

A GOVERNANCE PROGRAM FOR KENYA

Preliminary Assessment and Proposals

MAY 1993

CONTENTS

	<u>Page</u>
Executive Summary	i-iii
I. Introduction	1
II. Purpose of Assessment	1
III. Kenyan Political Context	2
A. Main Underlying Problems	3
B. Foundations for a Governance Strategy	4
IV. Areas of Potential Governance Intervention	6
Press Freedom	8
Parliamentary Capability	11
Political Parties	15
Electoral Commission/Domestic Elections Monitoring (NEMU)	18
Auditor-General's Office	20
NGOs, Capacity and Enabling Environment	21
Local Authorities	24
Institute for Policy Analysis and Research	27
Human Rights	29
Judiciary	33
Women in Politics	34
V. Summary	37
VI. Other Donors' Interest/Initiatives	39
VII. Annexes	
Annex A: Press Freedom	
Annex B: Parliamentary Capability	
Annex C: Institute for Policy Analysis	
Annex D: Local Government	
Annex E: NEMU, Elections Monitoring and Gender Analysis	

EXECUTIVE SUMMARY

I. Introduction

This assessment has been undertaken as the first step of a two to five year program in support of democracy and governance in Kenya. The first phase of this program will commence at the end of FY 93 and continue through FY 94. The second phase will run from FY 95 through FY 97. Estimated funding is approximately \$2 million for phase I and \$3.5 million for phase II.

II. Purpose

The purpose of the assessment is to: identify areas of potential intervention in support of democratic governance; determine the rationale and appropriate sequence for these; explore the GOK environment currently confronting these proposed initiatives; and assess the comparative advantage of AID and other donors in pursuing them.

III. Strategy and Themes

The strategy for the assessment team has been to identify a wide range of institutions and issue areas in which democratic governance initiatives might be pursued. We have then looked for the common themes that run through these, in an effort to make the proposals as coherent as possible, and to increase the possibility of the individual activities having "multiplier" effects. The themes that stand out are the need for greater **tolerance** in the polity generally; a greatly increased capacity for injecting **new information** into the arenas of public debate and policy formulation; and the need to construct **institutions of countervailing power**, which can safeguard the expression of alternative opinion and objective that produces creative solutions to social and political problems.

Civic education is the mechanism or vehicle through which we see much of this democratisation and governance effort being accomplished, although we have taken pains to view this in a non-traditional manner and present proposals for civic education reaching a wide spectrum of individuals and audiences. **Technological assistance and training** for elites in positions of influence is the other main vehicle which our proposals revolve around.

IV. Areas Assessed

The areas we have assessed include primarily the following:

- The Press
- Parliament in the multi-party context
- Political Parties
- Electoral Commission/domestic monitoring capacity (NEMU)
- Auditor-General's Office(s)
- NGOs, capacity and enabling environment
- Local government
- Institute for Policy Analysis and Research (proposed)
- Human rights
- The Judiciary
- Women in politics/governance

The proposals for intervention in each of these areas is discussed in the main body of the report. Annexes which give greater detail for some of these areas, representing those with the most immediate potential, are appended.

V. Recommendations and Prioritization

The conclusion the assessment team reached is that the top priority areas for immediate intervention in a democracy and governance program are as follows.

1. Support for press freedom. This is a fundamental cornerstone for any and all other efforts at democratisation. Without the maintenance of press freedom, the ability of the donor community to make progress in the areas of governance and democratisation will be severely curtailed. The proposals made in this area include both support for the creation of a **media trust**, and an effort at supplying **non-traditional "civic education"** through the mechanism of creative press supplements, as described in Annex A.

2. Support for Parliament. The advent of pluralistic politics in Kenya in 1992 affords an opportunity to regain the vitality of the early post-Independence Parliament. It further represents an opportunity to recast Parliament as a "watchdog" institution, one of the pillars of "countervailing power" that the team feels is essential to sustainable democratisation. A number of proposals have been made, beginning with a **study tour** to state legislatures in the US (which might be repeated if the Speaker and members of the Assembly express interest); a set of **seminars on both structural adjustment and GOK financial procedures**, without which the new MPs will be unable to effectively guard the public purse; **support for a greatly improved library/documentalist capacity**, which might in the long term become a research unit; and some material assistance with the Assembly's **sound system, desk-top**

publishing capacity for the Hansard, and perhaps other modest modernisation of the facilities.

3. **Institute for Policy Analysis and Research.** A policy research institute is proposed, which can bring Kenyan expertise of international stature to bear on the issues confronting the country as it goes through the painful processes of economic adjustment and political democratisation. **IPAR** is a project with support from several donors and is in the final stages of development.

4. **Elections Monitoring/Civic Education.** The organization responsible for the domestic observation of the 1992 elections has proposed a plan to consolidate its lessons learned and increase its capacity to serve, not just as an elections monitoring unit but also as a body that can provide civic education. Support for a **NEMU Secretariat**, which could continue the process begun in late 1992 should be a high priority; other donors may be interested to assist with this.

5. **NGO/Human Rights.** Support for a **FIDA Secretariat** should also be considered. **FIDA** has, along with **ICJ**, been doing a great deal of legal assistance for poor women, as well as in defense of some of the victims of the land clashes. **FIDA** should be assisted to establish a Secretariat which will facilitate it in expanding the scope of its activities, reaching a more rural clientele.

The assessment team stresses that this prioritisation is not meant to "select out" the other activities discussed above, but merely to target those which the team feels could be mounted most quickly and successfully in the immediate future, if funding can be secured before the end of FY 93. The other activities are of equal significance in the democratisation and governance effort.

VI. Other Donors' Initiatives

An effort has been made to detail other donors' on-going interest and initiatives in each of these areas. However, the specifics remain to be confirmed. Indeed, one of the purposes of the assessment is to begin to move the donor dialogue on democratization and governance further along, and this document may serve to stimulate additional proposals.

DEMOCRATIC GOVERNANCE IN KENYA

Proposals in Support of Governance Program Development

I. Introduction

This assessment has been undertaken as the first step of a two to five year program in support of democracy and governance in Kenya. If funded, the first phase of this program will commence toward the end of FY 93 and continue through FY 94. The second phase will run from FY 95 through FY 97. Estimated funding is approximately \$2 million for phase I and \$3.5 million for phase II.

The assessment is organized in four main parts. After a brief explanation of its purpose, the issues involved in fostering democratic governance in the present Kenyan political context are addressed in Part III. Part IV describes the specific interventions and problem areas the assessment settled upon as of greatest import or promise. Part V presents an overall summary of the prioritisation which the assessment team concluded was most feasible. Part VI summarizes other donors' initiatives and interest. Part VII comprises Annexes dealing with the intervention areas of highest priority, for which more detailed preparatory assessment has been done.

II. Purpose of the Assessment.

The purpose of this assessment is twofold:

- to capture the lessons provided by the recent year and a half devoted to the advent of multi-partyism and the election, identifying elements of the political institutional matrix and culture that inhibit the practice and evolution of democratic governance, including institutions which can and should serve as foci of "countervailing power", in society broadly as well as within the state
- to identify areas of potential intervention in support of democratic governance; the rationale and appropriate sequence for these; the GOK environment currently confronting such efforts; and the comparative advantage of AID and other donors in pursuing them.

The strategy for the assessment is to cover the spectrum of institutions and issues relevant to democratic governance and to examine the way in which they are interrelated. The goal is to determine the common themes that run through this institutional matrix and the logical sequence of issues that AID and other donors might productively address. The themes that have emerged

during the assessment are the lack of a political culture of tolerance, the need for new types, sources and channels of information to strengthen public policy formulation, and the need to identify and nurture institutions of countervailing power which can protect individuals and social groups against arbitrary exercise of power.

Our strategy is to develop a coherent thrust in terms of the provision of support for democratic governance, rather than a collection of unrelated efforts. At the same time, the proposals that we make are not interdependent to the point that obstruction of one jeopardizes efforts in other areas. This is especially important in the realm of democracy and governance because of the sensitivities of national governments to what may be perceived as unwarranted interference in their internal affairs. The GOK environment is one of the central factors to take into account in developing a governance strategy for the immediate future, and it is not particularly encouraging in some of the areas that are ultimately critical for the democratization process. At present it provides slightly more scope for productive interventions in the "governance" area. We have, however, attempted to address the democratization process at several points, and assume that GOK sensitivities might be diminished through the successful accomplishment of some efforts in the "governance" realm.

III. Kenyan Political Context

The 1992 Kenyan elections exposed clearly many issues relating to democratic governance which had been hidden below the surface or glossed over in recent years. The observations on which this report are based are drawn both from the year-long period preceding the first multi-party elections, has had since 1966, and the lengthier period of increasing domestic pressure for a more open political system, beginning in about 1982, shortly after the abortive coup attempt in that year and the repressive state response to it.

After the grudging legalization in December, 1991 of parties other than KANU, which eliminated the legal single party control of Kenya by KANU since 1982, alternative political voices and parties began to emerge. This process began on a note of high hope and confidence and descended through the year preceding the election into situation of factionalism and sectionalism similar to that which has bedeviled other newly-pluralistic polities. The campaign period and the months immediately preceding it illuminated a political culture characterized by: a lack of tolerance (on all sides; not just the governing party, KANU); a lack of agreement on "rules of the game"; a lack of understanding of, or commitment to, "transparency", despite rhetoric on all sides supposing a commitment to it.

Observers during the election period perceived as well a lack of information about the nature of, and the other participants in, the political universe that constitutes Kenya; a complete lack of trust of the opposition on the part of KANU, and vice versa; and a lack of political institutional capacity (in terms of parties, the Electoral Commission, and other important institutions of political life in pluralistic societies.) This incapacity fed scape-goating and conspiracy theories; produced a logistically seriously flawed election; and inhibited the parties' ability to present a credible set of candidates without perceptions of major manipulation in their selection (this characterized all parties, not just the governing party).

The election brought most of these failings of the political system and culture to the fore. A great deal of time and energy was spent by the donor community generally, and USAID/US Embassy in particular, on the monitoring of this year-long process and on the observation of the election itself. In retrospect, it is clear that too much time is being devoted to elections and too little to the "deep structure" that produces an unsatisfactory electoral experience -- the political attitudes and culture that have taken deep root in the absence of a pluralist tradition. These elements of the political culture must be the focus of any satisfactory "democratic governance" initiatives AID undertakes.

A. Main Underlying Problems

1. The election clearly demonstrated the **lack of a culture of tolerance and of compromise**, not just on the part of those in control of the state vis-a-vis the various "opposition" voices, but also among the latter. Politics is played for high stakes -- this has become increasingly the case as the economic mismanagement and corruption of the latter 1980s accelerated. There are winners and there are losers, and winner-takes-all thinking permeates all strata of society. There is no commitment to the possibility of sharing power and of mutual, equitable gains. It is, in the words of most Kenyans, the politics of "finishing them", (i.e., whomever the enemy is perceived to be), and there is little sign of rejection of this philosophy even among the opposition, with the partial exception of the intellectual cadre of "young Turks" which began to surface in several parties (but whose ability to withstand pressures to resort to the same tactics is at yet untested).

2. Closely related is the **complete lack of trust in the Government/governing party** on the part of the opposition (and vice versa) and the consequent strength of the **conspiracy theory** mode of political analysis and response. This belief system -- that the opposition is the enemy, is always wrong, is always engaged in manipulation designed to gain unfair advantage -- leads to fairly far-fetched explanations of actions that appear to the disinterested observer to be straightforward, turning them

into something insidious. (Numerous examples of this in the pre- and post-election periods can be cited.) Most disturbing, the fact that this is the rule rather than the exception leads to the actual practice of this type of manipulative politics, whether defensive or in the firm belief that these are the "rules of the game". In other words, the lack of trust feeds conspiracy theorizing, and ultimately secretive, manipulative politics in a classic self-fulfilling prophecy. The situation could not get much farther from the "transparency" that democratic governance requires.

3. Similarly related is the lack of any understanding of what pluralism is about, either institutionally or culturally. There is little or no acceptance of the idea that a social organization can find common cause with others on one or more issues, while differing with them significantly on other issues, or that maintenance of these variant views within an institutional matrix that does not and cannot strive for total "unity" is possible and desirable. Even within the opposition that contested the elections, there were constant calls for unification rather than collaboration, compromise, coalition-formation, and the other elements of pluralism. Indeed, the omnipresent emphasis on unity flies in the face of the western model of coun-tervailing power, which preserves and protects the differences of opinion, objective and skill that produce creative new solutions to social and political problems.

While this is in part a function of the nature of the still very rural, ethnically homogeneous societies of Africa, Kenya nonetheless has a multiplicity of institutions, both modern and "traditional", that have at least the potential of cross-cutting social groupings and strata in ways that require and encourage compromise, coalition formation, and the aggregation of political interests rather than their compartmentalization.

B. Foundations for a Governance Strategy

The conclusion of the assessment team is that there are several themes that run through the "governance" social and institutional matrix. Foremost among them is the need for greater tolerance of divergent viewpoints and affiliations. Our proposed strategy for nurturing it is civic education, of many different types and targeted at a wide variety of audiences. Our proposals for action in the near term all have a civic education thrust in one way or other. This is not conceived as "civics" in any standard or traditional sense, however. It is rather an identification of the types of information, both new and currently available, which is essential to the construction of a more tolerant, civil society; the identification of the audiences most critical to the process, including parliamentarians, local government officials, and citizens (as taxpayers, voters, breadwinners, teachers and students, lawmakers and lawbreakers,

etc.); and the identification of media most likely to reach these target audiences, taking into account the differences among them in terms of literacy, gender, age, and present socialization patterns.

Civic education is thus perceived as a necessary, though not a sufficient, condition for the emergence of more tolerant and effective political culture. Also necessary is a significant increase in competence in the institutions which regulate decision-making by the state -- e.g., Parliament, the Electoral Commission, the Judiciary, the professional bodies which in pluralistic society act as "watchdogs" over their spheres of special expertise, the Press, the trade unions and the welter of associations connected with economic life. These perform below the levels at which they could, and their performance becomes a part of the public cynicism and skepticism which feeds "uncivil" society. There is thus a strong argument to be made for technical assistance to bring these institutions up to higher standards of performance. Technical assistance in this context essentially means strengthening of management capacity -- transfer of organizational skills, bookkeeping and accounting skills, ability to seek out and process new information of use to the institution, personnel management, strategic planning and thinking.

Finally, a third thread that runs through the areas detailed below is the need to construct the capacity for a degree of autonomy, or "countervailing power". Neither information nor competence is always sufficient to guarantee the exercise of power in the correct and mandated manner. (Neither is such countervailing power alone, without the accompanying information and competence, likely to produce satisfactory governance.) Thus, the long-term objective of a governance strategy must be the construction and strengthening of institutions which provide the checks and balances that are formally written into constitutions but which only come alive through the informed, competent exercise of sources of power outside the state itself.

The identification of these, and their nurturing in a manner which does not threaten the state but provides it with an additional source of legitimacy, is key in terms of the long-term development of civil society. In the era of multi-parties, this means among other things the translation of opposition parties, presently seen as traitors and enemies, into a legitimate, responsible, loyal opposition. This will not be an easy or short term process. It is most likely to be accomplished in a satisfactory manner and time period if efforts are made simultaneously in the many issue areas and institutions comprising civil society, not randomly but in accord with a coherent strategy. The many potentially useful intervention points the assessment team examined are discussed below, briefly. Lengthier treatments of those found to be most promising in the short term follow as

Annexes. Where possible, indications of other donor interest, ideas, or on-going initiatives are included.

IV. Areas of Potential Governance Intervention

This section outlines the universe of potential governance intervention. Areas of intervention which have been considered include:

- The Press
- Parliament in the multi-party context
- Political Parties
- Electoral Commission/domestic monitoring capacity (NEMU)
- Auditor-General's Office(s)
- NGOs, capacity and enabling environment
- Local government
- Institute for Policy Analysis and Research (proposed)
- Human rights
- The Judiciary
- Women in politics/governance

These are each presented in the main body of the report, with attention to the objectives, rationale, concrete proposals, relationship to other/on-going AID efforts, and the possible interest of other donors. For a subset of these, more extensive exploration of the topics was done as a viable proposal emerged. For these, an annex has been included which sets out in greater detail the issues, proposals, and resource requirements.

Constitutional Reform. One additional area not treated here but "on the front burner" from the point of view of the opposition parties, as well as numerous individuals with less active political interests, is the area of Constitutional reform. Unlike several of the African countries presently undergoing democratization processes, (e.g., Uganda) Kenya has not undertaken a progressive restructuring of its constitution, although there have been calls from many corners for it to do so.

There are numerous reasons for putting this at or near the top of the agenda. The powers accorded to the President of Kenya are not consistent with what western democracies take to be the primacy of the rule of law. The section dealing with preventive detention and other pre-emptive acts on security grounds have been the focus of intense internal opposition. The Chiefs' Act, which gives chiefs wide-ranging powers with essentially no checks in the rural areas, has been under serious attack for more than a decade. Many other anomalies with implications for human or individual rights are regularly pointed out by numerous members of the public, not all of them in the opposition.

The area is not one in which any obvious USAID initiative has emerged. Should a Constitutional Reform Commission be established and request assistance, it would clearly be a high priority activity. At present there is no sign that such a Commission will be established nor that the badly needed review and reform of the Constitution is underway. For this reason, the assessment team has focused on the following potential interventions, leaving aside the vital area of Constitutional reform. That issue might well continue to be a leading one for the more explicitly political representation of the US Government to the Kenyan Government.

PRESS FREEDOM

Objectives and Rationale

Press freedom is one of the cornerstones of a democratic society. Kenya's press is one of the longest-established in East Africa and has had an important impact, not just in Kenya but regionally. The press has experienced periods of greater and lesser freedom, but has generally been freer than the broadcast media. Three English language dailies have broad circulation both in the cities and the rural areas of Kenya. A Swahili-language paper affiliated to one of the English papers has a moderate circulation in towns. A number of regional vernacular newspapers launched with donor funding in the early 1980s have not taken off.

The significant development in the era leading up to the movement for greater democratization has been the mushrooming of an advocacy or "anti-establishment" press. This has taken the form, over the past 18 months, of an increasingly regular appearance of some weekly and monthly magazines, quite professional in appearance ("glossies") and of varying print quality, veracity, and editing standards. During the election campaign period these were snatched up with great interest, both by the electorate and by the long arm of the state, which began methodically to impound whole issues of those that were suspected to carry articles the Government considered seditious.

In addition, in the post-election period, as these magazines have faced heightened harassment of all sorts (impoundment, arrest of the principals involved in publishing them, sudden cancellation of bank loans, and finally the physical disabling of the main press which prints these publications) a new flurry of publications has begun to make its appearance -- a set of weekly newspapers that are loosely affiliated to the major political parties, and carry the messages and viewpoint of these parties.

The Government has decided to attack this alternative press "at its source", so to speak. The publishers of the papers been arrested and charged with various offenses, ranging from non-payment of employees' withholding taxes to sedition *per se*. (The individuals so charged are being strongly defended in court, however, and there are signs the courts may take a "progressive" line on this whole issue; the editors of the most outrageous of these magazines, charged in April with sedition, had the state drop its charges on May 19).

The advocacy press can no longer find advertisers' willing to buy space because of pressure put on the businesses, including threats of cancellation of business licenses. The police have also impounded not only the issues and the plates for press runs

but have also actually seized the parts of the one press on which these publishers had come increasingly to depend, other presses having been similarly threatened into refusing to take this business.

USAID/Kenya feels strongly that the advocacy press is a central institution whose existence will greatly influence the ability of civil society to maintain the gains of the 1992 election campaign period. The advocacy press itself has played a significant role in keeping the attention of the public focused on numerous issues which the Government might prefer to sweep under the carpet, including the dismal performance of the economy. While the quality of the coverage varies, and the publications produce a wildly uneven mix of rumour, actual event, speculation, and hard fact, the contribution to lengthening the public attention span is critical.

Moreover, and even more importantly -- indeed, the real objective of the proposed intervention, in the view of the assessment team -- the advocacy press has expanded the borders of permissibility for the Kenyan press as a whole, and by so doing has forced the country's newspapers to expand their coverage of various aspects of Kenyan life. Kenya's mainstream newspapers now exhibit the type of investigative journalism which regularly holds the Government accountable for mismanagement, corruption, and human rights violations. In short, by expanding the boundaries of permissibility for the entire press, the advocacy press contributes greatly to the public's perception of need for improved governance. Indeed, it is for this reason that the GOK has targeted the advocacy press for the increasing levels of harassment it now confronts. The demise of the advocacy press, which some elements in the Kenyan Government seem intent on, will lead inevitably to the re-imposition of an increasing level of self-censorship, for which the mainstream press has been criticized in the past.

The objectives of a governance effort with respect specifically to the press, then, are two-fold:

- to support and nurture this infant independent media, in a fashion which forces it to come to terms with the economics of publishing and marketing in the Kenyan context, as well as with the need for increased competence in reporterage, especially of an investigative sort;
- and to provide the mainstream press with this inadvertent buffer-cum-pressure point that can prevent unproductive and unnecessary degrees of self-censorship.

A further objective, as will come out clearly from the proposals outlined in the Annex on Press Freedom, is to use the advocacy press (and perhaps the mainstream press/ distribution network) as a vehicle for civic education of many different types and audiences. This is a non-traditional approach to civic education and is meant to reach especially the younger audience whose ideas about governance issues are critical to the success of democratization. However, it is a suitable vehicle as well for a whole host of messages, some explicitly political and others relating to responsible citizenship (e.g., the need to pay taxes for local services) or to imparting technical knowledge (e.g., how local land valuations and rates are done). As indicated, civic education is one of the themes that runs through this entire assessment of the needs for promoting democratic governance in Kenya, and the advocacy press is seen as a major means of carrying on civic education in a variety of areas and audiences.

Proposals

1.) Media Trust or Consortium. USAID could provide support for a consortium which could jointly service the individual advocacy papers has been under discussion. A media trust is one proposal. Initial meetings of the publishers of the four principal magazines -- Society, Finance, Economic Review and the Nairobi Law Monthly -- have been held and are encouraging, despite some initial misgivings. These publishers have decided to form such a trust, which will be open to membership by all of the interested publishers, with a view toward acquiring their own printing facility.

Printing facilities are clearly critical to the ability of the magazines to sustain themselves in the face of GOK hostility. However, the Media Trust will be able to supply other forms of assistance which may in the long run be equally as critical: it may be able to supply a mechanism for substantial insurance against the losses incurred in the seizure of publications, as well as providing a legal defense capacity when these publishers are charged with sedition or subjected to various forms of financial harassment.

2.) Creative Press Supplements. The proposal detailed in Annex A involves the funding of a series of supplements to be offered to the advocacy press as advertisements, on a non-discriminatory basis (i.e., to all of the weekly magazines). The supplements will be around four pages, may involve reviving a historic "magazine character" from the early 70s (or other, more recent cartoon/comic strip figures very familiar to the Kenyan public), and would deal with a whole host of governance issues in a "daily life" context rather than as an explicit, traditional "civics textbook" treatment of the topic. The issues dealt with will cut to the heart of the problems of multi-culturalism and

multi-partism, "transparency", the need to and possible ways of building cooperative working relationships within a competitive political system, and the like. Funding for the printing of the supplements, for which USAID would then pay advertising space, would be the main expenditure.

Other Donors' Interest/Initiatives

Canada, Denmark, Sweden, the Ford Foundation, the Fredrich Nauman Foundation and the Fredrich Ebert Foundation share the US concern about recent harassment of the advocacy press, and the necessity to insure its survival. Of these, it is virtually certain that Denmark would co-fund the establishment of a media trust to facilitate the printing of the advocacy magazines. Canada, the German foundations and possibly Sweden would also fund the trust. All donors believe that to assist the advocacy press, it must be done via an intermediary NGO, and that assistance to any one publication is probably not feasible.

The Ford Foundation is likely to limit any assistance to the funding of legal defense of journalists harassed by detentions, charges of liable and sedition, etc. It is unclear at this writing whether such assistance would be provided via a media trust or via one of the numerous human rights and legal defense organizations which already receive support from the Foundation.

DANIDA has already been active in the training of journalists by providing consultants to the School of Journalism at the University of Nairobi.

PARLIAMENTARY CAPABILITY

Objectives and Rationale

Kenya's Parliament, called the National Assembly, is presently the most visible sign of the winds of change blowing through Africa. A multi-party Parliament with 100 seats held by the majority party, KANU (hitherto the single legal party), there are three other major parties. These form an opposition with its own internal differences, punctuated by occasional and loose collaboration. These opposition parties together hold 85 seats, of which two are presently (May 20) being contested in by-elections after the defection of their representatives back to KANU. There are three other seats held by candidates of three minority parties, with one each.

Parliament in the late 1960s and early 1970s was a vital institution. It provided a public forum for policy debate at least to some degree; a forum for the venting of dissident opinions; a "watchdog" on the projected or actual expenditure of

public funds. It was not perfect, but its decline in the late 1970s (in the latter Kenyatta years) and through the 1980s into a rubber stamp for Government, and increasingly KANU, policy spelled the disappearance of one cornerstone of democratic governance in Kenya.

The revitalization of Parliament in the new circumstances of legal opposition parties is a high priority, since the institution is so visible a sign of the health of the polity. The types of assistance Parliament needs include both material assistance, such as improved library facilities, access to external sources of research and information dissemination, an improved sound system, etc; and the transfer of skills and knowledge to Parliamentarians in a number of areas, ranging from Parliamentary procedure to the economics of structural adjustment, the budgetary process, and sectoral issues such as environmental protection and health.

Approximately 75% of the present Members of Parliament are "new"; that is, they did not serve in the previous Parliament, although about a third of these new members have been in Parliament previously, or are well-known public figures with familiarity with Government business. Even in the case of experienced members, there are many skills which Parliamentarians need to acquire, especially in the multi-party era, when the ability to collaborate in the formulation of public policy and play constructive rather than destructive political games is paramount.

Further skill transfer, on such issues as the revision and modernization of the standing orders regulating parliamentary procedure, and the revision and modernisation of the committee system, may be productively pursued through cross-cultural exchange: study tours to European parliaments or to state legislatures in the US, focusing on the incorporation of two or more parties into a functioning committee system that provides the specialization needed in the post-industrial era and assists in constructing the idea of the "loyal opposition" in the process.

Proposals

1.) Induction courses. One area in which several donors have expressed interest is in the "induction" of the new Members of Parliament into the intricacies of Parliamentary procedure. While there are both KANU and opposition parliamentarians with experience in this field, there is a large number who will need to be briefed intensively on the rules, regulations and rationale of Parliamentary procedure.

2.) Training seminars on Structural Adjustment and the Macro-economic Issues Guiding GOK Public Sector Policy. Many Parliamentarians have already approached both Kenyan and donor community personnel with expertise in "structural adjustment" policy and asked for aid in understanding just what it means. This is not a small issue and is an important need and opportunity. As the GOK is presently in the process of re-establishing its previously-cordial and productive relationship with the Bank/IMF, it is important that Parliamentarians be aware of just what it is that they are committing Kenya to; what implications it has for the near term, with respect to inflation, prices, and other economic impacts on their constituencies; what implications it has for specific sectoral policies (such as user fees, wage increase guidelines, etc.); and how they can play an intelligent role in the debate over the components of the "structural adjustment" basket.

A series of workshops addressing these issues, formulated strictly for Parliamentarians, is proposed. This needs to be done after the sort of induction suggested above (which other donors may fund, and may be in the planning stages now), but before the series of training sessions on budgetary and other GOK financial procedures, suggested below, is undertaken.

3.) Training on Financial Elements of Public Policy. Another area which is of great importance to the development of capacity for policy formulation, scrutiny, amendment, and the "watchdog" activities implied in the Public Accounts Committee's mandate (which is constitutionally chaired by the opposition) is the broad area of financial procedures and policy. This can be summarized in four broad areas: the budgetary process, the expenditure and accounting processes, internal audit procedures, and the tendering and procurement processes. To the uninitiated bystander, these are dull and dry topics which hardly anyone can master, let alone get excited about. To the initiated, this is the core of power and regulates the probity of resource allocation, or its mismanagement. The specific areas are detailed in the Annex.

4.) Study Tours. While study tours are expensive and cover relatively few individuals at any one time, a series of them would provide the Kenyan Parliament for the first time with a significant core of members who have seen how the process operates elsewhere. In this age of global communication, it is simply unacceptable that national Parliaments in Africa should operate under rules and committee structures deriving from the 1950s and earlier. Needless to say, the experiences gained in such tours would have to be filtered through and adapted to Kenyan political realities and practice; but it is difficult to see how the process of change can be initiated without the infusion of new ideas from the outside. Further, the early implementation of a number

of such study tours would hopefully build a confidence in the Parliamentarians and the Speaker of the Assembly in USAID's ability and willingness to be supportive, such that an in-built demand for further interventions relating to Parliament would be created.

AID/USIS is currently sponsoring a study tour of parliamentarians to the US. The experience of this group will be instructive, both as to the nature of the lessons that are brought back (which USAID must capture, in preparation for further such tours) and the areas in which the participants express further interest or need. The Governance Advisor intends to do an in-depth assessment of their perceptions when they return.

5.) Material assistance. A number of potential areas for material assistance also exist, elaborated more fully in the Annex. These include the modernization of the House Library and its provision with documents and journals; the House sound system; completion of the computerisation of the process for producing the Hansard (the official record of business), providing essentially a desk-top publishing capacity; the installation of an electronic voting system; and the gradual establishment of a research capability to service the growing needs of Members for assistance in understanding the issues and formulating appropriate legislation in increasingly complex areas such as the environment, health and population policy, economics, trade and business, agricultural policy, and science and technology.

Summary: The theme of civic education that runs through this proposed governance program appears here in the form of a number of areas of skill transfer to Parliamentarians, partly drawn from experiences in other democratic systems (i.e., new information into the system) and partly focusing on types of information about their own system essential to the exercise of responsible authority for resource allocation and policy formulation. The study tours, or other possible assistance with up-dating the Assembly's committee structure, are directed at the need to build inter-party tolerance and cooperative, collaborative relationships rather than the combative relationships that now obtain.

Other Donors' Interest/Initiatives

Canada, the UK, the Friedrich Ebert Foundation, and the Friedrich Naumann Foundation have all expressed interest in supporting the evolution of a multi-party National Assembly. As of this writing, Canada and the UK are primarily interested in funding study tours, especially if they could be done in collaboration with the US. Both the Ford Foundation and the Friedrich Ebert Foundation wishes to support the holding of induction seminars and similar workshops for MPs here in Nairobi and have already discussed this possibility with the Clerk of the

National Assembly. The Naumann Foundation wishes to support the establishment of a small think tank for parliamentarians, and has taken steps to hire a staff person to support such an effort off premises; that is to say, not at the National Assembly and not in cooperation with the Clerk or the Speaker.

After discussing these and other possibilities with the Clerk of the National Assembly, the assessment team concluded that while highly desirable, assistance to the National Assembly will need to proceed slowly so as not to overwhelm the Clerk and especially the Speaker who is a KANU stalwart and wary of the sudden flush of donor interest in the National Assembly. Any donor effort that is perceived by the Speaker and the Clerk as an attempt to force the democratization of the Assembly will be resisted. Rather the best approach is to proceed slowly, perhaps first with study tours, then with special training workshops and assistance to the library, and only later--probably one or two years down the line--to matters of parliamentary reform (e.g. the reorganization of the standing committees). As a follow up to his meeting with the Clerk, the REDSO governance advisor has written the Clerk reviewing the areas of intervention discussed above.

POLITICAL PARTIES

Objectives and Rationale

The advent of multi-parties in Kenya was hailed with great fanfare by the long-repressed voices of opposition and with dismay by the Government of Pres. Moi, who warned that parties in the African -- or at least the Kenyan -- context meant essentially re-opening the wounds of tribalism and ethnic conflict that he claims to have worked assiduously to eliminate. Whatever the realities of the ensuing episodes of ethnic mobilization -- i.e., whether Government-sponsored, KANU-fomented, or resulting from non-official fears and antagonisms -- the resulting multi-party elections did indeed bring to the surface the importance and the negative implications of ethnicity in the Kenyan polity.

Presently the political parties represent major ethnic blocs. Most of their time since the election has been taken up with efforts to maintain a precarious unity at the level of the leadership, prevent MPs from defecting back to KANU under threat or inducement, and attempt to forge parliamentary strategies to pursue their main short-term objectives. What they have not been engaged in is the institution-building necessary to sustain political parties in the long run: fund raising, the organization of secretariats and of in-house policy analysis capacity, the identification of an enlarged membership basis that makes political sense and the recruitment of members outside the "core"

ethnic areas, the establishment of branches and recruitment of staff.

Indeed, even the operation of the opposition parties' "whips" within Parliament has been weak, with divisions of the House regularly turning up far fewer opposition MPs, proportionally, than is the case for their KANU opponents. And even KANU has major weaknesses, some of them "political" but some of them related to the lack of organizational and managerial capacity that is the cornerstone for political parties with any staying power.

Organizational and managerial capacity is one of the two basic needs the parties have currently. This is an area in which assistance can presumably be provided by American political parties or the non-partisan but "political" institutions in the US (NDI, IRI, and AAI); by the British parties; by the German parties and/or foundations with interest in this area. IRI is currently assessing the possibilities of further assistance in Kenya in this area. Their discussions with the parties' representatives will illuminate the degree to which the parties are currently seeking, or are at least receptive to, such assistance.

Proposals

A few possible activities might be undertaken in the longer term, i.e. a second phase of this governance program. These might include:

1.) **Public lectures** sponsored by USIS (or even the American/Kenyan Business Association) by party stalwarts/organizers from the US (or from other western democracies) simply introducing into the public domain some of the main issues involved in the care and feeding of political parties. Public lectures can easily evade the charge of partisanship that more active forms of assistance might fall heir to.

2.) **Assistance on management issues** identified by IRI in its current mission, or in a further mission by them and/or other members of the AREAF, which individual parties request. The idea would be to keep this to as non-political a set of issues as possible, dealing with fund-raising and accounting, the organization of both national and branch management and budgeting capacity, and the like.

3.) **Policy and recruitment strategy assistance**, such as that offered to the opposition by the Friederich Naumann Foundation during the 1992 campaign, when they prepared jointly with Nauman's assistance a Post-election Action Programme. There is obviously a close intermeshing of the processes of policy

formulation and of identification of a target recruitment base, in western democracies. In Kenya, and Africa generally, the policy differentiation tends to be minimal, and the recruitment base, as already noted, is geographical and ethnic. While it is imperative -- and in the long run inevitable -- that these politics come to resemble ours more closely, the process is a lengthy one and fraught with political pitfalls. It is not clear that our political NGOs would be able to offer effective assistance in this area, although there is room for exploration of the issue with them. The effort by the Naumann Foundation resulted in unwelcome attention by the GOK to the individuals involved; this is a high risk activity that should be fairly low on the list of priorities because of the political risks, although it is an area of vital long-term concern.

Other Donors' Interest/Initiatives

Discussions were held with the Friedrich Naumann foundation, which has already attempted something of this sort -- an all-parties workshop on political organization skills, policy and issue identification, etc. The effort is reported to have elicited a fairly unsatisfactory response. KANU did not wish to participate, despite the manifest organizational and management difficulties that it also faced during the nominations exercise. In the case of all of the parties, the current internal factionalism -- which has both geographical sectionalism and generational components -- has reportedly produced a situation where it is difficult to get agreement to the types of assistance that would strengthen the organization, because of fears by each faction that its rivals would be the main beneficiaries.

Another approach is being taken by the British. The Westminster Foundation is sponsoring a conference for members of parliaments from several countries with newly-pluralist party systems, which will deal with the core issues involved in the **mechanics** of multi-party politics in national legislative bodies, as well as the political philosophy underlying party pluralism.

To the extent that there is a productive role to be played by the US here, it is perhaps most readily played by the NGOs with elections expertise. The funding for such efforts through USAID is problematic. If there is uneven interest and participation, this would raise the issue of partisanship on the part of the US. The German foundations expressed the same hesitancy, for the same reasons.

ELECTORAL SUPPORT

Objectives and Rationale

A major flaw in the 1992 electoral process was the performance of the Electoral Commission. The Commission demonstrated both a certain lack of good faith initially, and a decided lack of management capacity throughout. The most critical activity at the outset for the Commission, which gave it a bad image from the beginning, was the process of voter registration. The voter registration exercise was handled very poorly, and the incapacity due to lack of skills compounded the perception of bad faith which the opposition was all too ready to attribute to the Commission.

Assistance to the Electoral Commission

Voter registration needs considerable attention. The Commission wants to, and should, develop a computerised national voters' register. Many more issues need attention, however: the issue of continuous registration rather than the hectic, three-weeks campaigns which are current practice; the issue of registration of absentee voters -- elections officials, for example, were not able to vote in this or previous elections, and neither were Kenyans overseas, despite the Commission's early assurances that they would be accorded their rights as voters. The method of display of completed registers, increasing access to them on the part of the widely-scattered rural electorate, lengthening of the period for appeal and objection, alterations in the method of identification for purposes of registration, and education of registration officials -- all these are areas the Electoral Commission needs to undertake seriously to review.

An electoral boundaries review is needed as well. For reasons of the shortness of the time, among others, it was shelved in the 1992 elections. A boundaries review and the re-drawing of constituencies must by law take place before the next national elections, however. (Of course, it depends on the official acceptance, and presumably the publication, of the 1989 Census, which shows no signs of being forthcoming from the Central Bureau of Statistics, despite public statements to the contrary in recent months).

Other donors are interested in this area, particularly the Canadians, and it may well be an area in which they have expertise and financial resources to bring to bear in the near term. For USAID, computerisation of the voter registration system might be a potential intervention. The AID-funded computer capacity in the Ministry of Planning did an initial assessment of the needs, scope and cost of such an effort. However, this is a long term and expensive effort, not one which will make any visible initial impact on the construction of civil society.

Assistance to the National Elections Monitoring Unit (NEMU)

Several months before the 1992 elections a collection of Kenyan indigenous professional and church-based organizations coalesced into a joint **National Elections Monitoring Unit (NEMU)**. A loose coalition with numerous teething problems, NEMU nonetheless mounted an impressive observer effort, given the lack of any previous experience and the stalemates which developed over donor funding, for various reasons. The election observation done by the domestic observer groups was a useful "civic education" exercise itself. NEMU is in the process of attempting to establish itself concretely (i.e., in terms of a secretariat), to undertake a review of the lessons learned, to define a set of activities of their own with respect to civic education, as well as to monitor the numerous by-elections likely to result from the 90 or so election petitions filed over the last three months.

NEMU deserves to be supported as a component of the "civil society" we are interested in fostering -- a domestic NGO able to provide "countervailing power" through both educational campaigns and the "watchdog" function of elections observation. In addition, NEMU is proposing to take a look at the complex issue of women's participation in the elections, as voters (i.e., the degree to which women were incapacitated by the hours of opening and closing of the polls; illiteracy; procedures at the polling stations; etc.) but more especially as candidates. Reports of considerable harassment have been heard, but these need to be verified and an accurate portrait of the nature and scope of the problem obtained. From this, civic education programs can be designed, or proposals made for legislation for "reserved seats" for women (a la the Ugandan example).

Proposals

1.) **Electoral Commission.** Discussions should be continued with the Electoral Commission over its agenda and long-term needs, as well as with those donors most interested in this area (e.g., Canada). Support for computerization of the registration process should be considered for the second phase of the Governance Program, but only if the issues indicated above are addressed by the Commission in a satisfactory manner from the point of view of "democratic" electoral practice. We should not be involved in providing assistance to a registration exercise that is not considerably more transparent and democratic than the one done in 1992, and that is in good part a question of political commitment, which needs to be demonstrated.

2.) **NEMU.** NEMU should be assisted in some specific areas, including the proposed analysis of women's participation in the 1992 elections. NEMU's proposed activities are indicated in the relevant Annex.

Other Donors' Interest/Initiatives

Although the British provided the GOK Electoral Commission ballot boxes worth L1 million for the December, 1992 elections, and although the US provided the indelible ink, no donor is contemplating further assistance at this time. Although it does not contribute to the development civil society, USAID might consider assistance to computerize the registration rolls during the second phase of the Kenya DG project. In the interim, the USAID might fund an assessment mission by IFES to establish the magnitude and cost of the exercise.

In the period leading up to the December, 1992 elections, NEMU received support from Canada, the EEC, Denmark, the Netherlands, Sweden and the U.S. as well as by the Ford Foundation. The US, Canada and the EEC are continuing to support NEMU during the current by-elections from funds unspent from the initial round of grants. Some or all of these donors, particularly the Canada and the EEC, are likely to renew funding when the need arises, especially to support the establishment of a permanent secretariat for NEMU to enable NEMU to branch out into related activities such as civic education.

AUDITOR-GENERAL'S OFFICE

Objectives and Rationale

The Auditor-General and the Auditor-State Corporations are two offices central to the process of ensuring accountability in Government. At least in theory, they track the expenditure of public monies -- the Auditor-General in the Ministries, the Auditor-State Corporations as the title suggests. They produce voluminous summaries of the regularity/legality or otherwise of expenditures, auditing the accounts of the Ministries and State Corporations in line-item detail. Their output is the input into the Public Accounts Committee of the National Assembly, which takes the audited accounts and summons the responsible accounting officers (Permanent Secretaries and Managing Directors of State Corporations, respectively) to appear before it and answer questions as to the propriety of their actions.

The difficulty with the process is that it is seriously "post hoc". The A-G's reports wend their way, a year or two after the fact, into the Public Accounts Committee (chaired in the multi-party era by the opposition). The then-current accountable officers attend the Committee's sessions. They are in many cases not the individuals who were involved in the irregularities detected. The sanctions applied to offenders are for the most part inconsequential. In effect, there are no sanctions -- just a litany of malfeasance which serves to irritate Members of the Assembly and give them fodder for a few weeks' worth of fairly

meaningless publicity, and which is then buried, contributing only to the cynicism of the public, not to its protection.

Further, the A-G's net is finely-meshed, and catches only the "illegal" expenditures -- i.e., those which go contrary to what Parliament has sanctioned, or contrary to GOK procedure. It does not catch the whales, which rip right through it -- the dubious, unethical or downright criminal appropriation of funds to individuals in defiance of the public interest, such as in the Goldenburg scam or earlier such malfeasance, which is on a "wholesale" rather than a "retail" basis and may be quite "legal" technically, and thus not of concern to the Auditor-General. That is, it is only the propriety of expenditure in terms of allocation that concerns the A-G, not the propriety of the allocations themselves.

The A-G indicated the need for assistance. Staff, in his opinion, are inadequate to the task at hand, and need training. In addition, they are poorly motivated -- a common complaint throughout the public service -- and the A-G wants to institute a scheme of service for them, which could boost morale considerably. This is an internal GOK matter; the Department of Personnel Management (DPM) undertakes a review of the present terms of service and state of morale of the staff, the A-G (perhaps with assistance) devises a scheme of service, it goes through the interminable process of consideration by DPM and finally obtains approval (or not).

Proposals

The A-G's staffing needs are not an area in which AID can provide useful assistance. In addition, because of the "downstream" nature of this activity and the lack of much in the way of sanctions when irregularities are detected -- frequently all that occurs is a public slap on the wrist for the accounting officer, and in some cases transfers have been made which amount actually to promotion -- we suggest that AID look more seriously at the "upstream" end of this process, in terms of educating Parliamentarians on scrutiny of the public budget and expenditure processes.

Other Donors' Interest/Initiatives

No other donor is contemplating support at this time.

NGOs, CAPACITY AND ENABLING ENVIRONMENT

Objectives and Rationale

Kenya, not unlike many Third World countries, has attempted in recent years to develop a capacity to regulate the NGO community, especially as the amounts of money being channeled through

it have increased dramatically. Originally, the Ministry of Finance and Planning established an NGO desk, and attempted, quite unsuccessfully, to require all NGOs to register with it, to submit their budgets to it, to obtain approval for all projects proposed within districts through the relevant District Development Committees, and generally to monitor what was going on in the "NGO sector".

This is still their objective. They have in 1990 passed the **Non-Governmental Organizations (Coordination) Act [No. 19 of 1990]**, which has subsequently been amended after lengthy discussions and objections from the NGO community [**Legal Notice No. 58 of 13th Sept., 1991**]. The Act gives the Government broad regulatory powers over NGOs, requiring them to register under the Act (rather than under the Societies' Act) and subjecting their proposed projects and budgets, at least in theory, to scrutiny. Two amendments to the Act were fought for in a long and hard battle, and significant elements of the NGO community have now decided that they can live with the Act as amended. The environment for NGO operation, therefore, is not ideal, but has improved from what was originally feared.

An **NGO Council** is now in existence, comprising a large number of the NGOs in Kenya (over 200 attended the organizational meeting; over 40 of those "international" NGOs). On the GOK side, there is an **NGO Board**, with 21 members. Originally 5 of these were to be appointed by the NGO community and the rest by the GOK. One of the amendments to the Act resulted in the Chairman of the NGO Council being made an automatic member of the Board, together with two other members of the NGO Council, bringing the total to 8. In addition, the current Chairman of the Council indicated that perhaps four of the GOK-appointees are widely perceived as "pro-NGO" (this, of course, could change with alterations in the appointments). This gives the NGO community a de facto majority on the Board, a major opportunity to set policy "friendly" to NGOs from the inside.

A second issue resulting in a hard-fought amendment was the issue of denial of registration for an NGO applying under the new Act. Originally, appeal of such a denial was to the Minister responsible (Minister of State, OP, Internal Security). Since the Minister responsible would have been the person originally denying the application, the obvious unfairness led to objection and to agreement by the GOK that appeal would be to the High Court. While the High Court itself has been the subject of much skepticism in recent years, this is at least an improvement.

Rather than continuing to fight the GOK for revision of the NGO Act, the Council has now decided to live with it and work as effectively as possible as a service organization and an advocate for the NGO community and for the GOK, to the extent that it will permit this and utilize the resources the Council can make

available. This is the essence of the productive relationship of state and civil society -- i.e., pluralism, with an institutional matrix engaged in productive dialogue rather than confrontation with Government. Its success depends on the degree to which the Council can develop its own internal management capacity and provide services of use to the NGOs comprising it.

Individual NGO Programs. As indicated by the number of NGOs involved in forming the Council, there are a plethora of NGOs of many different types in Kenya. There are some with specific relevance to the "democracy and governance" domain, such as the Kenya chapter of the International Commission of Jurists and the Kenya chapter of the international body of women lawyers, FIDA. There are other NGOs which deal with social welfare concerns; there are a number which concern themselves with human rights, including such issues as police brutality, prison conditions, and the legal defense of indigent persons. The main actors in this domain have begun to realize the need to establish a more permanent institutional capacity, and have made proposals to USAID to assist in the establishment of a secretariat, to replace the one-man or one-woman, unpaid, voluntary offices they now operate out of.

USAID receives a constant stream of proposals from this welter of NGOs. Until now, the main vehicle for responding to those with small, short-term requests has been 116e grants. If the democratic governance project is funded, and recognizing the likelihood of financial cuts in this area, the assessment team recommends that an appropriate amount of the funding be set aside to deal with this area of vital but management-intensive concern.

Proposals

1.) Assistance to the NGO Council in developing its in-house capacity in the three areas in which it expects to service its members should be considered. This would be contingent on receiving concrete proposals, which the Council has in the past preferred to submit to other donors, as discussed below.

2.) Assistance to FIDA Secretariat. Support should be provided to the Kenya Chapter of FIDA to establish a secretariat that would enable it more effectively to provide legal services to rural women, who are presently out of the reach of the pro bono services being provided, primarily to urban women.

Other Donors' Interest/Initiatives

The NGO Council and/or its constituent members have in the recent past preferred to seek support from the FORD Foundation and/or DANIDA, for reasons having to do with the difficulties experienced by many NGOs in the era of VADA, a USAID effort to

coordinate NGOs which was unsuccessful. Indeed, the Council has requested assistance from the FORD Foundation and is uncertain about the status of its proposal.

Should FORD be unable to fund Council activities, and should the Council prove willing to submit proposals to USAID and conform to AID's requirements for assistance, USAID might find assistance in two areas outlined by the Council as immediate needs to be of great long-term potential, both from the point of view of the vitality of the NGO universe in Kenya as well as the lessons learned and demonstrated about this model of collaborative working relationships with GOK -- the beginnings of a model of pluralistic, countervailing power.

The Ford Foundation employs a full-time program officer to make grants to NGOs outside the area of human rights, but most of his effort has been devoted to grants outside Kenya. Still, the Foundation appears to support such programs at a level of roughly \$250,000 per year. These include grants to the Kenya Small Traders Association, the Kenya National Farmers Union, Femnet, the National Council of Churches of Kenya, and the National Council of Women. In addition, the Foundation is contemplating a pair of \$75,000 grants to the Board and to the Council established under the NGO act. Canada, Denmark, Sweden and the Friedrich Ebert Foundation also make periodic grants to NGOs.

LOCAL AUTHORITIES

Objectives and Rationale

The Local Authorities in Kenya have been a traditional focus for AID. Our efforts have been primarily in the areas of secondary towns development, local authority development plans, some low cost housing in Nairobi, and funding for a first tranche of "Rural Trade and Production Centers", i.e., small urban places identified to have high growth potential and serving productive agricultural zones.

The relationship between AID and the Ministry of Local Government (MLG) has not always been smooth, although there have been periods in which much was accomplished. The weaknesses of the Ministry itself administratively have hindered some efforts, such that USAID and other donors have begun to focus on the need to strengthen the Ministry itself, as the unavoidable conduit to the Local Authorities. Unfortunately, the political climate has also been unencouraging in recent years, and does not seem likely to change dramatically at present.

However, the 1992 elections brought a new and complicating factor into the equation with respect to donors-MLG-Local Authorities: the opposition parties won majorities in a large number of

the councils, both urban and rural, winning overwhelming majorities in some of the largest of the secondary towns -- Kisumu, Nyeri, Nakuru, Meru, Kitale. The opposition is strongly represented in many councils in the "swing" areas, as well. Indeed, over 15 major municipal or town councils are controlled by the opposition as a result of the recent poll, although in some the numbers of KANU and opposition councilors is at par.

As a consequence, there are now Local Authorities which have had a breath of fresh air introduced via the electoral process. They are, however, in a precarious relationship with MLG. The Minister has the authority to appoint up to 33% of the number of elected members on any council. The present Minister has appointed statutorily his mandated numbers of pro-KANU nominees, although he did not totally reverse the results as much as he is legally authorized to do. There are some indications that the Government is doing what it can to de-stabilize at least the most symbolically important of these authorities (e.g., Nakuru). For USAID, the question is whether we can provide continued or additional technical assistance, to increase the competence and capacity of some of these councils, while waiting for a more productive resolution of the political environment.

Two or three areas in which technical assistance might be provided are outlined below, falling within the twin areas of management capacity and civic education, the necessary (but not sufficient) conditions for more viable and legitimate local government in Kenya. The sector as a whole is described in detail in the relevant Annex.

Proposals

1.) **Valuations.** A major problem for the municipal councils which rely on property rates for the bulk of their general revenue is the tremendous delay in valuation for rating. The cause is the institutional complexity and lack of priority put on this activity: the Commissioner of Lands, in the Ministry of Lands and Housing, is responsible for the valuations staff, not the Ministry of Local Government or Authorities themselves. Many proposals have been made deriving from a Bank study of the Local Govt. Finance sector, most of which involve institutional reforms unamenable to any type of USAID intervention.

One proposal, however, is to assist a few well-chosen municipalities to hire **private valuers**, get their roles up to date, and provide lessons on the experience (which has been tried once before in Kenya, by the Nakuru Municipal Council, with mixed results). Numerous Kenyans, including senior staff in the Commissioner of Lands' office, indicated that, although this is not perhaps an ideal solution from their point of view, they think it would be one way of breaking the logjam. Problems would be mainly in the area of the confidentiality of Lands Department re-

the councils, both urban and rural, winning overwhelming majorities in some of the largest of the secondary towns -- Kisumu, Nyeri, Nakuru, Meru, Kitale. The opposition is strongly represented in many councils in the "swing" areas, as well. Indeed, over 15 major municipal or town councils are controlled by the opposition as a result of the recent poll, although in some the numbers of KANU and opposition councilors is at par.

As a consequence, there are now Local Authorities which have had a breath of fresh air introduced via the electoral process. They are, however, in a precarious relationship with MLG. The Minister has the authority to appoint up to 33% of the number of elected members on any council. The present Minister has appointed statutorily his mandated numbers of pro-KANU nominees, although he did not totally reverse the results as much as he is legally authorized to do. There are some indications that the Government is doing what it can to de-stabilize at least the most symbolically important of these authorities (e.g., Nakuru). For USAID, the question is whether we can provide continued or additional technical assistance, to increase the competence and capacity of some of these councils, while waiting for a more productive resolution of the political environment.

Two or three areas in which technical assistance might be provided are outlined below, falling within the twin areas of management capacity and civic education, the necessary (but not sufficient) conditions for more viable and legitimate local government in Kenya. The sector as a whole is described in detail in the relevant Annex.

Proposals

1.) **Valuations.** A major problem for the municipal councils which rely on property rates for the bulk of their general revenue is the tremendous delay in valuation for rating. The cause is the institutional complexity and lack of priority put on this activity: the Commissioner of Lands, in the Ministry of Lands and Housing, is responsible for the valuations staff, not the Ministry of Local Government or Authorities themselves. Many proposals have been made deriving from a Bank study of the Local Govt. Finance sector, most of which involve institutional reforms unamenable to any type of USAID intervention.

One proposal, however, is to assist a few well-chosen municipalities to hire **private valuers**, get their roles up to date, and provide lessons on the experience (which has been tried once before in Kenya, by the Nakuru Municipal Council, with mixed results). Numerous Kenyans, including senior staff in the Commissioner of Lands' office, indicated that, although this is not perhaps an ideal solution from their point of view, they think it would be one way of breaking the logjam. Problems would be mainly in the area of the confidentiality of Lands Department re-

cords, to which access would have somehow to be granted. This is obviously not an insuperable problem if the procedure has been undertaken once, in Nakuru.

2.) **Public education on local authority financial bases, including rates.** From every side, the issue of lack of public knowledge about the local authorities was pinpointed as a critical constraint on their ability to collect what revenues they are owed. A first priority in increasing the financial viability of these councils is to improve the rate at which they collect present revenues. Major difficulties in collecting rates come from the objections of ratepayers about the valuations of their property. They do not understand the way in which valuations are set, the way in which rates are related to them, nor the typically **inverse relationship** between valuations and rates. They do not understand what the councils spend their money on, nor how much (or little) they collect.

Until there is much greater "transparency" with respect to the accounts of local authorities there is little chance of increasing the collection rates. The suggestion is made that a few councils be assisted to produce a concise explanation of their rates procedure, and perhaps one giving their basic balance sheet as well. While USAID's efforts have been considerable in terms of the planning capacity of local authorities, including both system design and training, the vital public relations effort -- another form of civic education -- has been neglected.

3.) **Privatisation Study Tour.** A third area in which much discussion but little forward movement has taken place in Kenya with respect to local authorities is privatisation. As the Annex describes in more detail, many authorities run a whole host of services and increasingly have ventured into "commercial activities" in a fairly frustrating attempt to stabilize their revenues. (See the Annex on the financial position of the authorities.) This is the opposite of the direction that USAID feels they should be taking, as they have neither the management skills and personnel nor the impartiality to run these profitably and without conflicts of interest with the private sector.

Some councils have expressed willingness to consider privatisation, but are concerned about the overall financial impact, the reason they got into these activities being strictly financial gain in the first place. A few examples of privatisation are underway in the region, notably in **Mpigi District in Uganda**, which recently privatised almost all of its main services (bus park, markets, etc.) and did so at what appear to be financially quite favorable terms to itself. Analysis of this experience over the next two years, culminating in one or more study tours to Mpigi on the part of the municipal (or rural) councils in Kenya who are interested in this, might be a productive USAID intervention involving minimal interaction with MLG itself and no

obvious "political" freight or agenda to draw the ire of the GOK/MLG.

Other Donors' Interest/Initiatives

While the Ford Foundation is eager to make grants in this area, it has made none so far because of the problems inherent in this area. The Friedrich Nauman Foundation is providing modest funding for the forthcoming Nairobi We Want Conference. The World Bank is also interested in supporting improved governance via support to local authorities, but has so far provided only limited support.

INSTITUTE FOR POLICY ANALYSIS AND RESEARCH (IPAR)

Objectives and Rationale

The University of Nairobi has in the past played a significant role in producing scholarship both directly and indirectly relevant to the formulation of public policy. The **Institute for Development Studies** at the university in particular has been commissioned to produce numerous studies over the years. Other Institutes have also produced work for the GOK, such as the Institute for African Studies (e.g., the socio-cultural profiles done for the Ministry of Economic Planning); Housing Research and Development Unit; Economics Department; etc. Individuals have acted as consultants in numerous research efforts supporting ministerial activities.

Sadly, the University of Nairobi is no longer in a position to play this role. It is presently fighting to maintain its staff and its credibility as a teaching institution, with an almost insupportable burden of students resulting from the decisions in the 1980s to quadruple the intake. While individual faculty members continue to provide consultancy services, it is no longer in the context of University departments and units; IDS no longer serves as a "think tank" and contributor to any national public policy debate, as it once did. The best and brightest of its research staff have left the university for greener pastures.

There is need for informed, high level public policy analysis and research. One of the attributes of viable civil societies is the availability of channels for the production, dissemination and absorption of "new knowledge" in the body politic. One of the main failings in fragile, unintegrated political systems is that they do not have such channels. The political debate quickly reaches stalemate; issues are fought in obsolete terms, and descend quickly to the level of personalities, zero-sum "winners and losers" battles. This is especially unfortunate in the era of global communications, CNN, and the

rest of the instantaneous communications media. There is no reason why the problems and solutions attempted elsewhere cannot be injected into Kenyan public discourse, breaking the stalemate and introducing new information in support of public policy formulation.

In the US, this role is played by numerous "think tanks", both private and public, as well as by the research institutions attached to our universities. Persons with special expertise in policy areas are invited to work on policy issues of interest to them, for varying lengths of time; there is thus a revolving group of special expertise, continually bringing in new ideas from the institutional networks in which they operate -- the universities, the professions, industry. The public policy discourse is kept continually moving this way. Senior individuals from these fields consider it both a privilege and a responsibility to participate in this discourse.

Kenya needs a high level forum for public policy debate to replace what the university used to provide. Kenya also needs to attract the best of its policy researchers to return home and make the contribution that they are presently making in the western countries and/or the international organizations. There is a small but growing collection of eminent personalities in Kenya, many of them continually moving between Kenyan institutions and the multilateral institutions. Their expertise is available in the public arena on an ad hoc basis if at all, and Kenya is losing a significant resource through lack of an organizational fulcrum to capture it. USAID could greatly assist the enhancement of the quality of public policy formulation by assisting in the establishment of such a forum.

Proposals

USAID should contribute to the funding of an **Institute of Policy Analysis and Research**, to which the African Capacity Building Foundation/World Bank is committed in a major way, and to which both the FORD and Rockefeller Foundations are also committed. The Institute will be comprised of senior academic and administrative persons of international stature. It will be small to begin with and will provide scope for the development of research capacity on the part of a few "junior fellows", in addition to bringing to bear the expertise of acknowledged experts in their fields. It will provide an analytic capacity that can be drawn on by Government, by industry, by the university itself, as well as by the international/donor community.

Plans for the Institute are fairly far along. They are described in greater detail in the relevant Annex. The initial funding will be directed toward the establishment of the facility itself, staffing, setting up of offices, and the initial working meetings and workshops to set a near- and medium-term agenda.

Other Donors' Interest/Initiatives

The African Capacity Building Foundation supported by the World Bank is tentatively committed to an initial (two year) grant to IPAR in the amount of \$400,000 to \$500,000. It is also anticipated that both the Ford and Rockefeller Foundations would provide initial grants of \$150,000 to \$250,000 each. Were USAID to support IPAR, it should probably be in the range of \$500,000 to \$600,000 during phase one of the DG project. Despite the receipt of a draft proposal (see Annex), no donor is likely (or should) fund IPAR until the principals state clearly who is to serve as the first director or interim director of the institute.

HUMAN RIGHTS

Objectives and Rationale

Kenya has had a fairly negative international reputation in respect of human rights in recent years. Political detention without trial, and convictions for sedition on very flimsy grounds in the aftermath of the 1982 coup attempt, sensitized the international community to growing abuses of individual rights. During the 1980s a crescendo of voices were raised on the basis of alarming reports about police brutality, prison conditions, frank torture. Initially fairly dubiously regarded, these claims have been attested to and confirmed too often and strongly, from too many different and unrelated sources, to remain in doubt any longer. There has been a serious erosion of the protection of individual and human rights in Kenya, and there are a growing array of organizations attempting to redress this situation.

There are both long-term and recent issues of concern in the human rights area. **Police brutality and prison conditions** are the longest-standing issues. An organization formed recently, of ex-political detainees, has undertaken the job of educating the public on prison conditions and the need for reform. They are still in their formative stage, and may eventually seek assistance from the donor community. They have held two workshops in the last few months, with both organizational and advocacy objectives.

Repressive laws, in the form of the "preventive detention" section of the Preservation of Public Security Act, and the colonially-inspired Chiefs' Act, are also long-standing issues which have attracted a considerable constituency. The Law Society of Kenya and other professional bodies have come out in opposition to these and maintain some public pressure for their repeal, which has thus far fallen on deaf ears.

A recent attempt by the opposition parties in Kenya's National Assembly to repeal the section of the Preservation of Public Security Act dealing with preventive detention --

actually, they attempted to have its enforcement suspended unless Kenya was in a state of actual national emergency, in which case it would automatically come back into force -- failed. The opposition was able to muster only 59 votes (out of what should be a maximum of 85), while KANU enforced party discipline (although this is an issue on which there are many KANU backbenchers who would like to vote with the opposition) and rejected the motion with over 90 votes. This is nevertheless an issue on which both political elites and the electorate generally are keenly focused, and where probably an overwhelming majority are in favor of repeal. The Attorney General has indicated that the issue should be treated within the context of an overall review of the laws and a comprehensive reform bill; whether this translates into practice remains to be seen. The US role should be one of continued high level advocacy on this issue, for repeal of the legislation.

Violence and the effects of the "land clashes" or "tribal clashes" which occurred in 1992, felt to be a regime-initiated response to the imposition of "multi-parties" by the concerted political and economic pressure of the international community, are the most recent of the "human rights" issues. Very disturbing events in 1992 resulted in the deaths of several hundred persons and the displacement of tens of thousands (Government figures are clearly understated, by the accounts of numerous "disinterested" independent parties in the affected areas). Government has theoretically established a program for "compensation" to the victims of the "land clashes" (so called because they are essentially efforts by some communities considered indigenous in the Rift Valley to expel the members of immigrant communities which have established significant settlements in these areas). Reports in the national press indicate that such compensation is not forthcoming, that large encampments of the dispossessed now ring the regional towns closest to the clash areas, and that these clashes continue in a systematic and clearly orchestrated manner.

Victims of the clashes -- Kenya's internal refugees -- have lost all of their possessions and are in the process of being dispossessed from the land they acquired after independence and in the early 1970s. There are systematic efforts to alter the land records to deny their claims to the land, should they attempt to return; records have been altered, boundaries revised for plots, and "new" settlers from the indigenous Rift communities assisted to pay off loans and claim the titles. There is a considerable amount of pro bono legal assistance being provided to the clash victims, but it is not sufficient to cope with the volume of demand/need.

Freedom of the press is another current human rights issue and has been treated extensively in the section on the press, above, as well as in the relevant Annex. Here, it need only be

mentioned that the strategy that the "anti-democratic" tendency seems to be following is basically to overwhelm the press, particularly the advocacy press, with litigation (sedition and libel charges) and the ensuing costs of legal defense, which is as effective a method of destroying the press as the more primitive method employed recently, of seizing press runs, plates, and pieces of the press itself in the most dramatic case.

Social dislocation and human welfare. Less dramatic than the "land clashes" but of potentially more long-term significance (and likely even in the short term to result in some fairly unpleasant "urban clashes") is the growing problem of social dislocation. The explosion of the phenomenon of street children has been measurable on a week-by-week basis. Hundreds -- perhaps over a thousand -- children are now living essentially homeless and uncared for on the streets of Nairobi. (A press report in the past week estimated their number at 500,000 nationwide, a figure which seems incredibly high.) Originally seen in twos and threes, they are now found in packs of 6-8.

It cannot be long before they carry weapons and engage in more sinister activities than the increasingly peremptory supplications for money and the purchase and intoxication with glue. It also cannot be long before the Government -- having no mechanisms in place to deal with this problem productively, and with the traditional social welfare organizations overwhelmed -- cracks down on them, sweeping them up and out of the city. It cannot be long before there is an international outcry over this issue, just as there has been on squatter demolition, police brutality and prison conditions. This is a human rights issue in the making. Many of these children are orphans from AIDS victims; others are runaways and children of social failures (alcoholics, prostitutes and the like, who do not care for them), but in all cases they symbolize the frighteningly rapid disintegration of the urban social fabric. While the social welfare aspects of this problem are appropriately handled through the traditional welfare-oriented NGOs, the urban visibility of the problem and the likely state response to it will have inevitable governance implications.

Two or three possible interventions in the human rights area have been identified.

1.) Human Rights Monthly Journal. A Kenyan Human Rights Commission has been established. Its main objective is advocacy on issues of human rights rather than merely defensive/protective activity, i.e., legal defense of persons, which is undertaken by a variety of other organizations (including the Law Society of Kenya) and individuals. The Kenya Human Rights Commission is interested in publishing a monthly periodical on issues of human rights and democracy. It is intended to provide a forum for the publication of serious, in-depth analyses of Kenya's current

problems, constraints and possible solutions in respect of human rights and democratisation.

This is viewed by its proposers as a teaching/mobilising device -- another form of civic education -- for the legal and related community, which has a critical role to play in democratisation, including possibly "action alerts" and related mechanisms used by Amnesty International and the "advocacy" human rights community worldwide.

USAID could assist this effort, which has already secured possible funding for about half of its first year's expenses. It is a separate audience from that targeted in our proposal on the press, but in many ways a key one -- a catalyst for larger mobilisation in human rights.

2.) Homeless persons. The City of Nairobi is in a fairly advanced state of preparation for a conference to be held in July on "The Nairobi We Want", funded by the Friedrich Naumann Foundation. The topic of the street children/ homeless community will no doubt feature in the discussions. USAID could explore, in the aftermath of the conference and depending on the directions it begins to chart on this issue, the possibility of providing some assistance based on experience with the problems of homelessness in our own urban landscapes. While the shelter issues would more appropriately be handled under the aegis of the Urban and Infrastructure Division, the legal rights and protection of these persons is essentially a "democracy" issue, and one with complications deriving from the fact that these are children, many of them orphans. The city might be receptive even where no GOK lead institution can be easily identified. (This would, of course, involve some negotiation with the Ministry of Local Government.)

Persons with expertise from the US could be brought to Nairobi to assess the situation and make recommendations. Some exploration of the Latin American experience should be pursued, as this is the situation Nairobi is most beginning to resemble. The Human Rights Commission or the Law Society of Kenya would be potentially interested partners in such an effort.

Other Donors' Interests/Initiatives

The Ford Foundation supports the most developed and sophisticated program in this area which labels "Law and Social Justice." Foundation support for its program in Kenya runs in the neighborhood of \$300,000. The Foundation also employs an excellent full-time program officer to develop and administer its grants in this area where Ford is clearly the leader. Canada, Denmark, Sweden, the Netherlands and the Friedrich Ebert Foundation also make small grants in this area.

Given the expertise of the Ford Foundation in the field of human rights, as well as the absorptive capacity of groups seeking assistance in this area, the USAID mission to Kenya should probably defer to the Ford Foundation in this area. Put differently, because the Foundation has a comparative advantage over other donors in this area, and because the Foundation is clearly less inclined to provide support to the GOK, the press and other initiatives of a more overt political content, USAID should limit its program in human rights to selected targets of opportunity similar to the support which has heretofore been provided under the 116e program.

JUDICIARY

Objectives and Rationale

Kenya's judiciary has been the target of mounting criticism during the 1980s, when its independence was greatly interfered with. The activities of a few justices in hearing and deciding sedition cases on the basis of forced confessions was the low point. In other cases there has been clear interference by the Government with decisions. The security of tenure of High Court judges was removed in the mid-80s, one of the acts which caused a major reaction both domestically and internationally.

The situation has begun to improve. The unacceptable provision removing security of tenure was reversed in 1990. A new Chief Justice of the High Court has been named, replacing one widely seen in the legal community as fatally compromised in terms of his relationships with Government and his consequent lack of impartiality. A few justices have begun to make decisions which indicate a growing independence of spirit and confidence in their ability to maintain this independence without victimisation, especially in the Appeals Court. Whether this encouraging trend will continue remains to be seen.

The court system nevertheless is constrained and its performance diminished by a number of critical gaps. **One is the lack of court stenographic capacity.** Everything is done manually, including the writing down of what every defendant and witness says by the justices themselves, by hand, which drags the proceedings out interminably and leads to all manner of error. Assistance with equipment and training of personnel to record court proceedings would be of great value in enhancing the capacity of the court system.

A second area is that of the **training of magistrates** -- generally GOK officers in rural areas with administrative portfolios, mandated to hear civil cases. These may be graduates with political science or legal training, but they generally have

no specific training in the law, court procedure, the permissible and impermissible methods of acquiring and presenting evidence, etc. This area is one in which the US is not particularly well positioned to provide assistance; the UK would be more appropriate, or others of the Commonwealth countries with basic English court traditions.

Proposals

1.) An assessment of the needs and costs of providing stenographic and other recording equipment to the court system be undertaken. There are several US-based legal organizations which have on occasion visited and observed the Kenyan courts, some of them with a "watching brief" with respect to the sedition and preventive detention cases of recent years. These could supply background information on the possibilities and constraints, to supplement what the Kenyan justices and court staff supply. An assessment could be mounted almost immediately, and could lead to the provision of such equipment to one or two critical courts (e.g., the High Court or Appeals Court, if it is the case that these are without them) during the first phase of the project, with lessons learned and a targeting of what portion of the rest of the court system could be assisted remaining for the second phase of the project.

Other Donors' Interest/Initiatives

No other donor, with the possible exception of the Ford Foundation, is contemplating assistance at this time.

WOMEN IN POLITICS

Objectives and Rationale

The issue of gender and governance is put last in this list not because it is seen as less important than other areas but because it cuts across all of the others. The empowerment of women is a basic cornerstone of AID's efforts globally. Assessment of the condition of women and the way in which any project assistance will affect them is now standard operating procedure.

Women in Kenya have traditionally played a subordinate role in almost all areas related to "governance". They are voters, but our information on their voting patterns and preferences is almost non-existent. They have been represented in the political sphere by one or two exceptional individuals at each stage of Kenya's recent political past -- Grace Onyango, Margaret Kenyatta, Grace Ogot, as well as Julia Ojiambo, Phoebe Asiyi (a member of the present Assembly who has served in it previously), Agnes Ndeti, Nyiva Mwendwa, and perhaps a handful of others.

The GOK is conflicted about the role and "rights" of women in what we are calling the "governance" sphere. It insists that women are treated equally in all public sector activities and institutions, despite major evidence to the contrary. Just prior to the 1992 election, Pres. Moi announced that married women civil servants would now -- finally -- receive housing allowance, to which they have not been entitled in the past (the husband was responsible for their housing). Surveys of salary levels indicate that women by and large receive less in the way of wages and salaries than men, except at the very senior levels where equality may obtain.

More important for the bulk of Kenyan women are the twin issues of property rights and child support. These issues have been debated in Kenya for years, and bills tabled in Parliament to redress what is a palpably discriminatory legal environment in both areas. The bills are uniformly rejected, generally with a great deal of derisory comment, some of it bordering on the hysterical, by male Members of Parliament anxious to make a splash in the newspapers at the expense of women, whose votes they obviously do not take seriously.

Despite this, there have been signals that the President recognizes the value that capable women have for increasing "transparency". In 1986, for example, he appointed a whole raft of women to the directorships of statutory organizations and parastatals, in an effort to "clean them up". The levels of corruption had reached epic proportions, and it was suggested that only resorting to a new group of managers would produce a real redress of the situation. Accordingly, about 20 women of prominence in various fields -- many of them unrelated to the corporations they were appointed to, and without specific managerial or administrative backgrounds -- were selected to head state corporations. The experiment was never evaluated. Many of these were likely to have been unhappy experiences, as no other support was provided to empower these individuals to accomplish the job effectively, and many of the women selected were not particularly versed in the running of major corporations.

Traditional Women's Organizations. The traditional approach to improving the lot of women in Kenya has been through such organizations as Maendeleo ya Wanawake, a Swahili name for "Development of Women", and the Women's Bureau in the Ministry of Culture and Social Services. These have not proved to have any significant impact in improving the status or the lot of women.

More recent efforts have involved the creation of the **Committee on the Status of Women**, and the **National Council of Women of Kenya**. These have taken a more explicitly political view of the long-term strategy for empowering women. Both organizations participated in the 1992 elections in the role of supporters of women candidates and monitors of the elections

process as pertaining to these candidates. Another organization, FIDA (the international association of women lawyers, Kenya chapter), participated centrally in mounting and staffing the domestic observer effort in the elections.

Present Conditions and Strategies. The women's movement in Kenya is presently going through major teething problems. Valuable lessons have been learned from the failure of previous approaches to address the real problems of rural women; and the failure of the "elite"-oriented organizations to reach these women and involve them. There is fairly broad recognition that this is essential; there is disagreement over the organizational methods for doing it. As in other African countries, FIDA is providing legal services to individual women, especially in areas where important cases and precedents will be set. However, this is only one of the three legs of what the assessment team sees as the necessary basis for advancement of women in governance in Kenya.

The other two legs of the effort involve the assessment of women's participation and outcomes in the political arena per se. One is the national political scene, in which 19 women ran as candidates for the National Assembly, with 6 being elected (a small number, but an increase from the previous position). The other is the potential for and constraints on women's participation in civic elections, i.e. at the local government level. These two issues are actually directly related.

The empowerment of women cannot depend ultimately on the good will of male legislators. Women have to find a voice within the national political institutions. They have done so with increasing effectiveness on the bench in Kenya; Parliament is the next stronghold, but one which will not be easy for them to breach.

Women face an uphill battle of many sorts in breaking into national political arenas. Some have successfully done so, and performed very creditably, as illustrated above. However, most women with interests in public service/politics need to learn the basics -- how to identify issues and communities which can widen their "automatic" support base, how to appeal to men as well as women, how to hold their own in public fora, how to compromise, how to manage and prioritize. These skills have in the past been learned by Kenyan male politicians, to some degree -- and much more so by both men and women in the western democracies -- through the tutelary period of participation at the local level, in local governments. Assessing the present status of, needs of, and trends in female participation at this lower level tier is, in the view of the assessment team, critical to charting a serious long-term effort in support of women in politics/governance.

Proposals

1.) USAID should fund a serious assessment of the fate of women candidates in the 1992, as proposed by NEMU (discussed above, under the section on elections monitoring). NEMU's ability to do this and to learn from the process of survey design and analysis is as important as the results that it produces, if NEMU is to have a long-term analytic capacity that can guide real monitoring and "watchdog" activities.

2.) USAID should fund a separate but related assessment of the incidence, condition, problems, opportunities and needs of women in politics at the local level -- i.e., women elected in the 1992 civic elections, and those who have been councilors in the recent past. The assessment should be carried out through the WID program in the Mission/REDSO, involving both US and Kenyan women with expertise on gender and politics. The objective would be to determine the degree of awareness of women about the importance and opportunities of local level governance institutions; the constraints they face in participating in local politics; basic strategies for increasing both awareness and commitment. As the universe of present female representation at the local level is discerned, methods for increasing the skills of women councilors (both political and managerial) might form the basis of the second phase of this governance program.

Other Donors' Interest/Initiatives

Both USAID and the Ford Foundation already support programs in women in development. Neither has funded programs specifically concerned with the involvement of women in politics, except for small grants to the National Council of Women and the League of Women Voters.

V. SUMMARY

The conclusion the assessment team reached is that the top priority areas for immediate intervention in a democracy and governance program are as follows.

1. **Support for press freedom.** This is a fundamental cornerstone for any and all other efforts at democratisation. Without the maintenance of press freedom, the ability of the donor community to make progress in the areas of governance and democratisation will be severely curtailed. The proposals made in this area include both support for the creation of a **media trust**, and an effort at supplying **non-traditional "civic education"** through the mechanism of creative press supplements, as described in Annex A.

2. **Support for Parliament.** The advent of pluralistic politics in Kenya in 1992 affords an opportunity to regain the

vitality of the early post-Independence Parliament. It further represents an opportunity to recast Parliament as a "watchdog" institution, one of the pillars of "countervailing power" that the team feels is essential to sustainable democratisation. A number of proposals have been made, beginning with a study tour to state legislatures in the US (which might be repeated if the Speaker and members of the Assembly express interest); a set of seminars on both structural adjustment and GOK financial procedures, without which the new MPs will be unable to effectively guard the public purse; support for a greatly improved library/documentalist capacity, which might in the long term become a research unit; and some material assistance with the Assembly's sound system, desk-top publishing capacity for the Hansard, and perhaps other modest modernisation of the facilities.

3. Institute for Policy Analysis and Research. A policy research institute is proposed, which can bring Kenyan expertise of international stature to bear on the issues confronting the country as it goes through the painful processes of economic adjustment and political democratisation. IPAR is a project with support from several donors and is in the final stages of development.

4. Elections Monitoring/Civic Education. The organization responsible for the domestic observation of the 1992 elections has proposed a plan to consolidate its lessons learned and increase its capacity to serve, not just as an elections monitoring unit but also as a body that can provide civic education. Support for a NEMU Secretariat, which could continue the process begun in late 1992 should be a high priority; other donors may be interested to assist with this.

5. NGO/Human Rights. Support for a FIDA Secretariat should also be considered. FIDA has, along with ICJ, been doing a great deal of legal assistance for poor women, as well as in defense of some of the victims of the land clashes. FIDA should be assisted to establish a Secretariat which will facilitate it in expanding the scope of its activities, reaching a more rural clientele.

The assessment team stresses that this prioritisation is not meant to "select out" the other activities discussed above, but merely to target those which the team feels could be mounted most quickly and successfully in the immediate future, if funding can be secured before the end of FY 93. The other activities are of equal significance in the democratisation and governance effort.

IV. Other Donors Interests and On-going Efforts in Governance

The interests of other donors in these areas of democratic governance have been highlighted where relevant in the specific

topics discussed. An overall summary of these may give a more comprehensive picture of the state of the activity.

CANADA

Canada has been an active partner in donor efforts to promote DG initiatives in Kenya and the region. The director of CIDA currently chairs the informal Donor Democracy and Governance Group. Canada has also established a \$CAN 25 million fund to support DG programs in East Africa and the Horn over the next five years. In other words, a program of roughly \$US 800,000 to \$1,000,000 for Kenya.

Despite its ambitious plans, Canada is only beginning the exercise and presently has no in-house expertise to design and implement DG programs. It therefore intends to hire a resident regional DG advisor similar to that at USAID/REDSO. In the interim, CIDA will provide modest funding to the following activities and groups: (1) Parliament, especially collaborating on study tours with the United States. (2) Continued support for the National Elections Monitoring Unit (NEMU). (3) Support for the establishment of a media trust to facilitate the survival of the advocacy press

DENMARK

Together with Sweden, the Danes are becoming active financial supporters of DG interventions in the range of roughly \$400,000 to \$500,000 per year. Although DANIDA has assigned one of its principal development officers to track DG, they do not have an in-house DG advisor. DANIDA was an active supporter of NEMU, and will continue to support its development. DANIDA is also very likely to provide substantial support to the establishment of a media trust as it has already been providing technical assistance to train journalists.

FORD FOUNDATION

As noted above, the Ford Foundation maintains active programs in support of human rights and social justice, and in support of NGOs and governance. The Foundation would also like to provide assistance to parliament.

FRIEDRICH NAUMANN FOUNDATION

The Friedrich Naumann Foundation runs what might best be described as a small "guerilla" grant program which has resulted in the Foundation being associated with one of the principal opposition parties, Ford-K. Current interests of the Foundation are to indirectly support the opposition parties through the

establishment of a small independent research office. The Foundation is also interested in supporting the opposition via support to selected local government authorities, and is thus providing modest support of the "Nairobi We Want" conference to be held in July.

FRIEDRICH EBERT FOUNDATION

The FES contemplates a DG program at a level of roughly \$150,000. for the forthcoming year. Areas of particular interest are the funding of workshops for new Members of Parliament, and support for a free press. The FES also provides some support to local labor organizations.

NETHERLANDS

The Netherlands is principally interested in the areas of civic education and human rights and is in the process of identifying efforts it can support.

SWEDEN

Sweden has become an increasingly active player in support of DG activities, and is presently seeking to establish an International Electoral Institute Commission as a European alternative to the NGO activities supported by the African Regional Election Assistance Fund. At the mission level, however, the Swedes have no expertise of their own, and tend to co-fund programs identified and funded by other donors. As a result, the SIDA mission to Kenya has no specific programs that it is intending to fund in the near future, although it is most likely that it would co-fund the establishment of a Media Trust.

UNITED KINGDOM

Other than sending out members of its diplomatic staff to monitor forthcoming by-elections, UK efforts in the aftermath of the elections will remain very modest, and will most likely be mounted solely by the British Council. The Council's FY93 budget for its program for "open and accountable government, parliament, and legal reform" will be in the range of \$40,000 to \$70,000. In addition, the Council may receive supplemental funding from the British High Commission and ODA

Present thinking at the Council is to focus its attention to the strengthening of parliament, by providing training assistance to the clerks of the National Assembly, and/or mounting one or two study tours to Britain. Echoing a recent inquiry from the High Commission, the Council would like to mount such tours on a

collaborative basis with the US. For example, on a collaborative tour, a group of MPs traveling to the US would stop in London for four to five days exposure to parliament and the Council would pay for this portion of the trip, plus a contribution towards the air fare.