services. There is some residual resistance or lack of enthusiasm on the part of local/municipal authorities to share responsibilities with private sector enterprises, let alone completely give up these responsibilities, their limited capacities to deliver these services themselves notwithstanding.
7. Efforts at effective and efficient privatization is also bedeviled by a number of factors on the part of private sector entrepreneurs in the sub–region. These factors include:

- limited organizational capacities; and
- financial inadequacy, resulting in inability to mobilize the required capital inputs (equipment, technologies and supplies) to sustain their privatization operation.

8. Although privatization is often interpreted as dispensing with the role of the state and the public sector, it at the same time requires an enlargement and strengthening of the regulatory role of the state to monitor and enforce contracts and protect over all public interest.

9. Considering the differing perceptions of the concept and application of privatization of municipal services as a process and strategy and considering its relatively recent and limited adoption and application in the countries of the East African sub–region, as well as the public policy issues of equity it raises, it is not yet possible to render a definitive verdict on the efficacy and effectiveness of its performance in municipal services provision and management. It requires a much longer span of time in operation to generate and accumulate more performance experiences within the context of the socio–economic conditions prevailing in the Eastern African sub–region on which a more definitive evaluation could be based.

Organization of the report

Chapter 1 defines some of the more important terms as they are used in this report. It describes the methodology of the study and presents the main methods of privatization in East Africa. Chapter 2 presents the overview of municipal services and private sector in East Africa. Chapter 3 describes the decentralization of local government in Kenya, Uganda and the United Republic of Tanzania. Chapter 4 analyzes the motives and driving forces for privatization of municipal services in East Africa. Chapter 5 and 6 present case studies of privatization of municipal services. Whereas chapter 5 describes and analyzes in more detail the privatization of solid–waste management and the commercialization of water and sewerage services, chapter 6 provides a summary of other privatized services. Finally, chapter 7 presents the main findings, conclusions and recommendations of the research.

Chapter 1 – What is Privatization?

The use of the term privatization varies greatly, particularly with regard to municipal services. Therefore it is useful to begin by first defining some of the more important terms as they are used in this report.

Privatization and Decentralization

Generally, *privatization* is cast as the gradual process of disconnecting state owned enterprises or state provided services from government control and subsidies and replacing this duct with a conduit linked to market forces.¹ However, such a definition assumes the existence of a market centred economy with a private economic regime, which clearly is not the reality of many African countries. Taking this factor into consideration, a more relevant and indeed, complete definition is one that goes further to characterize *privatization as the entire process of expanding the sphere of the market through a host of regulations that create an enabling environment for free enterprise to operate as a strategy for sustainable economic development*. In the context of the broader goals of human settlements and economic development, when properly conceived and implemented, privatization is envisaged to foster efficiency and encourage investment in infrastructure and services.

In most reports, discussion on privatization of municipal services generally refer to:

- (a) reducing local government *activity* within a given service either by involving the participation of the private sector; or
- (b) reducing local government *ownership* when (i) enterprises are divested to unregulated private ownership and (ii) local government agencies commercialized.²

This study discusses privatization as both the reduction of city/municipal council activity through the involvement of private firms as well as reduction of government ownership through the commercialization of government agencies, where a municipal Council has re-organized itself into an accountable and financially autonomous semi-private enterprise for the delivery of a specific service.

We define privatization of municipal services as a reduction in local government (city/municipal council) involvement in the provision or ownership of a given service. This definition therefore includes management contracts, concessions, franchises, leases, commercialization and pure private entrepreneurship. Privatization can also be viewed as a form of decentralization of management functions from government to private enterprises.

Decentralization, on the other hand can be described as the devolution of power to lower tiers of government as a means of improving urban management as well as promoting closer relationships between local administrations and citizens. Decentralization is also seen in the context of the shifting of responsibility for providing direct services and infrastructure by central governments to regulating and/or facilitating their provision. Certainly, this concept and process idea represents the hope of giving greater access to the people in government and the government to people, thus stimulating national participation in development planning. However, it must be stated that *the process is not boundless, rather it should be subject to the social welfare constraint that any privatization or decentralization process satisfy the core conditions of good governance* namely, transparency in the political regime and in the process by which authority is shared and exercised in the management of a country's economic and social resources for development; as well as in the capacity of local authorities to design, formulate and implement policies and discharge their functions.

The Study

The objective of this study, is to assess the nature, extent of progress and effectiveness in decentralization and privatization of municipal in Kenya, Uganda and the United Republic of Tanzania. Using data from selected cities collected and collated by national consultants, complemented by some already existing research reports and published literature on the subject, the study seeks to identify and measure improvements, if any, that have taken place in the provision and access to municipal services to the population following the privatization of municipal services. Through a review of current experiences, the study assesses to what extent municipal management have become more efficient and accountable following the introduction of decentralization and privatization policies. An essential aspect of the research work is an analysis of experiences of mobilization of municipal financial resources to support sustainable urban development and the extent to which various services have become more accessible and affordable to local populations. The justification for this study is the improvement of urban management and provision of services to the population.

Specifically, the study poses the following questions:

- (i) How feasible, efficient and effective has privatization of municipal services been?
- (ii) Is privatization a panacea for effective municipal services provision to all the socio-economic segments of the population and what is the role of the public sector in ensuring the sustainability of privatization?
- (iii) What lessons can be learnt from the experiences of privatization of municipal services in the countries of Eastern Africa?
- (iv) What measures have been taken by central government to make decentralization a tool for increasing efficiency at the municipal level and ensuring sustainable urban development?
- (v) How has decentralization helped municipal authorities in improving accountability towards citizens and towards other tiers of government?
- (vi) What lessons can be learnt from successful decentralization initiatives?

The study focuses mainly on case examples of privatized municipal services. It seeks to determine the extent to which the reviewed experiences of decentralization and privatization have been effective and sustainable in regard to these services, as well as seek to identify the lessons that can be learnt from the reviewed

experiences and how best these could be replicated within the limits of relevance in a given situation.

The overall objective of the study is to contribute towards the improvement of municipal services and therefore improvement of the living and working conditions of people in cities. The goal of this study is to constructively contribute to the current debate on decentralization and privatization of municipal services through an empirical analysis of the East African experience.

Modes of Privatization of Municipal Services in East Africa

About five different modes of privatizing municipal services have been used in East Africa. Because each of them has distinct features as well as have different consequences on ownership and outcome, it is useful to group them by mode of privatization. The modes of privatization are set out on table 1.1 below together with some notes on some important characteristics, common municipal services privatized under each mode and the outcome of privatization by that mode.

In the United Republic of Tanzania, several modes of privatization of municipal services have been attempted country-wide. These include:

- **Open competition** through the provision of licenses to private firms to provide municipal services which are also provided by the Council, such as public transport (e.g. dalla dallas), health services like dispensaries, health centres, pharmaceutical shops and hospitals.
- **Management contracts** have been awarded to a private firm to run a parking lots within the city centre of Dar es salaam.
- **Franchising** has been applied in the privatization of solid waste management in the city of Dar es salaam.
- **Concessions** have been awarded in the case of public toilets in Arusha.
- **Compulsory competitive tendering** where through force of legislation the city council has opened defined types of work to external competition and awarded contracts on merit. Compulsory competitive tendering has occurred in the privatization of solid waste collection and disposal in the city of Dar es salaam where a number of private firms bid for the award of contract of providing this service, which was otherwise being solely carried out by the Dar es salaam City Council.
- **Shifting of responsibilities:** This is a situation where services which were once nationalized are re-allocated to the former owners or to a community based organization (CBO). A number of schools and health facilities which were nationalized in the 1970s have been de-nationalized and returned to the former owners. Shifting of responsibilities has also occurred in the local areas where CBOs have been established and assigned service provision duties. A good example is the CBO involved in the construction of drainage channels and road resurfacing in Hanna Nassif area in Dar es salaam.

There are some important points to bear in mind in reviewing privatization of municipal services in East Africa. First, since privatization of municipal services is a new concept and not well developed, the mode used may not be as well defined as presented in table 1.1 below. Although the municipal council may be privatizing a service using one or two of the modes described in the table, it may not define it as such. Second, two or more privatization modes may be applied concurrently for the same service.

Table 1.1: Municipal Services Privatization Modes in East Africa

Method	Characteristics	Common Municipal Services	Outcome
Concessions	A concession is a contractual arrangement whereby, in return for a negotiated fee, a selected private operator is awarded a license to provide specified	• Public Toilets	Temporary Privatization of the service

	<p>services over a certain period of time. Ownership of the principal assets remains with the private firm.</p> <p>Concessions are normally awarded following a competitive tendering process. The concession agreement sets out the rights and obligations of the service provider. This method is well suited to parts or all of an enterprise with some or all of the following characteristics: provides services that are economically and socially important and need significant improvement; is large and usually enjoys a monopoly position; is politically and/or practically difficult to sell; and is in need of investment capital</p>		takes place and lasts for as long as the concession lasts
Management Contract	A management contract places a municipal service under private management for a specified period of time, for which the contractor is paid a fee. The fee maybe based partly on performance. The private manager has extensive autonomy, as set out in the contract.	<ul style="list-style-type: none"> • Solid waste management • Public toilets • Parking lots 	Temporary Privatization
Commercialization	The city authority forms a company wholly-owned by itself. The transfer of shares is restricted, the Board of Directors consists of Council and consumer representatives, the government and other stakeholders. The ownership of assets, regulation of tariffs and quality control will at all times remain vested in the municipal authority.	<ul style="list-style-type: none"> • Water 	Partial Privatization
Franchise	The city authority awards a finite-term zonal monopoly to a private firm for the delivery of service. The award is made after a competitive qualification process. The private firm pays a license fee to cover the government's costs of monitoring. The private firm recovers its costs and profits through direct charges to the households and establishments that are served. The City authority provides control over the tariff charged to the consumer.	<ul style="list-style-type: none"> • Solid Waste management 	Temporary Privatization
Private Enterprise/ Entrepreneurship	<p>The city authority freely allows qualified private firms to compete for service delivery. In open competition, individual households and establishments make private arrangements with individuals firms for service delivery. No firm holds a zonal monopoly, and any number of firms may compete within the same zone.</p> <p>In open competition, the City Councils role is to license, monitor, and as needed, sanction private firms. The costs of doing business are directly billed by the private firms to their customers.</p>	<ul style="list-style-type: none"> • Public transport • Health services • Schools 	Privatization

ENDNOTES

1. Moyo, S. (1995) "Martingales, Variance Decomposition and Efficient Frontiers. The Behaviour of Stock Prices in Emerging Markets: A Cointegration Approach" *Ph.D. Dissertation, Howard University, Washington, DC.*
2. Previously defined in Cointreau-Levine, Sandra (1994), Private Sector Participation in Municipal Solid Waste Services in developing countries. UNDP/UNCHS/World Bank, Urban Management Programme.

Chapter 2 – Review of Municipal Services and Private Sector in East Africa

In municipal service delivery in East Africa, two discernable trends and perhaps three in the case of Uganda can be identified. First, and most simple has been an overall decline in the quality and quantity of service provision. Secondly, some services have *de facto* become separated from the public sector and are provided almost exclusively by the community. For example, basic education and the role of the Parents Teachers Associations (PTAs) are perhaps the clearest examples, but there is also evidence of this in public health care and more unusually in local government revenue collection in the case of Uganda. Thirdly, some services have effectively become projects administered by the central government. The establishment of the National Water and Sanitation Corporation in Uganda is a good example.¹

Aside from these general trends in municipal service provision, the key problems in many services centre around the maintenance of vehicles and other machinery. The result of these trends and problems has been a limitation to the extent of involvement of municipal authorities in service delivery.

In all the three East Africa countries, there is a general consensus that the private sector can play an effective role in the provision of municipal services. The private sector is envisaged to bring in good business practices, which would satisfy consumer demands. Efficiency and effectiveness are expected to lower operating costs which would in turn guarantee cheaper services overall. The public sector would still play a major role in the formulation of policies and the regulation of the implementation process. The government liberalization programme would also include all stakeholders to ensure programme sustainability. The growth of the private sector in all countries can be seen as a result of necessity and entrepreneurial spirit rather than the existence of an environment, which supports and promotes enterprise. There are serious constraints on the ability of people to start and grow their own businesses.

Review of the Urban Problematique and Local Urban Management in East Africa

The rapid urbanization in Eastern Africa has not been accompanied by a rise in economic development. The most recent census figures show that the urban concentration trend is a growing one. In Kenya for instance Nairobi, Mombasa and Kisumu accommodate 53% of the national urban population. Yet, in 1979 there were only two cities with populations of over 100,000 and by 1993 the number of such urban centers had increased to seven. Generally, these cities are a representation of many other East African urban centers throughout the subregion. At independence the proportion of urban to total population was 7.4% in Kenya (1960) and 5% in the United Republic of Tanzania (1961). However, the process of urbanization took a dramatic turn after independence and thirty years later the influx had caused the figures to triple and more than quadruple to 23.6% and 29% (1990), respectively.² The two countries are expected to cross the demographic threshold of 50% urban by the year 2010.

This raises a question about absorptive capacity which in turn is related to resources. Nowhere in Africa is the question of resources and absorptive capacity more imperative than it is in East Africa. The process of urban growth in East Africa as in most of Africa, has come to be associated with unemployment, low levels of life expectancy, poor nutrition status, and low levels of education. Low income households, which constitutes more than 70% of urban households have no adequate access to clean running water, adequate shelter and other municipal amenities such as roads, garbage collection etc. and are therefore exposed to all kinds of disease. It is not that rapid urbanization is inherently a negative thing as it can be argued that its advantages are those relating to the growth of economic activity itself namely, agglomeration and external economies. A large population can also provide the consumer and taxable base to support an efficient local administration with its own cluster of functions ranging from housing, sewerage and drainage, street lighting, ambulance and fire fighting, water supply, street maintenance and in some cases primary education and health care.

But, what is cause for concern, is the manner in which the urbanization process is taking place in East Africa. There is a range of intertwined forces that work against the above economic development argument namely:

- the large populations are largely unskilled labour forces;
- the municipal councils which started off as colonial institutions were never fundamentally transformed to cater for a growing African urban population;
- the revenue development and collection machinery has been ineffective and what little is collected tends to be mismanaged.

Furthermore, because the municipalities generally lack financial independence, often they must rely instead for survival on assistance from central government which only increases the leverage of the latter over them rendering local authorities both structurally and financially weak.

Local government is a weak institution throughout the developing world except in very few cases. As noted above, municipal councils which started off as colonial institutions were never fundamentally transformed to cater for a growing African urban population. In Kenya they come under a department in the Ministry of Local Government and therefore have built in structural limitations virtually rendering them neither local nor government. These issues need to be addressed for viable solutions to be reached. One such solution is decentralization, the merits of which this study proposes to investigate systematically.

In East Africa, decentralization is largely a recent and continuing process of institutional change supported by those who perceive it as a mechanism for shrinking the size of the Central government and its control over capital and those who see it in the light of leveraging greater access for the people to government and government to the people, stimulating a national participation in development planning and management. However, in many countries 'decentralized' structures of administration tend to act more as an effective tool for centralizing power – namely deconcentration. This has a political element inimical to decentralization proper in that ultimately only one interest is represented – typically that of the ruling party.

On improving municipal management, when the capacity to deliver public services is weak, the prospects for sustainable urban development are poor due to poor revenue collection and expenditure control, constant deficits, ineffective professional staff who lack the capacity to design and implement policies that generate an enabling environment for sustainable development, and the absence of a critical mass of core economic agents to address such systematic constraints. Ultimately, this not only promotes large fiscal deficits, but progressively erodes the capacity of municipalities to provide economic and social services.

Seemingly well known problems now confront the region in new and bewildering guises. It is therefore important to understand the complex dynamics unleashed in the interaction between state, space and society within the urban milieu. The "urban problematic" in East Africa appears to revolve around the issues arising from urban policy, population and social process and when these forces "operate at different levels they yield results of diverse complexity"³ fostering what appear to be contextual distinctions between legal and illegal spaces, formal and informal residential districts and economic activities. This has serious implications for urban management which involves the formulation of appropriate objectives, goals, policies and strategies; and the mobilization and efficient use of resources (including personnel, organizations, information, finance, and land resources) in order to develop, maintain and provide essential urban infrastructure and services to the population. In other words, *the daunting challenge for governments is to confront urban growth decisively irrespective of the outcome of economic and political reforms because, if the reforms succeed in turning around economic performance, the enhanced gross domestic product is bound to attract more migrants to the cities; and if it fails the deepening misery in the rural areas will push more migrants to the cities.*

Nairobi City Council for example, despite the inception of multi-partyism, has remained an extension of Ministry of Local Government rather than acting as the autonomous seat of local representation. Similarly, in the United Republic of Tanzania where mayors have no grassroots mandate but are appointed by virtue of being the local party chairman, local participation was represented by what came to be known as Development Committees which in reality were a combination of deconcentration and Consultative Councils. However, it represented an alternative solution. On the other hand, a new profile of urban governance is emerging in Uganda under the framework of Resistance Councils (RC). These RCs like consultative councils, constitute a form of popular intervention so that to define them as organs of the state and therefore institutions of local authority is to detract from them their key rationale.

Although, clearly, the urban problematic does not present itself in the same configuration nor with the same insistence in each country, Kenya, the United Republic of Tanzania and Uganda present enough similarities to allow some generalization both in our observations and recommendations. In urban economics we cannot afford to ignore the spatial aspects of decision making and local government policy. Four decades of planned interventions by governments and donors have done little to improve the condition of cities in most developing countries. Despite heavy subsidies, many urban services remain inadequate. Statistics indicate that 23% of the urban population in developing countries has no potable water within 200 meters. This rises to 35% in sub-sahara Africa including Eastern Africa; road congestion is spreading and escalating transport costs have reduced productivity. Housing shortages are common in many cities, with the majority of the urban populations living in sub-standard housing, squatter settlements and slums⁴ creating the formidable problem of urban decay given the non-existence of, or very deficient, basic services, in housing, water, sanitation, electricity, refuse removal, roads and transport. Both sides of the public finance equation – revenue and

spending – have contributed to this under provision. This situation is aggravated by the fact that spending in many cities is not directed towards the appropriate services which only serve a small percentage of the urban population, places a considerable and continuous burden on the cities financial resources and displaces improvements elsewhere (World Bank, 1988).

The overall picture of urban governance in the region projects a systemic crisis. Municipal systems are not only failing to meet the demands of rapid population growth within a context of poverty and marginalization, but their own basis of sustainability are also in jeopardy. They are generally weak institutions with little economic, political and ideological power, and limited in their autonomy, authority, legitimacy and management capacity.⁵ The East African experience has revealed instead, that despite the marginality and structural weaknesses of the non–state regimes, a large part of urban socio–economic life takes place within this sphere. When disaggregated into its constituent elements namely, NGOs, CBOs, private sector, civil society and informal sector, it confirms the prevalence of multiple regimes in the governance of urban development. Indeed, the perceptive observation that, “all that is urban is not municipal”⁶ succinctly captures the institutional landscape of urban development in East Africa.

Cities in East Africa are therefore, at the crossroads between economic development activity and human settlements development or social welfare, that is, between economic growth and human development. In this context, it can be argued that urban policy is crucial in the creation of an enabling economic environment which strengthens social policy within supportive legal and institutional frameworks.

The forgoing discussion clearly suggests an *institutional weakness* which raises the question, “if local authorities cannot on their own either meet the cost of recurrent expenditures or of development expenditures to carry out municipal service requirements of the majority of urban residents in an efficient and effective manner, do they as they are currently institutionalized or constituted in the sub–region have any basis for continued existence?”

More often than not local authorities lack the fiscal independence to cope with the scale of demand pressures they are faced with and so are forced to rely on the Central government for their survival. This brings about a combination of state over–extension and ineffectiveness, worsened by delayed adjustment to changed external economic circumstances.

Furthermore, it raises development issues in relation to the role of the Central government in the provision of public services to adequately support growing populations and calls for a redefining of roles in the public sector particularly municipal authorities as well as a review of the nature and content of the form of decentralization that is said to be instituted in East Africa. Sustainable development calls for a predictable and transparent framework of rules and institutions for the conduct of private and public business. Indeed, it has necessitated radical reforms in the human settlements and economic development processes beyond mere decentralization of functions, emphasizing instead devolution of powers to the lowest levels, improved performance and effectiveness in management of national resources. The ideal outcome is one where local authorities can deploy enough governance capacity to overcome political resistance and other special interests, design and implement appropriate adjustment policies, and sustain the course of economic reform.

The challenge facing governments, international agencies and especially local authorities at this point in time is the reorientation of policies and strategies of municipal management in order to improve social equity, social integration, and social stability. This of course involves reducing poverty, deprivation and social exclusion. Meeting this challenge will partly require the relaxation and rationalization of existing housing and infrastructure standards which have tended to exclude the poor, as well as the institutionalization of an enabling framework which will permit community–based organizations (CBOs), non–governmental organizations (NGOs), individual households, the private sector and informal sector to contribute towards the provision and maintenance of urban services, particularly in low–income areas. Each country may have to work out how much to subsidize infrastructure services to the poor. It is easy to overinvest without data on infrastructure. Over–investment in urban infrastructure is an important aspect of a deeper problem namely, an excessively centralized government structure, especially if the over investment is concentrated in one place. Economic growth requires a better balance between national and local government infrastructure investment. This can only be achieved if such decisions are localized.

Description of Selected Services

Urban authorities have “traditionally” been the providers of services such as urban roads, housing, public health, education and recreation facilities. Their ability to meet the demands of the urban population has been hampered by the high rate of population growth owing in part to perceived better employment opportunities and living conditions.

The private sector is actively, and until recently has been largely “illegally” engaged in the provision of these services for urban residents. Garbage collection, transport, health services and education are some of the services in which the private sector has gotten involved largely due to the dissatisfaction of the population with municipal provision. Firms and institutions have been established in the private sector, at local level to meet the high demand for these services. The tables below illustrate the situation for the provision of selected urban services.

Table 2.1 below shows that in out of five selected municipalities in Kenya four are experiencing a water supply deficit; in Nairobi (75826m³), Mombasa (17656m³), Kisumu (26211m³), and Nakuru (45982m³). Eldoret is the only municipality with a surplus.

Table 2.1: Coverage of Water Supplies in Selected Municipal Councils (1995) m³/day

Urban Centre	Supply	Demand	Deficit or Surplus	Coverage %
Nairobi	257000	332826	(75826)	77
Mombasa	82600	1000256	(17656)	82
Kisumu	16400	42611	(26211)	38
Nakuru	15000	60982	(45982)	25
Eldoret	36400	29173	7727	100

Source: Ichoya, J. Privatization of Municipal Services in Kenya, 1997

Table 2.2 shows that the National Water and sewerage corporation (NWSC) is not able to supply over 50% household connections for most towns apart from Mbarara, where it has connected 50.5% of the households.

With regard to solid waste management, the local authorities’ role and effectiveness has been declining. For instance, in Nairobi, about 1,000 tons of garbage are generated daily. The city environment department of Nairobi is only able to collect and dispose 400 tons per day. The private sector firms operating in the city are able to collect and dispose 500 tons daily, leaving 100 tons to accumulate. Table 2.3 shows that the number of vehicles which are under repair are more than the operation fleet. In Uganda, collection is limited to high-income residential neighbourhoods in each of the towns. 70, 80, 94 and 50 per cent of the households in Jinja, Kampala, Mbale and Mbarara do not have regular garbage collection extended to them by the councils and have to rely on the private sector.⁷

Table 2.2: Source of Household Water Supply as a Percent of Total Households

Town	Household connections (NWSC)	Access to Potable water	Households with privately supplied water
Jinja	40	95	55
Kampala	30.4	87.2	56.8
Mbale	39.4	76.6	37.2
Mbarara	50.5	63.7	13.2

Source: Urban and Housing Indicators Report, 1996.

Table 2.3: Availability and Serviceability state of Vehicles and other Equipment in 1996 by Nairobi City Council

Vehicles	In Operation	Under Repair/Workshop	Total
Vehicles	18	18	36

Wheel loaders	2	1	3
Bulldozers	–	3	3
Track Shovels	–	1	1

Source: Esho, L. Field Survey, 1997.

Historical Outline of Municipal Service Provision in Uganda and the United Republic of Tanzania

Uganda

Since the late 1970's, the efficiency of municipalities in delivering traditional services to its population was decreasing at a high rate. Garbage collection came to a near standstill, and residents resorted to private means of disposing their solid waste. For the next ten years, it was widely accepted that nothing could be done, the municipal authorities were not isolated in their failure. The economy of the country as a whole was taking a downward trend at a fast rate.

After Uganda attained its independence from Britain in 1962, the State rapidly expanded its role in the economy through a series of nationalization programmes that went on until the early 1980's. Many enterprises including utilities were put in the hands of parastatals to manage. Up until 1964, for instance, the municipal councils in the areas of their jurisdiction provided water sewerage and public library facilities. This mode of service provision was an adaptation from the colonial system as were most of the modes of governance of the then British protectorate.

In 1964, the National Water and Sewerage Corporation (NWSC) was established to take over the provision of water and sewerage services in the nine largest towns in the country. Transport services, which had hitherto been provided by municipal operated buses, were handed over to Uganda Transport Company (UTC). UTC expanded its operations then to cover both intra and town routes from 1968. The Uganda Libraries Board was set up to provide library services countrywide, which took up the functions of urban authorities' libraries that had been managed at local level. Emergency services (ambulance and fire brigade) were distributed through the relevant ministries.

Box 2.1

Major Municipalities in Uganda

Kampala is the only Gazetted City. It is the national capital with the highest population and growth rate in the country.

Jinja Municipality is situated eighty kilometers east of Kampala. It is the industrial capital and as such highly affected by the economic reform programmes in the country.

Mbale Municipality is eastern regional capital, the market centre of one of the most productive agricultural region. About fifty kilometers from the border with Kenya, it is directly impacted by regional economic and political factors.

Mbarara Municipality is 300 kilometers south-west Kampala. It was totally destroyed during the war to oust Idi Amin in 1979, and has benefitted from the Reconstruction and Development Programme initiated in 1986 when the present regime came into power. It is also a market centre for the region, which is increasing its proportionate contribution to the agricultural and dairy sectors economy.

The present government, which came into power in 1986, was quick to adopt a policy to reverse this trend and at the same time promote the private sectors involvement in the economy. The private sector development at this stage was largely in response to the demand for services, and benefitted only those who could afford to pay to pay. Schools, health clinics, garbage collection companies, recreation facilities and cleaning companies sprung up and that trend is continuing to meet the demand throughout the country. This demand for obvious reasons is higher in high density urban areas where the concentration of markets for these services exists. Urban authorities have supported this trend by providing trading licenses and permits for operation.

“Privatization” is now a buzzword in Uganda, in part through the Privatization Unit’s public education effort to reach out to all sections of the community resulting in great awareness, acceptability and support. The process of privatization at national level has affected the means through which urban councils acquire resources and run their affairs. This has affected the modes through which their constituents can expect to receive the services traditionally provided by local councils. The enactment of the Local Government Act 1997 gives urban authorities autonomy over their financial and planning matters. Kampala City at district level is responsible for education, medical and health services, water construction rehabilitation and maintenance of roads and all decentralized services and activities⁸. All urban councils now have the power to contract out services to the private sector. They are however, still obliged to establish, prescribe, control and administer the forms in connection to these services⁹.

United Republic of Tanzania

After Independence service provision was mainly confined to central government and local authorities through agencies. In a way there was some form of privatization as service users were obliged to pay taxes, licenses, fees etc. which contributed directly or otherwise in financing different services. Utility services such as water supply and electricity were supplied by central government agencies which collected user charges directly.

The practice was changed after the Arusha Declaration in 1967 which among other things pronounced the United Republic of Tanzania as a socialist state and advocated for widening the role of the public sector at the expense of the private sector. Thus after 1967, the role of central and local government institutions in service provision was widened and that of the private sector, if anything, closed.

In 1972, the government abolished urban local councils, and functions entrusted to them were placed under district authorities and regional administration which were basically central government institutions. The 1972 Decentralization Act,¹⁰ which abolished the Local Councils, provided a basis for the central government to take charge of service provision in both urban and rural settlements. The centralization of service provision was much more pronounced in health and education services, where a number of private schools and hospitals were nationalized. On the basis of socialism these services were declared free to all citizens of the United Republic of Tanzania.

In addition to lack of sufficient public funds to finance the services in urban areas, to make matters worse, the little resources available were directed towards rural development, because that was where the government development was claimed to be. Consequently, the level of service provision in urban settlements deteriorated rapidly during the late 1970s and early 1980s¹¹.

In 1978, the government reinstated the urban and district councils. Services like water supply, roads, fire protection, malaria control etc, deteriorated badly and there was a public outcry over the worsening urban conditions. This deterioration was a result of destruction of the then administrative set-ups, the transferring of the experienced manpower from local service to the regional administrative offices and their replacement by inexperienced ones from the central government. The deterioration was further attributed to the heavy bias against urban areas in favour of rural areas in government budgetary allocations. (Kulaba 1989). One may recall that even the training of local government personnel at the designated institutions in the country came to a standstill. Four years later, the Local Government (District Authorities) Act, no. 7 and The Local Government (Urban Authorities) Act, no. 8 of 1982 were enacted, to provide the legal basis for facilitating the new local councils in carrying out their duties. These two pieces of legislation outline the main functions of local councils as maintaining peace and good order and promoting welfare and economic well-being of all persons within respective area of jurisdiction. Other functions include; enhancement of health, education, social, cultural and recreational life of the people.

To execute the above main functions, urban local councils were entrusted to provide among other services; treatment of congested areas, inspection of food stuffs, control, maintenance and supervision of markets, cold storage depots and slaughter houses, keeping and maintenance of public latrines, urinals, cess-pits, removal of refuse and filth from public and private places, street lighting, keeping in good order and cleaning of street sewers and trunk roads.

They were also entrusted to regulate use and conduct of public vehicles plying for hire and their fares and other works, matters and services necessary for, or conducive to the public safety, health or convenience.

The 1982 Local Government Act came into effect at a time when private sector participation in service delivery was at its minimum, as it was only in public transport in form of town buses that the private sector was involved. More attempts to encourage the private sector to participate in the provision of municipal services

were made by the central government. For instance the Trade Liberalization Policy of 1984 was formulated. However, it was not until the late 1980s and early 1990s that the private sector involvement in service delivery became more noticeable. Given the crisis in service provision which developed out of the pre 1980s policies, various areas attracted the private sector and grassroots in service provision: These are:

- (i) Public transport; Mainly focusing on transportation of goods and passengers within particular urban areas.
- (ii) Education services; In terms of establishing and running nursery, primary and secondary schools and after 1995, universities.
- (iii) Health services; Running dispensaries; clinics and hospitals: Religious organizations also participate in the provision of this service.
- (iv) Infrastructure (for instance, roads, drainage channels,) construction and improvement. In all urban areas there are community based attempts to construct and improve roads and drainage in their respective neighbourhoods, Infrastructure improvements are supported by Donors, NGOs and respective local communities
- (v) Solid and Liquid wastes; Privatization in solid and liquid waste collection and disposal is slowly taking shape in both small and big towns
- (vi) Public toilets; Keeping and maintaining public toilets
- (vii) Managing parking spaces in towns
- (viii) Provision of night security at community level

Of the municipalities where privatization has been tried the mode has been through contractual agreements between the urban local authority and the contractor taking over the new role, leasing of services formally provided by the authority to the private operator and introduction of user charges. However problems are noted for instance in the quality of service offered as well as in low level of service charges declared to have been collected.

National Policies on Privatization of Municipal Services in the United Republic of Tanzania

The United Republic of Tanzania government is yet to formulate an overall policy on privatization of municipal services provision. Thus, the privatization initiatives outlined above are mainly based on several factors, including pressure from users and the private sector response to exploit the gap between what the public sector offers and residents demands. In the absence of such a policy, local councils wishing to privatize the provision of services use the existing legislation particularly the Local Government Acts, no. 7 and no. 8 of 1982.

In addition to the legislation the Local Government Reform Agenda which is part of the current civil service reforms also provide some policy guidelines with respect to municipal services provision. In 1993, the government started reforms in the central government through the Civil Service Reforms Programme under the President's office. Under these reforms the agenda for local government reforms has been instituted. The need to make reforms arose from the desire of solving the prevalent inefficiencies in the civil service. Poor service delivery, bureaucratic red tapes and corruption have been cited as the causes of carrying out these reforms.

A fundamental goal for the agenda is improvement of services delivery. Specifically the reforms call for a need to eventually chart out ways in which service provision functions shall be shared among central government agencies, local authorities and the private sector. The agenda envisages a local council which will perform the following functions with respect to privatization of municipal services: These are:

- (i) Conducting its activities with transparency and accountability
- (ii) Fostering participation in development, by involving individual agencies and partnerships

- (iii) Deriving legitimacy through provision of services to people.

Among the civil service reform measures which have been implemented is restructuring of the regional administration following the enactment of the Regional Administration Act, no. 2 of 1997. The Act provides for the decentralisation of municipal services from local authorities to the private as well as the popular sector including individuals, private companies and local communities.

In responding to the national level policies, the Dar es salaam City Commission has also outlined some policy recommendations towards the improvement of service provision including privatization. In its Strategic Plan for the Restructuring of the City Council, the Commission outlines the following objectives towards service provision¹²:–

- (i) Making sure that civil societies fully participate in local governance
- (ii) Urban services are delivered appropriately by the assigned level of local government and in partnership with the private sector where this cooperation contributes significantly and cost – effectively to improve services.
- (iii) Administrative systems are established and facilitate effective management and service delivery.
- (iv) Effective mechanisms for administrative co–ordination with other public authorities and service providers are operational. Public – private – community sector partnership are functioning where appropriate and contribute to meeting basic needs.
- (v) The staff competence enhances planning and management capacity and good governance resulting in improved service delivery.
- (vi) Public – private – community partnership contribute to enhanced efficiency and effectiveness of service delivery.
- (vii) Dar es salaam council at all levels suitably funded by central government, based on rewarding good performance in improved service delivery and own revenue collection.

It is anticipated that these policy objectives will guide the DCC towards better performance in the provision of municipal services.

ENDNOTES

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2. Mohammed Halfani (1995), “The Challenge of Urban Governance in Africa: Institutional Adjustment and the Knowledge Gaps” page 17, *presented Second African Urban Forum, Nairobi*.
3. Richard Stren (1994) “Urban Research in the Developing World”, page 23.
4. UNDP (1991) “Human Development Report” page 20 (*In 1982, before the effects of SAP could be felt, about 60% of urban residents in Tanzania were considered to be living in absolute poverty, and in 1990, when the full effect of SAP had set in, this percentage had gone up to 70% (see Stren, page 119). A 1983 survey also revealed that 20% of Nairobi residents lived in substandard housing and between 60–70% of the Nairobi population live in squatter compounds. Similarly, 79% of households in Uganda’s urban centers obtain drinking water directly from wells, bore–holes, rivers lakes or springs*).
5. Prates Coehlo & Eli Diniz (1995) “Local Governance and Poverty in Brazil” GURI *Seminar presentation, Ecuador*, pages 23–30.
6. Sivaramakrishnan, K.C. (1995) “Changes in the Urban Landscape from Habitat I to Habitat II: Issues of Governance – Local Realities” *presented at workshop on Changes in Urban Landscape, Washington, DC*. page 5.
7. Republic of Uganda, Urban and Housing Indicators Report, 1996.

8. Local Government Act, 1997. Second schedule, functions and services of government and local governments.
9. Refer to model contracts in Annex.
10. The United Republic of Tanzania (1972), The Decentralisation Act.
11. URT (1997); Preparation of the Strategic Plan for the Restructuring of the City Council of Dar es Salaam, Vol. II.
12. URT (1997); Preparation of the Strategic Plan for the Restructuring of the City Council of Dar es Salaam, Vol. II PP 132–162.

Chapter 3 – Decentralization of Local Government in East Africa

The three East African countries are generally characterized by high unemployment and urban populations which live below the poverty line have continued to grow rapidly. Since the late 1980s the public is increasingly demanding popular participation and democratic governance. The challenge for government is to restructure the existing service delivery mechanisms through policy, legal, institutional, legislative and fiscal reforms to create an enabling environment for the growth of the lower tiers of government and the private sector. The assumption is that the private sector would be more efficient and therefore more competitive than the public sector in the provision of municipal services.

Kenya

The activities of urban local authorities are governed by the Local Government (LG) Act of 1965, under which the Ministry of Local Government (MoLG) controls all local authority activities in revenue collection, expenditure, borrowing, staff employment and the decision making process. In addition the District Commissioner sits in the municipal council as an ex-officio member with veto power. The Government of Kenya (GoK) inherited this centralized, top-down form of governance from the British colonial government but it has failed to cope with the economic development crisis that has come about due to adoption of inappropriate economic reform measures, inadequate accountability, excessive regulation, rapid population growth and poor infrastructure. As a result, municipal services and infrastructure which are centrally controlled have seriously declined due to mismanagement of financial resources and lack of skilled human and material resources as well as maintenance.

The Local Government structure in Kenya consists of: Nairobi City Council, 35 municipalities, 50 County Councils, 31 Town Councils and 35 Urban Councils. Table 3.1 presents a capsular review of the evolution of local government in Kenya which puts the above structure in perspective.

In 1924, the Local Native Ordinance was enacted and mandated the Local Native Councils under the District Commissioner to collect local taxes and provide services such as water, sanitation, roads and bridges in their areas of jurisdiction. However, the Europeans demanded segregated local government councils. The enactment of the District Councils Ordinance formalized this in 1928. The law therefore, required two guidelines and mechanisms for the delivery of services to Africans on the one hand and Europeans on the other hand. Asians and Arabs also demanded to be treated separately from the Africans. African rural-urban migration was controlled through a movement pass and employment administrative system to contain Africans, guarantee cheap labour in the white highlands and keep the town population low.

Table 3.1: Historical Development of the Local Government in Kenya

1902	Village Headman Ordinance
	<i>Colonial Administration appointed local chiefs</i>
1912	Local Authority Ordinance
	<i>Selected chiefs appointed to head local councils</i>
1919	District Advisory Committees in Settled Areas

		<i>Established to deal with war time problems and management of settler estates during World War I.</i>
1924	Local Native Ordinance	
		<i>LN Councils under D.C. mandated to collect local tax/provide services: water, markets, slaughter houses, education, roads, bridges, sanitation.</i>
1926	R.H. Feetham Local Government Commissioner	
		<i>Recommended separate LG institutions for Africans and settlers.</i>
1928	District Councils Ordinance	
		<i>Segregated Councils adopted.</i>
1937	Africans elected as councillors	
1950	Local Native Councils	
		<i>Changed into African District Councils.</i>
1963	Local Government Regulations	
		<i>Kenya becomes an independent state.</i>
1966	Hardacre Local Government Commission	
		<i>Removed the two tier system of local government. African DCs replaced by County Councils; municipalities and townships left autonomous.</i>
1967	Sessional Paper No. 12 of 1967	
		<i>Government accepted to revitalize LAs with reliable sources of revenue including grants.</i>
1969	Transfer of Functions Act, 1969	
		<i>Major services: primary schools, health services, road maintenance including financial resources transferred to central govt. except 7 MCs; Nairobi, Mombasa, Thika, Eldoret, Kisumu, Nakuru, Kitale with £6M deficit.</i>
1974	Transfer of Graduated Personal Tax	
		<i>GP tax transferred to central government. General grants abolished.</i>
1983	District Focus for Rural Development	
		<i>The policy weakened LAs, strengthened central financial resources control.</i>
1986	Sessional Paper No. 1, 1986 on Economic Management for Renewed Growth	
		<i>LAs to be assisted in revenue collection and preparation of annual estimated and forward budgets.</i>
1995	Appointment of a Commission of Inquiry on Local Authorities in Kenya	
		<i>To prepare a report on LAs in Kenya: A Strategy for Local Government Reform in Kenya (the report is yet to be officially released)</i>

Source: Compiled from various sources

In 1963 the now independent Kenyan government adopted the 1963 Local Government Regulations without amendments to avoid political controversy. In 1966 the Hardacre Local Government Commission recommended the removal of the two tier system of local government by abolishing the African District Councils and replacing them with County Councils while Townships were left intact.

The Government Sessional Paper No. 12 of 1967 recommended the revitalization of local authorities with reliable sources of revenue including grants in aid because the local authorities were finding it difficult to finance and manage their rapidly growing urban populations (see table 3). In 1969 the Transfer of Functions Act transferred major services such as primary schools, health services and road maintenance together with matching financial resources to the central government. Seven municipalities viz. Nairobi, Mombasa, Thika, Eldoret, Kisumu, Nakuru and Kitale were, however, not affected. The government argued that the local authorities had accumulated £6 million deficit which they had no way of paying. The government used this opportunity to control the dissenting political lobby which was using the local authorities to organize the grassroots to criticize the ruling party Kenya African National Union (KANU) and its government.

The government finally transferred the Graduated Personal Tax to the central government and abolished the grants in aid in 1974. The decline of municipal services was now clearly evident. Decisions on development of infrastructural services could only be made by the Minister for Local Government. In 1983 the government adopted the policy on District Focus for Rural Development (DFRD) to co-ordinate rural development by shifting the responsibility of planning and implementation to the districts, under the chairmanship of the District

Commissioner, was implemented. This way government maintains strict control over the operations and finances of local authorities through the DFRD policy. Subsequently, the 1990 evaluation concluded that the programme had neither coordinated nor shifted responsibilities to the districts but instead developed into an administrative tool to ensure central control. The public administration controlled finances and senior staff recruitment through the Public Service Commission (PSC). Further, the massive expansion of most municipal boundaries has increased demand for infrastructural services due to the inclusion of large low income rural populations.

Today the Kenyan economy is faced with major challenges of growing poverty (10 million) and high unemployment (2 million). Over half a million people enter the labour market every year. To contain these challenges the economy needs to grow at 7% per annum over a long time. This can only happen through recovery and improvement of the productive sectors, which call for the creation of an enabling environment through stabilization and economic reforms, which in turn calls for urgent rehabilitation and improvement of infrastructure.

In the late 1980's the state intervention in the economy was through its ministries and departments such as the Ministry of Local Government, and parastatals participated in setting prices of labour, consumer goods, regulated exchange and interest rates, operated and regulated price controls. In order to undertake these activities the government began to borrow from the private banking sector to finance its expanding operations, this naturally led to crowding out of private investment accompanied by economic setbacks:

- (a) fiscal imbalance and persistent budget deficit,
- (b) high domestic and external government debt,
- (c) deteriorating Terms of Trade and external balances,
- (d) stagnating investment and declining productivity in existing enterprise, and
- (e) rising unemployment and poverty.

Structural adjustment reforms

To address the unfavourable macro-economic conditions described, the government of Kenya (GoK) instituted economic policy reforms under the Structural Adjustment Programme (SAP), promoted by the donor community and aimed at correcting the effects of government failure and facilitating the economy to function. Part of the focus of SAP involved liberalization of the economy in order to roll back the role of the state in setting prices and leave this in the domain of the market place. Government was to divest itself from direct investment and promote the private sector by creating an enabling environment, the promotion of export led growth and reduce impacts of import substitution strategy; policies to address civil service reform and privatization of public enterprises. Although privatization of the municipal services was not clearly identified as such it is clear that the government is moving towards that direction albeit in "stop-go" nature, given the failure of the local government system in the delivery of municipal services.

The Government of Kenya has formulated policy objectives for the privatization of municipal services and public enterprises as part of its wider structural adjustment reform programmes. Privatization of municipal services has been proposed as the best option in addressing institutional ineffectiveness, low productivity and unsuitable financial position. Reform policies can be found in national development plans, district and local development plans, sector development plans, sessional papers and policy framework papers. Although privatization of municipal services is not new in Kenya, *comprehensive policy guidelines are required to set performance standards, allocate scarce resources efficiently, mobilize resources, alleviate inequality, set the prices right, promote participation, ensure sustainable economic and sector development, remove constraints to economic growth and change organizational behaviour to reflect changes in the resource environments.* The policies provide guidelines used to direct national economic management and growth and specify the expected output.

These policies were expected to bring economic growth in the long term. But, the Structural Adjustment Programmes (SAP) reforms have had severe negative impact on the poor who have suffered great economic hardships in the short term. Economic reforms have resulted in reduced provision of basic needs to the poor due to the introduction of cost sharing in health, education, loss of jobs, loss of purchasing power and removal of government subsidies. Vulnerable groups such as women, children, school leavers, elderly poor, pastoralists, small scale farmers, the landless, female headed households, handicapped and the unemployed were hard hit by the reforms. Most urban areas have recorded growing poverty and declining urban services. In Nairobi over 60% of the population lives in slum areas due to lack of affordable housing and poverty.

Real revenue limitations have created immense problems of infrastructure and service provision severely impacting the lives of the urban poor whose numbers have swollen and whose households, have suffered a deterioration in the standard of living during the 1980s. Comparative statistical measures of poverty show steady increase in the proportion of the poor since the structural adjustment programs (SAP) were initiated in the early 1980s through a host of measures designed to liberalize economic management such as trimming of bloated civil services, the freeing of foreign exchange markets and the removal of subsidies. SAPs certainly did not help the urban population: instead they had palpable and far-reaching repercussions on the quality of lives of the urban poor and on the middle class (arguably, grossly eroded) hence threatening the very social fabric of the societies in the subregion. Furthermore, the perceived failure of the SAPs will imply continued economic decline in the sub-region which reverberates the most on the rural poor, thereby leaving them with no choice but to migrate to the urban centers – thus intensifying the rate of urbanization. For many East Africans the eighties was a lost decade. What is truly worrying is that SAPs have an inherent potential to continue to be exacerbating well into the next century.

Uganda

The Uganda Constitution provides under the national objectives and directive principle of State Policy “that the State shall be guided by the principles of decentralization and devolution of government functions and powers to the people at appropriate levels where they can best manage and direct their own affairs”. In Chapter 11, the Constitution spells out the system of local government; “... shall be such as to ensure that functions, powers and responsibilities are devolved and transferred from the Central Government to Local Government units in a coordinated manner”. The aim is to give political and economic power to the people at the grass-roots.

The Local Government Act was revised in 1997 to amend, consolidate and streamline the existing law on local governments in line with the new Constitution. The Act is aimed at giving effect to the decentralization and devolution of functions, powers and services; and to provide for decentralization at all levels of local governments. This will ensure good governance and democratic participation in, and control of decision making by the people. It will also provide for revenue generation and the political and administrative set-up of Local Governments. The Act gives full effect to the decentralization of functions, powers, responsibilities and services at all levels of Local Governments. It provides for election of Local Councils. It establishes the sources of revenue and financial accountability of the councils.

The elements of the Constitution (1995) and the new Local Government Act (1997) evolved from the process started as soon as the National Resistance Movement (NRM) government came into power. A number of commissions, hearings and draft papers (commented upon by the major donors of decentralization in Uganda, namely World Bank and DANIDA) resulted in a consensus reached on the key features needed for local government reform.

The Cabinet approved the decentralization policy in November 1991. In August 1992, it was endorsed by the National Resistance Council (NRC) sub-committee on Local Government, which also provided a budgetary provision (subsidized by DANIDA) to establish and operate a Decentralization Secretariat within the Ministry of Government. The policy was officially launched on 2 October 1992 by the President. A draft proposal for a Local Government law was prepared during 1993, and, taking into account the major recommendations of the draft constitution then available, it was decided to go ahead with partial implementation. The Local Government (Resistance Councils) Statute, 1993 (hereafter called: the Statute), was passed by the Parliament in November, and became effective from 31 December of the same year.

While the Statute as a framework for institution building and administrative reform applied to all local Governments of Uganda, it was not effective immediately. This is because responsibility can only be effected when the necessary resources are made available. Since financial decentralization, was implemented in phases, local Government that did not have the resources could not carry out the functions devolved to them through the Statute. As stated by the Decentralization Secretariat: It was foreseen that the implementation of decentralization will be a flexible and continuous process – the Local Governments Statute was designed and passed as an enabling law. It opened doors for a continuous process of decentralization and created a framework for autonomous decision making.

The introduction of block grants, (the transfer of funds from the Central Government to the District Councils) was carried out in 3 phases, with 13 Districts receiving District Votes in 1993/94. In financial year 1994/95 another 14 Districts started with District Votes. By 1996/97, all 39 Districts were on the grant system. Apart

from the funds received from the Central Government, the Local Governments retained the personal taxes collected as Graduated Tax from all taxpayers of the District. Other revenues like licenses or market dues was also retained at the local level. Half of the locally mobilized revenues was retained at the Sub-County level, and the other half forwarded to the District/City Council.

Policy framework and institutional configurations

The emergence of a renewed interest in local government and decentralisation is due to several reasons:

- increased emphasis on popular participation and democratization (in which, the decentralisation of decisions for local communities is seen to be essential);
- the economic crisis forcing donors and national governments to look for other ways to mobilize local resources;
- frustration with the results of planning and implementation through central governments which lack capacity and legitimacy;
- the recognition that a well-functioning public administration is an indispensable part of a modern developing society consisting of both a private, market-driven production sector and a service-delivering public sector, managed by legitimate and representative political leaders, both at national level and at the level of local governments.

The NRM government realised the development potential of decentralization and popular participation, and acted by supporting the local reform processes, decentralized planning, and specific local government programmes. Because of great disparities in the very poor economy that the regime inherited, regional and locally based reconstruction projects were the first to be conceived and implemented after the end of the civil war in 1986. Donors were invited to support programmes of an integrated nature though geographically localized¹.

From independence in 1962, all districts had development committees intended to steer development in their respective areas. The District Development Committees have now been abolished. The District Council, established by the Local Government Act, 1997, is now designated as the planning authority of a district (city in the case of Kampala).

Although Local Governments are not attached to the Ministry of Local government in the sense of being departments of the Ministry of Local government, the Ministry is required to coordinate and advocate for Local Governments. This provision makes it an obligation for agencies of the central Government dealing with local governments and the Local Governments themselves to coordinate and consult the Ministry of Local Government.

Perceived role, scope and objectives of Government

The central Government seeks to break its monopoly over the social economic and cultural life of society. This will allow it enough room to manage the interface of social, political and cultural institutional pluralism to foster peoples' participation and development.

In pursuing decentralization, the Government intends to enhance participation in all areas of development. The current system promotes the involvement of the people in all sectors of development right from the ward (village, in the case of rural areas) level.

The 1995 Constitution devotes Chapter eleven to establishing a system of local government. The system is aimed at giving full effect to the decentralization of powers to all levels of Local Government. This is aimed at ensuring democratic participation and control of decision making by the people concerned. The Local Government Act, 1997 has been enacted to enable implementation of the provisions set out in this chapter of the Constitution². The five tier system has somewhat been maintained, and what had been popularly come to be referred to as Resistance Councils (R.Cs) are now referred to as Local Councils (LCs). Local Governments have governmental powers including political, executive and legislative powers. The Central Government's responsibilities are now limited to defence, fiscal and economic policies, migration, minerals, national monuments, foreign relations, national planning, justice, institutes of higher learning and hospitals.

Urban councils have more powers than under any previous legislation on Local Government, but still are local governments under a District. This does not however mean that they are subordinate or under the direct control of the District, the principal of non-subordination applies to all local councils.

The objectives of decentralization in Uganda, according to the Government, are to:

- transfer real power to districts and thus reduce the load of work on remote and under-resourced central officials;
- bring political and administrative control over services to the point where they are actually delivered, thereby improving accountability and effectiveness, promoting peoples feeling of ownership of programmes and projects executed in their districts;
- free local managers from central constraints and, as a long term goal, allow them develop organizational structures tailored to local circumstances;
- improve financial accountability and responsibility by establishing a clear link between the payment of taxes and provision of services they finance; and
- improve the capacities of the councils to plan, finance and manage the delivery of services of their constituents.

United Republic of Tanzania

The United Republic of Tanzania is made up of the two formerly independent countries of Tanganyika and Zanzibar, which united in 1964. The country has a two tier system of government: the central and the local. The latter are either urban authorities (city, municipal, town councils), or rural authorities (district councils, incorporating also township authorities).

At the time of independence in 1961, there were three categories of local authorities in the country namely: native authorities created under the Native Authorities Ordinance of 1926; district and town councils created under, the Local Government Ordinance of 1953; and one municipality (Dar es Salaam) created under the Municipalities Ordinance of 1946. In 1962, the Local Government Ordinance was amended to inter alia, repeal the Native Authority Ordinance and with it, native authorities and chiefs. Until 1973, the local government system was thus made up of district and town councils, and municipal councils (these were the City of Dar-es-Salaam, which got city status in 1961 and the municipality of Tanga).

Rural and urban authorities in the United Republic of Tanzania were abolished in 1972 and 1973 respectively, and were replaced by the central government in a policy that was known as “decentralization”. This drastic action was prompted by a number of weaknesses observed in the local government system:

- Services had expanded rapidly but local authorities had no resources to fund them. Their financial base was poor, revenue sources were falling, because of poor collection and interference from the central government and government grants were far too short of requirements.
- Local authorities lacked qualified manpower.
- Local authorities were accused of mismanagement of the funds that they collected themselves as well those that the government granted to them.
- The period after independence saw a lot of development enthusiasm with a lot of infrastructure getting constructed (e.g. through self help) but with little involvement of the local authorities who were eventually expected to administer this infrastructure. Besides, most politicians shied away from backing the local authorities in the latter's efforts to collect revenue.
- The system of supervising local governments which had been in place since colonial times became weakened after independence. Since many council officials and councillors lacked the necessary experience and know how to run local authorities, this weakening of

supervision had deleterious effects on the running of local authorities.

- The relationship between local authority staff and councillors was almost always sour. Among the problems experienced were: councillors refusing to take part in campaigns for tax collection; financially impoverished councillors depending on sitting allowances for their income thus having unnecessarily many meetings, or holding meetings which were indecisive; blurred division of responsibilities between the councillors and officials; councillors demanding special treatment such as offices and vehicles for their personal use; and councillors engaging in shoddy deals when it came to awarding contracts.

In the end, local (particularly district) authorities collapsed. District authorities were abolished on 30 June 1972 while urban authorities were abolished on June 30 1973. At the time of their abolition, there were 66 district councils and 15 urban councils in the United Republic of Tanzania.

Reinstatement of local governments

When local authorities were abolished, urban councils were merged with neighbouring rural areas. Government focus was on rural areas and this led to a rapid deterioration of conditions in urban areas. Primary schools lacked textbooks and their buildings remained un-maintained; drains and sewers remained unblocked, roads went unattended, and dispensaries lacked essential drugs. An outbreak of cholera in many urban areas in 1976 prompted the government to set up an investigation team and to make recommendations on the future administration of urban areas. The report that was submitted recommended the reinstatement of urban local governments.

The Urban Councils (Interim Provisions) Act of 1978 required the reestablishment of town and municipal councils effective from July 1, 1978. However, reconstituting these local authorities was not an easy task. The experienced manpower that local authorities had previously created had dispersed, and much of the infrastructure that belonged to local authorities had deteriorated much beyond repair.

The reinstated urban authorities were bestowed with the responsibilities previously held by them under the Municipalities Ordinance of 1946 And the Local Government Ordinance of 1953. Nevertheless they were not empowered to raise revenues of their own, and whatever revenue they collected, they did so as agents of the central government. The new councils remained entirely dependent on the central government for their finances. Whatever they got was not enough and as such no development projects were undertaken in this interim period.

In 1980, the ruling political party (CCM) required the government to revive the local government system in its entirety; and in 1982, legislation was enacted establishing village councils, township authorities and district councils as the local authorities rural areas; and town, municipal and city councils as local authorities in urban areas. Local government elections took place in 1983 and local governments were reinstated effective from 1984. The country's constitution was amended to stipulate that local government authorities be established at all levels in accordance with the provisions of the law.

Since their reinstatement, local authorities have continued to depict a number of weaknesses financially, administratively and politically. A number of studies have been carried out to make recommendations on how to strengthen local governments in the country. There is an ongoing local Government Reform Agenda (1996–2000) aimed at making local authorities more democratic, transparent, accountable and autonomous; and to clearly define the roles, functions and authority of the various levels of government, and to lead to an effective provision of services.

Current organization of the local government system

The establishment of Local authorities in the United Republic of Tanzania is enshrined in the country's Constitution.

The general duties and functions of local government authorities can be divided broadly into two categories – mandatory and permissive.

Mandatory functions and duties include:

- maintenance of law, order and good government

- promotion of social and economic welfare and well being of all persons residing within the areas of their jurisdiction
- furtherance of economic and social development in their areas
- effective collection and proper utilization of revenues of local government authorities
- making bye-laws for the implementation of national and local policies
- the consideration, regulation and coordination of development plans, projects and programmes so as to ensure more beneficial development and mobilization of productive forces to combat poverty, disease and ignorance, and for the control and improvement of agriculture, trade, commerce and industry.

Permissive functions are those which local authorities may perform depending on the availability of resources. These include control or prescription of methods of husbandry on agricultural land; the building, equipping and letting of shops and dwelling houses; the establishment, maintenance operations, and control of drainage and sewerage works; and any other functions which may be beneficial to the residents of their areas.

Representative bodies

Every local authority is governed by a Council made up of elected councillors, local Members of Parliament, and five or six members nominated by the Minister for Local Government. These are the ones who represent the people or various interests (e.g. women) in society. A municipal or city council is headed by a mayor. A town or district council is headed by a Chairman. All are elected by councillors from amongst themselves.

Administrative/management bodies

Local Authorities govern through standing committees. The most common ones in urban authorities are: Administration and Finance; health and Social Welfare; Education and Culture; Works and Communications; Town/urban planning; Trade and economic planning; General purposes; and human resources deployment Committee. Those common in rural authorities are: Finance and Establishment, education, health, works and natural resources. Officers of the council sit on these committees as non voting members. The chief executive of a Council is a director appointed by the President.

Main sources of local government revenue in the United Republic of Tanzania

The main sources of local government revenue are provided for in sections 6–10 of the Local Government Finance Act of 1982. There are in all over 56 sources of revenue for local government in the United Republic of Tanzania besides grants from the central government. These are listed in Table 3.2.

Table 3.2: Sources of local government revenue in the United Republic of Tanzania besides grants from the central government

A: TAXES
1. Development Levy
2. Business Licenses
3. Property Tax
4. Industrial Cess
5. Road License fees
6. Petrol Levy
7. Hotel Levy
8. Cess pit emptying fees
9. Taxi, pickup and lorry fees
10. Advertising Fee (billboards)

11. Market dues/stalls rent
12. Building Plans fees
13. School fees, English medium
14. Intoxicating Liquor Licenses
15. Scaffolding fees
16. Bus stand fees
17. Forestry products fees
18. UPE contributions/fees
19. Weights and measures fees
20. Sale of fish (5% commission)
21. Refuse collection charges
22. Motor vehicle parking fees
23. Bye law fines
24. Entertainment levy
25. By-law permits charges
26. Medical examination fees
27. Abattoir slaughter fees
28. Water pipe installation fees
29. Storm water drainage fee
30. Cattle market charges
31. Inoculation/Vaccination fee
32. City building rent
33. NHC rent
34. Taxi registration fees
35. Burial fees
36. Fire service fees
37. Stray animal fine
38. Local Liquor licenses
39. Livestock license
40. Valuation fees
41. Cultural games fees
42. Fisheries licenses
43. Foreign liquor licenses

- 44. Playing grounds fees
- 45. Blood drying activity fees
- 46. Human resource license
- 47. Ambulance fees
- 48. Hunting licenses

B. OTHER REVENUE SOURCES

- 49. Bank Interest
- 50. Sale of assets
- 51. Hire of plants and vehicles
- 52. Sale of plants and seeds
- 53. Repayment of lost asset
- 54. Sale of identity cards
- 55. Recovery of public fund
- 56. Other income

ENDNOTES

1. The Masaka/Mbarara/Arua Reconstruction and Development Programme and the Luweero District Integrated Programme were initiated in 1986 to rebuild basic infrastructure and support social rehabilitation in these war ravaged areas. The Northern Uganda Reconstruction Programme is on-going with a resident Minister of State responsible for the work in the area.
2. Article 206(1) of the Constitution specifies that parliament shall make laws relating to local Government for the purpose of giving full effect to Chapter Eleven.

Chapter 4 – Motives and Driving Forces for Privatization of Municipal Services in East Africa

The methods selected by governments to implement privatization and the criteria chosen for evaluating its results depend to a great extent on their motives for adopting such an alternative approach. A review of the experiences with the privatization of municipal services in East African cities should therefore begin with an examination of the rationale and motives used by the governments to justify their policies.

Part of the selling points to which most proponents of privatization are quick to point are the “efficiency” and “mobilizing private investment” arguments which justify private sector involvement in delivery of urban infrastructure and services (see, Cointreau–Levine, 1994). A review of the privatization experiences of a small number of Asian countries shows that, while the motivations are probably much more diverse and complicated than the governments openly admit, they do publicly acknowledge that the mobilization of private investment is the dominant motivation. For example, in *Indonesia* the government’s current and primary interest in private sector involvement for the water supply and waste–water sub–sector is in tapping private investment to augment public funds. In *India*, ‘the major reason for advocating privatization of municipal services is the lack of resources by urban governments’. In *Malaysia*, ‘the huge investment in the [solid waste management] sector has constrained many local authorities from developing other public infrastructure and services.’ Privatization is seen primarily as a way to help relieve” the local authorities of the financial burden’ in providing such services.

Since the beginning of the 1990s, many African countries have turned to privatization as a way to help address shortfalls in urban infrastructure and services, hence, privatization activities are now taking place on

an enormous scale. In most countries however, the motives for and methods of privatization vary from city to city. Before examining the available data on these privatization experiences, however, it may be useful to raise some questions to help serve as a framework for discussion. It must however, be said that the nature and quality of the evidence/data must be treated with circumspection and therefore does not allow for a full, or even, in some cases, a partial, response to many of the questions raised below.

From the perspective of municipal officials, who are ultimately responsible for the welfare of urban residents;

1. Has privatization helped improve the efficiency of the existing work–force and service delivery?
2. Is privatization more cost effective, enabling local authorities to spend more time on more urgent matters?
3. Has privatization either extended the area of coverage or extended services to previously unserved population groups?

And, from the perspective of urban residents, who are the users of municipal infrastructure and services;

1. Has privatization markedly improved the quality of the services delivered?
2. Do they have to pay more, less, or the same amount for the services?

In theory, McMaster (1991) has argued, the privatization of urban services can be motivated by the following considerations: reducing the cost of public services to consumers; relieving the financial and administrative burden on the government; satisfying unmet needs increasing productivity and raising efficiency by promoting competition; adopting innovation and new technology; maintaining the condition of equipment; improving responsiveness to cost control measures.

Rationalization and Strategy Formulation

The decline in municipal service delivery is evidenced by inequitable resource allocation, low revenue collection, low service coverage, mismanagement, corruption and lack of transparency and accountability. The main rationale behind the move towards privatization is the failure by national and local governments to adequately provide services to their population. Privatization of municipal services is an option that could address these problems in line with the government privatization policy whose rationale is based on the following criteria:

- concern for better alternative deployment of public funds;
- concern that consumers get value service for their money;
- concern that the private sector type of management responds to consumer and market demands more efficiently; and
- concern that private sector competition guarantees competitive prices for goods and services to the consumer.

In Kenya, the privatization implementation strategy has been formulated by the Government of Kenya to guide economic management and specify the expected outputs in the implementation process, The criteria for private sector participation and management is guided by the following principles:–

- the participating agency will be guided by commercial and profit orientation;
- flexibility in decision–making and policy matters such as hiring, pricing and management approach;
- employment and remuneration policies will be competitive;

- the company will recover full real costs of operation, maintenance and replacement of capital stock;
- profits will be re-invested into the company to improve services and facilities.

In Uganda, one of the key strategies that has been adopted is to ensure that the wage bill of local authorities do not exceed 17% of the total budget, this is in line with the decentralization guidelines. Implementation of this strategy means that direct employees have to be limited in number if the councils are going to remain competitive employers in the market. In order to keep high calibre staff, it means that they must be well remunerated. In all the three countries, it is believed that an increase in taxes to meet the costs of services provided to the population will not be well received by the urban population, at least not until the local authorities can show tangible ways in which the money has been used.

Comparison of Motives

In all the three East African countries, few municipalities have substantially fully privatized service provision and very few services have been wholly shifted from the central and local government to the private sector and/or grassroots organizations. For the services which have been privatized or components thereof, the common approach is that local council or central government agency contract a private company or grassroots organizations to provide the service on their behalf. There are also instances where the service provision activity is leased out to a non-state organisation and supervised by a state organ, local or central. Although at the national level there are clear policy intentions to privatize, at local level, privatization attempts are rather sporadic and guided by local political expedients as well as urban residents ad-hoc wishes rather than a well worked out local plans.

United Republic of Tanzania

Privatization of municipal services is noted in almost all urban settlements, large as well as small towns. For various reasons including high population concentration as well as high rates of growth and city expansion, the city of Dar es Salaam has been on the fore-front in both grassroots and private companies participation in municipal service provision. This phenomenon is mainly noticed in public transport, roads improvement, solid and liquid waste management, health and education services and more recently, parking and construction and management of public toilets. In the following sections we provide an overview of the privatization of municipal services focusing on three periods which have historically structured the political economy of the United Republic of Tanzania.

Several studies attest to the poor performance of the public sector (Moshi, 1995; et) the fact which necessitated sectoral reforms and the establishment of the Presidential Parastatal Sector Reform Commission in 1993 by the Public corporations (Amendment) Act of 1992 to oversee the privatization process. Besides the noted problems, privatization was aimed at promoting wider participation by the people in the direct ownership and management of business. Moreover, parastatal organizations appear to be spending more tax payers money than what they should pay back in the form of dividends and tax revenues. For example, in the 1984/85 financial year the government subsidized parastatal organization to the tune of about Tshs. 6.3 billion. This figure rose to Tshs. 50.6 billion and Tshs. 21.8 billion in 1993/94 and 1994/95, respectively (Mbowe, 1997). The constraints in the privatization process in the United Republic of Tanzania include:

- (i) Weak institutional capacity
- (ii) Too much bureaucracy in the process, hence the procedure takes too long to complete
- (iii) Weak capital structure and indebtedness of earmarked municipal services, hence not attractive to private sector entrepreneurs
- (iv) Inadequate institutional finance machinery to facilitate financing for acquisition of shares in the privatized companies – hence citizens or “wazawa” are unable to participate which negates the original objective.

It is popular belief that privatization is the key to solving problems of state – owned enterprises. According to this conventional wisdom, privatization invariably improves corporate governance, management and performance. However, Tanzanian experience shows that efficiency depends more on the effectiveness of

regulatory supervision than on the form of ownership i.e. privatizing municipal services without making provision for competition and appropriate regulatory policies and frameworks can bring more problems than benefits. In addition, newly privatized enterprises require:–

- (i) New structures and procedures to cope with the rules of the game being played in a free market
- (ii) Strong and capable shareholders
- (iii) Good management leadership and systems
- (iv) High morale and commitment of employees

Kenya

Although privatization of municipal services is not new in Kenya, comprehensive policy guidelines are lacking. However, municipal authorities can take advantage of policy objectives for privatization process outlined in several documents such as “*Economic Reforms for 1996–1998: The Policy Framework Paper (1996)*”¹ and the Eighth National Development Plan. In these documents, the objectives are stated as:–

(i) Commercial Viability

To enhance the role of the private sector in the economy by shifting more of the responsibilities for production and delivery of goods and services from the public to the private sector and creating a “level–playing field” by removing impediments to participation by the private sector.

(ii) Ease Fiscal Drain

To reduce the dependence of the public sector on the exchequer so as to improve the utilization of scarce resources by enhancing returns on those resources to achieve greater efficiency in the privatized services.

(iii) Introduce Competition and Improve Efficiency

To enlarge the business ownership base and enhance capital markets development.

The Eldoret Municipal Council states that they have proposed commercialization of water supply and sanitation services in order to ensure efficiency and profitability. While arguing the case of commercialization, the Eldoret Municipal Council has noted that performance and management of these services have continued to deteriorate owing to a combination of the following factors:–

- non–cost recovery tariffs
- delays in approval of tariff increases
- diversion of water revenue to meet unrelated expenditure
- difficulties in the recruitment and retention of professionally and technically qualified top and middle level management staff
- deferred maintenance of facilities
- high water losses
- low billing and collection efficiency

In view of this, the Council has resolved to introduce the commercialization strategy as a means of ensuring sustainability and efficiency in the delivery of water and sanitation services.

Uganda

Privatization policy in Uganda is an integral part of the Structural Adjustment Programme (SAP) currently being implemented in the country. The SAP has four main elements, one of which is the privatization of Public Enterprises. The stipulated objectives of privatization in Uganda are:–

- (a) to relieve the national treasury of the burden of the public enterprises financial and capital losses
- (b) to generate revenue for the treasury
- (c) to promote and develop an efficient private sector, and
- (d) to improve the performance of public enterprises retained by government with partial or whole ownership.

The overall objective is to revitalize the private sector, increase economic efficiency and thereby generate economic growth and consequently development. The government's hope is that when the private sector is revitalized and production increased, it will raise income through increased tax and associated revenue.

Although there is no distinct policy on privatization of municipal services in Uganda, the privatization process for municipal services has borrowed from the existing parastatal privatization policies and Acts. Municipal Councils are considering comprehensive privatization programs as a means to reinforce and enhance their ability to govern and increase the level and quality of services to their constituents. The Local Government Act, 1997 stipulates specific functions and powers to urban authorities. It is now a function of local councils to regulate, control, manage, administer, promote or license any of the things or services which the Council is required or empowered to do and prescribe the forms, fix fees or charges². The promotion of the involvement of the private sector, as well as the communities in the provision of these services is also stipulated as a role of the authorities.

The key objectives for the privatization of municipal services in Uganda are:

- (i) To ensure the commercial viability of privatized services*

The “enabling policy” adopted by the Government limits it to roles and functions that it does best and provides the environment for the private and popular sectors to participate.

- (ii) To Ease Fiscal drain*

Urban authorities, with some exceptions, cite unavailability of resources for their failure to provide adequate services to their residents. Management of revenue collection is poor in all of them and yet costs for overheads to carry out this exercise are high.

The Government's retrenchment exercise, which included cutting down the work–force in the local government was intended to result in higher productivity. The workforce had very low morale due to poor wages. Downsizing and increasing the wages of those who remain was aimed at motivating them. Employees of local government were all affected by this exercise, and some section heads complain of lack of staff as a result of not being consulted during the exercise. Privatization has thus been adopted by all municipal authorities to relieve them of as many of the functions that can more efficiently be done by the private sector as possible. Prevailing policies and the donor community encourage it. From the past track record, no municipal council can be singled out as having been able to provide adequate services to its resident. The total wages account for 17.7%, 26%, 26% and 12.3% for Jinja, Kampala, Mbale and Mbarara of the local government budgets respectively.³ The figures for revenue per capita received by the councils from all sources are less than US\$11 per capital per year.⁴ This gives a reflection of what the council can extend in terms of quality and the quantity of services to its population.

Figures for revenue collection in Nakawa division, Kampala City Council; for the last two financial years is given on tables 4.2a and 4.2b. The collection of Graduated tax and trading licenses and permits has been privatized with a realization of revenues much higher than previously achieved through collection by local government officials.

However, it is important to note that there are still contradictions and limitation within the existing policies, laws and regulations. For example, the Local Government Act, 1997 requires amendment to encourage the privatization process. The Trade Licensing Act, 1969 limits the operation of private companies in designated areas. For instance, the private company, BINs, was given notice by the Kampala City Council (KCC) to stop collecting household waste from Naguru area until payment of a contract fee.

(iii) Introduce competition and improve efficiency

The government aims to establish an attractive business environment including competitive and open markets, a well functioning legal system which protects property rights and the execution of contracts, and a supportive physical.

Table 4.1: Privatization of Municipal Services: A Comparison of Stated Motives

City/Municipality	Increase Efficiency	Reduce Fiscal Burden	Adopt Innovation and New Technology	Broaden Ownership	Increase Revenue Collection	Develop Private Sector
Kenya(general)		✓		✓		✓
Nairobi		✓	✓			✓
Mombasa	✓	✓	✓	✓	✓	✓
Eldoret	✓	✓	✓	✓	✓	
Uganda (general)	✓	✓		✓		✓
Kampala	✓	✓			✓	✓
Jinja	✓	✓		✓	✓	✓
Tanzania (general)		✓	✓	✓		✓
Dar es Salaam	✓		✓		✓	✓

Source: Research reports, Government policy statements and discussions with city officials; White, O.C and Bhatia, A. (1998), Privatization in Africa pp. 22.

Table 4.2a: Contributions to actual revenue collected in Nakawa Division, Kampala City Council during 1995/96 financial year

Source	Budgeted	Collection	% Collection
Graduated Tax	300,000,000	347,618,195	115%
Education Tax	15,000,000	6,290,000	42%
Trading Licence	106,200,000	76,623,951	72%
Trading Permits	20,000,000	13,968,489	70%
Sign Posts	8,000,000	1,945,000	24%
Application Forms	5,000,000	2,683,000	54%
Liquor Licence	15,000,000	5,431,313	36%
Ground Rent	20,000,000	86,000	4%
Property Rates	441,768,000	48,787	11%
Markets	80,556,000	16,000,000	20%
TOTAL	1,011,978,000	454,694,735	45%

Table 4.2b: Contributions to actual revenue collected in Nakawa Division, Kampala City Council during 1996/97 financial year (Uganda shillings)

Source	Budgeted	Collection	%
Graduated Tax	450 million	310,204	68.9%
Education Tax	18 million	4,380	24.3%
Licenses	164,000	100,499	61.2%
Housing	229,980	–	–

Property Rates	441,161	740	0.2%
Markets	80,880	–	–
Vehicle Parks	34,800	–	–
Miscellaneous	88,178	1,353	1.3%
Sales of Scrap	7,920	–	–
TOTAL	752,959	417,176	55%

Source: Kampala City Council, 1997.

The Role of World Bank/IMF and Domestic Policy in Promoting Privatization

It is unlikely that there would have been much systemized privatization without the World Bank/IMF funded structural adjustment programmes and their pressures. But not everyone agrees; some say that there might have been more and better privatization without donors because budget constraints would have exerted a more effective pressure. Nonetheless, there is no doubt that donors, particularly the World Bank/IMF have played a crucial role in promoting privatization by putting pressure on governments to divest and supporting privatization programmes throughout the region⁵.

The role of the World Bank/IMF has focused on assisting privatizing countries in establishing well functioning systems that will support the process through the formulation of sustainable policies, funding of activities, advisory services to create transparent environment in which people can make rational decisions.

In Uganda, the International Finance Corporation (IFC) is the Government's principal financial advisor in the privatization process for urban authorities. The principal project through which support is extended is the Uganda First Urban Project (UFUP). It owes its origin to a series of emergency water supply and sewerage rehabilitation interventions in Uganda's seven major towns. Major issues of urban finance and management were identified in a Bank sector report in 1984. Subsequently, specific feasibility studies were carried out in priority action areas such as urban finance, road rehabilitation, solid waste management, urban markets and serviced urban land. The UFUP is now focused on Kampala. Among the objectives of the UFUP was the need to improve urban financial management by strengthening the revenue base of the councils, and promoting sound urban cost recovery policies⁶.

Privatization is considered a necessary approach, in World Bank funded projects, in order to confront unprecedented fiscal constraints as the cost of operating local government continues to outpace revenues. Urban officials need a solution to the fiscal crises that is practical, responsive entrepreneurial, and comprehensive, yet provides flexibility to project scope and implementation.

The reform of the country's economic policies and the structure of the economy, particularly to reduce the role of the state was first embarked upon by the United Republic of Tanzania in cooperation with the IMF and the World Bank under the Economic Recovery Programme (ERP) agreed upon in 1986. Progress in deregulating foreign trade and monetary and currency policy and liberalizing the private sector was made but since the early 1990s, there have been slippage in meeting the conditions of the ERP, particularly in bringing the public expenditure under control.

In 1995, the government reached an agreement with the IMF for an Enhanced Structural Adjustment Facility (ESAF). This enables credit of some US Dollar 234 million to be drawn in semi-annual instalments to support the government programme of reform over a three year period 1996/97 – 1998/99. As the privatization process evolves, the relative share of public and private sector will change. However, with significant retrenchment of staff in many of the existing public and parastatal enterprises and the complexity of procedures, the number of agencies costs and concentration of approvals being located in Dar es Salaam for medium and large formal sector forms, the current environment encourages business to remain small and informal. Hence the informal sector will continue to grow at the expense of the formal sector.

ENDNOTES

1. This paper is prepared by the Government of Kenya in collaboration with the International Monetary Fund and the World Bank.

2. See the Republic of Uganda, Local Government Act, 1997. Second schedule.
3. Republic of Uganda, Urban and Housing Indicators (1996).
4. *op. cit.*
5. Campbell W.O. Bhatia, A. (1998), Privatization in Africa, IBRD/World Bank.
6. See Uganda First Urban Project, Fourth Quarterly Report, April – June, 1995.

Chapter 5 – Case Studies of Privatization of Some Municipal Services

Privatization of Solid–Waste Management (SWM)

Solid waste management (collection and disposal), is the municipal service in which greatest attempts at privatization has been made. The experiences of these attempts in Kenya and the United Republic of Tanzania are reviewed below.

Nairobi, Kenya

The management of solid waste in Nairobi has proved to be a good case study of the decline in the delivery of urban public services and private sector involvement in search of a sustainable solution.

The earliest attempts at privatizing solid–waste management services (SWM) in the city of Nairobi were in 1906, when a private company was contracted to sweep and clean city streets, collect garbage and provide street lighting. This company did not succeed in effectively executing these duties and the role had to revert back to the city council which initially performed this role relatively satisfactorily.

However, recent urban growth and increased waste generation have outstripped the city's capacity to provide an adequate and efficient waste management service resulting in gross urban decay and an increased involvement by city residents and actors other than the city council in solid–waste management activities. See table 5.1.

Table 5.1: Nairobi's Estimated Total Daily Amounts of Solid Waste

Year	1972		1975		1980		1988		1996	
Population	617,000		669,222		868,028		1,300,000		2,300,000	
Domestic Waste	td	Kpd	td	Kpd	td	Kpd	td	Kpd	td	Kpd
	300	0.65	560	0.8	1100	1.0	2440	1.3	–	–
Industrial Waste	70	–	120	–	200	–	550	–	–	–
Earth Waste	100	–	110	–	130	–	160	–	–	–
Total	470	–	790	–	1430	–	3110	–	1000	–

Source: Nairobi City Council and African Urban Quarterly, May 1992.

Note: td = Tons per day; Kpd = Kilograms per person per day.

In 1988, this also attracted organized commercial private sector companies such as Bins (Nairobi) Services Limited and Domestic Refuse Disposal Services Limited (DRDSL) that registered to manage, collect and dispose solid waste (at the Dandora land–fill site) from industries, institutions, commercial establishments, and high–income residential areas, at a time when the Nairobi City Council (NCC) performance was only 21.54%, leaving about 28,700 tons of solid waste uncollected. By 1996, the combined daily collection capacity of the two private companies (Bins and DRDSL) was 400 tons while NCC's was 100 tons only. Table 5.2 below shows the declining collection efficiencies of solid–waste management in Nairobi.

[Table 5.2 shows that refuse collection has been steadily falling while population and volume of garbage has been increasing resulting in garbage pile up and environmental degradation.]

Table 5.2: Quantities of Solid Wastes and Collection Efficiencies

Year	Solid Waste Generated (Tonnes)	Solid Waste Collected (Tonnes)	Solid Waste Uncollected (Tonnes)	Collection Capacity of Vehicles (Tonnes)	% Waste Collected	Collection Efficiency of Vehicles (%)
1978	213899	197619	16280	221555	92.39	89.90
1979	225235	136906	88239	258055	60.78	53.05
1980	238274	187595	50679	226188	78.73	82.94
1981	250692	178834	71858	208050	71.34	85.96
1982	264489	178136	86344	209875	67.35	84.88
1983	279026	159974	119052	229950	57.33	69.57
1984	295179	116695	178284	176046	39.60	66.40
1985	310563	114611	195952	133933	36.90	85.56
1986	327644	115112	212532	135050	35.13	85.24
1987	345665	106402	239263	160308	30.78	49.13
1988	365675	78753	286922	–	21.54	35.00
1996*	365000	182500	182500	112210	40.00	–

Source: Nairobi City Council statistics, 1997.

Notes:

1: Residential and commercial areas generate 57% and 43% respectively. Industries handle their waste independently

2: NCC 1996 solid waste generation estimates of 1000 ton/day which is equal to 1988's is questionable and should be re-examined considering population growth.

In 1997, following a research effort by NCC with support from the Japanese government, NCC opted to privatize garbage collection and street sweeping as a pilot scheme in Nairobi's Central Business District (CBD) on a management contract basis. Kenya Refuse Handlers Ltd. (Handlers) as the lowest bidder, was awarded the contract to sweep the street, roads, lanes, pavements and markets daily as well as remove and then dispose all garbage at Dandora land-fill site every day, for an agreed sum of Kshs. 1,312,500 (US\$ 20,275) per month. The cost implications to the Council were that it has been able to re-deploy 525 workers and vehicles to other areas, saving Ksh. 2,625,000 per month exclusive of fuel and vehicle maintenance costs. Such privatization improved the Council's performance efficiency and effectiveness from 40% to 90%. Delays in payments to Handlers however, are interfering with their operations.

Other than the officially contracted SWM company Kenya Refuse Handlers, NCC does not license any other entrepreneurs as private waste collection companies. They are registered as business establishments under the Company Act. It is however estimated that there are over 30 small private solid-waste entrepreneurs operating within the city. These are small ventures owned and run mostly by households. There are not more than five large-scale private waste collection firms and all private companies currently operate in open competition. Most of this private sector entrepreneurship however, remains unguided, taking place without any institutional and/or legal regulation.

Magnitude of the solid-waste problem

A recent survey (Esho, 1997), found that 36% of the respondents saw the problem of garbage collection as very serious in their areas while 36% and 28% perceived it as moderate or non-existent respectively. Ratings were found to be influenced by several factors such as area, activity type, level of education, etc. For instance, in residential areas, 41% of the households tended to view the solid-waste problem as being very serious compared to 28% of commercial enterprises. However, the majority of those who thought the frequency of collection was adequate were either currently being served by private companies, or were themselves actively involved in disposing of their garbage. It is important to observe that the majority of those

served by Nairobi City Council expressed dissatisfaction with the frequency of the waste collection service, with 63% of them suggesting privatization preferably in partnership with NCC. Overall, 78% of the respondents generally felt that the involvement of the private sector would ensure efficient waste collection and management services. Factors influencing response were found to include respondents' employment area, income level and the extent to which they had already incorporated the private sector in solid-waste collection and disposal e.g. owners of industry genuinely preferred any initiative that would incorporate the private sector in Solid Waste Management.

Cost of privatized services

While the charges currently levied by private companies, and those that respondents were willing to pay tended to vary, an interesting finding of this research is that most people are generally willing to pay substantially more than they are currently paying. For example, while 53% of those paying below Kshs 100 did not want to pay more, 47% indicated that they were willing to pay more than Kshs 200 per month. The same applied to those paying between Kshs 100 – 200. Similarly, 50% of those paying between Ksh. 300 and 400 indicated a willingness to pay up to Kshs 800 per month. This rather strange phenomenon is probably the result of the publicity that privatization of the service has received in recent years. It could also reflect the level of frustration that city residents have had due to poor services currently being offered.

Table 5.3: Perception of the solid waste menace by residential area

Rating	Respondents residential neighborhood							
	Kawangware		Umoja		Plainsview		Loresho	
non-existent	–	–	3	(15%)	5	(25%)	18	(90%)
Moderate	12	(67%)	1	(5%)	7	(35%)	–	–
Very-Serious	6	(33%)	16	(80%)	8	(40%)	2	(10%)
Total	18	(100%)	20	(100%)	20	(100%)	20	(100%)

Source: Lawrence Esho, Field Survey 1997

In residential areas, regarding the seriousness of the solid-waste menace, the majority (41%) thought the problem was very serious while 27% and 33% saw the problem as moderate or non-existent respectively. The majority (63%) of respondents in residential areas had their garbage collected once a week while 21% and only 6% had their waste collected twice and thrice a week respectively. Although 86% of the households were satisfied with the frequency of collection, 77% of these respondents went on to suggest that solid-waste management services should be privatized either in a pure form or in partnership with NCC, or with community based organizations. 64% of the residential respondents were found to pay below Kshs 200 per month while those who do not receive privatized services indicated a willingness to pay the same amount. Table 5.4 below presents an area-based analysis of the extent of private solid-waste entrepreneurship.

High-income residential areas reported private firm waste collection to be efficient. As a result, 79% of them thought that the best way to deal with the inadequacies that face the solid-waste management in Nairobi was to privatize. All preferred dealing directly with the private company. On the other hand, among the *institutions* interviewed comprising of educational institutions, hospitals, churches etc., while 21% and 31% of them have their waste collected by NCC and private firms respectively, 47% manage their solid waste mainly through burning (45%) and selling to scavengers (55%).

With *industries* it was found that half the respondents depended on the private sector while the other half managed their own wastes through recycling (60%), open dumping and selling to scavengers. However, all agreed that the best way to deal with the inadequacies was to privatize. This was the same view held in 1991 when 85% of the industries indicated that the city might be better off with privatized waste collection service (see Fadamulla, 1991). Similarly, in *the CBD*, while a few depend on the private sector and NCC, 67% of the respondents handle their own solid-waste mainly by selling to scavengers.

Status of Private Solid-Waste Entrepreneurship

It is not possible to ascertain the exact number of private solid-waste entrepreneurs operating within the city as most of them are registered under the Company Act and not by NCC. They however, estimate that there are over 30 such firms. A field survey indicated that the bulk of these are small ventures owned and run mostly by households. There are not more than five large scale private waste collection firms and all private

companies currently operate in open competition. Most of this private sector entrepreneurship, however, remains unguided, taking place without any institutional and legal regulation.

In terms of *size of vehicle fleets*, 60% of small firms interviewed do not use their own equipment and instead hire vehicles in the open market. They either use pick-up trucks of below two tonnes or for purposes of efficient resource use, hire large capacity vehicles of about 7 tonnes or more. However, none of the equipment was purchased or even designed for refuse collection. They are either old dilapidated vehicles with little other use, or small family pick-up trucks used for other purposes as well. Whether hired or privately owned, all the small firms use an average of one vehicle.

Table 5.4: Area Specific Responsibility for solid waste collection

Collection Agency	Activity Area							
	Residential		Institutions		Industrial		Commercial	
NCC	1	1%	4	21%	–	–	3	66%
Private sector	57	73%	6	32%	10	50%	3	66%
CBOs	5	6%	–	–	–	–	–	–
Personal Initiative	15	19%	9	47%	10	50%	12	66%
Total	78	100%	19	100%	20	100%	18	100%

Source: Esho, L. Field Survey, 1997

Table 5.5: Size and Capacity of Fleet

Vehicle Capacity	Number of Vehicles per Firm		
	Bins Ltd	DRDSL	Small Firms (Avg)
Below 2 Tonnes	1	–	1
2–3 Tonnes	–	5	–
3–5 Tonnes	7	1	–
Above 5 Tonnes	3	–	1
Total (Vehicles)	10	6	1 or 2
Total Capacity (Tonnes)	50	17	1 or 7

Source: Esho, Field Survey 1997

To finance their operations, small firms derive revenue from service fees paid on a monthly basis. However, while large firms also depend on service charges to finance recurrent expenditure, they rely on financial institutions to fund additional investment and expansion. The cost of solid-waste management to the consumer usually includes refuse collection and plastic disposal bags which cost approximately Kshs 5 per bag. Small firms generally offer cheaper services (average Kshs 200) per month compared to larger firms (Kshs 500). For large generators of waste such as institutions and industries, firms charge according to size of bulk load. Specific differences in collection costs are also influenced by the area being served and, in some cases (eg DRDSL), the client's distance from the premises of the firm. Larger companies however, do not take economic differentials between residential areas as a factor in determining collection costs, often charging uniform fees. Smaller firms on the other hand tend to use competitive pricing, with cost of service offered varying with the amount of competition within a specific area. For instance, whereas most of the firms start by charging Kshs 200 per month, they adjust the price downwards as more entrepreneurs venture to the area.

Table 5.6: Monthly turnovers for private solid waste collection firms.

Firm	Average Charge (Kshs p.m)	Size of Clientele	Turnover (kshs)
Bins	500	5,000	2,500,000
DRDSL	500	1,400	700,000
Small Firm	200	5,000	100,000

Source: Esho, L. Field Survey, 1997

All firms interviewed were involved specifically in the collection (removal of waste from generating source) and disposal (transfer of waste to public (City Council) landfills like the one in Dandora) of solid waste. Their activities did not include waste destruction (composting, burying, incineration, etc.) and recovery (recycling) activities.

It could be said that while privatization and contracting out of solid-waste management has to some extent improved waste management in Nairobi, many areas still remain inadequately served or not served at all. The Nairobi City Council operates some waste management services and still has the responsibility for ensuring this service city-wide. The privatization or contracting out has not taken over completely.

Dar es Salaam, the United Republic of Tanzania

Solid-waste management in Dar es Salaam is the responsibility of the Cleansing Service Division in the Preventive Services Section of the city's Health Department, which also undertakes street cleaning and drain clearance.

It is estimated that a total of 1,929 tonnes of waste is generated daily from domestic, commercial, institutions and market centres (see table 5.7 below). Before the decision to privatize solid-waste collection and disposal the city council, was only able to manage 2 – 4% of the waste generated daily. There was a particularly serious crisis in the city centre area and at markets sites.

The main reasons given for the low capacity of the DCC to manage solid-waste are:

- Lack of equipment (trucks and machinery);
- Lack of funds to replace equipment, purchase spare parts, service existing equipment and fuel them. For instance the DCC has been allocating less than 8% of the total budget for SWM. Thus out of the 30 trucks and machinery donated by the Japanese government in 1987, only three were operational in 1992. In addition, the DCC vehicles that are operational operate at less than 20% of their capacity.
- Lack of an official disposal site. The only "dump site" in the city has been closed down following a court ruling issued in August 1991, after a successful application by residents of the Tabata area complaining of air pollution caused by smoke from the burning waste dumped at the site;
- Lack of involvement of other stake holders

In view of the poor waste management, the Dar es Salaam City Council (DCC), embarked on the privatization of waste collection option as one of the initiatives of the Sustainable Dar es Salaam Project (SDP).

Phase I of the privatization programme

The first phase of privatized solid-waste collection started after a meeting between the DCC and the Prime Ministers Office (PMO) who sought to find a permanent solution after the success of the emergency clean-up campaign of 1992. It was in this meeting that the idea of privatization was re-introduced. This time the idea was supported and means to implement it were identified. It was agreed that private individuals and contractors interested in this business be assessed and the winner awarded the tender. Then the tender was advertised for applications. The only contractor that applied was M/S MULTINET Africa Company Limited and thus, it was granted a tender.

Ten city centre wards namely Kivukoni, Kisutu, Mchafukoge, Upanga East, Upanga West, Jangwani, Kariakoo, Gerezani, Mchikichini and Ilala were selected for this first phase. M/S MULTINET AFRICA Co. Ltd. was assigned to clean these wards. Besides collecting the wastes from these areas; the contractor was also empowered to charge customers directly for refuse collection. It was agreed that for commercial premises the Refuse Collection Charges (RCCs) would be linked to the issuing of trade licences to facilitate collection on an annual basis and the residential RCCs would be collected on a three-monthly basis. Other phases were to be effected on the condition that the first phase was successful.

Table 5.7: Dar es Salaam city daily waste generation (in tonnes)

Waste Category	1989 Situation ¹	1992 Situation ²	1996 Situation ³
Domestic	650	860	975
Commercial	45	50	53
Institutional	60	80	101
Market	200	200	375
Industrial	208	–	225
Street sweepings	–	–	60
Car wrecks	–	230	40
Hazardous waste	–	–	50
Construction waste	–	–	15
Hospital waste	–	–	35
Total	1163	1420	1929

Source:

1. Haskoning and M-Consult (1992); Solid Waste Management and Development Plan for Dar es salaam for 1989 situation.
2. Manus Coffey (1992); Dar es salaam Privatized Refuse Collection System, Unpublished Report Submitted to Dar es salaam City Council for 1992 situation.
3. Kaseva M (1996) Recycling–An Environmentally Friendly and Income Generation Activity Towards Sustainable Solid Waste Management. Case Study Dar es salaam City, in Elsevier, Conservation and Recycling for 1996 situation.

Then followed the preparation of the Dar es Salaam City (Collection and Disposal of Refuse) By-Laws. This was prepared by the City Solicitor's office and was passed by the council under the Urban Authorities Act of 1992. The By-laws were approved by the Prime Minister on 7 August 1993, to take effect from 1 September 1994. Later on a contract based on the above mentioned By-Laws was prepared by the two parties (DCC and M/S MULTINET).

M/S MULTINET Africa Co. Ltd. started operation in September, 1994. For the first six months from November 1994 the operation showed good results. Many streets in contract areas were clean and data from Vingunguti disposal site showed that large volumes of waste were disposed off. On the other hand the revenue collection earned from refuse collection charges was promising while RCCs payers paid immediately.

By May 1995, there was an increase in waste collection from 2% before privatization to 75% of the generated waste in the privatized areas.

However, the amount of waste collected dropped due to some implementation and contractual problems which seriously affected revenue collection and actual collection of wastes from the designated areas of privatization. This resulted in a situation in which privatization could not be extended to other areas. The private contractors area was therefore reduced to 5 wards instead of 10. It was clear in the contract that, in order to enable the contractor to perform as required, DCC was required to enforce the By-Laws, relevant legislation and regulations.

A working group on privatization, which comprises experts from different stakeholders including the contractor discussed and deliberated on issues relevant to: the process, the functioning of the DCC and the contractor; and on what further actions and alterations are required. This group works out plans for implementation so as to achieve the objective of the private sector involvement in the provision of solid-waste collection services. The RCC tariffs were set after a detailed study by a working group on the privatization of solid-waste management of the Sustainable Development Programme (SDP) and approved by the Council. Table 5.8 shows the RCC s as set out in the Dar es Salaam City By-laws, Collection and Disposal.

Phase I achievements

The major achievements realized during the first phase of privatization included:–

- Establishment of a partnership in solid–waste management through the advice of a multi–disciplinary working group which comprised of almost all stakeholders in solid–waste management.
- At the beginning, solid–waste collection improved in terms of the percentage of waste collected (70%). This rate started to decline six months after the engagement of the private contractor due to the problems outlined in the following section.
- Contracting out of solid–waste management increased the efficiency in service provision and revenue collection. Households were slowly getting to understand that they have to pay for the service of refuse collection. There is evidence that privatization has increased the amount of waste collected from 30–60 tons collected by the DCC throughout the city, to 100–120 tons collected by the private contractors in the city centre alone. There is also a more efficient use of human resources, in the sense that, compared to 800 DCC workers who collected 30–60 tons the 318 workers under the private contractors collect 100 tons of refuse per day
- Through the privatization process, a number of jobs were created. A total of 318 jobs were created for workers employed by the contractor in the event that the privatization of solid–waste collection was effected.
- The working group managed to re–draft the first contract (Multinet contract) and prepared plans for the second phase of privatization.

Box 5.1

The Contract Between The Dar es Salaam City Council and Multinet Africa Co. Ltd.

The contract between the contractor and the city authority was prepared in order to guide the two parties in their operations at the same time safeguarding their interests in the privatization system. Some of the conditions and responsibilities of the parties involved as stipulated by the contract are;

(i) The dry authority

- To open a joint bank account between the contractor and the DCC.
- To monitor the contractors and residents performance as per contract.
- To continue/create people (residents) awareness on privatization of SWM and enforce the By–Laws.
- To acquire and run the disposal site as sanitary landfill and look for or acquire/identify other suitable sites for future disposal sites.
- To assist the contractor on refuse collection charges (RCC) collection and taking defaulters to court
- To pay RCCs for public services in privatized areas which area under DCC ownership.
- To collect all necessary data on who should pay and how much in the privatized areas and updating the information whenever changes occur.
- To lease refuse trucks and 3 depots where trucks need 10 be parked and maintain the one in use.
- To provide a weigh bridge on which to base the refuse disposal charges (RDC) at disposal site.

- To review/evaluate the contract after every six months.
- To prepare complaint format for recipients.

(ii) *The contractor*

- To deliver satisfactory services to all privatized areas as outlined in both the contract and the by-laws of 1993
- To collect RCCs from residents (waste producers).
- To send to the city authority monthly reports on both revenue collection and performance in waste collection including problems faced.
- To pay refuse disposal charges (RDCs) to the disposal site and for the leased truck plus depots.
- To operate the joint bank account together with the city authorities.
- To invest in equipment as per WAG'S software.

(iii) *Waste producers*

- To pay Refuse Collection Charges (RCC) to the contractor as per contract and the 1993 bylaw either at contractor's office or through the joint bank account. In paying Refuse Collection Charges businessmen are expected to pay annually while residents are to pay quarterly (in instalments).
- To collect, sort, and keep their wastes in plastic bags (to start with the usual plastic bags e.g. Rambo, Summer Ltd.) and later on using contractor's special introduced plastic bags.
- To cooperate with the contractor as per contractor's schedule in respective areas.
- To prepare complaints list against the contractor as shown in the complaint format by the city authority.

Table 5.8: Monthly Refuse Collection Charges (Tshs) 1993

Type of Waste/Occupier	AREA 1: Upanga East/West, Kivukoni, Kisutu, Mchafukoge	AREA 2: Gerezani, Kariakoo, Jangwani	AREA 3: Mchikichini, Ilala	All Areas
Domestic Refuse (payable Quarterly in advance)	900	150	150	
a. Every Trade License				
Holder	3,500	1,000	1,000	
. Normal Trade License	300	200	150	
. Nguvu Kazi License				
b. Hotels and Guest Houses				
. Rooms 1–10	20,000	3,000	2,500	
. Rooms 11–15	30,000	20,000	10,000	
. Rooms 16–25				55,000
. Rooms 26–50				75,000
. Rooms 51-75				100,000
. Rooms 76–100				150,000

. Over 100 rooms				200,000
c. Restaurants and Bars	30,000	15,000	2,500	
d. Shops, Offices				
. Employing 1–5				5,000
. Employing 6–10				7,500
. Employing 11–15				15,000
. Employing 16–20				20,000
. Employing 21–25				30,000
. Employing 26–50				55,000
. Employing 51–75				75,000
. Employing 76–100				100,000
. Employing over 100				150,000
e. Construction				
Skips (7 cu.m. Container)				10,000
f. Markets				
. 15 cu.m. container				19,000
. 7 cu.m. container				10,000

Source: Dar es Salaam City By-laws, Collection and disposal, 1992.

Constraints in Phase I

(i) Non-fulfilment of obligations from all parties – for example, under the contract, the contractor was supposed to pay the DCC the monthly costs of renting trucks, a leased depot and refuse disposal charges at the “dump” of Vingunguti. On the other hand, the DCC was obliged to pay revenue collection charges for the services provided by the contractor at DCC-owned premises like schools, hospitals, offices, etc. Unfortunately no party had paid the other, a situation which made the DCC withdraw its facilities in September, 1995. Similarly, the DCC was responsible for the public campaigns of raising awareness among residents of the privatized area for solid-waste collection and also prosecuting the defaulters of refuse collection charges, the same was not done thereby limiting the contractor in effectively collecting revenue from the waste producers.

(ii) Lack of competition – a single contractor could not create the competitive situation needed in order to increase efficiency (a principle of market-led economy).

(iii) Unfamiliarity with the idea and practice – as privatization of services in the United Republic of Tanzania is a new system there is not much experience to date. Staff of both the DCC and the Contractor were not familiar with privatization of solid-waste collection and disposal leading to poor monitoring of the process.

(iv) Lack of well functioning Management Information System (MIS) – Required specific data/information on households which were to pay for the refuse collection charges were not yet built up.

(v) Problems within the contract agreement – some of the items within the contract were not well elaborated. For example, there was no clear indication on the period when refuse collection charges would be reviewed, how to deal with complaints by the refuse producers, how to monitor the daily operation of the contractors and methods of arbitration.

Phase II of Privatization: from one contractor to five

The second phase of “privatization” started in September 1996 after a process of open tendering whereby four other firms out of 14 bidders who applied in May 1996 were given the contract to provide solid–waste collection services to a total of thirteen wards. The new contractors and their wards in brackets are as listed below:–

- The 1994 Environmental Protection (MAZINGIRA) LTD. (Msasani, Kawe, Kinondoni, Mwananyamala, Manzese and Tandale)
- Allyson’s Traders (Magomeni, Mzimuni and Ndugumbi) Kamp Enterprises (Makurumla and Ubungo)
- Kimangele Enterprises (Keko & Temeke 14)

Performance in Phase II

The daily solid–waste collection increased in the newly contracted wards and there were signs of reduction in solid–waste heaps especially in open spaces and market places.

Table 5.9 Performance levels of contractors – September 1996 – December 1996

Waste Collection by Firm	Average & daily refuse collection (tonnes)				
	Sept.	Oct. 1996	Nov. 1996	Dec.	Total
DCC	168	164	107	121	560
Multinet	120	102	61	43	326
Mazingira 1994	40	40	16	11	107
Allyson’s Traders	15	15	10	9	49
Kamp Enterprises	5	5	0.8	0.3	11.1
Kimangele Enterprises	10	10	4.7	5.6	30.3
Total	358	336	199.5	189.8	1,083.4

Source: SDP (1997); Progress Report for the Working Group on Solid Waste Management.

The four new contractors faced similar constraints as those experienced by Multinet in Phase 1. These included:

- Inadequate payment of refuse collection charges (RCCs) to the contractors. One of the reasons for this failure was the fact that there has been insufficient preparations to involve, and raise awareness of, the people on the new strategies to clean the city and the responsibilities of each stakeholder and individuals. Inadequate revenue collection affected the performance of contractors who could not reach their targets.
- The companies which were given the tenders did not have enough equipment and facilities to enable them to conduct their business adequately despite the fact that they promised to purchase the same.
- Records show that the DCC role of providing an *enabling environment* to the contractors e.g. the adequate information for residents liable to pay RCCs and awareness creation among them has been inadequate. The contractors have to be closely supervised, monitored and supported with information (data) for planning, technical advice and more importantly with financial assistance.
- All households were treated as equal, something not true within the specified operational wards.

Prospects and Limitations of Privatizing Solid–waste Management

Among the problems that the process of privatization of solid–waste management has faced is the absence of public awareness at the local or national level and creation of mechanisms to facilitate such participation; constraints in the implementation of policy reform measures are found in the managerial deficiencies and

weaknesses within the local authorities; a lack of specialized administrative capacity to administer and manage the privatization process which calls for experienced and competent personnel. Municipal councils that opt to privatize or commercialize their services on the other hand, find that they need to upgrade all their staff in accounting, auditing, information management, policy development and management to gain the required operational expertise for efficient and effective performance.

Given the sub-additive nature of garbage collection as a public utility, a classic economic problem with privatized solid waste management arises with *areas served*. Although private solid-waste entrepreneurs are spread all over the city, most of their activity is concentrated in residential neighbourhoods and biased towards the middle- and higher-income areas. There is absolutely no private sector solid-waste collection activity in low-income areas. This was found to be due less to the inaccessibility of these areas and more to lack of effective demand.

There is also no indication that private firms have extended services to previously unserved groups, who primarily reside in low-income settlements. There is, of course, no economic reason why profit-seeking private enterprises would be interested in serving poor communities. In all cases studied, in which urban waste-collection services have been privatized, the target groups were invariably middle- and high-income neighbourhoods.

In a recent survey (Esho, 1997) 70% of the small firms interviewed mainly serve middle-income areas and some lower-middle income areas. They generally find it difficult to penetrate high-income areas which are mostly reserved for the larger firms. The operations of most small firms seldom go beyond one residential neighbourhood. However, some may occasionally collect refuse from institutions, commercial and industrial establishments. On average each of these small firms serves about 500 clients. Unlike small firms, medium- and large-sized firms may serve more than one residential area, and a variety of the other waste generating activities. Informal private sector waste entrepreneurs or "scavengers" on the other hand, operate anywhere they wish.

Another argument put forth by the proponents of privatization is that the private sector's higher efficiency comes from their better-maintained refuse collection vehicles. The relevant evidence from Nairobi, however, suggests that this proposition does not always stand. When contracts do not provide incentives for the private firms to invest in appropriate equipment, most firms will lease second-hand dump trucks that are frequently inoperable.

Commercialization/Privatization of Water and Sanitation Services

Kenya

The most common form of privatization in the water sector is commercialization. Commercialization is a form of privatization which entails establishing and registering of water and sanitation companies owned wholly by local authorities. The companies operate in accordance with Ministry of Local Government (MoLG) policies and guidelines and charge tariffs which cover full costs associated with operation and maintenance as well as replacement costs of the utilities.

Commercialization of water and sanitation departments

The only example that exists of commercialization of water and sanitation in Kenya is that of Kericho, Eldoret and Nyeri which is expected to produce positive results. In October 1997, privatization guidelines for a commercialization pilot project in Kericho, Eldoret and Nyeri were finally agreed upon by MoLG – Kericho, Eldoret and Nyeri Municipal Councils and the Ministry of Land Reclamation, Regional and Water Development. Co-ordination of the commercialization process will be done by MoLG.

The municipalities were empowered to form companies and enter into contracts under the Local Government Act Chapter 265, Laws of Kenya. The Companies Act, Chapter 486, Laws of Kenya empowers councils to form water and sanitation companies because they are corporate bodies. The water and sanitation companies subscribed to the memorandum and articles of association in the following manner:

the Local Authority – 4997
 shares

the Mayor – 1 share
the Town Clerk – 1 share
the Treasurer – 1 share

bringing the total number of shares to 5000 (at Kshs 20 each). Subscribers with 1 share each represent their offices as required by the Companies Act.

The councils also entered into agency agreements with water and sanitation companies. The agency agreement defines the obligations and relationship between the principal (council), agent (water and sanitation company) and the third party (consumer). The companies will have a maximum nine (9) directors. Among these the business community, women and consumers will be represented by three (3) directors who should not be sitting councillors.

The legislative framework

Municipal Council activities in the Water and Sanitation sector are regulated by a complex network of acts of parliament (Water Act, Cap. 372) and Local Government (Local Government Act Cap. 265, Potable Water Supply Section 178). Provisions relating to duties, functions, responsibilities and activities are duplicated in both of these acts. The main objective of the water act is to enhance the provision, conservation, control, apportionment and use of water in Kenya. The Minister is empowered to appoint municipal councils as water undertakers. The LG Act, Cap. 265 bye-laws authorize municipal councils to manage water services in their areas of jurisdiction. The institutional structure mandated to regulate, manage and co-ordinate the water and sanitation sectors includes government ministries, local authorities, parastatal organizations and rural development authorities.

In Kenya, the Ministry of Water Resources is the main ministry responsible for water and sanitation and in charge of water supply, operations and maintenance of the water and sanitation sector. There are six(6) divisions in the department, namely: water resources, planning and design, implementation, operation and maintenance, research and monitoring and co-ordination, with offices throughout Kenya. However, the Ministries of Local Government, Agriculture, Health, Energy, Parastatals and Regional Authorities are also involved.

Community-based organizations and NGOs also play a major role in the water sector through the Ministry of Culture and Social Services (e.g. religious organizations; CARE (Kenya); KWAHO; NETWAS; Plan International; AWN). Finally, institutional water supplies projects are managed mainly by schools, hospitals and colleges.

While it may be too early to definitively assess the improvements in efficiency and effectiveness of this mode of municipal service provision, it should be noted that it is essentially provision by the municipal/local authorities under a commercialization strategy. It is therefore not certain that this is privatization as such.

Uganda

Uganda's long-term goals for the water sector aim at a system of full cost-recovery for services provided, but with the provision of cross-subsidized safe water services for low-income groups. The decentralization policy has now placed the responsibility of water supply in urban areas away from the centralized Water Development Department (WDD) to the local authorities.

The Government with support from DANIDA formulated the Small Towns Water and Sanitation Project (STWSP) scattered around the entire country. The project covers virtually all urban areas except the eight largest towns. The project towns comprise both medium to large towns where urban town structure is distinct, and smaller towns, which have a more rural character. Table 6.9 below shows the STWSP towns by size groups. The water situation is characterized by an insufficient supply in virtually all of the towns. The objectives of the project are among others: improved access to safe drinking water, that people want and are willing and able to pay for; and water systems that are managed at the local level.

Types of water supply

Thirty four of the towns have a piped water supply system today. Of these, two (Kilembe and Hima) are industrial supplies and one is supplied by NWSC (Njeru; as an extension of the Jinja NWSC area). All towns have improved community water supplies (hand-pumps or protected springs).

The present piped schemes generally provide a limited coverage of the towns. In many cases only 10–40% of the town's population is estimated to be covered by the piped water supply. Only in a few towns is the coverage above 50%.

A total of 493 handpumps and more than 174 springs exist in the 60 towns. It is estimated that at least a half of the springs have been protected through community contribution of labour and materials. These supplies also cater for core areas where the piped water supply is not functioning. Unimproved water sources such as rivers, lakes, streams, unprotected wells are used to some degree in the towns, subject to availability of such sources close by; for instance the entire Kyotera area relies on one open well.

Table 5.10: Small Towns Water and Sanitation Project Towns in Uganda by size groups

Town size (2001 population)	Towns	Number of towns
> 25,000	Arua, Busia, Fort Portal, Njeru and Soroti, Gulu, Iganga, Kabale, Kasese, Mityana,	10
12–25,000	Bombo, Bugiri/Naluwerere, Bushenyi/Ishaka, Kayunga, Kitgum, Kumi, Lugazi, Luwero, Malaba, Masindi, Moroto, Mubende, Mukono and Rukungiri	14
5–12,000	Apac, Bundibugyo, Hima, Hoima, Kaberamaido, Kamuli, Kapchorwa, Kasimba, Katwe, Kiboga, Kilembe, Kisoro, Koboko, Kotido, Kyotera, Lyantonde, Mpigi, Nebbi, Ngora, Ntungamo, Moyo, Pakwach, Pallisa and Wobulenzi	24
< 5,000	Budaka, Buikwe, Dokolo, Kalangala, Kaliro, Kalisizo, Kigumba, Magamaga, Nakapiripiriti, Namasagali, Ngogwe, Rakai	12

Source: DANIDA STWSP project document, 1996

The present water supply situation is indicated in the Table 6:10 below for the thirty four towns with piped water supply schemes all based on surface water sources.

Table 5.11: Operational status of piped water supplies in Uganda

Operational Status	Water Abstraction Facilities	Water Treatment Facilities	Distribution Facilities
In operation	19 towns (55%)	11 towns(46%)	18 towns (53%)
Partly in operation	2 towns (6%)	6 towns (25%)	3 towns (9%)
Not in operation	13 towns (39%)	7 towns (29%)	13 towns (38%)
Total number of towns	34 towns (100%)	24 towns (100%)	34 towns(100%)

Source: DANIDA STWSP project document, 1996

Household water demand and ability to pay

Household water consumption is estimated at 20 litres per person per day. The WDD tariff for consumers with private connections is a monthly flat rate of US\$ 1500. It is not uncommon that the consumers that refuse to pay because the systems function poorly are then disconnected. In Pallisa town, about half of those having private connections have been disconnected for this reason. As a result the majority of consumers rely upon multiple water sources. This reflects that the present situation is unsatisfactory in some way to the consumer. Three quarters of the consumers expressed willingness to pay more for water than they currently do provided the supply situation is improved. There is an expressed view, however from those unwilling to pay that water should be a free commodity to be provided by the government. A few of the 25% unwilling to pay more cited inability to pay.

Water vending is seen in many of the towns. In some towns the vendors organize themselves into associations among themselves to fix tariffs and to agree upon raw water source abstraction. The volume of water vending relative to the total water demand reflected that these vendors supply only about 10% of the population.

Handpump users draw free water in most cases and make contributions to purchase spare parts when necessary. Households make a flat monthly (average of US\$ 300) to the local authority. This system was

regarded as unsatisfactory, and consumers prefer to make the contribution as and when necessary because of a wide spread mistrust for the local authority officials in many of the towns.

At present, half of the households do not pay for water. Most of these make an occasional contribution for a spare part. Additionally, there are 12% who pay below Ushs 500 per month.

In a survey carried out on user's preferred future supply source/service levels, 45.3% chose private connection, 30.1% public standpost, 11.8% handpump, 1% water vendor, 16.8% protected spring, and 0.2% chose none. A comparison between data received on the consumer's willingness to pay and their income levels deduces that consumers are willing to incur higher expenses provided the services are improved.

At the time that the STWS project was formulated, the Local Government Statute of 1993 was in place and gave urban local authorities responsibility in the provision of water supply. The local authorities were involved from the feasibility and design phase. The towns covered fall into two categories: the self accounting towns i.e. municipalities under the Local Government Act of 1997 and those which are not self accounting.

In the self accounting towns, one of the conditions necessary would be the establishment of bye-laws regarding the management system. Similar provisions would be necessary to be confirmed and approved by the District Administrator.

The decentralization policy and the promotion of self-sustaining public services through user payment will influence the water sector and the delivery systems selected by the individual authorities.

Prospects and limitations to privatization of water services in Uganda

There is no urban authority that has been directly responsible for supplying piped water supply since 1972, and therefore they have no immediate experience to draw from. Water Development Department staff have been managing the towns' water supply, nevertheless, with close relationships with the town administrations. With the enactment of the Local Government Act, 1997, the urban authorities now bear the responsibility without any administrative advantage over the private sector.

Consumers willingness to pay is closely linked to the service rendered. Households in a number of towns claim in Uganda that money collected for handpump spare parts disappeared into wrong pockets. Those with private connections often have dry taps. These experiences have led to a situation where the consumers have little confidence in service resulting from paying water charges. Private ventures into the sector will have the profit motivation to provide a superior service to attract consumers.

A private enterprise can legally manage water supply systems in more than one town. A similar arrangement in the public sector would require more complex arrangements under the decentralization policy which provides for autonomy of urban councils.

It is necessary that the water supply system is developed to allow the population to pay when they consume water rather than at a fixed flat rate on a monthly basis, The latter was prevalent, as an easy method of collection by local authorities on behalf of the WDD. All revenue collected by the department went to the treasury. There was no direct link between income from provision of service and improvement of the quality at the local level. There was no incentive for local authorities to collect revenue for WDD, and there was no direct responsibility to the consumers. The WDD personnel have been detached from the towns that they serve and had no impetus to respond to complaints. There were cross subsidies within and between sectors at the national level.

All towns studied are subject to frequent power cuts, rationing and large voltage drops and fluctuations. This is due to the drop in the power supplies during the refurbishing and rehabilitation of Owen Falls Power station. Until this programme is completed, the power supply remains in all towns inadequate to base a reliable 24 hour water supply on. The possibility of utilizing solar power and diesel would be feasible alternatives that can be investigated especially for areas without the mains electrical power. At present, piped water supply systems reliance on the mains power supply provide too high a risk for private venture.

An interesting variable of privatization is for a local industry to own and operate a water supply system. Such a situation exists in two of the sixty towns: Kilembe, which is run by the copper/cobalt mine, and Hima in which the cement factory services its own premises and about half of the population. These systems are not independently profitable and are regarded as a public service and part of the industry costs. Such a system could be attractive to a local authority. Even though they have no income, they will normally have a relatively

trouble-free system.

It is feasible for the privatization of piped water supply from local authorities who now have the responsibility from the WDD. The regulation and monitoring roles still lie with the local authorities. Contracts to manage the supply and collect the revenue would bring improved services to the consumers and increased confidence in the local authority system. It would free the local authorities from creating and administering their own management systems and provide a regular income for the authorities.

Financial viability of the existing water schemes has been assured, as long as revenue collection is optimized. It would be cost effective for the private sector to provide water meters for all house connections and yard taps and employ revenue collectors. Local authorities have a bad record of revenue collection, particularly where there is no incentive for the collectors.

There are a variety of service levels in all the urban areas of the country. Based on the income levels, many of the households, particularly in the lower income group will continue to rely upon public (municipal) and community supplies, and if any payment is demanded revert from time to time to unimproved sources, because of unaffordability. This would not be profitable, hence not an area that privatization would occur.

There are factors which are common to both public and private sector; for instance power supply, a frequent disruption of water supply and the size of available market. It has been estimated that to break even in a town, with a system consisting primarily of individual connections requires at least 2000 connections. This is a feasible venture in at least twenty four of the towns with a population of more than 12,000.

There are areas in which the private sector can increase its share of the market. These include service and repair to water meters, plumbing, electrical work, construction, supply of materials and spare parts, management and training for community managed water supply systems.

Chapter 6 – Privatizing Municipal Services in East Africa: The Experiences

An analysis of the experiences of privatization of municipal services in the East Africa region shows that some conceptual confusion or ambivalence about what privatization actually involves still exists. Some understand it as **contracting or leasing out** tasks and responsibilities to private sector firms, while the local (municipal) government retains overall supervisory and regulatory control; some understand it as **commercialization** of services by municipal departments or parastatals, and some understand it as total and complete **transfer of responsibilities for providing the service** to private sector firms who set their own prices. This ambiguity is reflected, for example, in a report on the process in Dar es Salaam which concludes that, so far, success has been limited despite the engagement of five private contractors to collect waste in the city and that *“the most important issues for the establishment of sustainable solid waste management in Dar es Salaam city is to strengthen the capacity of the Dar es Salaam City Council (DCC) with priority going to the reinforcement of its operational capacity by the improving equipment and facilities and developing human resources; and the establishment of financial resources by the Dar es Salaam City Council increasing its revenue-generation efforts”*.

This may seem a contradiction, as it implies giving back responsibility for solid-waste management to the city council. It, however, reflects the ambivalence with which privatization is perceived.

A review of case studies in East Africa identifies the following main modes of privatization of municipal services:

- contracting or leasing out to private sector firms
- commercialization of municipal services
- pure privatization of municipal services

Thus, privatization may take many forms, but each mode may result in a different combination of positive and negative impacts on the stakeholders and consumers. Indeed, not all the virtues accrue to all the modes, and some virtues of one form of privatization may turn out to be only marginal or even totally absent in other forms. The methods selected by governments to implement privatization and the criteria chosen for evaluating its results depend to a great extent on their motives for adopting such an alternative approach.

Summary of Other Privatized Municipal Services

In Uganda, revenue collection is a major local government activity that has been privatized through granting of management contracts to 15 associations and private firms. Firms keep commission of between 5% and 10% of total collected revenue, depending on the areas assigned. The money derived from this activity is planned to contribute to the budgets of the local councils.

Table 6.1 below summarizes the providers of municipal services in Uganda. From the table, it is clear that water and sewerage services are provided by the government parastatal NWSC in almost all parts of Uganda. Public transport is the only fully privatized urban service. Other services that have private sector involvement, include refuse collection, emergency services, education, healthcare, housing and recreation facilities. Road maintenance remains under the responsibility of the local authorities.

Table 6.1: A Survey of Providers of Municipal Services in Uganda

Service	Kampala	Jinja	Mbale	Mbarara
Water	NWSC	NWSC	NWSC	NWSC
Sewerage	NWSC	NWSC	NWSC	NWSC
Refuse Collection	LG; P	LG; P	LG; P	LG; P
Public and mass transport	P	P	P	P
Emergency (fire/ambulance)	NG; P	NG; LG	NG; P	NG; P
Road maintenance	LG	LG	LG	LG
Education	LG; P; NG	LG; NG; P	LG; NG; P	LG; NG; P
Healthcare	LG; NG; P	LG; NG; P	LG; NG; P	LG; NG; P
Public Housing*	LG; P; NG	LG; NG; P	LG; NG; P	LG; NG; P
Recreation/sports facilities	LG; P	LG; P	LG; P	LG

Source: Discussions with Municipal Officials in Kampala, 1997/1998.

Key:

- NCSW – National Water and Sewerage Corporation
- LG – Local Government
- NG – National Government
- P – Private (including NGOs, missionary and religious organizations)
- * – The National Government is currently disposing of all its houses under the pool housing scheme by sale to sitting tenants.

Markets, taxi parks and abattoirs are some of the other services that have been privatized. Initially, the KCC worked with informal organizations and associations that were already running these services and facilities. The KCC pre-determined the amount of revenue due to it from running the services and facilities, while the costs of operation and maintenance were borne by the informal organizations/associations. This arrangement has proved to be fruitful. For example, gross revenue earned from taxi parks in 1993/94 was US\$ 36 million. In the first year of privatization (1994/95), US\$ 60 million in net revenue was earned, rising to US\$ 90 million in 1995/96 and US\$ 120 million in 1996/97. In 1997/98, US\$ 150 million in net revenue is expected from the same source.

Other municipal services that have been privatized include office cleaning (offices of KCC), grass-cutting in the city's open spaces, road repairs and cleaning of drains, vector control and land valuation. Street sweeping and waste collection has only been privatized in the central business district (CBD), though it is yet to be extended to residential and industrial areas. However, small companies are being nurtured in order to build recognition in terms of competence and have been allowed to operate and dump at city garbage dumps free of charge. Physical planning and land surveying are in the process of being privatized.

Contracting is the main form of privatization preferred by the Kampala City Council (KCC). This mode of privatization is considered to be more politically acceptable, as a notion of selling public assets is not popular among Ugandan politicians, (see Annex for sample of contract letters). The target date for completion of the privatization process in Uganda is the year 2010. As privatization is taking place in the context of overall restructuring of the public sector. It is also intended to cut down on the number of staff, increase remuneration and motivate staff. Privatization has resulted in the laying-off of a lot of staff, leading to savings of US\$ 110 million per month in salaries.

United Republic of Tanzania

In Dar es salaam, Arusha and Mwanza municipalities several services have been privatized. In Dar es salaam city, for example, major efforts have been made to involve private companies, community-based organizations (CBOs) and NGOs to improve solid waste management, transport and infrastructure. Similar approaches are being pursued in Arusha municipality though at a smaller scale. Below is a description of privatized municipal services in the United Republic of Tanzania.

Public transport

During the 1970s public transport in municipalities was provided by central government agencies. In Dar es Salaam city transport was provided by a public company known as Usafiri Dar es Salaam (UDA), which was a subsidiary of the National Transport Company. By 1975, UDA had 374 buses of which 257 were serviceable. By 1979, the number of buses had fallen to 220 with only 150 buses serving about 240 000 passengers a day. That number of buses could only meet 75% of the public transport demand. Overtime, the number of buses continued to fall to the extent that in 1985 there were only 100 buses operating in Dar es salaam.¹ Problems that emerged from the diminishing number of buses and the growing city population include rapid deterioration of the buses mainly because of lack of proper maintenance, overloading and overcrowding. On the other hand, passengers had to endure long waiting queues. Because of the inability of UDA to cope with the demand, "pirate" public transport operators emerged through their own initiative, without permission from the authorities, to take advantage of the demand which UDA could not take care of.

In 1985, there were a total of 281 such buses plying the city of Dar es Salaam. After operating more or less illegally for about five years, the private buses were officially recognized by the government in 1985 within the trade liberalisation policies. To date, it is estimated that there are about 3,000 privately owned "dalla-dalla" buses providing service to the city residents. In fact, rarely can one see UDA buses in the city and if any, they ply in the rural parts of the city where road conditions discourage private operators.

The services provided by these private buses seem to be efficient because the long queues have disappeared and the travel time from origin to destination has been substantially reduced. The fare charged by the private operators is also affordable to most city residents except in cases where one needs to take more than one "dalla dalla" for a one-way trip. On the average a commuter in Dares salaam pays between a quarter to half a dollar (Tshs 200 – 300) per trip. The increase in the number of buses has kept the cost of transport constant.

Health services

Before the 1980s crisis in service provision, Dar es Salaam City was served by 72 health facilities, including dispensaries, health centers and hospitals. Relating that with the 800,000 people in the city, there was a shortage of about 57 units or 353 hospital beds. With economic liberalisation, the private sector has invested in the health sector and contributed to an increase in the number of health facilities, which doubled to 144 units in 1996. There is now at least one dispensary and a pharmacy in each of the neighbourhoods in the city. Thus, the private sector is playing a significant role in the provision of health care services in Dar es Salaam.

The effectiveness of the present system of service delivery is illustrated by the fact that the long queues and congestion in hospitals have been drastically reduced. There are no records of dispensaries been closed because of lack of patients. Majority of these dispensaries are capable of providing the minimum service to the residents within acceptable standards and also within shorter walking distances.

It is however, important to note that, majority of the urban poor may not be able to afford the services of privately run hospitals and dispensaries. Thus, the need for affordable but well resourced public health services.

Public parking services

Parking services were privatized in Dar es salaam in 1997. A private firm has been contracted by the city authority to manage the parking services in the city. The contractor is expected to retain 75% of the revenue generated and remit 25% to the DCC.

Privatization of Parking in Dar es salaam came at a time when getting parking space in the city centre was a major problem. Although availability of parking space has increased, users are still somehow dissatisfied by the service and have raised the following issues; lack of security in the parking area, the charge of half a dollar per hour is rather high and the sharing of the fees between the city council and the contractor is still

unclear.

In Arusha, the municipal authority has allowed individuals to own parking lots in the city at a charge of Tshs 20,000 per year/per car park. Although privatisation of this service was introduced very recently, its is quite successful.²

Public toilets

Public toilet in Arusha, Iringa, Dar es salaam and Mbeya municipalities have been privatized. Privatization of public toilets have been through contractual agreement between the local authority and a private contractor. Prior to decision to privatize this service, most of the public toilets at such places as bus stand, railway stations, central parks were rundown, poorly managed and some even locked-up. The enactment of the 1993 Public Toilets By-Laws of The DCC made it possible for the council to sign an agreement with private operators of public toilets in the city.

In Dar es salaam, the user charge is Tshs 50 per service. In Arusha, the user charges are slightly higher at Tshs. 100 per service of privatised toilets at the central market and the bus stands. The operators of this service do not pay fees to the municipality. This has been deliberately done as an incentive to the operators of this service. Presently, municipality is enacting By-laws to control haphazard urination and also streamline the management and operation of public toilets within the municipality.

In general, the privatisation of public toilets is working well. The services are much better than before. There is frequent cleaning, water is flowing, flushing systems is functional, toilet papers and soaps are supplied, all at a rate of between Tshs 50–100 which is affordable by most users.

Open spaces

Although privatisation of open spaces has not been widely applied, two open spaces have been leased out to private firms in Arusha municipality. The private people maintain them as recreational areas. The private operators have been allowed to build kiosks to attract people and also enable them recover their investment costs.

Water supply

Water supply service is still centrally provided and to a greater extent managed by the central government agencies, urban and district local authorities throughout the country. However, in Arusha municipality, water supply kiosks have been developed around the city by the urban water supply department. These kiosks have been rented to ward development committees who in turn have rented them out to private individuals to run them. This system of privatising water supply system has been largely effected in unplanned settlements of Arusha.³

Kenya

Provision of municipal services by the private sector has been going on Kenya for a long time, though informally and without the recognition of the councils. Some of the privatized services include public transport, road maintenance, health, education services and recreation facilities.

In Nairobi, resistance was experienced in the initial attempts to introduce privatization of solid waste management at the council level. The privatization of solid-waste management was realized after direct intervention from higher authorities. The following lessons can be drawn from the efforts of privatization of solid waste management in the Nairobi city council NCC:–

- Privatization should aim at lowering the cost of service delivery
- privatization should increase efficiency

Based on the privatization efforts in Nairobi, there are important considerations that need to be addressed. These include:–

- financial accountability of the council
- organizational management and institutional development
- labour force related problem due to the existence of trade unions
- political aspects

Municipal responsibility and planning is also a pre-requisite for successful privatization. This entails a full understanding of the cost of service delivery and magnitude and source of financing required to sustain privatization of municipal services.

Other privatized services in Nairobi include road works and building and maintenance, which have always been contracted out to private sector.

It was observed that the council's failure to provide adequate services to its population has led to a spontaneous response from small firms. In most cases, these firms are not well prepared and thus unable to cope. In addition, as most of these small firms are not officially recognized, the Council has not devised a systematic way of providing guidance and direction. Although a large number of firms are involved in solid-waste Management, estimated to be more than 60 companies, there is no comprehensive list of all the firms in Nairobi. Only one firm, Kenya Refuse Handlers is officially contracted by the NCC to collect garbage in the Central Business District.

In Mombasa, the approach used to privatize municipal services is somehow different partly because of the existence of a large number of council employees. For example, it was decided that privatization of refuse collection be contracted out in the mainland areas, while the Council continues to collect refuse in the island. The contracted firms are expected to collect fees from the beneficiary and make monthly payments to the Council. This is still on a trial basis, and the contractor has not started remitting any payments.

The implementation was to be done through a bidding process that required potential bidders to indicate their capacities to provide the service. This was to be implemented from 1st December, 1997. However, when the process began, very many illegal operators came into operation. This has led to lack of progress in the privatization efforts.

Some public toilets in the mainland have also been privatized. It has been noted that the service is now available and more efficient following privatization. The contractors have however, not started to remit returns to the Council due to the three months moratorium granted to them.

ENDNOTES

1. Estimates by Marshall Macklin and Monaghan Ltd., a firm that prepared the 1979 master plan for Dar es Salaam City.
2. Discussion with Mr. Bene; Municipal Town Planner of Arusha, February 1998.
3. Discussion with Mr. Bene; Municipal Town Planner of Arusha, February 1998.

Chapter 7 – Summary of Main Findings, Conclusions and Recommendations

This section highlights the main findings of the study, paying special attention to common characteristics and problems of privatization of municipal services in the studied cities. Possible future directions with respect to the main findings and conclusions are suggested, wherever possible.

Main Findings and Conclusions

1. The process of decentralization and privatization of municipal services is in varying degrees relatively recent in practically all the countries under study, viz: Kenya, Uganda and the United Republic of Tanzania. In some of the countries, the processes are just in the planning stages or on pilot/trial basis. In none of the countries has there been any municipal service that is completely privatized as yet. The services most experimented with so far are solid-waste management and water supply, but more of the former than the latter.
2. Privatization in all the three countries largely takes the form of contracting out provision of services to private sector firms with the municipal government authority retaining overall monitoring and supervisory authority and of course the power of the purse in paying the private sector contractor. In some other cases, privatization has meant commercialization of

services or attempts thereof by the municipal service departments

3. Where real privatization of municipal services has actually taken place as in aspects of solid-waste management, it has largely been selectively piece-meal, serving or operating effectively mainly in the middle- and higher-income residential neighbourhoods that can afford to pay for the services, thus leaving a large proportion of the poor and low-income neighbourhoods where residents cannot afford to pay for the privatized services, unserved. This raises issues of social equity and social integration and remains an unresolved public policy issue, i.e. how to provide such services to segments of the population that cannot afford to pay for private sector provision of such services.

4. Overall, preliminary assessment of the privatization of collection and disposal of waste in the countries of the East African sub-region indicates that in neighbourhoods where it has been applied, it is more efficient than collection by the municipal authorities themselves but this rarely covers the whole city.

5. There is as yet, an absence of clear policies on privatization of municipal services as well as absence of appropriate legislation to support privatization of municipal services. Both central and local (municipal) government authorities are understandably ambivalent about the necessity to privatize certain municipal services. There is some residual resistance or lack of enthusiasm on the part of local/municipal authorities to share responsibilities with private sector enterprises, let alone completely give up these responsibilities, notwithstanding their limited capacities to deliver these services themselves. Privatization of some municipal services is seen by them as giving up power, authority and control by the municipal authorities and their officials and it has not been found easy to do willingly.

6. Efforts at effective and efficient privatization is also bedeviled by a number of factors on the part of private sector entrepreneurs in the sub-region. These factors include:

- limited organizational capacities; and
- financial inadequacy resulting in inability to mobilize the required capital inputs (equipment, technologies and supplies) to sustain their privatization operation;
- inadequate professional/technical staff trained to monitor and supervise the operation of the various privatized services.

7. Although privatization is often interpreted as dispensing with the role of the state and the public sector, it paradoxically requires an enlargement and strengthening of the regulatory role of the state to monitor and enforce contracts, the rules of the game, as well as protect overall public interest. Privatization, thus requires strong public presence and role to be effective.

8. Some conceptual confusion or ambivalence about what privatization actually involves still exists. Some understand it as contracting or leasing out tasks and responsibilities to private sector firms, while the local(municipal) government retains overall supervisory and regulatory control; some understand it as commercialization of services by municipal departments or parastatals, and some understand it as total and complete transfer of responsibilities for providing the service to private sector firms who set their own prices, etc. This conceptual ambivalence still requires clearer definitions to enable more objective assessment of the efficacy of privatization as an efficient and effective mode for provision of municipal services.

9. Considering the current differing perceptions of the concept and application of privatization of municipal services as a process and strategy and considering its relatively recent and limited adoption and application in the countries of the East African sub-region, as well as the public policy issues of equity it raises, it is not yet possible to render a definitive verdict on the efficacy and effectiveness of its performance in municipal services provision and management.

The system requires a longer stretch of time of implementation and practice in these countries to provide sufficient experiences on which more plausible evaluation could be based. More extended monitoring and

evaluation studies are therefore required to arrive at more credible conclusions about the efficacy of privatization of municipal services.

Recommendations and the Way Forward

Based on the foregoing analysis, the following recommendations are suggested:–

1. There is a need for policy formulation and development of appropriate legislations and guidelines at the national level on privatization including the redefinition of the role of LA'S. There is also need to carry out privatization potential studies to identify and prioritize specific municipal services that are appropriate for privatization in each city. It is advisable to undertake a thorough assessment of the likely impacts of privatization before embarking on it.

2. From the experiences of this research, the potential areas for privatization include the following municipal services:– transport; bus parks; public toilets; water kiosks; street cleaning; road maintenance; schools and health centres; water and sanitation. Among the services consumed by municipal councils themselves, land valuation, physical planning and general revenue collection also have a potential for the contracting out mode of privatization.

3. Mechanisms and guidelines should be developed and put in place to ensure that privatization does not exclude or impose undue burden on the poor. These may include some safety nets and cross-subsidization. In addition, municipalities may find it necessary to provide some basic services in low income areas, especially health-care, education and collection of garbage. Cross-subsidizing such service provision to the poor neighbourhoods would be seen to be more feasible through the “contracting” mode of privatization but not through pure privatization.

4. There is need for greater public education on privatization. The general public as well as stakeholders, including municipal councillors and officers, and urban communities need to be sensitized and informed on the rationale and benefits of privatization, as a system of providing municipal services. Where privatization results in retrenchment of employees, innovative approaches such as retraining programmes should be put in place.

5. Privatization seems to have worked better in areas where consumers can pay the costs of privatized services thus leaving unserved a large proportion of the poor and low-income neighbourhoods who cannot afford to pay for the privatized services. Privatization of municipal services should however be encouraged to cover the whole city, including low income areas. As already suggested, appropriately designed cross-subsidization could be used to take care of those who are unable to pay the market prices for services. Indeed, the study shows that most households including poor ones are prepared to pay for the services (such as solid waste collection) within reasonable fee ranges (Kshs 200 or higher), per month if the service is reliably provided.

6. Initiatives by informal sector entrepreneurs should be encouraged and supported by local authorities through enabling bye-laws and other administrative incentives. The latter should take advantage of the former in order to increase access to basic services. This could start by recognition of the many current private operators in waste collection and disposal, for example. There should also be due recognition and encouragement of other self-help initiatives, partnerships, community based organizations and other associations, which have proved capable of providing services to themselves e.g. in the area of water supply, garbage collection and transport services.

7. Capacity building and training for local government official is an essential part of the privatization process. Collaboration with training institutions for collaborative training needs assessment; development and execution of training would greatly enhance the privatization process.

8. The establishment of data banks and management information systems in local municipalities is essential. This will facilitate effective monitoring and management of service delivery by all actors involved in the process and thereby ensure sustainability in service

provision.

9. Decentralization is a necessary framework for privatization. It entails giving decision-making power with corresponding financial resources to the local level. Greater decentralization should be encouraged and implemented in practice as a way of dealing with the expansion of municipal services development and provision. Greater devolution of decision-making authority, responsibilities and commensurate resources should be given to local authorities in the true essence of "subsidiarity" principles.

10. An extended study of this process in the East Africa Region is recommended, which may, by using a series of well planned regional workshops involving both private and public sector stakeholders, facilitate the development of guidelines for the initiation and strengthening of the privatization process in the development and provision of various municipal services in the region.

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Appendices

Reflection on Good Governance as a New Paradigm

The question of what governments must do, what they can do and how they can be helped to do it better leads to the difficult problem of governance.¹ The last three decades have taught us that the heavy hand of

government retards growth and that contrary to economists beloved trade-offs, even as governments may constrain growth, they are also less sensitive to objectives that are thought to conflict with growth, like environment or inequality.

What is less clear is drawing the line between the invisible hand and the visible hand of government. It is fair to assert that the rhetoric that surrounds the discussion on liberalization policy in South East Asia is not very different from the rhetoric that surrounds much less successful economies and similar reform policies in other developing countries say in Africa. But the results have been dramatically different, and so in a sense, the policies must have been different. This difference in outcomes, must go back in some way to politics, broadly defined. Perhaps the degree of urbanization or of underlying inequality shapes political forces differently – or so it has been argued. Perhaps indeed, the same political forces that make them unable to accomplish liberalization policies well, may make them unable to resist them.

It is in the context of good governance that this study has sought to review two major components first, the *experiences with privatization of municipal services and then the overarching concept of decentralization as an effective tool for efficient urban management*. Understanding the politics of economic success and failure is an important intellectual task. Beyond this question is the issue of crafting policy advice that reflects political realities – that insulates results from inherently political pressures, or that pushes the political in the appropriate direction. The governance question is whether democracy while not essential to growth, can improve development management performance? That is, what, beyond economic policies that promote growth, can be done to improve governments performance? Given the increasing pressure for devolution in many countries, how best can we manage the transition and yet preserve the stability that is essential for growth?

This prevailing thinking about the links between democracy, good government, and economic growth have come almost full circle over the past thirty years starting from the early 1960s when it was widely believed that democracy and development went hand in hand. The literature presents a convergence of opinions about the linkages between good governance and sustainable economic and human settlements development since good governance relates to the way in which political power is distributed in a society and the manner in which this power is exercised in the management of a country's economic and social resources for development. The emerging consensus is that there exists a positive relationship between governance capacity and successful economic reform in developing countries, backed by the belief that good governance is central to creating and sustaining an environment with strong and equitable development besides being an essential complement to sound economic policy. The problem for East Africa, it can be argued, seems to be that the general economic conditions do not reflect policies of good governance.

Without competent and accountable urban governance, much of the potential contribution of cities to economic and social development is lost. Good urban governance also needs the appropriate legislative framework and support from national governments as it involves such dimensions of structural adjustment as privatization, decentralization, transparency and accountability among others, as a prerequisite for sustainable economic development.

Therefore, state reform should also aim at achieving good governance informed by a new vision of human, participatory sustainable development. Transferring power and responsibility to people at the community level to enable them to have decision making authority over the distribution of resources will foster good relations and promote the values of justice and equality. A pillar of good governance in the society is the principle of separation of powers, of checks and balances between the judiciary, the legislative and the executive. The process of reform has to incorporate mechanisms to make this principle work. Good governance must also set up mechanisms to assure accountability since the basic building blocks of a new development paradigm and state reform must come from the nurturing of participatory institutions at the local level.

Institutional partnership has become a central theme in the issue of urban management in Africa. However, experience has shown that one of the problems that exist between grassroots movements and the municipal institutions responsible for supervising the cities overall development is that, the former are highly motivated but often poorly organized, intervening sporadically, and the latter has significant functional problems (under-qualified personnel, over staffed, dysfunctional municipal commissions, inadequate budget resources) that prevent it from properly planning its development and monitoring and harnessing the various local initiatives triggered by the grassroots associations.

In summary, the critical issues in improving urban management pertain to financial independence; environmental sustainability; enhanced partnerships between all actors; private sector participation in the delivery of municipal services; improved accountability of municipal management towards the citizens, and

between different tiers of government. The last point is particularly important because, it speaks directly to the core of good governance and since the point of departure is one which views good governance as a means to an end, that end being sustainable human settlements development, we focus here on contributing to the development of a body of knowledge which seeks to advance an understanding of the linkages between good urban governance and sustainable development, which will shape the agenda for future urban research and guide effective intervention mechanisms. In many ways the development of certain objective conditions makes this a uniquely propitious time to re-conceptualize the relationship between politics and economics. The dilapidated state of municipalities and near total collapse of public infrastructure, notwithstanding the understandable equity based need for government intervention, make this an opportune time to re-examine, empirically, the economic benefits associated with good governance.

Other developments which favor this proposition span the political and economic landscape of many African countries. On one hand, major economic reforms linked with the collapse of central planning systems in the former Eastern bloc countries whose economic models provided the blue print for African economies [United Republic of Tanzania], have given the market a new lease of life. On the other hand, the political reforms linked with the demise of one party state systems and the advent of precarious forms of multi-partyism [Kenya] have brought about important political developments, like multi-party democratization and the devolution of power to local authorities [Uganda], over the last five years. What is important for good governance is that the success of one depends on the success of the other; in this context, the success of privatization will depend on the successful collapse of the old patrimonial one-party system of government. If the economics work, it will convince the political leadership that devolution and multi-partyism are good politics, and this in turn will drive sustainable economies and reinforce good governance.

Indeed, development economists having gone back to the drawing board have proposed the new generation of adjustment policies with a strong governance dimension and what this implies for development is that, there will be less resistance to the idea of privatization. And for the future of research, it implies that privatization of municipal services, decentralization of government and greater fiscal responsibility may in fact provide the focal point for developing a new theory of human settlements development since the western traditional bureaucratic models have proved unsuccessful, if not inappropriate, in the cultural and social settings of African countries.

The governance crisis that now confronts much of East Africa is dominated by the collapse of public sector capacity, especially at municipal level, brought about by a combination of state over-extension, delayed adjustment to changed external economic circumstances, and natural events. It is the composite effect of these failures which has necessitated radical reforms in the human settlements and economic development process which go beyond the limitations of the short term cost containment focus, and emphasize instead issues of efficiency, improved performance and effectiveness in management of resources. On the issue of improving municipal management, when the capacity to deliver public services is weak, the prospects for sustainability are poor due to weak revenue collection² and expenditure control, constant deficits, ineffective professional staff who lack the capacity to design and implement policies that would generate an enabling environment for sustainable development, and the absence of a critical mass of core economic agents to address such systematic constraints. Ultimately, this not only promotes large fiscal deficits, but it also progressively erodes the capacity of municipalities to provide economic and social services. For sustainable development to occur then, calls for a predictable and transparent framework of rules and institutions for the conduct of private and public business. The ideal outcome is one in which local authorities can deploy enough governance capacity to overcome political resistance and other special interests, design and implement appropriate adjustment policies, and sustain the course of economic reform.

The world has indeed moved on and the "golden age" of big government has ended³ and given way to administrative reforms that seek to reduce the size and scope of government. Urban governance in East Africa stands at the confluence of the "traditional public sector" paradigm⁴ and a new paradigm of enablement and regulation which has evolved out of a new thinking in development. The former combined the complementarity of the Weber model of public administration and Keynesian economics which provided the motive for the visible hand of government intervention in the economy.⁵ The new paradigm takes a neoclassical approach of an exchange economy based on the belief that the problem of economic organization can best be solved by the price system and if this is so the price system not only solves the coordination problem but also provides the proper motivation, thereby, solving the overall problem of economic organization.⁶ The new model requires a smaller state equipped with a professional, accountable bureaucracy that can provide an enabling environment for private sector-led growth. It emphasizes public sector management as a key dimension of governance directed by the renewed thinking that "an efficient government is a *sine qua non* for sustainable economic growth"⁷. It relates to the capacity of local authorities to formulate and implement public policy independently and in the public interest, the effectiveness of public

programs and the strength of public institutions for the purpose of enhancing the full development of the private sector. This is the argument on which the case for privatizing certain municipal functions rests.

ENDNOTES

1. World Bank, (1991, p. 13).
2. For disaggregated revenue sources see tables included as Appendix 3, Local Government Revenues for Urban Centers in Kenya: Eldoret, Kakamega, Kisumu, Machakos, Mombasa, Nairobi, Nakuru, Thika. Although in some cases the nominal revenues appear to be rising in real terms (1988 USD) they have actually been falling.
3. For detailed discussion, see H.J. Chang and B. Rowthorn (1995), "Role of the State in Economic change" *Oxford University Press*.
4. Ard Schilder and Bram Boeve (1996) "An Institutional Approach to Local Economic Development" in *Regional Development Dialogue, Vol. 17, No. 2*, page 95.
5. Owen E. Hughes (1994) "Public Management and Administration" *St. Martins Press, New York* page 29.
6. Siphso Moyo (1990), "On Price Distortions and Economic Welfare: A Critical Review of the Literature" *presented at Graduate Research Symposium, Washington DC*.
7. The World Bank (1994) "Development in Practice: Governance, The World Banks Experience". *The World Bank, Washington, DC*.

SAMPLE AGREEMENT

FOR COLLECTION OF PROPERTY RATES UNDER THE LOCAL GOVERNMENT (RATING) DECREE 1979

THIS AGREEMENT made this day of 1996 between the KAMPALA CITY COUNCIL a body corporate under the Laws of Uganda of P O Box 7010, Kampala hereinafter called the "Council" which expression shall whenever and wheresoever the context so admits include and bind its successors in title of the one part.

AND M/S

.....
.....

(hereinafter called the firm) of the other part.

WHEREAS

(a) Under the local Government.

Rating Decree No. 3 of 1979 (hereinafter called the "DECREE" which expression shall where the context so admits include all amendments to it or laws made to substitute the said Decree) the Council has authority to levy rates on all hereditament within its jurisdiction save those exempted by the Decree.

and WHEREAS

(b) the Council has authorized the privatization of property rates collection and the firm is desirous and willing to collect the rates on Council's behalf and in conjunction with the Council under the terms and conditions set out in this Agreement.

NOW THEREFORE THESE PRESENTS WITNESSETH AS FOLLOWS:

OBLIGATIONS

1. The Firm shall serve Rates Demand Notes prepared by the Council in duplicate to all property owners and or on all hereditament within

.....
as shall be listed and described by the Council to the Firm from time to time.

2. The Firm shall after service return to the Council the Duplicate Copies of the Rates Demand Notes served.

3. The Firm shall serve the Rates Demand Notes prepared by the Council with a covering letter prepared by the Firm and copied to the City Advocate in which inter alia the Firm shall reflect that:

(i) All property owners or rates payers shall make payments of rates in the names of the clients.

(ii) The dates for payments of such rates shall be specified in the Demand Notes.

(iii) Interest shall be charged if payment is not made within 30 days after the due date.

(vi) If the rates are not paid by the date appointed for that purpose they may be recovered by summary warrant of court executed against the property owners.

4. The Firm shall deliver all cheques or payments collected by them to the Council's City Treasurer on a daily basis or as otherwise directed by the Council.

5. The Council and the Firm shall at the end of every working day reconcile their respective collection of rates and ascertain what has been paid for that particular day either through the Firm or directly to the Council as a result of the demand notice served by the Firm.

6. The Council shall pay the 'Firm at the end of every four (4) weeks a fee of of the gross payments made by the rates payers.

7. The Firm shall work in close liaison with the Council's City treasurer Principal Accountant Rates collected especially to reconcile and duplicate the records kept by each of the parties and to exchange necessary information.

8. The Firm shall work close liaison with the Council's City Advocate on all legal issues.

9. The Council warrants the conclusion of this Agreement is duly sanctioned.

10.

(i) The Firm agrees and undertakes to render and perform all legal services necessary and proper for the protection of the legal interest of the Council in regard to recovery of rates whenever and to the extent required by the Council.

PROVIDED

(ii) Where need arises to institute civil proceedings against any rate defaulters the Council shall give specific instructions to the Firm or any other person to institute these legal proceedings.

All expenses and fees arising therefrom shall be met according to the rules governing the Advocates Act as amended from time to time.

11. The Council hereby agrees to let the Firm exercise on the Council's behalf the following powers, authority and privileges for purposes of carrying out the Council's instructions as stipulated in this Agreement.

(i) Powers of entering and serving notices.

(ii) Powers to recover by warrant

(iii) Recovery by action (on special instructions)

(iv) Recovery from tenants and occupiers (on special instructions)

12.

(i) The Council who is obliged to prepare the Rates Demand Notes and furnish all relevant information to the Firm undertakes to provide to the Firm true, perfect and accurate information relating to rates, due descriptions and particulars of rate payers.

(ii) The Council undertakes to fully indemnify the Firm against any claims that may be brought against the Firm on account of any mis-statements, mistakes, errors, mis-information

(iii) The Firm shall devote all the time necessary to the Council business the subject of these presents but shall not by this retainer be prevented or barred from taking other employment or instruction of similar or other legal character on behalf of any other body or person save in case of conflict of interest between the Council and another party in which case the Council's instructions shall prevail.

DURATION

14 This Agreement shall remain in force for a period of 1 year with an option to renew depending on performance.

DISPUTES

15. Any disputes arising out of this Agreement shall be settled by an Arbitrator to be appointed jointly by both parties.

PROVIDED that where Arbitration fails to settle the dispute the parties may resort to courts of law.

SUB CONTRACTING & ASSIGNING

16. The Firm shall not assign the collection of rates or any part thereof to any person/firm without the previous written consent of the Council which consent shall be in the discretion of the Council, and if given, shall not relieve the Firm from any liability or obligation under this Agreement and the Firm shall be responsible for the acts, defaulters or neglect of any assignee its employee or agents in all respects as if they were the acts, defaulters or neglect of the Firm, its employees or agents.

BOND

17. The Firm shall submit to the Council quarterly performance reports indicating the response from rates payers.

TERMINATION

18. The agreement may be terminated by either party giving to the other three months notice or their intention to terminate and in the event of either party terminating the Agreement prematurely, the party terminating the Agreement shall pay to the other compensation in *the* sum assessed by the arbitrator appointed under clause 17.

PROVIDED that if the Firm:–

- (i) Commits a breach of any of its obligations under this Agreement.
- (ii) Fails to perform.

Then in such circumstances the Council may, without prejudice to any accrued right or remedies to either party under the Agreement, terminate the same by notice in writing having immediate effect.

Variation of terms Following the formation of a binding Agreement no deletion from, addition to or variation of the conditions shall be valid or any effect unless agreed upon in writing and signed by the parties.

Frustration If war declared by state or other circumstances outside the control of both parties after the Agreement is made so that either party is prevented from fulfilling their obligations then the parties shall be released from further performance.

Waiver Failure by the Council at any time to enforce the provisions of the Contract or to require performance by the Firm of any of the provisions of the Agreement shall not be construed as a waiver of any such provision and shall not affect the validity of the Agreement or any part thereof of the right of the Council to enforce any provision in accordance with its terms.

Notices All notices or other communication required to be given hereunder shall be sufficiently served personally on the addressee or if sent to the registered office or last known address of the party to be served therewith and if so sent shall be subject to proof to the contrary or be deemed to have been received by the addressee.

IN WITNESS THEREOF the parties hereto have executed this Agreement the day and year first above written.

SIGNED AND DELIVERED)
for and on behalf of the).....
CITY COUNCIL OF KAMPALA) **MAYOR**
whose common seal was hereunto).....
affixed) **Town Clerk**

SIGNED for and behalf of

.....)
Partner

.....)
Partner

REPUBLIC OF UGANDA

AGREEMENT FOR MANAGEMENT OF MARKETS (S)

THIS AGREEMENT is made this day of 1997 Between the **KAMPALA CITY LOCAL COUNCIL** of P O Box 7010 Kampala (hereinafter called "the Council" of the one part and of P O Box..... (hereinafter called "the Contractor") of the other part.

WITNESSETH as follows:

WHEREAS

The Kampala City Local Council is required to provide the service of Managing, Controlling and Maintaining Market (s) in Kampala, (hereinafter called the service).

AND WHEREAS

The Kampala City Local Council wishes to contract out the service of managing, controlling and maintaining the Market (s) situate on Plot No WITNESSETH as follows:

AND WHEREAS

The Contractor is willing to provide the said service in accordance with the provisions of this agreement and the General Conditions of Contract attached herewith.

NOW IT IS AGREED between Council and the Contractor as follows:

1. The Council lets all the Premises known as.....
Market situate on Plot No.....

2. The Contract shall be for a period of three years with effect from the 1st day of July, 1997.
3. The contract shall be reviewed at the expiry of each calendar year and nothing shall stop any party thereto to terminate the same in case of any breach of the terms of the contract notwithstanding the foregoing clause in No. 2 above.
4. generated in the market.
5. It shall be the duty of Council to direct and control all advertisement inside or outside the market.
6. It shall be the duty of Council to set the rates to be levied in the market and in no circumstances shall the contractor impose his/her/their own rates.
7. The Contractor shall provide the service in accordance with the provisions of this Contract and the general conditions attached hereto, to the satisfaction of Council.
8. The Contractor shall make to the Council an advance monthly payment of She such payment shall be made not later than the seventh day of each month.
9. It shall be the responsibility of the Contractor to pay Value Added Tax (VAT)

IN WITNESS whereof the parties hereto have caused their respective Common Seals to be hereunto affixed the day and year first above written.

The Common Seal of Kampala City)
 Local Council was hereunto affixed)
 the day and year first above written)

Chairman/Mayor

In the presence of)

) Town Clerk

The Common Seal of)

) Director
 was hereunto affixed by)

In the presence of)

Secretary

MANAGEMENT OF MARKET(S)

General Conditions

1. Definitions and interpretations

In these conditions and in the Articles of Agreement, except where the context otherwise requires, the following expressions shall have the meaning hereby ascribed to them.

- 1.1 "Authorized Officer" means the person defined in condition 3
- 1.2 "Contract Documents" means documents comprising the Contract.
- 1.3 "Contract Manager" means the representative of the Contractor appointed pursuant to condition 8.1.
- 1.4 The "Contract Standard" means such standard as complies in each and every respect with all relevant provisions of the Contract, where and to the extent that no criteria are stated in the Contract the standard is to be to the entire satisfaction of the authorized officer.

1.5 "Council" means the Kampala City Local Council or any successor thereof.

1.6 Reference to the employees of the Contractor shall be deemed to include the Contractor's agents and sub-contractors unless the context otherwise requires.

1.7 The Contract shall be governed by, and construed in accordance with the Laws of Uganda.

1.8 Reference to any Act of Parliament or to any other regulation, Statutory Instrument or otherwise shall be deemed to include a reference to any amendment or re-enactment of the same.

1.9 "Premises" means the area covered by the Market as described in the agreement.

1.10 "Service" means the Management, Control and Maintenance of the Market(s)

2. Variation of conditions

2.1 Following the formation of a binding agreement no deletion from, addition to, or variation of the conditions shall be valid or any effect unless agreed upon in writing and signed by the parties.

3. Authorized officer

3.1 The Authorized Officer shall be the person named by the Town Clerk or the Chief Officer of the relevant department of the Council or such representative appointed by the Council to act in the name of the Council for the purposes of the Contract.

3.2 The Council shall forthwith give notice in writing to the Contractor of the replacement of the Authorized Officer or if any person ceases to be the Authorized Officer.

4. Contractors obligations

During the Contract Period the Contractor shall provide the following services in a proper skilful and workman like manner, to the Contract standard and to the entire satisfaction of the Council.

1. Collection of Revenue
2. Letting of stalls
3. Eviction of tenants for failure to pay rent and or closing down of premises.
4. Maintenance of cleanliness on a daily basis, providing and maintaining sanitary services, and collection and disposal of garbage
5. Payment of Water and Electricity Bills
6. Maintenance of Law and Order in the Market.

4.2 The Contractor shall at all times during the Contract period allow the Authorized Officer and such persons as may from time to time be nominated by the Authorized Officer access to the premises, for the purpose of viewing and monitoring the provision of the service including auditing the contractor's books of accounts.

4.3 The Contractor shall not in any circumstances use any part of the premises to perform, either on its own behalf of any person other than the Council, and work other than provided for the Contract.

4.4 The services shall be provided in accordance with this Agreement and the Contractor shall not deviate from the Agreement without the prior written consent of the Authorized Officer.

4.5 Throughout the Contract period the Council shall ensure that any changes in policies, rules, procedures and standards made by the Council which may be relevant to the conditions are brought promptly to the attention of the Contractor.

4.6 If the Contractor at any time becomes aware of any act or omission or proposed act or omission by the Council or by any other person which prevents or hinders or may prevent or hinder the contractor from

providing the services in accordance with the terms of this Agreement, the Contractor or the duly authorized officer shall forthwith inform the Authorized Officer of the Council of the Act.

The provision of such information under this sub-paragraph shall not in any way release or excuse the Contractor from any of the Contractors obligations.

5. The councils' obligations

5.1 The Council shall be responsible for monitoring the provision of the service for purposes of ensuring that the service is up to the Contract standard and that all laws, By-Laws and or regulations are observed by the Contractor.

5.2 To maintain the infrastructure in the Market. This will include:-

All those buildings and or structures constructed in permanent form and forming part of the market.

6. Joint obligations

6.1 The eviction of tenants of the market for the stalls/lock-ups they are renting for any other reasons other than failure to pay rent shall be done by the contractor in consultation with Council.

6.2 Improvement of the infrastructure has to be done by the Contractor in consultation with the Council.

6.3 Law and Order in the markets shall be a joint obligation of both the Contractor and the Council.

7. Contractors employees

7.1 The Contractor shall employ sufficient persons to ensure that the service is provided at all times and in all respects to the Contract Standard.

7.2 The Contractor shall employ in and about the provision of the service and shall ensure that every person so employed is at all time properly and sufficiently qualified, competent, careful, skilled, honest, experienced, instructed and supervised as the case may be with regard to the service and in particular.

7.2.1 The task or tasks such a person has to perform

7.2.2 All relevant rules provisions of the Contract

7.2.3 All relevant policies, rules, procedures and standards of Council

7.2.4 All relevant rules, procedures and statutory requirements concerning health and safety at work.

7.2.5 Fire risks and fire precautions.

7.2.6 The need to recognize situations which may involve any actual or potential danger or personal injury to any person at the location where possible without personal risk, to make safe such situations and forthwith to report such situations to the Authorized officer or in the event of emergency to the member of the Council staff with responsibility for the location.

7.3 The Council shall be entitled but not unreasonably or vexatiously to require the contractor, by notice in writing, to remove from the provision of the service any employee of the Contractor specified in such notice. The Contractor shall forthwith remove such employee from the provision of the service and shall immediately provide a replacement if necessary.

7.4 The Council shall in no circumstances be liable either to the Contractor or to the employee in respect of any liability, loss or damage occasioned by such removal.

7.5 Save as expressly provided in this Agreement, the Contractor shall be entirely responsible for the employment and conditions of service of the Contractor's employee.

8. Control and supervision of the contractors employees

8.1 The Contractor shall appoint a Contract Manager empowered to act on behalf of the Contractor for all purposes connected with the Contract. Any notice, information, instruction or other communication given or made to the Contract Manager shall be deemed to have been given or made to the Contract Manager shall be deemed to have been given or made to the Contractors.

8.2 The Contractor shall forthwith give notice in writing to the Authorized Officer of the identity, address and telephone numbers of the person appointed Contract Manager or duly authorized deputy and of any subsequent appointment.

8.3 The Contract Manager or duly authorized deputy shall consult with the Authorized Officer and with such other person of the Council Staff as may from time to time be specified by the Authorized Officer as often as may be necessary for the efficient provision of the services in accordance with the terms of this contract.

8.4 The Contractor shall provide a sufficient complement of supervisory staff in addition to the Contract Manager, to ensure that the Contractors staff engaged in and about the provision of the services at the premises at all times are adequately supervised and properly perform their duties.

8.5 The Contractor shall ensure that its employees perform their duties in an orderly manner and in as quiet a manner as may reasonably be practicable having regard to the nature of the duties being performed by them.

8.6 Employees of the Contractor shall carry at all times identity cards supplied by the Contractor, in form approved by the Council.

8.7 The Contractor shall require its employees at all times while engaged in provision of the service to be properly and presentably dressed to the satisfaction of the Council.

8.8 The Contract Manager shall inform the Authorized Officer promptly of and confirm in writing any instances of activity or omission on the part of the Council which prevent or hinder, or which may prevent or hinder the Contractor from complying with the Contract. The provision of information under this Condition shall not in any way release or excuse the Contractor from any of its obligations under the Contract.

8.9 When requested to do so any employee of the Contractor shall disclose his/her identity and status as an employee of the Contractor and shall not attempt to avoid doing so.

8.10 Staff and operational records

8.10.1 The Contractor shall maintain current and accurate records of all employees who are or who are to be engaged in connection with, based at, or provide the service at each location. These records shall include employee attendance and shall differentiate between those engaged as operatives and those exercising supervision. Those records shall be open for inspection by the Authorized Officer his/her representative at all reasonable times.

9. Health and safety

9.1 In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulation, order and requirements as may be made by the Government, or the Council for the purpose of dealing with and overcoming the same.

9.2 The Contractor shall at all times comply with the requirements of the Health Act and any other Acts, Regulations or Order pertaining to the Health and Safety of employees.

9.3 The Authorized Officer shall be empowered to suspend the provision of the service or part thereof in the event of non-compliance by the Contractor with condition 8.2. or with its legal duties in health and safety matters. The Contractor shall not resume provision of the service or any part until the Council is satisfied that non-compliance has been rectified.

10. Agency

10.1 Neither the Contractor nor its employees shall in any circumstances hold itself or themselves out as being the servant or agent of the Council.

10.2 Neither the Contractor nor its employees shall in any circumstances hold itself or themselves out as being authorized to enter into any Contract on behalf of the Authority or in any other way to bind the Council to the performance, variation, release or discharge of any obligation.

10.3 Neither the Contractor nor its employee shall in any circumstances hold itself or themselves out as having the power to make, vary, discharge or waive any by-law or regulation of any kind.

11. Indemnity

11.1 The Contractor shall indemnify and keep indemnified the Council against the injury or any person, and loss of or damage to any property including property belonging to the Council, except, and to the extent that it may arise out of the act, default or negligence of the Council, its employees or agents not being the Contractor and except as aforesaid against all action, claims demands, proceedings, damages, costs, changes and expenses whatsoever in respect thereof, or in relation thereto.

11.2 The Authority shall indemnify and keep indemnify the Contractor against the injury to or death of any person or loss of or damage to, any property including property belonging to the Contractor to the extent that it may arise out of the act, default or negligence of the Council, its employees or agents other than the Contractor, its employees and agents and against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

12. Observance of statutory requirements

12.1 The Contractor shall comply with all statutory and other provisions to be observed and performed in connection with the service and shall indemnify the Authority against all actions, claim demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach of by the Contractor.

13. Use of premises

13.1 The Contractor shall at all times during the Contract period maintain and keep maintained the premises in a tenable condition.

13.2 Keep the premises free of any unnecessary obstruction and dispose of any rubbish generated on the premises in the refuse skips provided by the Council.

14. Security order

14.1 The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst his employees and for preservation of peace and protection of persons and property on the premises and its neighbourhood.

15. Assignment and sub-contracting

15.1 The Contractor shall not:

15.1.1 Assign the Contract or any part thereof for the benefit or advantage of the Contractor or any part thereof.

15.1.2 Sub-contract the provision of the service or any part thereof to any person without the previous written consent of the Council, which consent shall be in the discretion of the Council, and if given, shall not relieve the Contractor from any liability or obligation under the Contract, its employees or agents in all respects as if they were the acts, defaults or neglect of the Contractor, its employees or agents.

16. Termination

16.1 This contract shall be terminated if the contractor:–

16.1.1 Commits a breach of any of its obligations under the Contract.

16.1.2 Has a winding-up Order made, or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding up passed.

16.1.3 Has a provisional liquidator, receiver or manager of its business or undertaking duly appointed.

16.1.4 Has possession taken by or on behalf of the holders of any debentures secured by a floating charge, or any property comprised in, or subject to, the floating charge.

16.1.5 Is in circumstances which entitle the Court of Creditor to appoint or have appointed, a receiver, a manager, or administrative receiver, or which entitle the Court to make winding-up order.

16.2 If the Contractor's services are terminated as provided in condition 15.1 and is not reinstated, the Council shall be entitled to hire other persons to provide the service or any part thereof.

16.3. The rights of the Council under this condition are in addition to and without prejudice to any other rights the Council may have whether against the Contractor directly or pursuant to any grantee, indemnity or bond.

17. Notice

17.1 Any demand notice, or other communication required to be given hereunder shall be sufficiently served personally on the addressee, or if sent by registered pre-paid mail to the registered office or last known address of the party to be served therewith and if so sent shall be subject to proof to the contrary, be deemed to have been received by the addressee.

18. Waiver

18.1 Failure by the Council at any time to enforce the provisions of the Contract or to require performance by the Contract of any of the provisions of the Contract shall not be construed as a waiver of any such provision and shall not affect the validity of the Contract or any part thereof of the right of the Council to enforce any provision in accordance with its terms.

19. Instructions

19.1 All instructions shall be in writing

19.2 The Authorized officer or the Council shall inform the Contractor in writing of any duties delegated to other or more representatives.

19.3 Where under condition 19.2 the representative is empowered to issue instructions such instructions shall be issued on the following terms:-

19.3.1. All instructions must be confirmed in writing.

19.3.2. The Contractor must comply forthwith the terms of such instruction which will be issued in the name of the Authorized Officer.

19.3.3. If the Contractor disputes the scope of the necessity for or the authority of the representative under these conditions to issue such an instruction, then the Contractor must forthwith seek the instructions of the Authorized Officer who will confirm the original instruction or issue a further instruction superseding the superseding the original instruction.

20. Opportunities for other contractors and or business

20.1 The Contractor shall in accordance with the requirements of the Council afford reasonable opportunities for carrying out their work to any other Contractor or business person legally carrying on business on the premises or thereabouts and their workmen and to the workmen/servants agents of the Council and of any other duly constituted authorities who may be employed in the execution on or near the market(s) of any work not included in the Contract or of any Contract which Council may enter into.

21. Returns to the council

21.1 The Contractor shall be required by the Council to deliver to the office of the Town Clerk a return in detail such form as the Council may prescribe showing:-

21.2 Management arrangements of the Premises.

21.3 And any other returns that may be required by Council.

22. Frustration

If a war declared by state, or other circumstance outside the control of both parties arises after the Contract is made so that either party is prevented from fulfilling his/her contractual obligations, or under the law governing the Contract then parties shall be released from further performance.

23. Alterations of the markets

The Contractor shall not carry out any alterations on the infrastructure (the subject matter of this Contract) without the prior written consent of the Council.

24. These conditions read together with agreement shall take precedence to any other considerations and shall be legally binding to the parties hereto.

25. Insurance

It shall be the duty of the contractor to keep the market insured against loss, destruction or damage by fire or otherwise happening to the market or any part thereof to apply the money received in respect thereof under any such insurance in rebuilding, reinstating and restoring or replacing the market as the case may be if any parts thereof so damaged or destroyed.

