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**A CONFIDENTIAL REPORT
OF
THE COMMISSION OF INQUIRY
ON
LOCAL AUTHORITIES IN KENYA**

**A Strategy for Local Government Reform
in Kenya**

Chairman:

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Presented to

His Excellency

**Hon. Daniel T. arap Moi, C.G.H., M.P.
President and Commander-in-Chief of the Armed Forces
of the Republic of Kenya**

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A CONFIDENTIAL REPORT OF THE COMMISSION OF INQUIRY ON LOCAL GOVERNMENT TO HIS EXCELLENCY THE PRESIDENT

1. PREAMBLE:

The Commission having covered a large number of important issues in the main body of the Report, in the Executive Summary, and in the Plan of Action, found it opportune to isolate a few issues and to draw Your Excellency's kind attention to them. These issues are of political nature and demand early guidance and quick action.

2. TIMING AND RECEPTION OF THE COMMISSION

The appointment of the Commission by your Excellency was hailed as most timely by the general public wherever we went. There was evidence of very high expectation on the part of Kenyans from the Commission's report.

3. MULTI-PARTY DEMOCRACY AT LOCAL AUTHORITY LEVEL:

While conducting the inquiry, the Commission members interacted face to face with more than 50% of the local authorities in Kenya.

The Commissioners observed that councillors from the different parties were generally working in harmony for the welfare of the people within their areas of jurisdiction. There were instances where councillors from minority parties were elected to high civic positions as mayors, chairmen, deputy

mayors and chairmen of council committees.

It is the Commission's prayer that this positive political culture of multi-party democracy at the grassroots be nurtured to permeate the entire national body politic.

4. COUNCILLOR'S ALLOWANCES:

Although review of councillors allowances and their terms of service were not included in the Commission's terms of reference, civic leaders across the country took advantage of our presence to record their demand for better allowances and terms of service.

The Commission noted that the issue was more complex than just monthly allowances. For example the Central Bureau of Statistics' cost of living index for Middle Income Group increased from 276 in December 1992 to 513 in December 1995. It is strongly recommended therefore that a committee be appointed to look into the matter and make recommendations to the government as a matter of high priority.

5. QUALIFICATION OF COUNCILLORS:

The Commission observed that the management of local authorities is already a very important and complex matter. The committee system that all councils adopt for formulation of their local policies, requires a certain degree of literacy and ability to analyse and understand minutes of council,

while at the same time, be able to interact with professional technocrats. The Commission is convinced that future local authorities will take on a much broader range of functions which will call for management skills on the part of policy makers. The future councillor should therefore be literate in both English and or Kiswahili. With the successful promotion of secondary school education under our 8-4-4 system of education, and with early retirement of many well educated Kenyans, future councillors should be men and women who have attained Form Four or 'O' level of education. The only proviso being that any candidate who has served as a councillor in the past would be exempted from this requirement.

6. DIRECT ELECTION OF MAYORS, CHAIRMEN AND THEIR DEPUTIES

The Commission was impressed by the overwhelming evidence in favour of having popularly elected civic leadership and the need for restricting the term of office of mayors, chairmen and their deputies to two five year terms. The Commission has recommended accordingly.

7. OBJECTIVES FOR CREATING LOCAL AUTHORITIES

The capacity of the central government to oversee and to regulate the increasing number of local authorities is limited. Since independence, there has been very rapid increase in the number of local authorities almost at the expense of quality local government management. The Commission recommends that in order to strike a balance between the capacity to

supervise the local government system by central government and the capacity for self administration by councils, objective criteria should be set as a guide during the process of creating or elevating local authorities. The Commission has made appropriate recommendations.

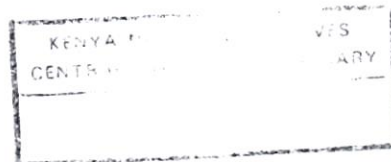
8. **EVENTUAL PHASING OUT OF THE URBAN COUNCIL TIER**

The creation of new urban councils has mainly affected county councils by fragmenting county councils resource base. This has left behind relatively weak rural resources to support the remaining county councils. More often than not, the residential areas have proved to be inadequate as bases from which to raise revenues that are needed for improved services. On the other hand, the increased number of urban councils represent added supervisory responsibility for the Ministry of Local Government. As a consequence, most of the current urban councils are not capable of self administration and service delivery. Town councils are slightly better in this regard.

The Commission has found merit in discouraging the non-self administering local authority tier - i.e. the urban council. In future, large markets with urbanized populations of 5,000 people and over, should be upgraded to township councils.

9. **ELEVATION OF MUNICIPALITIES TO CITIES**

The Commission was particularly impressed by the keen interest shown by the general public, and experts on local government, on the question of



elevating the status of municipal councils to that of cities. The Commission formed the opinion that Kenyans are looking forward to having cities that would be different from the current crop of civic authorities, with regard to service delivery, maintaining high quality sustainable urban environments, providing essential services as water supply, urban transport, garbage collection and disposal, health service, education and good governance. The elevation of Mombasa, Nakuru, Kisumu and Eldoret was supported, not only by the general public but also by the criteria applied by the Commission to evaluate each of the four municipalities.

To meet the peoples expectations, the four municipalities should perform better. In order to perform better, greater support and commitment on the part of the central government in terms of policy guidance would be a necessary enabling action.

10. ADMINISTRATIVE AND POLITICAL DECENTRALIZATION OF NAIROBI CITY COUNCIL:

Nairobi City councillors meeting in plenary did not support the suggestion that Nairobi City be divided into political "boroughs." However the Commission soon gathered that most of the councillors were totally ignorant or had distorted ideas about the concept and working of a "borough." But equally the Commission was amused to note that **there was wide spread support for decentralization of service delivery in the city.**

The Commission continued to examine several models for decentralization

of service delivery and finally recommended that **Nairobi be split into five administrative divisions which should later be carved out into five Nairobi municipalities.** The term borough was found to be too alien, but on the operational side, a borough performs like a municipality.

11. FINANCIAL MANAGEMENT OF LOCAL AUTHORITIES:

The practice of finance management in local authorities in Kenya is affected by many factors. The Commission has studied some of these factors and remedial measures are required in certain crucial areas as follows:

- (a) The need for quick solution to unaudited council books.
- (b) The need to resolve division of council assets between newly created local authorities.
- (c) The need to speed up payment by government ministries to local authorities, the contributions in lieu of rates.
- (d) The need for the central government to consider and come up with a criteria for giving grants to local authorities.

12. LOCAL GOVERNMENT TRAINING INSTITUTE

It is ironical that with 57,000 employees in the local authorities, there is no designated training institute or university department devoted to training

local government personnel and councillors. Quick action should be taken to rectify the situation by assigning this function to one of the existing institutes. Local government training at higher levels can also be taken up in any one of the five public universities. Several international organizations have shown interest in supporting Local Government Training Programmes including UNDP, UN, HABITAT, Municipal Development Programme of the World Bank, Urban Management of the World Bank and the Commonwealth Local Government Forum.

13. RETURN OF SERVICES:

Local authorities should be empowered by central government by apportioning more functions to them. The Transfer of Functions Amendment Act of 1969 which took away education, roads and health services from local authorities should be reversed. As local authority funds follow functions, the return of the three functions would attract supportive funds to local authorities and increase involvement of local authorities at the grassroot level.

14. NEW POST FOR COMMISSIONER FOR LOCAL GOVERNMENT:

The Commission has recommended the creation of a new post for Commissioner for Local Government. This is intended to strengthen the Ministry's management capacity. Some of the functions currently performed by the Minister for Local Government would be apportioned and delegated to the Commissioner who would also be in charge of the Directorate of

Local Government finances, urban development, local authorities management services and local authorities audit.

15. **COMMUNITY ADVISORY COMMITTEES:**

Enhancing community participation in local and public policy formulation, development priority setting, local services delivery and implementation of development programmes, is now considered a necessary condition for the management of public affairs at the grassroot level. The Commission has proposed new structure in the local government system to accommodate this requirement; these are the **community advisory committees**. The Commission has recommended one model for the rural setting and another for the urban areas.

Each structure has the advantage of helping local community political leaders on the one hand, and the central government administrative officers on the other, to interact on all development matters from the grassroot level upwards.

16. **DIRECT PLOT ALLOCATION:**

This issue was presented to the Commission with considerable emotion from civic leaders. The Commission noted that in several instances the practice had been abused by the people it was meant to benefit. The main complaint was that some of the plots being allocated directly, were plots that had already been planned for public utilities like open spaces, school plots,

church plots, mosque plots and road reserves. All this has triggered public outcry with fingers being pointed at the Commissioner of Lands.

The Commission having looked into these issues in detail, is of the opinion that direct plot allocation is acceptable, and legal, provided thorough investigation is conducted in every case to make sure that land for public utility is not tampered with.

17. **PRESIDENTIAL COMPETITIVE AWARD INITIATIVE**

The Commission is fully aware of the past glory of Nairobi as the Green City in the Sun. The Commission is equally aware of the high standard of cleanliness that was being maintained in several of our municipalities just before and after independence in 1963. Today, however, the Commission is disappointed to see the general standard of cleanliness in urban areas moving from bad to worse. It should be remembered that Kenya has an international obligation to set a good example in environmental protection and management as the host of UNEP and HABITAT. The Commission calls for deliberate central government and local government policy to be put in place in Kenya, to rapidly upgrade the quality of environment both in urban and rural areas in a sustainable manner.

The Commission recommends that to get all the rural and urban centres involved, a Presidential Competitive Award Initiative should be designed and launched. The competition should be categorised as follows:

- (a) Among the proposed Nairobi metropolitan city municipalities;
- (b) Among cities away from Nairobi;
- (c) Among provincial municipalities;
- (d) Among provincial town councils; and
- (e) Among district council markets.

The Award should take the form of trophies and cash for topping up an ongoing capital project of the winner's choice.

The private sector should support the Presidential Competitive Award Initiative with contributions and publicity.

The Ministry of Local Government should set up the body to manage, regulate and control inspections and the score board check list. While inspections should be continuous, awards should be every two years countrywide.

