MOBILIZING LOCAL REVENUE CAPACITIES OF AFRICAN CITIES: JOHANNESBURG AND NAIROBI

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A thesis submitted to the Faculty of Commerce, Law and Management at the University of the Witwatersrand, Johannesburg in fulfilment of the requirements for the degree of Doctor of Philosophy.

Supervisor: Professor Mohammed Jahed

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DECLARATION

I declare that the Thesis

Mobilizing Local Revenue Capacities of African Cities: **Johannesburg and Nairobi**

hereby submitted to the University of the Witwatersrand for the degree of Doctor of Philosophy has not previously been submitted by me for a degree at this or any other university, that it is my own work, and that all material contained has been duly acknowledged.

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Signed
Angelita Kuasa Kithatu-Kiwekete
September 2015

DEDICATION

To my Lord God YAHWEH, who makes my feet like hind feet and lifts me to my high places;

Joyce Mwikali Kithatu my beloved mother;

the late Benjamin Kithatu and the late Geoffrey Matthews Kakuli, who set the education precedent and the footprints that I follow;

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ABSTRACT

Public finance literature has minimally engaged the fiscal autonomy of African local governments, and cities in particular. African cities should independently generate a significant portion of revenue locally in order to finance a varied range of municipal services to a diverse municipal population. This study aims to provide insight through the contextual analysis of the revenue assignment function of African cities. The study explores fiscal discretion and appropriation as a reflection of local fiscal autonomy and how these manifest in local revenue instruments. The study employs an illustrative case study methodology on Nairobi and Johannesburg by means of an examination of local revenue generation particularly water revenue and municipal borrowing to examine the contrasting experience of local fiscal autonomy of these two cities.

The legal and institutional frameworks of these cities provide for an array of OSR. Previously, local revenue tools did not address the financing needs for municipal services of infrastructure required to cater for the growing and diverse municipal populations. A national process of local government restructuring compelled the cities to realign local structures to enhance revenue mobilization in order to address the challenge of municipal service delivery. The regulatory environment was also amended to effect intergovernmental transfer arrangements as well as particular local revenue instruments in each case.

In Nairobi, the structural and legal changes have effectively entrenched the centralist nature of the Kenyan government, severely limiting the city's autonomy with regard to water revenue. The city's fiscal capacity for municipal borrowing has been left largely unchanged by Kenyan local government reform. In Johannesburg, the democratic dispensation has enforced local fiscal autonomy that was evident in the apartheid white local authorities. The mammoth task of centrally managing all the city revenues has brought to the fore administrative challenges particularly regarding water revenue; however, the city's fiscal capacity has improved its state of municipal borrowing. These findings confirm the decentralization rationale. Fiscal decentralization is thus important for asserting the function of revenue assignment to enhance local fiscal autonomy. The two case cities show that local capacity and the historical role of central government are important in ascribing and manifesting this function.

Key words: revenue assignment, local fiscal autonomy, cities, water revenue, municipal borrowing, revenue autonomy

PUBLICATIONS AND CONFERENCE PRESENTATIONS ARISING FROM THE STUDY

Kithatu-Kiwekete AK (2013), Local Fiscal Autonomy with an Emphasis on the Water and Sanitation Sector, paper presented at the Commonwealth Local Government Forum Research Colloquium, 13-14 May 2013, Kampala.

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LIST OF ABBREVIATIONS

ALGA-K	Association of Local Authorities – Kenya
ANC	African National Congress
ASGISA	Accelerated Shared Growth Initiative of South Africa
BLA	Black Local Authorities
CiLOR	Contribution in Lieu of Rates
CWRSC	Central Witwatersrand Regional Services Council
DBSA	Development Bank for Southern Africa
DFRD	District Focus for Rural Development
DP	Democratic Party – Kenya
EPWP	Expanded Public Works Programme
FSB	Financial Services Board
GAAP	Generally Accepted Accounting Principles
GAMAP	Generally Accepted Municipal Accounting Practice
GDP	Gross Domestic Product
GEAR	Growth Employment and Redistribution
IAS	International Accounting Standards
IDA	International Development Association
IGT	Intergovernmental Transfers
IMF	International Monetary Fund
IMFO	Institute of Municipal Finance Officers
IPSAS	International Public Sector Accounting Standards
JIPSA	Joint Initiative on Priority Skills Acquisition
JOWAM	Johannesburg Water Management
KANU	Kenya African National Union
KLGRP	Kenya Local Government Reform Programme
LAIFOMS	Local Authorities Integrated Financial Operations Management System
LASDAP	Local Authority Service Delivery Action Plan
LATF	Local Authority Transfer Fund
MFMA	Municipal Finance Management Act – South Africa
NARC	National Rainbow Coalition
NCWSC	Nairobi City Water and Sewerage Company
OSR	Own source revenues
RDP	Reconstruction and Development Programme
RRI	Rapid Results Initiative
RSC	Regional Services Council
SBP	Single Business Permit
SOWETO	South Western Townships
UAC	Utilities, Agencies and Corporatised Entities
UAW	Unaccounted for Water
WASREB	Water Services Regulatory Board
WLA	White Local Authorities
WRMA	Water Resource Management Authority

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CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE RESEARCH

A key issue that has been raised in public finance literature is how much revenue local government should be allowed to generate independently. The elements of a holistic fiscal decentralization programme require the national legal and structural processes to assure that local government accesses revenue independently as well as through designated channels from central government (Bahl & Martinez-Vazquez, 2006; Smoke 2001). While the need for intergovernmental transfers is acknowledged in the local revenue function, emphasis on local fiscal autonomy is reiterated to enhance local capacity to generate revenue (Bird, 2000; Oates 1999; Rosen, 2005). The proximity between local expenditure and revenue enables sub-national government to have a better handle on generating revenue that is directly connected with municipal expenditure needs (Bahl, 1999a; Denters & Lawrence, 2005; Slack, 2002).

Internationally, most of the evidence on the revenue assignment aspect of fiscal decentralization is located in the realm of developed countries (Bahl, Martinez-Vazquez & Wallace, 2002; Dollery, Garcia & Le Sarge, 2008; King, 1993; Laubach, 2005; Oates, 2012). These studies examine the use of hard budget constraints to improve local fiscal discipline. In addition, the authors also reflect on how alternative revenue tools streamline local efficiency in the revenue assignment function within the context of an established regulatory framework and an economic base that provides the municipal tax base for local authorities. More recently, alternatives to improve the urban fiscal stress of these economies are proposed by Dethier (2013). Conversely, much of the published literature on revenue assignment in African local government examines local revenue which does not constitute trading services or the financing tools for capital expenditure. An example is the frequent investigation of property taxes in the context of the respective country. Another example is the use of business taxes as a local source of revenue, for instance, the Single Business Permit experience in Kenya; the Regional Services Levy in South Africa; and market licensing in Ghana (Asibuo, 1998; Bahl & Solomon, 2003; Devas & Kelly, 2001; Fjeldstad & Semoboja, 2000; Franczen & Olima, 2003; Kelly, 2000).

Smoke, Bahl, Reschovsky, Shroeder, Solomon, & Vos (2003) find that restructuring in South Africa's sub-national government affects local finance. These authors suggest that additional research to unpack the intricacies of reform initiatives in developing countries that "determines the impact of reform" on local revenue as well as "recognise more explicitly the political nature of decentralization" (Smoke et al.:2003: 278, 280).

Bahl & Linn (1992) examine the fiscal, administrative, and political considerations that are involved in costing the supply of water services, property taxes, and intergovernmental transfers in urban cities of selected developing countries to make the case for fiscal decentralization. Cowden (1968) reflects on the fiscal autonomy of white local authorities (WLA) in South Africa and the manner in which the regulatory framework enhances the interplay of local fiscal discretion and appropriation in generating local revenue. These two studies point to the importance of local fiscal autonomy in urban authorities.

This study drew on the experience of water revenues and the underlying implications for municipal borrowing to reflect on the peculiar presence of local fiscal autonomy in African cities. Whereas water revenues are an important revenue source for African local government, the underlying importance of this instrument lies in how trading services with the resultant revenues affect the borrowing powers of local authorities and how urban authorities may appropriate revenues for other services as well as for the equitable distribution of municipal services. Therefore, this thesis aimed to enhance our understanding of how country contexts, particularly in Africa, manifest local fiscal autonomy in light of local government restructuring and evolving legal framework.

1.2 AFRICAN CITIES AND THE NEED FOR LOCAL REVENUE

> *Urban authorities are faced with particularly difficult financial problems because the standard of services required by large and ever increasing populations living in overcrowded and unhygienic conditions is much higher than in rural areas and the range of services needed may also be greater. In particular the present sources of revenue available to local authorities are not sufficient to provide such a level of services.*
>
> (Nuhu, 1972: 252)

The statement made above on the state of Nigerian local government in the 1970s reflects the contemporary concerns of African cities. The upward trend of the urban population in African cities is unprecedented in the continent's history (UNHabitat, 2014: 17; UNHabitat, 2008: 4). The population and the number of Africa's large cities increased more than thirty times in the period between 1950 and 2005, for instance, in two cities, Lagos and Cairo, each with a population of over one million residents at the time, to over forty African cities with a combined urban population of over 110 million residents. In 2011, 52 African cities had populations of over one million inhabitants (UNHabitat, 2014: 23; UNHabitat, 2008: 26). The spurt in the number of urban residents in African cities is attributed to various factors which include demographic trends and government policies, as well as changes in the status of local governments.

The escalating demographic gradient is an important contributor to the continuous increase in African urban populations as illustrated by the natural population growth (UNHabitat, 2014: 17). Africa's urban population may also be positively influenced by the concentration in urban areas of national economic policies that promote investments and economic opportunities in these cities. The phenomenon of urban primacy has also caused several African capital cities to become the foci for economic and political investment; examples include Dakar, Senegal's capital and Kampala, Uganda's capital (UNHabitat, 2009*a*: 26-29). Furthermore, the reclassification of cities, particularly those in Africa, has increased the number of cities and as a result, increased the continent's urban population (UNHabitat, 2009*a*: 36).

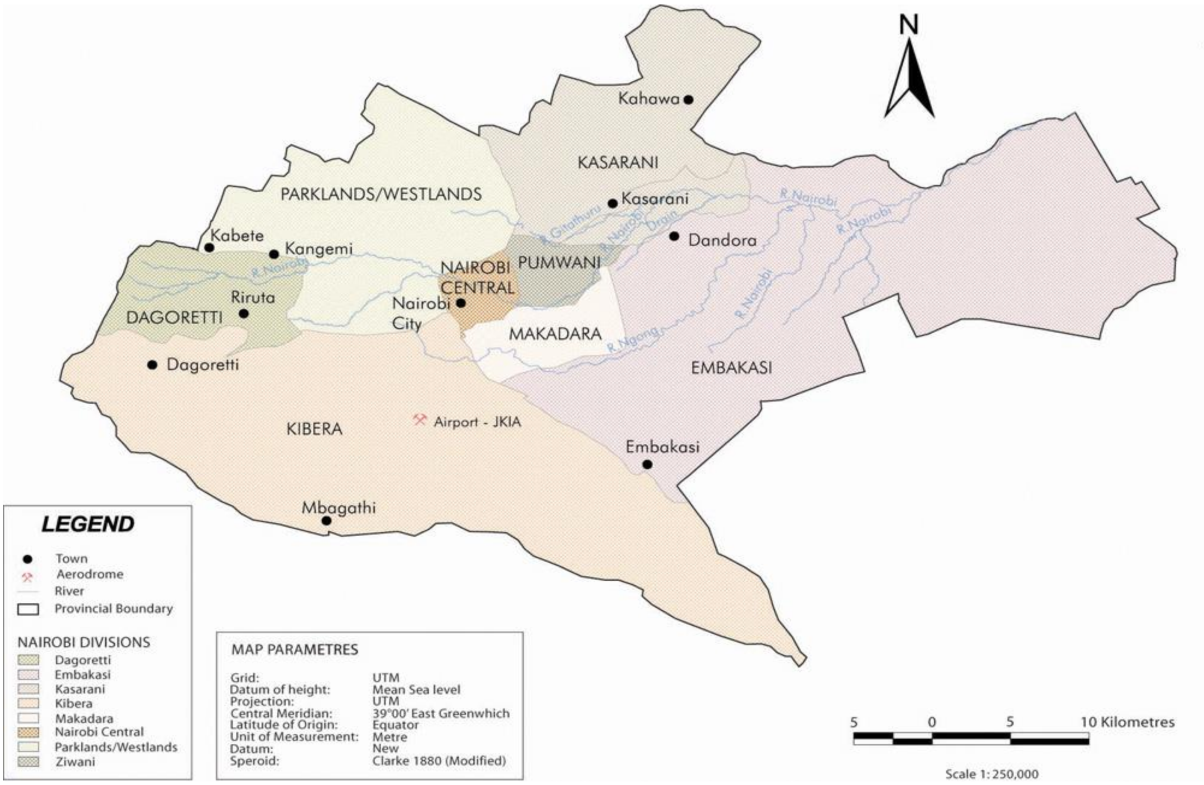
The growing number of urban residents remains an important resource for the economic development of Africa's cities; additionally the subsequent increased economic activity positively influences the gross domestic product of the cities' respective countries. Cities that have been able to benefit from strategic economic positioning and have become important economic contributors in their respective countries include Nairobi and Johannesburg. Conversely, these two cities, like most cities in developing countries facing rapid urbanization, also have to contend with the critical issues of urban inequalities that are evident in the concentrated areas of slums and informal settlements in these cities (UNHabitat, 2009*a*: 97, 119).

The provision of critical municipal services to these marginalized areas remains rudimentary and thus continually requires redistributive alternatives with financing consequences. Municipal revenue mobilization must take into cognizance the affordability of critical municipal services to certain sectors of the municipal population that require access and utilization of the said utilities. Furthermore, the basic level of municipal services offered by cities must align with prescribed national and international standards to ensure equity and the realisation of individual human rights (CoJ, 2006a: 12-12; Heyns, 1995; NCWSC/AWSB, 2009; UNHabitat, 2014: 19).

These are some of the issues that exacerbate the revenue challenges facing African local governments. Particular African cities, however, operate within a regulatory framework in which specific municipal services are considered to be trading services and in which the cities also have access to finance development capital (UNHabitat, 2009b; Cowden, 1968). These cities report that they are thus able to generate significant local revenue to finance municipal expenditure (NCC, 2010; CoJ, 2011). It is in the context of the respective country legislative framework that both cities are considered to be at the forefront of local fiscal evolution. Cognizance of the unique challenges associated with local fiscal autonomy has yet to be revealed across comparably sized African cities. The following section portrays the fiscal architecture of Nairobi and Johannesburg to highlight their vast financing need that is intended for municipal services.

1.2.1 The City of Nairobi

Figure 1.1: Nairobi County



Source: UNEP[1]

Nairobi is over 100 years old and has a colonial history. The city was chosen as a site to serve as a suitable stop between Mombasa and Kisumu during the construction of the Kenyan Railway during the late nineteenth century. The city developed along racial lines and the former European areas became the more affluent resourced areas in terms of municipal service provision while the African areas remained densely populated and under-resourced (Obudho, 1997; Nangulu-Ayuku, 2000). Rural and international migration to Nairobi has rapidly increased the city's population, estimated in 2009 to be 3.12 million residents, that is, made up of 985,016 households (KNBS, 2010). The downside of rapid urbanization in an African city such as Nairobi is the growing prevalence of slums and poverty in the under-resourced regions of the city where access to municipal services such as water and sewerage services remains rudimentary (NCWSC/AWSB 2009; UN Habitat, 2009b: 119).

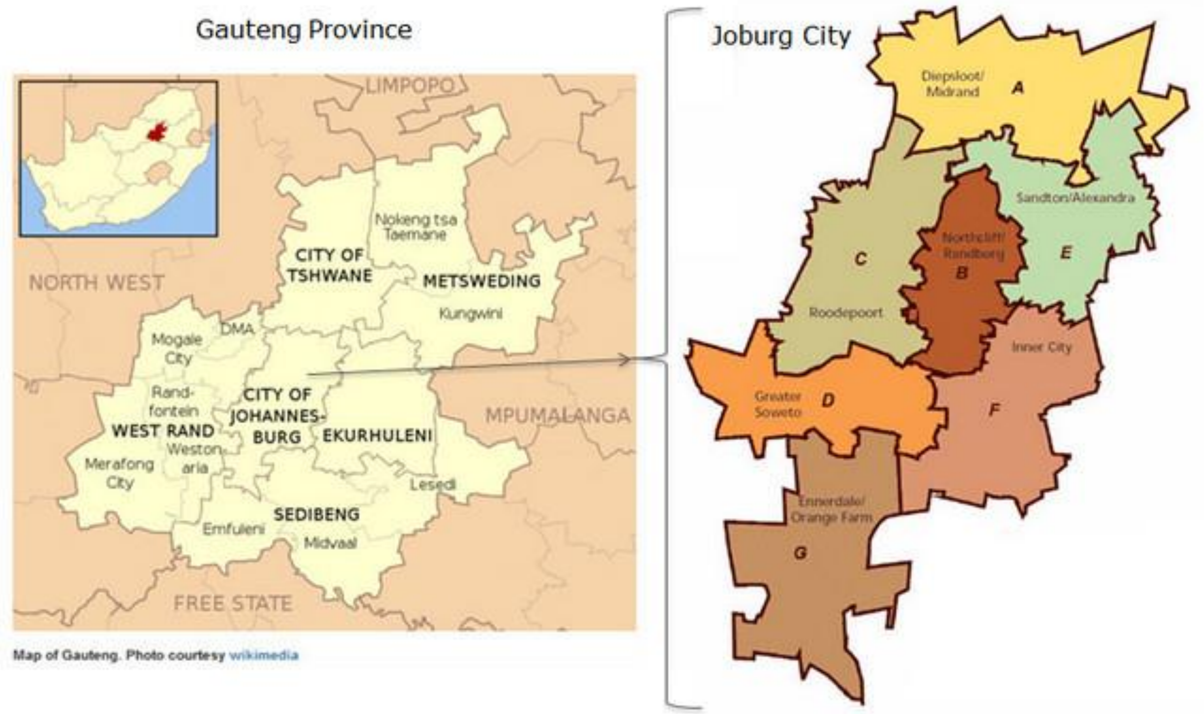
[1] Map from the United Nations Environmental Programme website.

On the other hand, as the capital city of Kenya, which is the largest economy in East Africa, as well as the third largest in Sub-Saharan Africa, Nairobi retains the lion's share of East Africa's financial services and corporate headquarters (APRM, 2006: 17). As the concentration of economic activity makes Nairobi the pulse of the regional hub, the city's knowledge and economic sector require sustainable provision of municipal infrastructure and services. This contrasting demand for municipal services from the diverse municipal community calls for the city to have access to significant financing. Ideally, local discretion should allow Nairobi to generate more revenue independently than through the intergovernmental process to finance municipal expenditure (Gildenhuys, 2012; Bird, 2000).

In terms of governance, Nairobi operates within a centralized regulatory framework that stipulates the financing and provision of municipal services. The framework also allows the city to charge rates and levies for the variety of services that Nairobi provides as well to borrow funds to finance capital expenditure. The revenue process forms part of the sub-national budgeting process that is managed by central government. After recent local government reforms were rolled out in Kenya, the city emerged from a fiscal crisis that had plagued it for decades (Nairobi City Commission 1988; 1989; MoLG, 2002). The city now reflects positive increases in the generation of local revenue (NCC, 2010). The evidence of local fiscal autonomy for this city is examined in this study.

1.2.2 The City of Johannesburg

Figure 1.2: City Of Johannesburg



Source: Wikimedia

Johannesburg came into existence in 1886, a decade or so earlier than Nairobi. The city sprang up as a mining town to grow rapidly into a large city by mid-twentieth century and also developed along racial lines (Beavon, 1997; Tomlinson, 1999). Migration to Johannesburg is as profound as it has been in the other large African cities, with the city's population having increased from 3.2 million in 2001 to 4.4 million in 2011, presently with 1,434, 856 households with an estimated 64% of Johannesburg's population having access to piped water inside dwellings[2] (Stats SA, 2011). Historically, areas previously allocated to the non-white population were inadequately financed and serviced by the respective local authorities (Simkins, 1991). The city's residents in these impoverished areas have limited access to water and sanitation infrastructure, a municipal service, despite the city's valiant efforts to address redistribution in line with national and international norms (CoJ, 2005a: 30; Stats SA, 2011).

[2] This figure includes access to communal taps in the townships that are shared by several households

The city has become South Africa’s largest city with an economic base that contributes 16% of the country’s gross domestic product and is the corporate headquarters for major banks and companies, making it a desirable location for economic activity in the region (CoJ, 2008). The economic vibrancy requires accessible and sustained municipal services. These contrasting demands for constitutionally mandated services call for optimal utilization of local revenue instruments in financing municipal expenditure.

The South African Constitution Act (1996) mandates that the metropolitan city of Johannesburg implement a governance structure that caters for the administration and management of municipal resources in order to provide services within Johannesburg. The constitutional mandate also provides for the municipality to impose rates and levies as well as to borrow responsibly in order to finance municipal expenditure (RSA, 1996). The revenue process operates within a municipal budgeting cycle that is regulated by a national and a municipal legal framework. During the local government transition phase into democracy, restructuring in Johannesburg saw the city merge into a metropolitan municipality. The process of merging historically fiscally deprived areas with well-resourced segments to form a uni-city created a lengthy fiscal crisis experienced by Johannesburg into the democratic dispensation of local government. The city has since emerged to realign its revenue streams and project annual steady increases in municipal revenue (CoJ, 2002; CoJ, 2011). The study examines how fiscal appropriation plays out in the city’s water revenue and municipal borrowing.

1.3 PROBLEM STATEMENT

Local government in Africa reflects a disconcerting inability to finance the provision and maintenance of mandated municipal services, as has been documented in a variety of literature on public finance (Adebayo & Rowland, 1972; Assibey-Mensah, 2000; Awio & Northcott 2001; Gachuru & Olima 1998; Yemek, 2005). The revenue tools that a large majority of local authorities are mandated to use are often plagued with administrative and human constraints. These hindrances further limit the generation of local revenue which adversely reduces the financing for municipal expenditure.

The erosion of local revenues thus reflects on the decay of municipal infrastructure and the provision of municipal services. This issue is magnified in African cities where "greater responsibility for local services requires greater ability to generate own revenues" and where "the cities often have inadequate revenue to meet expenditure needs" (UNHabitat, 2009a: 10, 13). However, some countries have a national framework that cedes to selected cities the function of revenue assignment to independently generate a significant portion of local revenue. In the case of South Africa and Kenya, an established legal framework allows for the larger cities of both countries to leverage local fiscal discretion. Nairobi and Johannesburg are examples of such cities with local fiscal authority. The cities both have access to sophisticated municipal revenue tools. Operating revenues garnered from user charges for services provided and charged as per consumption level; licensing from a variety of businesses; mobilizing capital markets for municipal borrowing; as well as intergovernmental transfers are common revenue options for the two cities (UNHabitat, 2009*b*: 21-55). From these avenues, the local revenue for Johannesburg and Nairobi has risen steadily and consistently (CoJ, 2011; NCC, 2010). This augurs well for a city government which "must rely on its financial strength in the form of reserves or borrowing to obtain necessary capital funding" (SACN, 2007: 7). Local discretion for municipal finance has a particular experience that underlies the obvious increases in revenue. The application of fiscal appropriation also has implications for the resultant effect on the generation of local revenues.

1.4 PURPOSE STATEMENT

The opportunity to examine specific municipal revenue tools within a context of municipal service delivery backlogs and the complexities of African cities presents itself for this study. This study examines the experiences of Nairobi and Johannesburg in generating water revenue as a trading service and the criteria for accessing funds through municipal borrowing to discourse on local fiscal autonomy. The generation of these revenues is conducted within the dynamic context of economic growth, urbanization as well as the legal framework for each city. The study intends to reflect on the implications recent local government reforms have had on the cities' discretion to use these tools to generate revenue. The study uses a multiple (two) case analysis of the cities of Nairobi and Johannesburg in order to contrast and draw out insightful information that will present a clearer picture of the local fiscal autonomy experience of the African cities.

1.5 RESEARCH QUESTIONS

The study was broadly concerned with the experience of local fiscal autonomy and reflects on the particular experience of the local revenue capacities of Johannesburg and Nairobi. The central research question of the study examines **how local fiscal discretion and appropriation manifest in the generation of local revenue**.

The study objectives were identified to guide the research to
(i) conceptualize how fiscal appropriation is used in the local function of revenue assignment;
(ii) investigate how specific revenue tools manifest local fiscal autonomy;
(iii) consider the implications of the research findings to fiscal decentralization theory.

The objectives were translated into the following research questions:

1. How do the respective national frameworks establish local fiscal autonomy in the African cities Johannesburg and Nairobi?

Nairobi and Johannesburg are constituted within a national framework that asserts cooperation and interdependence among the different spheres of government. For the purpose of fiscal decentralization, the study highlights the legislative machinery that regulates the municipal fiscal function of the two cities. The question examines the cities' local fiscal autonomy in light of local government reform and the theoretical elements of fiscal decentralization.

2. What are the instruments that leverage significant local revenue?

The revenue assignment function for Nairobi and Johannesburg is evidenced by the cities' ability to generate significant municipal revenue to finance municipal services. The instruments purposefully selected are user fees and municipal borrowing because these instruments may be aligned to the municipal mandate and be assigned at the discretion of the cities.

Restructuring has seen the cities' create utilities, specifically, Johannesburg Water and Nairobi Water and Sewerage Company with corresponding impact on water revenue. Municipal borrowing allows the cities to enhance local fiscal capacity in order to engage capital markets for funding for capital expenditure. The question attempts to determine whether an underlying relationship of local fiscal discretion and appropriation of these two revenue instruments indeed asserts local fiscal autonomy.

3. What are the emerging issues as the cities assert local fiscal autonomy?

This final question reflects on how both cities assert the function of revenue assignment through the interplay among national government, council (political office bearers), and city administration. The question also examines if indeed these cities independently navigate the specific instruments to leverage revenue. Ultimately this question determines whether the findings resound to or digress from fiscal decentralization theory.

1.6 DEFINITION OF LOCAL FISCAL AUTONOMY

The definition of local fiscal autonomy employed in this study relates to the independence of local government in generating own source revenues (OSR) as well as the discretion in managing local fiscal capacity to secure funding for capital expenditure (Bahl & Martinez-Vazquez, 2006: 22). Local government access and utilization of local revenues should reflect revenue autonomy. In this case, cities should be permitted to design, set and implement tax rates on the various user charges for municipal services. In turn the problem of vertical imbalances in fiscal decentralization is reduced by the cities' reduced reliance on intergovernmental transfers. Local government is thus able to set revenue targets at its own discretion instead of waiting on intergovernmental transfer arrangements for funding municipal expenditure.

Local fiscal autonomy in sub-national government will manifest in the political and technical decisions made on generating revenue**. Local fiscal discretion** compels sub-national governments to impose hard-budget constraints on the generation of local revenues to sustain the generation of local revenue. Urban authorities in particular are able to make political decisions regarding the generation of own source revenues, which shows **local fiscal appropriation**. Finally, the use of local fiscal discretion in revenue autonomy reflects positively on municipal creditworthiness and borrowing capacity.

1.7 SIGNIFICANCE OF THE RESEARCH

Literature on the practice of fiscal decentralization in developing countries tends to take on a broad overview that expresses country level experience. Do Vale (2013) concludes that the decentralization experience in South Africa and Brazil was democratic while India's experience served to deepen democracy and that South Africa's experience was most profound because of the legal, administrative and fiscal restructuring that was effected. In South Africa, Smoke et al. (2003) concludes that the process of local government restructuring in South Africa is useful in generating local revenue although challenges remain. Yemek (2005) determines that service provision is enhanced by the country's intergovernmental transfer system but governance and minimal citizen participation are lacking. Momoniat (2001) finds that since democracy, local government revenue streams have become varied across the different South African municipalities.

Chapman, Gakuru & De Klerk (2003) argue that local capacity and erratic intergovernmental transfers exacerbate the fiscal stress of Kenya's sub-national government while Devas & Kelly (2001) find that the Single Business Permit presents an opportunity for local government to increase local revenues. Property tax in Tanzania is encumbered by ineffective administration as was determined by Fjeldstad (2001). There are also individual country studies in southern Africa that examine the generation of local revenue for sub-national government (EISA, 2010; Reddy, Sing & Moodley, 2003).

The literature also reflects the common practice of revenue sharing arrangements in fiscal decentralization often referred to as intergovernmental transfers. Crane (2004), for example; finds that the erratic transfer of the Road Maintenance Fund in Kenya drastically reduced the financing for maintenance of road infrastructure by local government and that effecting regulations to mandate the regular transfers would enhance revenue sharing arrangements between central and local government. The issues around the administration of property tax as a source of local revenue in Kenya and South have also received attention (Franzsen & Olima, 2003; Gachuru & Olima, 1998; Kelly, 2000; McCluskey & Franzsen, 2005).

The distinction of local government within an African country is important to reflect the varying capacity and mandate of the country's different municipal jurisdictions (Smoke 2000*a;* 2000*b*). However, the resultant fiscal distinction isolates the larger African cities that have no comparable cities in their respective countries, for example, Lagos, Cairo, Kinshasa, Johannesburg and Nairobi. It then becomes useful to reflect on how these African cities with similar dispositions such as local revenue tools implement fiscal decentralization, and particularly on the function of revenue assignment. This gap presents an opportunity to conduct research on local fiscal autonomy to capture the experience of African cities that already have significant economic bases, developed fiscal systems and a considerable local population plagued by urbanization woes (Prud'homme, 2003).

1.8 LIMITATIONS AND DELIMITATIONS OF THE STUDY

This study is concerned with the revenue assignment function of cities and the manner in which the experience of local fiscal autonomy reflects in specific revenue tools. Municipal revenue is also affected by the payment levels for municipal services which also affect service delivery, and in turn revenue generation occurs simultaneously across the entire municipal budgeting process. This study is concerned with the political and administrative decisions and actions that influence the generation of water revenues and municipal borrowing and does not cover the entire process of generating municipal revenues.

1.9 STRUCTURE OF THE THESIS

The first section provides an overview of the thesis. Chapter one provides the background for study which sets the fiscal landscape of the cities that are studied and reflects on the arguments and rationale of the study. The second chapter provides an overview of the fiscal decentralization literature to project revenue autonomy in order to explore local fiscal autonomy. Chapter three explains the epistemological stance taken in the study and then discusses the process followed during the study.

The next section presents the research findings. Chapter four gives the legislative and structural context for local government reforms in Kenya and in South Africa and how this has affected the local fiscal mandate of Nairobi and Johannesburg. Chapter five presents the case of Nairobi and how the city manages water revenue and municipal borrowing in the new legislative context. Chapter six elaborates on how Johannesburg's water revenue and municipal borrowing have been affected by the new democratic dispensation.

The last section gives the conclusions of the study by presenting the contrasting experience of the local fiscal autonomy of the two cities. Finally the findings from the study are given in the context of the theoretical implications of the study in public finance discourse.

Conclusion

This chapter provided the background of the study by introducing the aim of the study which is to scrutinize how the function of revenue assignment manifests in Nairobi and in Johannesburg. It further provides the rationale for examining the fiscal function of African cities that face a growing demand for municipal services against limited municipal revenue tools. The next chapter gives an overview of the literature on fiscal decentralization and presents the conceptual framework for the study.

CHAPTER TWO

THEORETICAL CONSIDERATIONS ON LOCAL FISCAL AUTONOMY

This chapter gives the theoretical underpinnings of the study. The rationale for local government is given in the context of public sector activity and decentralization. This is further examined through fiscal decentralization theory to present the knowledge gap for the scrutiny of the local revenue assignment function in African cities. Finally, in this chapter, the conceptual framework on local fiscal is given to emphasis the concept's relation to revenue assignment.

2.1 THEORETICAL BACKGROUND FOR LOCAL POLITICAL GOVERNANCE

This section advances the theoretical basis for decentralization in relation to the political mandate of sub-national government over local fiscal resources. At the national level, the existence of government has been stressed in public finance literature (Wagner, 1958; Musgrave, 1959; Rosen, 2003). Government provides an array of services that the private sector is often hesitant to provide from the medium to long term. Health services, water and sanitation, rail transport and infrastructure, national safety and security, and postal services continue to be the responsibility of the state (Gildenhuys & Knipe, 2000).

Public sector activity in this case gives emphasis to three government functions: income distribution; stabilization; and resource allocation. The first two functions are income distribution and stabilization allocation of fiscal resources to best maximize the welfare of each individual in society. These two functions are considered the primary responsibility of central government. The third allocation function concerns the provision of services which can be provided to citizens in a differentiated manner. Particular services depend on the scale, on citizen preference and ability to pay for the service, should allow for different tiers of government to deliver differentiated services. King (1993) asserts this emphasis on local government to perform the allocation function of government as is determined by efficiency rationale for service provision and citizen preference for municipal services.

Research has been conducted at the sub-national level of government, the political and development space has been used to amplify the need for fiscal resources at the local level. This has involved scrutiny on the delegation of authority and function to local authorities in decentralization literature. Cheema & Rondinelli (2007) track the evolution of the debate on decentralized governance to the current contemporary decentralization endeavours to integrate democracy and economic development. Historically, government was viewed as "the institutional embodiment of state sovereignty and as the embodiment of political and legal decision making" (Chema & Rondinelli, 2007: 1). The concept of decentralization moved from this centralist view to the inclusion of new actors into governance such as civil society and the private sector in the late 1980s and 1990s. New public management principles that support decentralization and the "globalization of these ideas" by the international development organizations and particularly the United Nations compelled developing countries to integrate decentralization as a form of enhancing governance (Chema & Rondinelli, 2007: 1).

Olowu & Wunsch (2004) argue that decentralization is purported to augment governance through the participation of local communities into government processes for the delivery of services. In developing countries, decentralization debates draw on the premise that local communities are often isolated from local governance and increasing local participation will enhance accountability and, eventually, the delivery process of government (Olowu & Wunsch, 2004:1). Accountability of elected officials and local participation in government are some of the political advantages that are proposed for decentralization (Denters & Lawrence, 2005; Bahl, 1999*a*: 4).

The notion that decentralization also brings government resources for service delivery closer to the grassroots communities is also highlighted in the decentralization discourse. Devas describes the Indonesian decentralization experience as an "exercise to achieve uniformity" rather than devolving function and authority to local government (1997: 358). Decentralization in Africa is seen as a means of bringing development to rural areas, increasing community participation in local government as was the equitable allocation of resources by central government (Conyers, 1983; Hussein, 2003; Ndegwa & Levy, 2003).

Asiimwe & Musisi (2007) find that the objectives envisioned in the decentralization process in Uganda have not altogether been realized. The decentralization goals which relate to: improved accountability and effectiveness; citizens' ownership of programmes and projects; and increasing the political authority of local officials remain largely unmet. Uganda's centralist government still constraints local officials from implementing the decentralization mandate. These authors highlight the importance of local government performance as an instrument for democracy and delivery of government services.

Rondinelli, Nellis & Cheema (1983) use a political economy framework to examine the various factors that impede the implementation of decentralization in developing countries. The lax rate of development in the continent adversely affects the implementation of decentralization policies (Rondinelli et al., 1983; Rondinelli, 2008; Smoke, 2001). The sluggish rate is mainly attributed to sparse physical, human and fiscal resources that local authorities must work with which are seen to mitigate the meagre results of municipal service delivery (Rondinelli et al., 1983: 76). More often than not, local authorities have the legal mandate but have to grapple with the minimal resources available. This is particularly evident in the escalating demand for urban municipal services in African cities that remains unmet in the impoverished sectors of the cities (UN Habitat, 2008; 2014).

Nonetheless, Nath & Schroeder (2007) assert that the importance of a grassroots tier of government to provide services locally as opposed to central government still remains. The above decentralization theories make the case for local political governance. The inclusion of communities into decision making over local government programmes is also important. However, the nature of the devolved democratic sub-national government is such that local political decisions must also include the acquisition of local revenue for municipal expenditure. Often local political decisions made by local politicians are informed by the regulatory framework within which cities operate within a unitary state. This basis makes the theories presented above deficient in the interrogation of the fiscal political decisions made on local revenue as opposed to the local political governance mandate often examined in light of municipal and national expenditure in communities.

This assertion of local political oversight is important in providing the premise for **local political decision making** over fiscal resources in sub-national government. Therefore, although decentralization theories make a case for local government and are quite useful in augmenting political accountability and governance, they remain limited in exercising discretion over local finances without a regulatory framework that should firstly deploy the ability to generate fiscal resources to sub-national government. The next section examines fiscal decentralization literature that mitigates the revenue assignment function in local government.

2.2 THEORETICAL BACKGROUND FOR FISCAL DECENTRALIZATION

Economists presume the inevitability of the state in society (Musgrave, 1959; Eckstein, 1967; Wagner, 1958). Using an economic theory perspective, Musgrave (1959) advances the theoretical development of public finance through his exposition that initiates the exploration on the normative rationale for the political economy. Government in this case is determined to exist as an "economic unit consisting of officials, with unlimited life and significant in people's life" (Wagner, 1958: 5). These theorists argue for the essentiality of financing for government activities and expenditure.

The financing of government is then used to give effect to the fiscal nature of government. Rosen (2005) portrays the involvement of government in economic activity in order to examine issues around taxation in the economy. He also scrutinizes the economic environment to extrapolate the nature of the fiscal economy, purposes of taxation as well as justice in tax distribution. Public finance therefore stipulates government roles in the national fiscal and monetary systems. Through fiscal policy, government uses various taxation methods on both individuals and enterprises in order to derive income for government expenditure. Monetary policy, on the other hand, is used to manage money supply and to regulate the economy such that inflationary pressures and the cyclic activities of the economy continue to bolster economic growth. These dual fiscal roles are managed by national governments.

Musgrave (1959) initiates an orientation towards multi-level finance which permits different financing arrangements of public goods for sub-national and national government at their most efficient. At the tier of sub-national government, fiscal decentralization has been popularized by economists who stress the importance of this aspect of devolution in allocating local government tools with which to finance and to perform the allocation function of government (Bird, 1993; Musgrave, 1959; Oates, 1999).

Emphasizing the importance of local efficiency for fiscal federalism is the ***Decentralization Theorem*** which states:

> *For a public good- the consumption of which is defined over geographical subsets of the total population, and for which the costs of providing each level of output of the good in each jurisdiction are the same for the central or respective government – it will always be more efficient to (or at least as efficient) for local governments to provide the Pareto-efficient levels of output for their respective jurisdictions than for the central government to provide any specified and uniform level of output across all jurisdictions.*
> (Oates 2012: 35)

This theory posits that decentralization is beneficial when the costs of providing for service delivery are the same for local and central government or even better when the local economies of scale outweigh the costs at the national tier. Empirical studies have been used mostly in the federal Western countries to provide anecdotal justification for fiscal federalism in varying degrees (Oates, 1999; Jackson, 1993; Tiebout, 1956). The ideal of local efficiency, therefore, is useful for the devolution of fiscal resources to sub-national government because it asserts independence in generating a majority of revenue locally. It is also important for the devolution to include political governance over the generation of local revenue.

The practice of fiscal decentralization is different for developed countries as compared with developing or transitioning states because the former emphasis local efficiency whereas the latter highlights local capacity. Fiscal decentralization theory thus places emphasis on the different aspects of implementation in the various countries across the spectrum. In these contrasts, the theory posits that the delegation of fiscal resources will affect the efficiency, processes and autonomy of local government.

2.2.1 Efficiency Associated with Fiscal Decentralization

Efficiency is often the logical argument put forward for fiscal decentralization (Rosen, 2005; Oates, 1999). In this local efficiency rationale proposed, the economists: Bahl (1999a); Bird (1993; 1999) and Oates (1999; 2012) stress that there should be a clear distinction between the level of government and the function of government for local fiscal autonomy. Local discretion requires that local expenditure be mainly financed from local revenues and that reliance on central government to finance local expenditure be minimized. Jackson (1993) maintains that fiscal decentralization enhances political and economic efficiency. Local control of resources is increasingly important in areas where local preferences can be matched to local expenditure. Proximity to citizens thus allows local government to meet diverse preferences and reduce or ignore external spillover effects.

The case made for local fiscal autonomy by this theory suggests that local authorities are also more likely to indulge in experiments and innovations at the local level. The local flexibility means that sub-national government is not under pressure as is the state to provide uniform services to a larger magnitude of the population. Bahl (1999*a*) also supports the ideal of local efficiency and projects that local government promotes efficiency and offers better services. Once government moves closer, there is increased local revenue from the increased tax net and accountability is enhanced by the proximity of local expenditure and local revenue.

Sutherland, Price & Joumard (2005) find that fiscal rules imposed by central governments or self-imposed by sub-national spheres in the countries that fall within the Organisation for Economic Co-operation and Development (OECD) have been applied to local tax autonomy and municipal borrowing to enhance efficiency. However, local fiscal efficiency has, in turn, been compromised by the limited revenue autonomy of sub-national government and the increasing burden of expenditure responsibility placed on local government as determined in a previous study by Joumard & Kongsrud (2003). Therefore, local efficiency remains an ideal that local government revenue tools must be tailored against to optimize local revenue generated for local preferences. The ideal compels sub-national government to impose local fiscal discipline in order to improve local fiscal capacity for financing local services. The experience in implementing fiscal devolution for developing states highlights the discrepancy and reiterates the importance of local efficiency as shown below.

2.2.2 Process of Fiscal Decentralization in Developing Countries

Rondinelli et al. (1983) and Rondinelli & Nellis (1986) explore various conditions that affect the implementation of decentralization policies for developing countries. Specific conditions such as the degree of political commitment; administrative support; and financial factors are seen to facilitate effective decentralization. To further emphasize the assertion, Rondinelli, McCullough & Johnson (1989) provide a framework that may be used to analyse the political economy of implementing developing countries in order to assess the above conditions holistically in light of decentralization. This model stresses the importance of local fiscal authority in asserting that "fiscal responsibility should be at the core of decentralization" (Rondinelli et al., 1989: 67)

Bird (1993) and Bahl (1999*a*) both highlight the dual nature of fiscal decentralization. The first aspect is revenue sharing that calls for the division and allocation of fiscal resources across the levels of government. The second aspect is revenue assignment requires independence in generating local revenue. **Revenue assignment,** asserts local fiscal autonomy by granting local authorities the mandate to generate local revenue through various means. The experiences of developing countries in implementing both options of fiscal decentralization show an increasing reliance on central government for intergovernmental transfers and depletion of local revenue instruments as discussed here.

Revenue sharing is the common experience in Eastern Europe and in African states and puts emphasis on intergovernmental transfers to allocate revenue to local authorities (OECD, 2002; Crane, 2004; Mothusi, 2010, Rubvuta, 2010). In Europe's case, this method of national revenue division among the levels of government assures access of revenues to the Eastern European local authorities. This form of fiscal decentralization also asserts the centralist nature of national government, thereby reinforcing the revenue sharing system with little room for sub-national government to maneuver for local fiscal autonomy (OECD, 2002).

The similarity between Africa and Eastern Europe in implementing fiscal decentralization is the centralized control of fiscal resources by national government. This is where the similarity ends because Eastern Europe has established local government systems while African local government fiscal systems often require significant resources to generate local revenue thus rendering municipal functioning weak and less inclined to increase revenue and show revenue autonomy (EISA, 2010; Reddy et al., 2003; Adebayo & Rowland, 1972).

Sharma (2003) and Mothusi (2010), writing about Botswana, find that the increasing dependence of local authorities on Botswana’s central government incapacitates local fiscal autonomy in the country. The centralized structure that also exists in Swaziland constrains its local government from leveraging significant revenue independently (Sabela, 2003). At independence, Zambia had an established local government system that fell victim to structural adjustment programmes as well as decreasing revenue from the mineral sector. Maipose (2003) and Rubvuta (2010) both confirm that this predicament decreased local fiscal capacity coupled with statutory constraints that hinder revenue autonomy thus leaving the Zambian local authorities with limited local revenue as a result.

Nigeria, a federal state that should reflect more pronounced traits of fiscal decentralization, has a local government structure with urban authorities that remain heavily reliant on intergovernmental transfers from state governments as opposed to the local generation of revenue (Adedokun, 2005; Agba, Stephen & Nnamani, 2014; Nuhu, 1972). Akindele, Olaopa & Obiyan (2002) find that successive constitutions and regulatory amendments have increased the number of local authorities in the country but have not proportionally increased revenue-raising abilities for Nigerian local government. Agba et al. (2014) also confirm that the dependency on central government for revenue is increasingly magnified in Nigeria’s federal structure of government.

African countries have also tried to address the local revenue problem through transfers from central government. Intergovernmental transfers aimed at poorly resourced local authorities without the capacity to generate local revenues to finance municipal mandates are used for this purpose. In Kenya, the fiscal state of rural and smaller local authorities has been improved through revenue sharing but not the local capacity to generate local revenue (Crane, 2004; Gitau & Amaya, 2003; Oyugi, 2008; Smoke, 1994). The same applies in South Africa where rural municipalities have been able to access fiscal resources for development as opposed to the situation during the apartheid era as determined by Ahmad (1998) and Yemek (2005). Yemek (2005) also finds that the inter-governmental transfer effort in South Africa to increase the delivery of social services has reduced local fiscal responsibility and local governance.

In the second more viable option for local revenue, **revenue assignment** in developing countries is also evident in Latin America and some African states. The federal nature of the South American countries is a characteristic that augurs well for the implementation of fiscal devolution. The established administrative and political federal structures are expected to facilitate fiscal federalism (Afonso & de Mello, 2000). Evidence suggests that the absence of adequate control measures on the implementation of local fiscal autonomy has led to severe government deficits. The fiscal deficits have also been increased by the inefficiencies of local revenue collection (Bird, 1999; 2000; World Bank 2000). Martell's (2000; 2007; 2008) empirical studies on Brazilian municipal borrowing show the importance of a legal and regulatory framework to guide local lending. The framework also determines that the relationship between central and local government either diminishes or asserts local fiscal discipline that should manifest local fiscal autonomy.

Studies on the generation of local revenues on the African continent centre on the use of property tax and other taxes including market and business licences (Asibuo, 1998; Devas & Kelly, 2001; Fjeldstad, 2001; Kelly, 2000; 2001; McCluskey & Franzsen, 2005). The utilization of property tax in East Africa has been widely scrutinized (Kelly, 2001; Franzsen & Olima, 2003; Gachuru & Olima, 1998; Kelly, 2000). Property tax, however, remains an inelastic tax because its proximity to and visibility by the local population suggests that significant increases in the property rates will encounter resistance from ratepayers. There are also challenges associated with administering this local revenue tool (Ebel & Talierco, 2004; Tanzi & Zee, 2001).

The potential contribution of income from property rates is also restrained by archaic legislation as is the case in Uganda (Balihuta & Ochieng, 2007). A similar experience also confirms that the administrative quagmire in Malawi restrains the generation of significant local revenue, particularly from business taxes and property rates (Kelly, Montes, Maseya, Nkankha & Tombere, 2001).

Studies also reveal that local business taxes are becoming increasingly important sources of local revenue. An example is the turnover tax introduced in the 1980s in South Africa. The now defunct regional services used the Regional Service Levy as a viable source of local revenue during (Bahl & Solomon, 2003; SACN, 2007). Devas & Kelly (2001) maintain that the amalgamation of business licences for Kenyan local authorities through the Kenya Local Government Reform Programme has resulted in the Single Business Permit becoming a significant contributor to local revenue.

Two studies that emphasize the aspect of revenue autonomy in developing countries are important in resonating significance for this study. These studies highlight the importance of local fiscal discretion and appropriation in revenue mobilization. First, during apartheid the prominence given to WLA independence in local revenue was pronounced in the regulatory framework and in literature. Cowden’s (1968) study on the revenue function of apartheid local government finance found that **local fiscal discretion** and capacity are important to revenue autonomy of all local government revenues.

The second study by Bahl & Linn (1992) examines the experience of urban cities’ revenue in developing countries through the examination of internal and external sources of revenue. This study found that although user charges for trading services like water and electricity services should take into account social, economic, financial, administrative and political considerations to ensure the sustainable supply and maintenance of local services this was not always the case. Therefore the potential revenue from these sources was not realized. The latter study also found that costing the supply of urban water in developing countries does not adequately cover the fixed and variable cost of water services (Bahl & Linn, 1992). The attempt to balance these competing considerations brings in the element of **local fiscal appropriation** over generation of local revenues.

Fiscal decentralization theory is, therefore, important to local government because it provides fiscal tools to finance municipal expenditure. This theory lays emphasis on the enhancing the efficiency and process of using the local revenue tools by sub-national government. The **revenue assignment function** in particular should afford sub-national government more autonomy in the manner in which local revenues are generated.

2.2.3 Critique of Fiscal Decentralization

Fiscal decentralization should allow local government the opportunity to generate local revenue. The possibility that the implementation of fiscal devolution may have adverse effects is considered in this section. These negative consequences affect three significant areas: the challenges may be evident from within the jurisdiction of local authorities; at the level of national government; or by the country as a whole.

Fiscal decentralization is sometimes seen to increase the incidence of corruption at local levels as found by Koldstad & Fjeldstad (2006) and Fjeldstad & Semboja (2000). The example is given of property tax in Tanzania to show that the close proximity between local officials, politicians and residents acts as a catalyst for corruption. This occurs when the local government system lacks adequate measures and instruments of accountability. This vacuum created by the inadequacy of control and accountability mechanisms above coupled with pressing local needs presents the opportunity for corruption to take root whilst generating local revenue (Koldstad & Fjeldstad, 2006; Tanzi, 2000; Tambulasi & Kayuni, 2007).

Local government often does not have the capacity to generate local revenue. As a result, local authorities are inhibited from raising significant local revenue. This internal constraint reduces the efficiency of municipal authorities in financing local services. The detrimental effect of incapability in the fiscal experience of African local government is documented by Asibuo (1998), Bird (2000) and Nuhu (1972). The lack of diversity in own source revenues also prevents sub-national government from mobilizing local revenue by hindering the exploration of alternative avenues for local revenue (Tannenwald, 2002).

From a national perspective, fiscal decentralization erodes fiscal tools that national government uses for fiscal policy and the overall purpose of stabilization of the economy. Bahl, Martinez-Vazquez & Wallace (2002) use an example of income tax as such a fiscal tool for sub-national government that is also an important source of central government revenue to highlight this dilemma. If urban authorities are fiscally mighty, local fiscal autonomy, for example, may reduce tax instruments at the disposal of central government and constrain the national administration from using tax reforms to regulate the economy when the need does arise (Jourmard & Kongsrud, 2003: 19-22; Prud'homme, 1995).

Evidence also suggests that local fiscal autonomy may lead to a distortion of resource allocation of services and increase inter-jurisdictional disparities. Tiebout (1956) theorized this distortion by his proposition on mobility of local residents across jurisdictions for better value on local services. He presented the occurrence of this incidence of disparity as when local residents are more likely to relocate to communities where they do receive maximum benefit for local goods that they are willing to pay for, commonly referred to as "voting with their feet" (Tiebout, 1956 Cited in Oates 2012: 12). Moreover, the local distortion of the overall fiscal landscape by the fiscally strong urban authorities cripples the ability to obtain information on government in general (Prud'homme, 1995; Heyns, 1995).

Contemporary reflections on the size of the public sector service call for a reduced civil service and a movement towards a leaner government structure. In this context, the suggestion has been made that fiscal decentralization increases public sector employment because of the increased levels of government created to cater for local services. Prud'homme (1995) suggests that local government thus hinders the goal of reducing the civil service. Furthermore, the size of a country does not always encourage implementation of fiscal devolution. Prud'homme (1995) advises that in the case of smaller countries fiscal decentralization may prove ruinous as the country's small size and proximity to its population already allows national government to respond to local residents' needs. Therefore, the cognizance of the negative implications that may arise from the implementation of delegation of fiscal resources to local government is important. This consideration promotes a holistic understanding of the practice within the context of public sector economics and public finance.

It is important to reflect on the issue of dominant Western influence with respect to fiscal decentralization in developing countries that have opted to reform local structures (Boex, 2009). This influence is illustrated by the provision of technical assistance to developing countries in restructuring financial processes and structures to become contemporary in order to boost OSR (Boex, 2009). The technical assistance has prompted several African states to redesign specific revenue instruments for purposes of fiscal decentralization with assistance from international agencies (Kelly et al., 2001; Prud'homme, 2003; Smoke, 2003; World Bank 2001).

Fritzen (2007) provides a framework to evaluate the effectiveness of technical assistance for purposes of development. The framework calls for an initial assessment of the overall government as well as the local institutional context of the developing country. This prior determination helps to ascertain the country's leaders' political will; operational; and social capacities. Any weakness in these areas is likely to constrain implementation of decentralization programmes. Next, the goals of technical assistance need to be aligned with the implementing country's development programmes. Additionally, modalities need to be developed to examine effectiveness throughout the implementation of the local government reform programme. Fritzen (2007) argues that using this framework will enhance the implementation of measures intended for reform.

However, shortcomings associated with technical expertise have hampered the decentralization efforts of developing economies. Smoke (2000a) presents four major concerns: inadequate scope of reforms; weak coordination among multiple co-coordinators; the imposition of development models by donors; and finally the lack of differentiation of the various types of local authorities in the local reforms. Smoke (2003) also argues that weak coordination among multiple co-coordinators including donors, central and local government officials and politicians involved in local reform, hampers effective implementation. This weakness is also alluded to by Fritzen (2007) as a critical contributor to the failure of local development projects. Besides, the differentiation of the various categories among local authorities during implementation of reform is not always evident (Smoke, 2003).

In summary, the literature presented above shows that decentralization theory acknowledges the importance of fiscal devolution to local government. Fiscal decentralization is purported to enhance local efficiency in developing countries and may take the form of intergovernmental transfers or revenue assignment. Revenue sharing is the option which is preferred by a majority of developing countries since central government retains discretion in the allocation of fiscal resources to local government. Constraints in implementing the function of revenue assignment especially in the generation of local revenue has been interrogated with respect to property rates, business taxes, municipal borrowing and trading services to highlight the importance of local fiscal discretion and capacity.

The local fiscal traits of political governance, fiscal discretion and appropriation examined through the decentralization discourse above should collectively augment the local fiscal autonomy of local government. This is particularly important for urban authorities in asserting independence to generate OSR as well as for the development of local fiscal capacity that enhances access to development capital. The premium placed here for the function of revenue assignment in sub-national government thus reveals a knowledge gap which local fiscal autonomy through OSR such as trading services and municipal borrowing can be investigated for contemporary African cities. In view of the position presented above on fiscal decentralization theory, the following conceptual framework presents the contextual theoretical propositions that guide the study.

2.3 CONCEPTUAL FRAMEWORK FOR LOCAL FISCAL AUTONOMY

The decentralization theories presented in the section above to conceptualize fiscal devolution are drawn from the context of both developed and developing countries. These theories point to the importance of local independence in revenue mobilization that enables sub-national government to make decisions on the generation of OSR.

Local revenue autonomy in cities should project local fiscal autonomy. The localised independence is comprised of the essential elements of discretion and appropriation. These elements can be exercised in the decisions made by cities to generate specific OSR. The premise of the conceptual framework is that local fiscal autonomy is evident through fiscal discretion and fiscal appropriation in the local generation of OSR. This requires that the two concepts to be scrutinized within a regulatory framework that permits generation of OSR at the local level.

2.3.1 The Concept of Fiscal Discretion

Local efficiency, as espoused by Oates (1999), is vested in the notion that fiscal discretion can be applied to the specific context of sub-national government. The ideal prescribes that if local goods are to be provided by local authorities, the financing of these particular municipal services should be more efficiently performed by fiscally resourced local authorities with mandated revenue autonomy. The particular conception nests in his decentralization theorem that normatively proposes:

> *in the absence of cost savings from the centralized provision of local public good and of interjurisdictional externalities, the level of welfare will always be at least as high if pareto-efficiency levels of consumption are provided in each jurisdiction than if any single uniform level of consumption is maintained across all jurisdictions.*
> (Oates 1972 cited in Oates 1999: 1122)

The mandated revenue autonomy should be reflected in a fiscal decentralization framework for urban authorities. There are six features that give effect to a holistic fiscal decentralization programme. In the first instance, an ***adequate enabling environment*** provides the precedent through laws that provide the regulatory framework for local revenue. Secondly, ***assignment of appropriate functions*** to government is shown by the mandated services that urban authorities provide within the local jurisdiction. Smoke (1994) and Crawthorne (1997) maintain that the existence of a **legal framework** is essential for entrenching the function of local government and the corresponding sources of revenue.

Bahl (1999*b*) also argues that decentralization features should show that sub-national government has access to an ***appropriate set of own-source revenues*** as well as *an* ***adequate intergovernmental transfer system*** to finance the operating and capital costs of local service provision. Additionally, the local fiscal capacity and the discipline to manage municipal debt cater for ***access to development capital*** that is directed towards the financing needs of municipal infrastructure. Finally, ***local political accountability*** is important in providing horizontal accountability to the electorate (Bahl & Martinez-Vazquez, 2006; Smoke, 2001). These six elements provide sub-national government with the mandate to provide and finance municipal service delivery. OSR, municipal access to development capital and the presence of a local political accountability are the three elements in the fiscal decentralization framework chosen to reflect on the African cities' experience of local fiscal autonomy. The ability of cities to use independent streams of OSR, local capacity to utilize municipal borrowing and more importantly to exercise the local political mandate to ensure the sustained generation of municipal finance shows the interplay of local fiscal discretion.

An adequate enabling environment is necessary to support revenue autonomy which is provided by a **regulatory and legislative framework** for OSR. Bahl & Martinez-Vazquez (2006) prescribe a normative approach that envisions that decentralization should proceed along a deliberative trajectory from inception to the actual local revenue generation used to finance municipal services. Implementing fiscal decentralization includes participation from the electorate in national discussions in moving towards decentralization. The deliberations culminate in the adoption of a decentralization policy that provides the mandate for local revenue autonomy.

This preposition assumes that the implementing countries operate from a blank canvas with no history of decentralization. However, the colonial history of a majority of African local government points to a decentralized state prior to local reform (Beavon, 1997; Obudho, 1997, UNHabitat, 2008).

Constitutional and legal provisions should provide the basis for revenue autonomy. In Africa a regulatory framework does not always guarantee successful deployment of fiscal resources as shown in the literature presented above (Smoke, 2001: 19-20). To enhance the generation of local revenue, African local government has undergone structural and legislative changes. These changes done through local government reforms are often required to support the cities' access to and utility of local revenue (Cameron, 2005; CDE, 2000; Devas & Kelly, 2001). These reforms encompass all the elements associated with fiscal devolution mentioned earlier in this section.

The assignment of appropriate revenue to sub-national government is an important element of fiscal decentralization (Smoke, 2001; Bahl 1999*b*; Bahl & Martinez-Vazquez, 2006). Revenue autonomy affords "sub-national government independent sources of revenues" and detracts from the "lower level of government … becoming a spending agent of the centre" (Bahl & Martinez-Vazquez, 2006: 22). The assignment of appropriate revenues for African local authorities tends to lean heavily on the consideration of fiscal tools that do not seriously compete with national sources of tax revenue. This is primarily because the "fiscal structure for developing countries remains prescriptive" (Oates, 1999: 1143). The centralized control has left the municipal sphere with limited revenue tools. Inadequate revenue ability coupled with the increasing demand for municipal services by residents also highlights the concerns about the "unfunded mandates" in which local revenue does not match expenditure; as well as correspondingly high collection costs that further erode local revenue. (Smoke 2001: 23).

The acknowledgment of the peculiar nature of demand for municipal services in African cities contradicts the common practice of intergovernmental transfers used by their respective states (Nuhu, 1972; UNHabitat, 2009). More importantly, urban authorities should be able to rely more on own resources and local capacity to generate revenue than on national treasury allocations. Municipal financing of local goods will assert the revenue assignment function in cities. This is because the municipal demand for services requires a local response to the financing of the services since:

> *The unique characteristics of large cities and metropolitan areas are reflected in the magnitude and complexity of the expenditures that local governments in those areas are required to make on municipal services. These characteristics are also reflected in their ability to pay for services.*
> (UNHabitat, 2009: 10).

Fiscal devolution thus requires assignment of revenue instruments that are effective, economic and that the utility of local revenue strives towards the following characteristic ideals: first the instruments should yield significant income; second the revenue tools should be based on political expediency which is acceptable and can be overturned; third, the ease of administration and collection costs should be as low as possible; fourth, the utility of the revenue instruments must remain consistent with economic and social goals and also that the instruments promote equity within the local jurisdiction; last, the visibility of using specific revenue tools should assist the local population to see how much they are paying (Reed & Swain, 1997: 85-89). The colonial history of African cities cedes local revenue in the form of rates; grants; trading profits; property income; capital grants and borrowing (Cowden, 1968; Prest, 1960, Tukur, 1972; Rowland, 1972).

African cities must also reflect the municipal capacity "both in terms of greater responsibility for local services and greater ability to levy their own taxes and collect their own revenues" (UNHabitat, 2009: 13). These cities must also be afforded the ability to fund the ongoing and capital costs of such municipal services. The revenue tools should allow the cities to independently generate revenue for these municipal demands and also use local discretion in the generation of such OSR. Water revenue and municipal borrowing are used in this study to be municipal revenue instruments in African cities that reflect on the relationship between these ideal characteristics for fiscal discretion.

The cities are mandated with water and sewerage service as a municipal function with the corresponding directive to generate revenue through this trading service. Bahl & Linn (1992) find that fiscal considerations are important for the pricing of water services. Water tariffs should cover the fixed and variable costs of water supply to ensure sustained supply. The cities are also required to inculcate fiscal discipline that imposes hard budget constraints on generating and managing water revenues to illustrate revenue autonomy which in turn lends itself to enhancing municipal creditworthiness (Bahl & Martinez-Vazquez, 2006: 22). The study assumes that local fiscal discretion in water revenue is evident in the decisions made on the pricing of water and the management of income generated from the revenue instrument.

The regulatory framework should also allow cities to navigate the credit requirements for municipal borrowing independently. This requires urban authorities to generate local capacity and utilize local discretion in securing long term debt. Municipal loan theory suggests that "municipal credit rests upon revenue raising powers" (Cowden, 1968: 197) which allow the cities to engage capital markets to access finance for capital expenditure. Increasing access to development capital reduces the reliance on intergovernmental grants for municipal capital expenditure. Fiscally strong local authorities can then secure loans and bonds (Smoke 2000: 28). Therefore, to realize this particular revenue autonomy, developing countries redesigned "revenue systems so as to provide decentralized levels of government a much expanded access to own revenues to finance their budgets and thereby reduce their dependence from above and review the use and restrictions on debt finance" (Oates, 1999: 1144). Local fiscal discretion in municipal borrowing is reflected in the city's relationship with national government as well as the municipal capacity to enhance creditworthiness (credit rating) through information of the state of the city fiscus and the local socio-political economy. The concept of local fiscal appropriation is determined below.

2.3.2 Local Fiscal Appropriation

The influence of public choice through representative and direct democracy will affect how public goods are provided at the national level (Rosen 2005: 87, 99). Consequently, the importance of local political governance over fiscal resources requires that political representatives have the mandate to appropriate resources to finance municipal expenditure. In the case of decentralization, local fiscal appropriation allows municipal councils to make decisions regarding local revenue because the councillors theoretically represent the element of accountability to local voters in African cities (Bahl & Martinez-Vazquez, 2006: 15). Although the concept of local appropriation has been left out in fiscal decentralization theory, it is important to reflect on fiscal decisions regarding the generation of OSR with particular reference to water revenue and municipal borrowing.

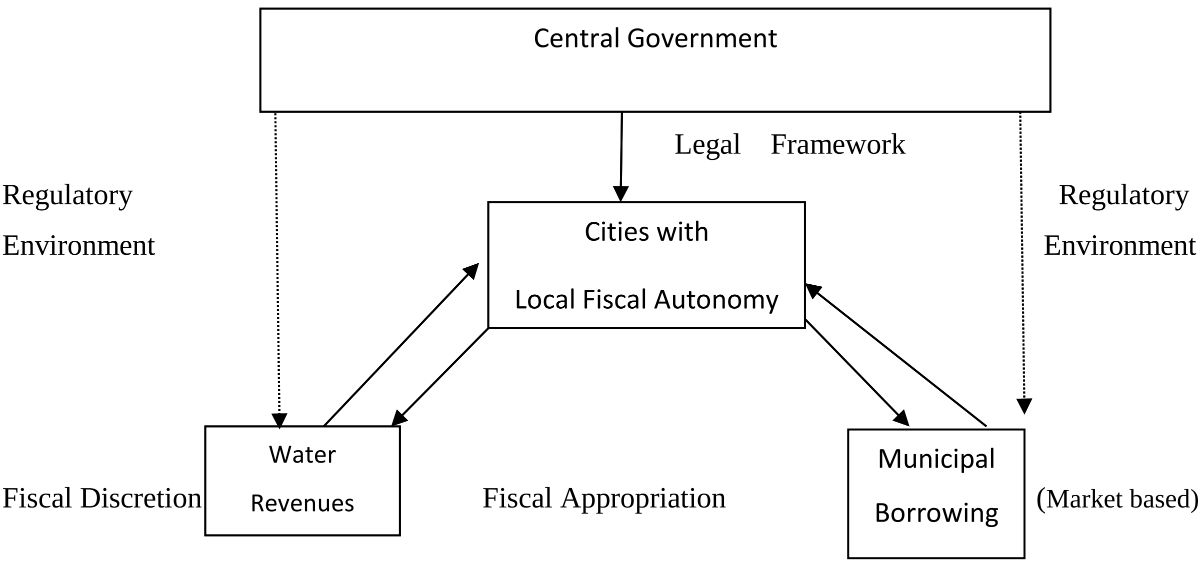
Trading services are the mandated local services which cities can provide and levy tariffs on the basis of consumption whereby "the cost per unit can be quantified and consumption value can be allocated to a specific consumer" (Gildenhuys, 2012: 101). The pricing of these municipal services require that social and economic considerations linked to access are taken into account during the pricing process. Bahl & Linn determine that considerations for income distribution are critical because "the structure and level of user charges may in fact determine the extent to which low-income people make use of services like water" (1992: 271). Local fiscal appropriation allows for such a trading service to integrate the element of cross-subsidization for the urban poor. Local political oversight on the management and pricing of water revenues thus provides an indication of such local political governance.

The appropriation of profits from trading services such as water revenue through fiscal appropriation over the range of municipal services also emphasize the point that "municipal services should be regarded as whole and not as units hence the aggregation of profits" (Cowden, 1968: 116). Profits are also appropriated to sustain the long term costs of municipal borrowing where "finance for capital expenditure is borrowed on the basis of local government revenue" (Cowden, 1968: 116,118). The correlation of development capital and sustainable OSR through fiscal appropriation is important because it suggests the underlying importance of local political governance over OSR. Besides, the premium placed on urban authorities to integrate "hard budget constraints" to enhance local fiscal capacity implies that decentralized government must place a premium on the generation of OSR and not be overly "dependent on transfers from above" (Oates 1999: 1139). This requires that the projections be made over OSR in order to sustain for current as well as capital municipal expenditure.

Finally, local fiscal appropriation requires that local political oversight remain evident in the management of water revenues and in the debt decisions for capital expenditure. Local political oversight is vested in political municipal council representatives who maintain horizontal accountability making the cities responsive to the needs and preferences of local residents (Bahl & Martinez-Vazquez, 2006: 15). The municipal capacity to independently reflect fiscal responsibility should positively influence its credit rating and resultant access to the municipal debt market. Local appropriation is thus determined by the hard budget constraints used to sustain OSR as well as to improve on access to municipal borrowing.

Therefore, generation of OSR in African cities can be seen to be a reflection of local fiscal autonomy. The concepts of local fiscal discretion and local fiscal appropriation point to the use of local fiscal capacity to the generation of OSR. By examining particular OSR namely the water revenue and municipal borrowing of particular African cities may reveal an underlying relationship that illustrates local fiscal autonomy. Cities will use local fiscal discretion in determining how to generate OSR during municipal budgeting processes. Local fiscal appropriation is examined in the municipal political governance. The opportunity for appropriation can be recognized in the instance for pricing water revenue. This takes place during the cross-subsidization in the pricing of water revenues with funds directed to other aspects of water, other municipal services or capital expenditure. In terms of municipal borrowing, the regulatory framework should also allow for local propensity to be developed through municipal creditworthiness in order incur debt for capital expenditure. The sustained generation of OSR particularly water revenue also allows local revenue autonomy of trading services to be a critical determinant for municipal creditworthiness. The cities use local fiscal appropriation to maintain local political oversight over the water revenue and municipal borrowing as illustrated in Figure 2.1 below. Therefore, this conceptual framework expressed in this section provides an overall regulatory framework that allows the cities to assert local fiscal discretion in not only generating and managing water revenues but also in incurring municipal debt.

Figure 2.1: Conceptual Model for Local Fiscal Autonomy



Source: Author

In the Figure 2.1 above, the conceptual model elaborates the revenue assignment function for the case cities. The central government should provide an enabling framework that outlines the legal and regulatory environment in which the cities can generate and manage OSR as well as the fiscal capacity that provides access to development finance. This municipal mandate should permit the cities to manage a significant portion of local revenue independently. The allowance for intergovernmental transfers is also included to cater for revenue sharing although the cities' reliance on this revenue source should not surpass the revenue assignment aspect for the cities. Thus local fiscal autonomy is be projected as the study's research questions which examine the **regulatory framework** and **assigned local revenue** tools that the case cities operate within to generate OSR.

The revenue assignment should in turn issue the cities with local fiscal discretion and appropriation. These concepts are devolved towards the generation of OSR, shown by the management of water revenues and fiscal discipline for municipal creditworthiness. Local fiscal discretion is used for redistributive purposes in this instance. This is examined in the the pricing for water revenue should include social considerations whereby the municipal council approves as well as asserts local fiscal capacity for municipal creditworthiness. Local fiscal appropriation is also applied to long-term debt decisions which are based on the sustainable generation of OSR and the local political oversight exercised over water revenues. This last is scrutinized to highlight the issues that come to the fore through the contention of local fiscal autonomy.

Conclusion

This chapter began with a reflection on how fiscal decentralization theory has influenced the determination of the conceptual framing for the study. The definition of local fiscal autonomy is given to provide the basis in which cities independently generate revenue. Local fiscal discretion and fiscal appropriation are then given as the conceptual components of local fiscal autonomy. The link between the elements of fiscal decentralization and these concepts guides the examination on local fiscal autonomy. Local government reforms show the manner in which the elements of an enabling environment including fiscal discipline and delegation of municipal function supported by intergovernmental transfers give effect to revenue assignment. The chapter then introduces the model of revenue autonomy in African cities presented in the conceptual model.

The cities should operate within a regulatory framework that promotes independence using the particular OSR examples of water revenue and municipal borrowing in order to provide evidence of local fiscal discretion and appropriation by the cities. Therefore, the framework provides a link between the theory which encompasses the measurement of local fiscal autonomy and the utility of local revenue instruments. Local fiscal autonomy is determined through the independent management of water revenue and municipal borrowing. The next chapter presents the research methodology employed in the study to local fiscal autonomy for the two case cities.

CHAPTER THREE

3.1 METHODOLOGY

This chapter presents the research strategy that was used in the study. Initially, a description of the research orientation is given to portray the manner in which the researcher's ontological view influenced the direction in which her strategy unfolds. This is followed by the researcher's rationale that guides the selection of the case study method. The concluding section then outlines the process on how the relevant data was collected and analyzed.

3.2 EPISTEMOLOGICAL ORIENTATION

Prior to the study, the writer's orientation was inclined towards positivism. Positivism seeks to "explain and predict what has happened in the social world by searching for irregularities and causal relationships between its constituent elements" and involves the use of "deductive reasoning to postulate theories that can be tested in a way that the world may be predicted and controlled" (Krauss, 2005: 760). This view was acquired during undergraduate studies rooted in the field of social sciences. Courses in economics and statistics inclined the writer's budding orientation towards the notion of defining the known world, as it is viewed by researchers, as a place where "the data and its analysis are value free and data do not change because they are being observed" (Krauss, 2005: 761). Furthermore, "deductive reasoning was used to postulate theories that can be tested and controlled" in a manner in which "laws of cause and effect are discernible in the universe" and the research method was adopted to suggest answers to the development question in economic studies that relate to governance (Krauss, 2005: 760).

The positivist perception was propagated by the cursory stance often evident in public administration literature that looks to fix the problems of an ineffective African public service through processes and policies (Adamolekun, 1999; Adebayo & Rowland, 1972; Crawthorne, 1997). Literature abounds on Africa's rocky path to development including practice notes and field reports from development and donor organizations as well as practitioners where African local government in particular is saddled with incapacity challenges (Adebayo & Rowland, 1972; Boex, 2009; Smoke, 1994).

This disconcerting view has been asserted through the proponents of the modernization trail to development who propose that the course for advancement in the continent to be directed as an external initiative. This is documented in public administration and decentralization literature (Adamolekun, 1999; Rondinelli, 1989; Conyers, 1983; Prud'homme, 2003).

However, the writer's persistent foray into graduate studies saw a shift from this ontological view that was mainly drawn from the constricted evidence of the perspective of African local government structures. The researcher's emerging realism stance integrated constructivism and positivist views in the attempt to build an alternative reality for African local revenue autonomy (Krauss, 2005). Chilisa (2005) is vocal on the use of indigenous knowledge in the development discourse. The writer now feels that this view that encompasses indigenous experience should be integrated into the discourse on local government in the continent. She anticipates that capturing the nuances of the political and administrative processes of government in the local sphere positively alters the efficiency of government processes, as espoused by Cloete (1991)[3].

The writer reckons that evidence that reflects on the adoption of Western ideals on governance regarding African government incapacity, particularly with the continent's abrupt implementation of government reforms through New Public Management, may miss nuances from the processes themselves that may contribute richer perspectives to the discourse on public sector governance (Ayee, 2005; Common, 1998; Dzimbiri, 2008). It is in order to address this quandary that the writer attempts to gauge the intersections between the local administration, local political influences; and the national regulatory environment to reflect on how the political and centralized developmental agenda alters the notion of an interdependent, yet distinct local government in the African context.

[3] Cloete (1991) developed a model that integrates the policy making, planning, finance, organizing, work procedures and control functions to increase the efficiency and effectiveness of public administration. Although this paradigm was designed for apartheid government structures, the model provides a cohesive alternative to the numerous and disparate processes of government.

McFarlane calls for a contemporary reflection on development that utilizes a post-rationalist approach that goes beyond the traditional “linear approach” and instead considers how “knowledge, learning and related concepts are conceived and how this perception alters the context for implementation” particularly for government policy (2006: 288). This alternative approach determines that the repository on development knowledge may rest outside of the vestibule of the traditional governance architecture. It is in this vein that the writer anticipates the knowledge residing with African local officials and local politicians on local governance on particular opportunities and challenges are implicitly important to local fiscal autonomy.

Arguably, the context of African local government is fraught with complexities that may mar these inroads to local revenue autonomy but specific cases may reflect how fiscal innovation has overcome the inherent challenges. Furthermore, the institutional memory as well as the political and administrative intersections in the local fabric will portray the local fiscal experience. Ospina & Dodge (2005) support the interconnectedness of the practitioner and the academic to enrich public administration discourse, which is the narrative that the writer proposes to weave. Therefore, it is the writer’s realism stance that informs this particular reflection of the local fiscal experience of Johannesburg and Nairobi.

3.2.1 Implications for the Study

The study reflects a particular experience of local fiscal autonomy in the context of African cities. The realism stance that the writer adopts calls for multiple realities to be converged from different sources to construct her perceived reality through different lenses. In order to construct this reality, it is important that the researcher consider “not just the voice and perspectives of the actors, but also of the relevant groups of actors and the interaction between them” in order to be able to construct the phenomena (Tellis, 1997: 2).

Realism acknowledges the existence of “multiple perceptions about a single mind-independent reality” that involves the convergence of positivism and constructivism (Krauss, 2005: 761). How and why does local autonomy manifest in water revenue and municipal borrowing and how do the *political* and *administrative* actors intersect to realize local fiscal autonomy in generating local revenue?

Realism may be useful in unpacking these linkages since the stance remains “value cognisant, conscious of the value systems and of the researcher” (Churchland 1979, cited in Krauss, 2005: 761). The goal of realism in this research is the “discovery of observable and non-observable structures and mechanisms independent of the events they generate” (Krauss, 2005: 762).

The study contextualizes the political and administrative narratives that are shared by interviewed respondents in light of the documentary evidence presented in government documents to reflect upon local fiscal autonomy. Adopting a realism stance allows for the probing of the phenomena of the local fiscal autonomy of two African cities that are considered very different yet similar in the urbanization challenges they face. The examination also calls for a reflection on the specific interventions adopted by case cities over the use of specific local revenue tools that may be viewed as novel in the generation of OSR. Besides, the urban dynamic of the case cities illustrated during the study may reveal constraints and inroads during local fiscal discretion that suggests a “more intuitive empirically grounded generalisation” for African cities’ experience of generating OSR as found by Stake (1995) (as cited in Tellis, 1997: 2). The case study method was the research design that was adopted for the study is given in the section below.

3.3 RESEARCH DESIGN

This study was concerned with the OSR experience of local fiscal autonomy in Johannesburg and Nairobi. These two cities were purposefully selected to reflect on particular African cities with a prescribed regulatory framework for the revenue assignment function and illustrate a vital fiscal component of African local government. Ultimately, the aim was to redraw the generalisations that have been made on the discourse on the fiscal capacity of African local government and particularly African cities (Smoke, 1994; Smoke, 2001). The two cities are thus Johannesburg purposefully selected as the cases to reflect on this specific African experience of local fiscal autonomy.

The motivation for selecting the case study method was that it allows for the collection of "rich descriptive material" through various means that enable the reconstruction of events around government policies and processes. The physical data is supplemented by narratives from local politician and technocrats who provide insights into the complexities of generating OSR in the case cities to illuminate local fiscal autonomy as a specific aspect of fiscal decentralization in African cities (Mitchell, 2004; MacPherson, Brooker & Ainsworth 2000). Besides, the use of multi-site cases also allows the collection of data from various sources and in the natural setting, which assist in answering the case study query on the "how and why" issues on the cities' financial processes of revenue mobilization in the related context as is explained below.

3.4 CASE STUDY METHOD

Case studies may be used to "investigate a contemporary phenomenon in depth with real life context especially when the boundaries between the phenomena and context are not clearly evident" (Yin, 2009: 18). The context of the research is the simultaneous occurrence of local political decisions and administrative actions to finance the provision of local services. Case studies are optimally used when a "holistic in-depth investigation is needed" using a unit of analysis that "is typically a system of actions" (Tellis, 1997:1). Johannesburg and Nairobi satisfy the criteria as the unit of analysis. Schramm (1971) also determined that a case study also illuminates how a decision was taken, the reason for implementation and provides the results of the decision (as cited in Yin 2009: 17). The research endeavours to analyse local administrative actions in light of both national and local political decisions made for specific local revenue tools, to reflect the experience of local fiscal capacity for revenue autonomy.

Case studies may be exploratory, explanatory or descriptive (Yin, 2009; Tellis, 1997). Stake (2005) also identifies three types of case studies: collective, intrinsic and instrumental. The writer elected to use an instrumental case study to examine the cases of Nairobi and Johannesburg to "provide insight into the issue" of local revenue. Hence the case examination illustrates the experience of local fiscal autonomy while "redrawing generalisations" using theoretical prepositions on revenue assignment for local fiscal autonomy in the context of African cities (Stake, 2005: 444). Case studies favour the use of multiple data sources. Archival records, documents, interviews and observations are the sources of evidence that are used in the study (Yin, 1982; 2009).

Using a variety of data enhances the triangulation of data and method. Similarly, the multi-perspective analysis projects the “voice and interaction of related groups” (Tellis 1997; Jack & Raturi, 2006). This reflection is useful in unpacking the engagement of local politicians, government officials in council management, in water utilities and in national government.

Replication is also important in multi-site cases and allows the researcher to “predict contrasting results for anticipatable reasons” (Yin, 2009: 54). The use of two cities with similar local revenue tools and demand for urban services but contrasting regulatory frameworks allows for the replication of data collection in order to predict the differences. The analytic conclusions emanating from the use of theoretical replication realize that a “single solution is not always applicable in all situations”; rather it is “important to reflect on what has been done” (Rodden, Eskeland, & Litvack, 2003).

In addition, the replication logic proposed by Yin (2009) and Agranoff & Radin (1991) aids the analysis through an iterative process to determine the manner in which political decisions affect local administrative processes for the local function of revenue assignment. The use of multi-site case studies is also useful in unearthing what might be the “leading edge of change” in specific situations as well as the context which is useful for reflecting on inherent innovations utilized by the cities to increase the specific areas of revenue (Shofield, 2004: 81, 84).

Finally, the use of case studies requires the examination of the phenomena of local revenue both in contemporary and retrospective context. Scrutinizing operational links is “traced over time instead of frequencies or incidence” to “identify adequate causal theories” and the formation of “supportive constituencies” in the different tiers of government towards specific policies and programmes (Yin, 2009; Sabatier, 1986). Evaluating policies over a longer time frame assists in drawing more meaningful conclusions on the desired effect of implemented policies since “over time objectives were clarified, research resulted in more adequate causal theories, and supportive constituencies were fostered both at state and local levels” according to Sabatier (1986: 38).

Besides, case studies used to trace developments over time enable research to encompass both the “snapshot and the moving picture” simultaneously (Agranoff & Radin, 1991). In summary, the multi-site case study method was chosen to enable the researcher to reflect on particular nuances of local fiscal discretion for water revenues and municipal borrowing in the two cities. The sources used to collect data are described next.

3.4.1 Data Collection

Using multi-site cases serves two purposes. First, the data is collected from different contexts using similar instruments with the purpose of replication. Second, the use of various data sources in the different contexts incorporates the multi-perspectives sought for the study. The dual approach complements the purpose of creating an overall picture of the fiscal experience under scrutiny. This was achieved by the physical and cyber engagement with local politicians, government officials and primary data described in this section.

3.4.1.1 Negotiating access

The researcher anticipated that sensitivities around access during data collection would arise from two areas. In Johannesburg, as a foreign student scrutinizing local government processes and in Nairobi where the writer is a citizen, the potential obstacle to accessing data sources was considered to be the navigation around organizational “red tape” as a hindrance to accessing documents and officials for the research. Thus a two-pronged approach was used to gain access to the data sources. Obtaining access for research purposes calls for the researcher to adopt a flexible approach in alternating between formal and informal channels. This flexible approach should enhance the researcher’s effort to gain entry, establish rapport, as well as maintain contact with the targeted research subjects for the duration of the study (Bengry-Howell & Griffin, 2012; Johl & Renganathan, 2010). Therefore, the use of formal and informal processes in this dual approach required the writer to be persistently innovative for the purpose of obtaining data identified as relevant to the study.

Initially, a formal request was submitted to the office of the town treasurer in the Nairobi City Council and to the head of finance in the city of Johannesburg's municipal administration. The request provided a concise account of the purpose of the research for each city with specifications of intended access to council officials and documents that were required from the council officials and offices. This was supported by letters from the academic department, academic supervisor and the researcher's registration at the university. The researcher anticipated that, as a result of the formal application, the senior officials would either consent to an interview or nominate another senior official to be interviewed as well as provide access to key municipal revenue documents that were not electronically available.

While waiting for responses from the letters to both cities, the researcher also used informal channels to gain access. Informally, a senior city official in Johannesburg who was known to the writer from previous research was contacted to solicit pilot interviews and additional contacts in Johannesburg. Email requests were also sent to senior city officials who had left the city's employ and had moved to academia or the private sector. Afterwards, the interview respondents were asked for additional contacts using common ground (research interest) to facilitate a positive response rate for targeted interviewees. In Nairobi, the researcher made use of a research assistant to gain access to the city offices and to interview the some of the respondents. The assistant was well versed in navigating Nairobi's corridors of political and administrative power and was thus able to alleviate the common anxiety that is associated with researchers (Bengry-Howell & Griffin, 2012). This two-pronged approach was useful in gaining access in Nairobi and in Johannesburg for the purpose of data collection.

Agranoff & Radin (1991:225) caution that time and access to key informants remains a significant challenge that is experienced in the case study method. In retrospect, the writer did underestimate the delays encountered in obtaining access to documents and interviewing officials. An extreme example is the additional clearance required for Nairobi that involved a tedious process of obtaining and further renewal of a Kenya research permit that took the first half of 2012. Nonetheless, once granted the research permit proved to be a useful admission tool for accessing Nairobi's documents, officials and councillors. The specific experiences of gathering evidence in each city are described below.

3.4.1.2 Interviews

Interviews are increasingly seen as a "universal mode of systemic enquiry" that is useful in obtaining an "in-depth experiential account of an event" (Fontana & Frey, 2005: 698-699). The interview technique used to gather information residing with officials and politicians was in-depth interviews. This particular form of interviewing is a potential rich data source which researchers may use to obtain intuitive material that is not recorded in written form as archival or current documents. The study is concerned with unpacking reflections on the nuances of political decisions on the municipal administration which means the writer relies on the experiences of political and administrative officials as a critical data source.

Fontana & Frey thus deduce interviews to be negotiated instruments that may utilize a reflexive approach to interviews through language to "create a sharedness of meanings" for both the researcher and respondent in order for both to "understand the contextual nature of specific events (2005: 699). The conceptual lens of local fiscal autonomy used in the preliminary document review guided the development of the interview schedule used in national treasury and for council officials and local councillors. The key informants constituting political and administrative elite were purposefully selected because of the strategic positions these respondents held in relation to the fiscal processes of the two cities. The respondents were in the cities' employ prior to, during or after the restructuring of local government in Kenya and in South Africa. Interviewing senior officials from national and local government helped corroborate the data drawn from documents and reports.

The key informants were purposefully selected because of their insightful proximity to the fiscal processes of the city in question during and immediately after the fiscal crisis. The respondents had also been involved in crafting the agenda for fiscal revitalization in both Nairobi and Johannesburg. The writer also found that some of the key informants who responded for the interviews included those who were no longer in the council employ in the case of Johannesburg.

These past officials had also retained their institutional memory and in some instances, the later engagement with academia or the private sector showed them to be "comfortable with the practice of scholarly research" (Peabody, Hammond, Torcom, Brown, Thompson & Kolodny, 1990: 453). Peabody et al. (1990) assert that such interviews are potential high yield ways to obtain insightful information that is not often recorded in written form such as archival material, policies and books. The respondents were, therefore, a strong data source for the study.

The interviews were conducted during a particular period in the cities, that is, prior to political elections. This elections period affected the availability of and access to officials and councillors differently. In Johannesburg the interviews were conducted between April and August 2011, which was an election year for South African local government. Outgoing councillors who were contacted showed a willingness to be interviewed which confirms the assertion of Peabody et al. (1990) on interviewing political elite that have left the political arena for academic or private business pursuits.

The Johannesburg city officials proved to be a more hesitant group during this time which required the writer to be "persistently innovative to counter this reluctance" to be interviewed (Bengry-Howell & Griffin, 2012). Once contact was established with potential respondents, the writer endeavoured to maintain a routine of regular communication to secure interviews. Although the writer tried to sustain contact with identified respondents during and after municipal elections, the city's reshuffle process meant that alternative contacts had to be sought when initially targeted respondents seemed improbable. The writer thus was able to interview senior officials who had been in the municipal administration during Johannesburg's transition and democratic phase. In addition, interviews were conducted with officials from Johannesburg Water and at the national treasury's unit dealing with municipalities.

Kenya's general elections include local elections and took place in March 2013. Interviews were conducted astride these elections in two phases. The first batch of interviews was done in August and September 2012, while the last interviews were done in February 2013. The interviewees in Nairobi included respondents who had been involved in Nairobi's local restructuring process as well as joined the city after local reform. The Nairobi interviews were conducted with the assistance of a graduate research assistant.

The assistant was trained in the interview protocol used for council officials and councillors. The respondents who were interviewed provided their consent for the interview as well as recording the interview. The participant information sheet and consent form are attached to this thesis as Appendix One.

The interview schedule was developed from the preliminary perusal of fiscal documents on Nairobi and Johannesburg. A pilot interview was then conducted with a senior official from Johannesburg to test the interview instrument. The interview guide was refined and adopted for politicians and officials. Representatives from the three pre-determined groups comprising city administration including water utilities, national treasury, and councillors were interviewed. The interview schedules that were used for the Nairobi are attached as Appendix Two and Three respectively while the Johannesburg interviews, Appendix Four and Five are also attached to the thesis.

Table 3.1: Summary of Interviews:

Key Informants Institutional Representation	**Number of Interviews**	
	Johannesburg	Nairobi
City officials incl City Treasury	4	7
Local politicians	2	2
Water utility officials	2	3
National Treasury	2	2
Total	10	14

Source: Author

A total of 24 interviews were conducted in Johannesburg and Nairobi with key strategic respondents that were drawn from the national treasury, finance officials from the city administration, local officials from water utilities as well as local councillors as illustrated in Table 3.1 above. Field notes that were made during the interviews were later typed and saved on file. The interviews were also taped on digital recorder with consent from the respondents and were later transcribed and saved as electronic files and tape recordings in the case database.

The main challenge that the writer experienced with using this technique was that she often could not control the availability of the key informants which meant that it sometimes took a longer time for interviews to be granted or sometimes even postponed to later dates or in several cases alternative interviews were conducted. Besides, at any one time, the intersection of the political and the administrative office in local government is fraught with tension which impedes the access for research. The public's unease with service delivery is particularly high during an election period; this adds to the tension.

This writer found that politicians vacating office accepted more interviews than the city officials who kept postponing appointments. In view of this limitation, the researcher then had to reassess the intended number of interviews realistically and balance this limited availability with obtaining insightful interviews. The writer then decided to source informants with the strategic institutional memory that would depict the cities' experience prior to, during and after local government reform. This challenge corresponds to the criticism on case study data collection raised by Agranoff & Radin (1991) that is mentioned earlier in section 3.4.1.1.

The primary data collected from the interview transcripts was examined in lights of three predetermined themes. These themes were centred on the nuances around the **central/local government relationship** on local revenue; the **management of city revenue;** as well as the **utilization** of **specific local** revenue tools which include the issues that emerge when cities work towards the fiscal objective of sustainable generation OSR. The themes were drawn from the research questions. The data emerging from these themes was also examined against financial data that was collected from primary documents explained in the next section.

3.4.1.2 Documentation

Primary sources of data that constitute documentary evidence are not created for research purposes. Notwithstanding, the value of primary data is that documents are often "stable and unobtrusive" for scrutiny (Merriam, 2009: 153). Moreover, documents that are archival documents are seen as "precise and quantitative" (Merriam, 2009: 156). The perusal of documents particularly government policies, reports and legislation provides information that enables the researcher to "make inferences and guide further investigation" (Yin, 2009: 102).

More importantly, documents should be used against other sources of data such as interviews which helps to corroborate and to augments evidence (Yin, 2009: 102,103). In view of this importance placed on documentary evidence, the researcher sought current and archival government documents that project the cities' fiscal processes and structures within the national framework. The writer also looked for policies and reports that were mentioned during interviews to further guide the investigation of the analysis of the entire data that was collected.

In Nairobi, the researcher was alerted to the requirement that to conduct research with public officials and institutions required a research permit. The research permit was obtained from the Ministry of Education in Kenya. The permit expedited access to documents from council offices and national treasury that were not accessible on the local and central government websites. The writer obtained physical and electronic copies of national policies; city budget and financial statements; council and national documents on local government reform ministry reports and documents on the city's fiscal state; annual reports; medium term business plans; and audited statements from Nairobi City Water, Sewerage Company and council offices.

In Johannesburg, the researcher was able to obtain most of the financial information from the city's official website. For documents from Johannesburg Water, prior approval was obtained through the legal process that prescribes access to information of government documents. In addition, electronic and verbal requests were made to established contacts for documents from the national treasury; national department of cooperative governance that oversees South African municipalities; Johannesburg Water; and the council administration. The former local government library that housed records of the municipal council's proceedings was converted to the Urban Resource Centre and this process cordoned off the library to public access in 2011. Although the City Director of Libraries confirmed that the researcher could access the library, numerous attempts to get into the library in 2011 and 2012 proved fruitless. Alternatively, the researcher was able to source key archival documents on Johannesburg's fiscal history and local restructuring from city officials.

The documents collected from the two cases above were analyzed with two objectives in mind. The first was to extrapolate financial data on the following variables:

OSR: the operating revenues that the case cities generate on an annual basis from using the various local revenue instruments

Water revenue: the revenue generated from the supply of water and sewerage services including the water revenue that the cities obtain from the water utilities

Water and sewerage tariffs: the tariffs annually set by the water utilities to price the supply of water and sewerage services to the different categories of consumers in the cities

Governance of water revenue: the governance structure of the water utilities created to perform an independent municipal function for water and sewerage services for the cities

Municipal debt burden: in this variable, the overall city revenue is compared with the municipal long-term loans for the city

Municipal credit rating: the independent credit rating that is performed by reputable rating agencies regarding the risk factors that affect municipal borrowing

Local fiscal legislation: the laws and regulations passed by central government to enable the revenue sharing and revenue assignment functions for the cities

The financial data was then used to project the revenue trends of municipal revenue. The revenue trends were developed in the context of OSR generation through various municipal revenue tools, for instance, water services and municipal borrowing, as a part of a city's complex annual budgeting process. The generation of municipal revenue is thus structured in a way that political and technical actions occur simultaneously.

These processes include the: council meetings that deliberate and approve annual and midterm municipal budgets on expected revenues and expenditure; the development of municipal tariffs and charges on the varied municipal services; the final approval of predetermined annual tariffs; as well as the collection of service charges for the provision of a single municipal service such as water revenue. The municipal revenue processes may be examined through financial and annual municipal reports. The researcher opted to examine overall municipal revenue, water revenue and municipal borrowing through the examination of both cities' financial statements prior to, during and after local restructuring in order to capture the causes and effects of local government reform in both cities.

Equally important in the document review is the second purpose of examining the municipal fiscal documents from Nairobi and Johannesburg, was to project the cities' overall revenue mobilization effort in light of the political decisions on the use of municipal revenue instruments to generate and sustain local revenue for these cities. This required the determination of the **regulatory environment,** which prescribes the cities' generation of local revenue through the relevant legislation. Thus, the generation of municipal revenue is examined in light of local and national political decisions as well as local fiscal capacity to sustain the generation of local revenue. In collecting data through the interviewing of strategic political and technical officials and extrapolating the financial data discussed here will project local fiscal autonomy for these cities.

3.4.1.3 Ethical considerations

The data was sourced from study participants selected because of the positions they hold in public office, including access to government documents that may not always be openly accessible to the public. On this basis, prior to the interviews, the respondents were informed of the structure of the interview within the overall purpose of the study to ensure "informed consent" (Fontana & Frey, 2005:715). Verbal or written consent was given for the interview as well as permission to record. To further protect the identity of the respondents, a code was assigned to each of the transcripts and used in citation in this thesis.

A research permit was granted from the National Council for Science and Technology in the Kenya Ministry of Higher Education that enabled the writer to access data from Nairobi. The research permit is attached as Appendix Six. In order to meet the procedural ethical requirements of the university, ethical clearance was obtained from the university once approval for the proposal of the study had been granted by the Higher Degrees Committee. A copy of the university's ethics research clearance protocol is attached as an Appendix Seven.

3.4.1.4 Data Management Plan

Data collected for research purposes needs to be organized and documented in a design that enhances future reference. A case study database acts as a data management tool because it provides a chain of evidence which enhances the reliability of the study. The database also offers the “derivation of evidence from initial research questions to conclusions emanating from case study” (Tellis, 1997; Yin, 1982). Empirical data is stored in physical and electronic format. Physical copies of government and council policies and documents are reserved in box files. Field notes taken during interviews are in notebooks. Digitally recorded interviews, transcripts and electronic primary data are stored as computerized files. An Excel spreadsheet indicates the list and location of the data. This thesis also provides citations to the case study database as to where actual evidence is located.

3.4.2 Data Analysis

The analysis of data usually begins simultaneously with the collection of pertinent information involving data entry, coding, descriptive analysis, cross tabulation, and the testing of relationships among themes (Chadwick Bahr, & Albrecht, 1984). Data analysis aids the researcher in constructing events to depict evidence or lack thereof of local fiscal discretion. Initially, the writer had anticipated that the study would also examine the role of international organizations: namely, the International Monetary Fund and the World Bank for their insights into public sector reforms. An outcome of the preliminary analysis was to drop the theme on technical assistance.

The conceptual framework developed from the study forms the basis of analysis that was conducted at various stages (Yin, 2009: 18). At the first level of analysis, coding was done to “fracture the data and gravitate towards interpretation to higher levels of interpretation” (Strauss, 1987: 55). The dual use of quantitative data drawn from the cities’ financial reports and qualitative data gleaned from inferences made in the interviews constructs the narrative on local fiscal experience. A cross case analysis involves the “building from specific to general isolated data and meaningful events from the cases” with the intention of reporting conclusions that are “firmly embedded in the context of the case material” (Agranoff & Radin, 1991: 219; Yin, 2009).

Descriptive analysis and time series that is derived from the financial data in the document sources were used to depict specific trends in the local management of OSR. A review of documents was also used to project the regulatory environment as well as the trends in water revenue and municipal borrowing against overall city revenue. The qualitative data was analyzed over several stages. By means of open coding, text from interview transcripts and notes were coded into initial categories developed from the predetermined themes for analysis to sketch out categories. The next level of analysis was iterative and involved the examination of these preliminary codes against emerging patterns and relationships to construct a reality on the cities' fiscal states and discretion (Strauss, 1987). The final level of analysis was then conducted against the conceptual framework developed for the study in light of the theoretical propositions that had been developed earlier.

3.4.2.1 Use of CAQDAS

The use of computer-assisted Qualitative Data Analysis Software (CAQDAS) has raised several criticisms. CAQDAS is criticized for lacking uniform protocols which can aid researchers in qualitative analysis. Another disadvantage of CAQDAS is the software's inability to deal with temporal data which requires consideration of space and time data (Bhowmick, 2006: 9). Despite these limitations, the use of *Atlas ti* has been recommended to PhD students to assist in the analysis of qualitative data because CAQDAS aids the development of a data management system and the organization and retrieval of data. CAQDAS also supports the coding process and helps researchers check for consistency as the coding process evolves (Wickham & Woods, 2005).

The writer elected to use CAQDAS software to analyze the qualitative data sourced from interviews because the analytic tool provides the researcher with ease of coding and retrieval of data and enhances the testing of relationships in the data through visualization. The software allows the research process to be reflexive and allows emerging patterns to be synthesized into the conceptual framework for analysis (Rademaker, Grace & Curda, 2012; Wickham & Woods, 2005; Marshall, 2002).

3.4.2.2 Reliability and validity

Creswell & Miller (2000) advance a two-dimension framework that can be used to validate studies using three research lenses: lens of the researcher; lens of the study participants and lens of people external to the study. Three paradigms are suggested by the authors. In the first instance, the post-positivist paradigm triangulates the sources of data; uses member checking during analysis which involves taking the data back to the participants for review through focus groups; and also uses an audit trail with memos and the research log providing a narrative account of data collection. The second constructivist paradigm calls for the use of the researcher's lens to dis-confirm or negate evidence in the field. This is achieved through prolonged engagement in the field and uses a thick rich description to detail the accounts of the study.

The last paradigm referred to as the critical paradigm requires the researcher to provide a personal narrative on the research process, collaborate with participants in the data collection and analysis, and use a peer reviewer who is familiar with the research to examine the research to "assist in reviewing the research in challenging the researcher's assumptions and pushing the researcher to the next step methodologically".

To enhance the reliability of the study, this writer triangulates the data collected across the various sources of data and the different categories of interview participants to check for areas of congruence and divergence in the conceptual framework. The writer also envisaged that she would be able to present her research finding to a round-table constituting of national and local treasury officials that would cater for member checking and peer-review. Instead a research colloquium for an international conference of local government officials and politicians taking place in Africa in May 2013 presented this opportunity for member checking and peer review. The researcher presented part of the research findings at this colloquium. The comments and inputs were useful in guiding the final analysis and drafting of the study. The annual PhD forums were also used to engage fellow students and academics to compel the researcher's analysis towards the final step of the research.

3.3.2.3 Limitations of data collection

The writer intended to interview officials located in both ministries of local government in Kenya and South Africa but both career progression of targeted officials and the looming national elections circumvented the writer's efforts to interview targeted officials from the ministries. In South Africa, attempts to locate relevant officials at the provincial office and the national department were unsuccessful. In Kenya, requests for interviews at the ministry were not responded to, which may be attributed to the newly established transitional authority dealing with the new municipal structures implemented after the 2013 elections. The researcher was able to obtain documents and policies on that guides the process Kenya's local government reform by the parent ministry of local government from the Town Treasurer's offices. In South Africa, electronic copies of the national framework for the parent ministry's oversight were provided to the researcher.

3.4.3 Notes on Terminology

In order to protect the identity of the key informants that were interviewed for the Nairobi and Johannesburg cases; the terminology used to cite the transcripts that were used in the study shows user-defined classifications of the primary documents in the CAQDAS database as given below in Table 3.2.

Table 3.2: Key to Interview Transcript Citation

Officials:
P1: JO - Officials in city; ministry; utility in Johannesburg
P1: NO - Officials in city; ministry; utility in Nairobi
Politicians:
P1: JC - Local politicians in Johannesburg
P1: NC - Local politicians in Nairobi

Source: Author

Conclusion

The chapter presented the research strategy that was employed to extrapolate and analyse data relating to local fiscal autonomy in Nairobi and Johannesburg. The multi-site case method was useful in sourcing fiscal information from these two cities from the various data sources and guided the researcher's interviews of key informants with insight into the processes of local government reform. The data collection provided information that was used to scrutinise how the cities undertook local reforms to improve local governance and also enhance the local fiscal state.

The interdependence of government particularly concerning fiscal resources has implications for the assertion of local fiscal autonomy. This is particularly important in African governments that for all purposes are expected to direct fiscal resources towards the developmental and redistributive nature of service delivery. The next chapter expounds more on the framework that devolved fiscal resources in Kenya and South Africa while the subsequent chapters reflect on the function of the revenue assignment in these African cities.

CHAPTER 4:

CRAFTING MUNICIPAL REVENUE ASSIGNMENT

This chapter provides an account of how the local revenue function has been devolved to sub-national government in Kenya and in South Africa taking into cognizance the elements of regulation and intergovernmental transfers. The purpose of the chapter is to examine the regulatory and legal framework that caters for local fiscal autonomy in Nairobi and Johannesburg. Initially, the framework for generation of local revenue for Kenyan local authorities prior to the adoption of reform measures is examined. The impact of the centralized restructuring process on Nairobi's fiscal tools is then provided. Finally, South Africa's local government reforms are discussed as the context for the realignment of Johannesburg's revenue instruments.

4.1 ENHANCING REVENUE THROUGH REFORM

The rationale that guides the use of fiscal tools in the local generation of revenue involves maintaining utility of the revenue, while taking into account the redistribution concerns against the operating and capital costs of municipal service provision (Heyns, 1995; Bird, 1993; Bird, 1999). These concerns driven by the need to generate revenue to finance expenditure are always tempered by how much of the tax base can really afford to pay for the service and what redistribution options are available to assure equity.

This dilemma is solved in part by the way local government sources revenue through charges for trading services that cover cost of service provision and sometimes subsidize other services; locally collected taxes such as property tax; licensing fees; grants from central government; and municipal borrowing from a variety of options (Bahl & Linn, 1992: 32-41; Bird, 2000; UNHabitat, 2009*b*). These sources of revenue have not always been optimally utilized as was earlier discussed in the theoretical section.

Fiscal discrepancies between local governments and inadequate financing for municipal infrastructure partly motivated the national reform process in Kenya and South Africa. The local government reform was intended to align these internal and external sources of revenue with corresponding municipal functions and in the case of urban authorities assert the municipal capacity to generate a significant portion of city revenues independently. This has resulted in the adoption of additional and sometimes novel use of local revenue instruments that are regulated by a framework to enhance the fiscal capacities of cities while assuring dedicated channels of the grant system to co-finance shared services. In view of the above, the following country reflections present the context and the regulatory framework that has evidenced an evolution in the revenue of both cities that will be discussed later in chapter five and six.

4.2 THE POLITICAL ECONOMY OF KENYA

Shortly after independence in 1964, Kenya became a one-party state with the merging of the Kenya African National Union (KANU) and the Kenya African Democratic Union. With KANU as ruling party, President Kenyatta led the country until 1978 when President Moi took over as the country's leader. Recognition of political parties in 1992 opened the discourse and political landscape for *multi-partyism.* By 2002, when President Moi constitutionally retired; the National Rainbow Coalition (NARC) which was a merger of several opposition parties including the Democratic Party, and the FORD-Kenya[4], won the general election and leadership of the country with President Kibaki at the helm (APRM, 2006: 40-44).

President Kibaki governed from 2002 to 2012, and President Uhuru Kenyatta was elected in March 2013. Local and parliamentary elections take place concurrently during general elections in Kenya, thus the local governing term similarly applies as the presidential term. Nairobi's uni-party political leadership also changed in 1992 with the adoption of multi-party elections in Kenya. Opposition politics were similarly mirrored in the city's political leadership until 2002 when the ruling NARC secured all the wards as follows:

[4] Seven political parties won parliamentary seats after the historic 2002 general elections: NARC; KANU; FORD-People; FORD-Asili; Sisi kwa Sisi; SAFINA; Shirikisho Party of Kenya.

Nairobi's Voting History:

- 1992: FORD ASILI (Langata – FORD KENYA)
- 1997: DP (Langata – NDP, Westlands - KANU)
- 2002: NARC
- 2007: PNU (Langata, Westlands - ODM)
- 2013: CORD

The first constitution of Kenya was a constitution charter that was adopted at independence. The antiquated constitution remained invisible to the socio-economic aspirations of Kenyan citizens during its forty-five year existence, during which the Kenyan government used the rule of law in parliament to effect legislation and an executive that centrally controlled resources for public services. The centralized management did not necessarily allocate fiscal transfers efficiently which was to the detriment of the development of Kenya's sub-national government, according to Smoke (1994). The initial attempt at reforming the constitution undertaken in 1997 with limited citizen engagement did not offer substantial changes to the archaic constitution or to the national political landscape. Renewed efforts in 2002 produced a new draft that was achieved mainly through the *Bomas consultative* process that catered for civic engagement and provided the leverage for the Kenyan opposition to win the 2002 elections.

When President Kibaki assumed office, the NARC government committed to adopting a new constitution immediately. However, the 2002 version of the draft constitution still remained a bone of contention between political parties in the sections concerning executive powers that were proposed[5]. This was confirmed when the national referendum of 2005 rejected outright the draft constitution (APRM, 2006: 50-52). The draft constitution was refined again although without the active engagement of local government structures and stakeholders. This exclusion of sub-national government interests meant that salient issues involving interdependence of government spheres remained unchanged in the draft. The Kenya Constitution was finally adopted in August 2010 (RoK, 2010).

[5] These proposals included the dissection of the office of the executive president into that of a ceremonial president and a prime minister's office.

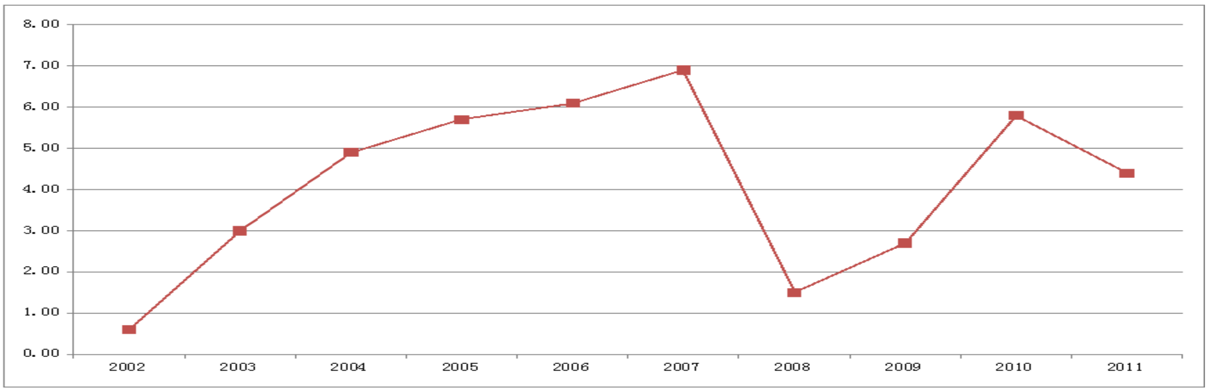
National development had previously followed a five year course but in 2008, the Government of Kenya adopted a long-term development vision for the country, *Kenya Vision 2030*. The vision acknowledged socio-economic challenges facing the country and outlines the state's commitment to utilize available resources to channel towards infrastructure investments to improve the public sector machinery in order for the country to become a middle-income country.

The development plan takes into cognizance social, economic and political pillars of governance and acknowledges the developmental role of local government more openly than the country's previous development intentions (GoK, 2008*a*). The long-term vision provides the blue print for medium-term planning and also compels local authorities to align local development plans with Vision 2030. As the capital city, Nairobi subsequently adopted the Nairobi Metro 2030 vision that aims to garner social and economic infrastructure in the region to promote development (GoK, 2008*b*).

In this political context, Kenya has experienced three distinct economic phases. From 1963 into the late 1980s, the country experienced economic growth that was attributed to peace and the security of a stable government. However, dissatisfaction with the *de facto* state evidenced by blatant corruption that had permeated the social and economic fabric of Kenyan society resulted in an abrupt freeze of development aid from international donors. The lack of this considerable source of funding needed for overall government expenditure also resulted in a negative prolonged economic slump in the decade of the 1990s.

The multi-party elections of 2002 and the commitment to remove corruption combined with development partners and renewed focus on the vibrant informal economy have resulted in a positive trend in economic growth with year-on-year increases in national GDP. Table 4.1 below shows that even during the economic crisis that rocked the global economy from 2008, Kenya continued to experience a positive increase in the country's annual growth rate in GDP. This economic growth is similar to African countries that had experienced slumps caused by adoption of structural adjustment programmes and fall in commodity prices which their economies heavily relied upon.

Table 4.1: Kenya's Annual Economic Growth 2002-2011



Source: GoK, 2008:1 & World Bank, 2012[6]

Therefore, the political and economic country environment presented above shows that Kenya is moving towards an inclusive political economy through multi-party governance. The country has reversed the downward trend caused by caused by donor withdrawal of development funds and is experiencing a positive gradual economic growth. The section below examines the evolution of Nairobi's revenue within this country.

4.2.1 Revenue History of Kenya's Local Authorities

Kenya inherited a decentralized state in which its executive authority was delegated to provincial and local government but "not the transference of comprehensive high-level decision making to lower authorities"; this shows the "centralized monitoring and control" of resources was retained by national government (Gildenhuys & Knipe, 2000: 240). At independence, the country was demarcated first into nine provinces and then local government into distinct categories that comprised: three cities with Nairobi as the primary city as it had the highest concentration of population and of investment, town councils, and counties used to classify rural constituencies[7].

[6] World Bank provides annual data on countries including the annual economic rate of growth see http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/countries/KE?display=graph
[7] Previous amendments to the Local Government Act awarded Nairobi provincial status which meant that Nairobi was officially the capital with provincial status as well. The Kenya Constitution (2010) replaced the 8 provinces with 47 counties for the entire republic. The Urban Areas and Cities Act (2011) reclassifies cities, towns and municipalities and explicitly recognizes Nairobi as the capital city that is also managed as a County Government. These changes were effected after national elections in March 2013.

The jurisdiction of the legal instruments for regulating revenue generation of urban authorities was restricted to the promulgation of local by-laws with approval from the parent ministry of local government. Unfortunately, this was a mechanism that local authorities were unable to utilize optimally to generate OSR (GoK, 1996: 40). In terms of the fiscal landscape, the regulatory framework for local revenue remained largely unchanged for almost fifty years.

The overall legal framework was the 1967 Local Government Act (Cap 265) that regulated the entire political and administrative structures and processes of the 175 local authorities in Kenya until 2013. The act also catered for municipal revenue by stipulating the independent means of own source of local revenues as well as external revenue from central government and other external sources. These local revenue instruments have remained largely unchanged with minor modifications. Internally, the utilization of revenue tools includes user fees, for instance, imposing charges on water and sewerage services; licensing including the Single Business Permit; and rates and housing rentals (ALGA-K, 2006: 20). Other internal capital funds include the General Fund and the Road Maintenance Fund that are expected to supplement the financing of municipal infrastructure.

Water revenue initially derived authority from the local law that prescribed the establishment of an individual local authority water fund into which revenue surpluses were accumulated and used at the city’s discretion for water infrastructure. Water revenue has been effectively changed by a national water framework that will be discussed later in chapter five.

Externally, central government is a significant source of revenue through the intergovernmental transfers of predetermined allocations from national income. The local revenues from central government comprise the Local Authority Transfer Funds (LATF); Road Maintenance Fuel Levy and specific grants from development partners and non-governmental organizations (ALGA-K, 2006: 21). Municipal borrowing for capital expenditure is also permitted whereby the local council is required to authorize lending on approval from the parent ministry. The following legal instruments supplement the local government act for revenue mobilization.

Income from property rates is prescribed by the Rating Act (Cap 267) that allows the imposition of rates on land and buildings as well as by the Valuation of Rating Act (Cap 266) that prescribes how local authorities value land for rating purposes. The potential contribution of rates to municipal income is yet to be fully realized by Kenya's local government. This limitation is mainly attributed to inelastic rates that are used for assessing property values and the deficiencies encountered through the inadequate administrative and valuation processes that continue to inhibit growth in rates income (Konyimbih, 1996; Franzsen & Olima, 2003; Gachuru & Olima, 1998).

A case in point is the decline in local revenue property rates since 1990 as the "importance of rates in Kenya declined in real terms over time, in relative contribution to total local authorities' revenue, and as a percentage of GDP" (Kelly, 1999: 10). The trend is still evident from contemporary reflections on municipal revenues (KNBS, 2012). Cities with housing stock also obtain rental income that has remained negligible to local revenue coffers because rents charged by local councils have stayed well below market levels which contradicts the exorbitant administrative and human costs incurred for rental collections (GoK, 1996: 83)

The Trading Licenses Act (Cap 497) require businesses to pay a variety of trading fees to operate. Cities and towns with an economic base are the likely authorities that benefit from this legislation. The implementation of this trading legislation is also prone to interference from national ministries that apportion and collect trading fees from private enterprises. This disjointed use of different government tiers extracting revenue using the same instrument has raised an outcry in the business community (KAM, 2010).

Legislation for municipal borrowing is supported by the Local Government Loan Authority Act (Cap 270) that allows a local authority to "raise loans for such purposes relating to its function" from sources and under conditions that are approved by the parent ministry (1967: Clause 222). The stipulation permits sub-national government to borrow locally and overseas with central government acting as sole guarantor for the local authorities' long-term debt.

This has produced the high indebtedness of local authorities to internal sources as is evidenced by the depletion of funds from the Local Government Loans Authority (Chapman et al., 2003:1531). Besides, the inadequacies of the legal framework in dealing with the growing financial needs of local authorities coupled with the capacity constraints of the authorities themselves, has resulted in the increasing dependence on central government for fiscal relief and the accentuated erosion of the local structures for revenue mobilization (Crane, 2004; RoK, 2007).

The distinction between rural and urban local authorities also had implications on the use of local revenue amongst rural authorities that rely almost entirely on central government while urban authorities eke out revenue from limited tools that are intermittently supplemented by central transfers. To accentuate the fiscal crisis in local authorities, the rhetoric on rural development ignores the stylized erosion of local revenue; the District Focus for Rural Development (DFRD) strategy is a case in point as the five year emphatic for rural development has had negligible results for local revenue autonomy (Wamwangi & Kundishora, 2003: 21-23).

Moreover, revenue sharing being more explicit in local financing also conveys the inadequacies in local financing of mandated services. Additionally, Crane (2004) maintains that the regulatory framework for intergovernmental transfers remains inadequate particularly for ensuring the sustained financing with disbursements through the road maintenance fund from central government. According to Smoke (1994) writing on Kenya’s local revenue twenty years ago, the heavy reliance on intergovernmental transfers and limited use of local revenue instruments required structural and legislative changes that would improve the intergovernmental transfer system. The enhanced revenue flows from central government would in turn increase local revenue. Eventually the local restructuring was driven partly by the need to improve accountability of local government in development projects and partly by evidence presented by the first national commission appointed by the Kenyan head of state to critically examine the affairs on local governance in the mid-1990s.

Omamo Commission of Inquiry into Local Government 1995

The dismal state of sub-national government in Kenya continued until the 1990s when evidence of fiscal inadequacies was linked to corruption and stagnant development in local authorities was made public. The local fiscal stress also went against the increasing recognition of the development role that the grassroots tier of government was expected to contribute to economic growth as had been repeatedly proposed as a way to enhance decentralization (Smoke, 1994). The first comprehensive attempt to reflect nationally on the crisis of Kenya's local authorities was the Omamo Commission of Inquiry that was appointed by former President Moi (GoK, 1996). The terms of reference were specifically to

- enquire into the future structure, powers, legal framework, functions, financing and staffing of local authorities at all levels countrywide;
- look into the elevation of Mombasa, Kisumu, Nakuru and Eldoret to city status;
- consider the division of Nairobi City Council and the above cities into boroughs;
- recommend a system that would increase active local participation in the designing and implementation of development plans;
- examine local authority licences and regulations that inhibit development;
- enquire generally or in particular into any other matter pertaining to the foregoing.

(GoK, 1995: ix).

The findings by the Commission reiterate the fiscal crisis of local authorities. The lack of revenue autonomy by a majority of Kenya's local authorities meant that the absence of local discretion for revenue mobilization was glaringly evident in the limited local generation of OSR. The perpetual dependence on central transfers that were ad hoc at the time exacerbated this dilemma (GoK, 1996). The recommendations that were made called for improvements in policy, introducing a streamlined grant system as well as additional revenue instruments for local authorities. These recommendations are also confirmed by Chapman et al. (2003) who explain that the local fiscal stress experienced by Kenya's local government could be alleviated if local revenue autonomy was enhanced. Legal and structural reforms were subsequently implemented by the Kenyan central government after the findings and recommendations of the Omamo Commission. Kenya's restructuring of local government follows below.

4.3 KENYA LOCAL GOVERNMENT REFORM

> *Local authorities will be the target of focused intervention to improve local economic performance, transparency and accountability. Through the Local Authorities Transfer Fund, LATF mechanism local authorities will be improving their local service delivery and financial management through submitting improved budgets, financial statements, debt plans, and local service delivery plans in order to annually increase the LATF monies. In addition, local authorities will be introducing a local level integrated financial management system (IFMS) to assist in the efficient and transparent management of all local expenditures and revenues.*
> (GoK, 2000: Clause 4.7)

At the height of the local fiscal crisis in Kenya, indications pointing to inadequate resources and the limited citizen engagement with the governance structures had resulted in the stagnation of provision of local services as well as the financing for the maintenance and improvement of critical municipal infrastructure (GoK, 1996; RoK, 2002a; Matovu, 2003; Ndegwa & Levy, 2003). These pressures prompted central government to introduce measures that would enhance governance particularly in matters of accountability, transparency and participation. A national process using legislative and structural changes in local authorities through a national reform programme is described below.

4.3.1 Laws Affecting Local Revenue after 1995

Local Authority Fund Transfer Act No. 8 of 1998

The first legislative change for local revenue was intended to enhance the intergovernmental transfer system through the Local Authority Transfer Fund (LATF) in 1998. In terms of regulating intergovernmental transfers, the Local Government Fund Transfer Act replaced previous legislation on revenue sharing that had encumbered local authorities' indebtedness to central government. The specific objectives of the LATF were to increase service delivery; enhance financial management and eliminate the mammoth levels of municipal debt of local authorities. The act also effectively introduced specific arrangements relating to income tax revenue sharing among the government tiers. Since 1999, local authorities have been annually entitled to 5% of income tax revenues.

The LATF expenditure is tied to fiscal rules that dictate 60% of the LATF revenue be directed to community development plans and 40% in line with the timely submission of financial statements and documents. Since the introduction of the LATF, the stable and sustained income source has seen a steady increase of total revenues for local authorities from Ksh 1billion in 1999/2000 to Ksh 7.5 billion in 2006/2007 (RoK, 2007:18).

The consistency in local revenue has also boosted municipal spending on capital development projects by local authorities; increased financial viability; and reduced the debt ratio of local government. The major criticism that has been raised against the LATF is that the increasing dependence on intergovernmental transfers from central government erodes local options for revenue mobilization (Gitau & Amaya, 2003; Crane, 2004). A review commissioned by the national ministry found that the LATF regulations and penalties had forced local authorities to improve financial reporting and management and reduce individual debt levels (RoK, 2007).

Water Act No. 8 of 2002

Previously, the local water sector in Kenya was in crisis as was the rest of the sub-national government. At the local level, Nairobi in particular appropriated water revenues towards other municipal expenditure; the local financial management was in disarray as evidenced by faulty meters and incorrect billing further deflating water income. Besides financing for water infrastructure had been minimally utilized which led to further decay of the municipal infrastructure (NCC, 2002; NCWSC, 2004; RoK, 2002a). Central government promulgated legislation through the Water Act (2002) to institutionalize the centralization of water resources by abolishing the historic water and sewerage departments in local government and replacing them with autonomous water services providers (RoK, 2002*c*).

Now the overall structures on water regulation and water services from the national ministry downwards to the local level of water service provision are primarily funded from the water sector. This water institutional framework in turn directs the financing arrangements for water utilities.

This deflection from the previous municipal tariff setting process removes the fiscal function of water services completely from local government. By 2008 water utilities had replaced the water sewerage departments in local authorities with 90 registered water service providers in Kenya (WASREB, 2008). The national process is examined further in the next chapter in section 5.3 that examines Nairobi's water utility.

Urban Areas and Cities Act No 13 of 2011

The Urban Areas and Cities Act (2011) replaced the Local Government Act (1967) as from March 2013. This legislation determines more explicit provisions for new city demarcation; enhanced public participation in local service delivery; and the accountability provisions for public office. In terms of local finance, the new legislation retains the old order and determines similar imposition of fees and charges for the provision of municipal services as well as local lending for sub-national government. The structural changes that were implemented by the parent ministry are given to show the centralised nature of reform of Kenya's local sphere.

4.3.2 Structural Reforms

The Kenya Local Government Reform Programme (KLGRP) was established in 1998 to guide local government reform for "good governance, efficient service delivery and local economic development" which was supported by the parent ministry of local government. The local government reforms implemented in Kenya were targeted at both the revenue sharing and revenue assignment functions of sub-national government. In the first case, the voice of the community was expected to be translated into objectives of service delivery through public participation. Additionally, central government made provisions to rationalize some of the revenue streams to enhance access to sustainable revenue. These revenue changes were also enhanced by the overhaul and introduction of new financial systems in order to improve financial recordkeeping, a practice that had eluded Kenyan local government. These structural changes were constituted as follows:

Single Business Permit

In the past, businesses operating in local authorities were required to obtain a plethora of licenses from the respective local authorities as well as from various national ministries. The local reform resulted in the Kenyan government ceding to local authorities trading licenses which had been merged into a single license. The Single Business Permit (SBP) is now levied on all businesses that operate in cities and towns where a progressive standardized tariff structure is used by the local authorities at their discretion in setting the annual rates for the SBP (Devas & Kelly, 2001). This has produced a steady increase in local revenue for the 123 local authorities implementing the SBP by the year 2000 (Devas & Kelly, 2001: 388). However, not all national ministries that previously levied trade licensing on businesses have ceded this licensing function to local authorities. As a result, confusion is evident in the apparent overlap of mandate between the regulating agencies in local authorities and central government while inefficiencies in the procedures of licensing still plague the SBP (Devas & Kelly, 2001; KAM, 2010; MoLG, 2006).

Integrated Finance Management Systems for Local Authorities

The urgent need for verifiable financial records for local authorities was essential for financial reporting as well for reflecting the financial position of sub-national government (ALGA-K, 2006: 21-23). Prior to reform, communities as stakeholders, central government and local authorities themselves were at a loss in reflecting the state of municipal fiscus accurately (GoK, 1996; Wamwangi & Kundishora, 2003). This handicap necessitated the improvement of local authorities' financial management systems through the focus on revenue and expenditure accounting. A new uniform system for reporting local finances was introduced; the Local Authorities Integrated Financial Operations Management System (LAIFOMS) was implemented through the parent ministry of local government which standardizes the financial reporting systems. Local authorities were also tasked to implement revenue enhancement plans within individual departments (MoLG, 2007; OPM/MoLG2009).

Public Participation for the LATF Expenditure

Public participation previously involved the DFRD strategies did not align local revenue with development projects but was considered to be a "top-down" affair (Chapman et al., 2003). This discrepancy was addressed by mandating the participation of resident communities in the spending of the LATF revenue allocations. The local authority service delivery plan (LASDAP) was adopted by Kenya's sub-national government to support the expenditure process for the LATF. LASDAP constitutes a three-year consultative planning process that requires the input of stakeholders who represent the local community. The consultation seeks to ensure that community needs for government services are aligned with intended municipal expenditure by local authorities on specific development projects. The process involves representatives from the NGOs, business organizations, health and professional organizations, resident associations as well as individual residents.

LASDAP should be used to identify and prioritize local resources; encourage spending on service delivery; encourage participation as well as increase accountability to communities in the spending of the LATF (RoK, 2009: 2). The importance of involving communities and encouraging local authorities to embrace LASDAP and integrate the plan into other local government planning and national processes for development has been emphasized by central government (RoK, 2005; RoK, 2009). However, despite evidence on adherence to the requirement for participation, citizen engagement has been rather limited particularly in the monitoring of the LATF projects (RoK, 2007).

Oyugi (2008) gives anecdotal evidence on the inadequacies of the LATF regulations regarding the actual service delivery of disbursed funds; the mammoth municipal debt facing Kenya's sub-national government; and improving the capacities of local authorities to generate revenues independently. Although the LATF remains an important revenue stream through the Kenya intergovernmental transfer system, the local fiscal capacity for generating revenue requires additional legislation. Therefore, the need to build local fiscal autonomy for the cities of Mombasa, Kisumu and Nairobi is critical in the financing of municipal services and infrastructure and should be considered in Kenya's legislative framework for local revenue.

4.3.3 Transitional Measures and Kenya's 2013 Elections

After the adoption of the Kenya Constitution in 2010, a transitional authority was established to guide the transition of the country into a new system of devolved government and give effect to the Transition to Devolved Government Act, 2012. The authority was expected to develop and adopt guiding principles for the new county structures which replaced provinces after the 2013 elections in order to enables the counties execute the new mandate (RoK, 2010).

The transitional authority also provided procedural guidelines for assumption of office of county governors from March 2013. This oversight organ was to ensure that the executive structures of counties throughout the republic were operational after the prescribed elections (*Sunday Nation,* 2013). Nairobi was part of these transitional changes because of the county status awarded by national legislation (RoK, 2010).

This means that even after Kenya's 2013 elections, the dual existence prescribed for Nairobi by the new law governing counties and the local government legislation that are now made up of areas and cities confers Nairobi with preferential city status as did previous legislation. Although the above legislative, structural and transitional measures will contribute to more accountability from local government, revenue is still an important piece of the local puzzle. The consideration of local fiscal autonomy is not fully reflected in Kenya's improved regulatory and legislative framework for local revenue. Therefore, the reforms have positively altered the local fiscal landscape but the regulatory framework has accentuated dependence on central government with increases in local revenue.

In summary, evidence reflects that the Kenyan government has implemented legal and structural reforms to enhance the revenue function and financial management of the local tier. These reforms have been particularly useful in articulating the intergovernmental transfer system to assure not only the sustained revenue sharing sources from central government but also that development funding is sustained by local authorities. In addition, the reforms aid in issuing a standardized financial reporting format to enhance local fiscal governance.

Nonetheless, the overall local government income has steadily increased since the reforms. The streamlined intergovernmental transfers and SBP now confirm the positive revenue flows to Kenya's sub-national government. Table 4.2 below shows a double increase in the total revenue of Kenyan local authorities of KSh 9,875.65 million in 2007/08 to KSh 18,916.16 million in 2011/12. The revenue includes income from the Nairobi City Council, hides the reality that Nairobi's significant income constitutes roughly 60% of total revenues of all Kenyan local authorities (NCC, 2009; NCC, 2010).

Table 4.2: Municipal Councils' – Economic Analysis of Revenue 2007/08 – 2011/12

KSh million

	2007/08	**2008/09**	**2009/10**	**2010/11****	**2011/12****
CURRENT REVENUE:	9,407.55	12,793.55	13,081.85	13,429.54	18,113.20
Direct Taxes (rates)	2,365.28	2,883.85	3,247.15	3,428.31	4,352.16
Indirect Taxes (licences)	993.68	1,874.17	2,014.35	2,042.39	2,957.65
Income from Property	896.27	900.32	798.57	713.92	957.35
Current Transfers*	1701.17	2,187.79	1,718.11	2,009.17	2.589.67
Sale of Goods and Services	3,451.00	3,432.50	5,303.67	5,235.75	7,256.37
CAPITAL REVENUE:	468.26	514.92	605.42	601.94	802.96
Loans Raised	463.99	511.68	602.44	598.75	798.67
Loan Repayment	4.27	3.24	2.98	3.19	4.29
TOTAL REVENUE	**9,875.65**	**13,308.47**	**13,687.27**	**14,031.48**	**18,916.16**

* Excludes LATF

**Provisional

Source: KNBS, 2012: 112

The centralized manner in which the state implemented Kenya's local reforms limited the engagement of local government structures in the conceptualization of reform. The rote implementation of the reform requirements by local government typifies a unitary state (Gildenhuys & Knipe, 2000). Therefore, the Kenyan local government reform processes do not offer a radical alteration to the previous **legal and regulatory framework** for local revenue despite the inroads that have been made to streamline the intergovernmental transfer system. Nairobi's **local fiscal autonomy** will be constrained by the legislation that in turn limits the city's local fiscal discretion and appropriation, both of which are important in ascribing the revenue assignment function. The issue of the experience of Nairobi is further scrutinized in the succeeding chapter.

4.4 THE POLITICAL ECONOMY OF SOUTH AFRICA

In 1994, South Africa was the last African state to attain independence. The first democratic elections razed the National Party's[8] fifty-year stronghold on the country's political landscape with the African National Congress (ANC) winning the elections. As the ruling party, the ANC continues to govern the country after winning the subsequent three elections. Three presidents ruled in this period: from 1994 the late President Mandela ruled for a single presidential term; in 1999 and in 2004 President Mbeki was at the helm, and since 2009 President Zuma has been the leader. During this period, the ruling party has initiated and implemented several medium-term development plans that were intended to reverse the country's apartheid legacy and to promote socio-economic development. The political leadership in Johannesburg also mirrors this national landscape which has seen leadership of the metropolitan municipality of Johannesburg be retained by the ruling party in governance since 2000 (CoJ, 2003*a*: 21).

The South African government has implemented various policies to reverse the apartheid legacy that skewed the socio-economic landscape of the country. A total of five medium development plans have been adopted since 1994. The country's first long-term development plan that was conceptualized and developed by the National Planning Commission situated in the Presidency has been adopted by the ANC government (NPC, 2011). These strategic documents are discussed below for framing the local governance context in South Africa.

[8] National Party changed to the New National Party in 1997 to reinvent the apartheid policies but low results in 2004 led to the party's eventual dissolution into the ANC in 2005.

Reconstruction and Development Programme (RDP)

The RDP policy framework was adopted at the dawn of democracy projected an ideal economic landscape to remove the social and economic inequalities inherent in South African society. The RDP was based on six guiding principles: namely, the RDP should be an integrated and sustainable programme; a people-driven process that involves and provides social and economic empowerment for South African citizens; provide peace and security for all; seek nation building by reducing the gap between the first and third world within the boundaries; ensure that reconstruction and development occur simultaneously; and guide the facilitation of the democratization of South Africa (ANC, 1994:4-7).

The RDP comprised of five programmes: meeting the basic needs of all South Africans including access to jobs, land, housing, water and electricity; developing human resources through education and training; building the South African economy; democratizing the state and society, a process directed by the South African Constitution; and eventually implementing the RDP (ANC, 1994: 7-12). In 1996, the implementing RDP office was dissolved and merged into other line functions. One of the main reasons cited for the demise of the RDP, is that the plan in itself proved to be too broad a policy that lacked implementation guidelines throughout the spectrum of government. The other explanation is that the RDP was ultimately undermined by the very stakeholders that the policy relied on to support its implementation. These stakeholders are the political and bureaucratic machinery including the private sector that had proved unreliable in transforming the economy to achieve the RDP (Visser, 2005: 7-8).

Growth Employment and Redistribution (GEAR)

Subsequent to the RDP, government introduced the Growth Employment and Redistribution (GEAR) policy in 1996. GEAR was expected to specifically address the economic challenges of economic growth that would in turn reduce social and economic inequities through job creation. GEAR would be directed to attain an annual growth rate of 6% and create 400 000 jobs per annum by the year 2000.

In this assertion, GEAR was seen to place the macroeconomic dimension at the centre of national policy (Gelb, 2006). This policy has been largely criticized by the Left for emphasizing the economic objective of the ANC government although the policy aided government's objective of sustained growth until the global economic meltdown in 2008.

Expanded Public Works Programme (EPWP)

The EPWP was first introduced in 2004 and its main objective was to produce one (1) million work opportunities in a five-year period through government's infrastructure programme using labour intensive technologies. Shortly after implementation, to make the programme more inclusive, other government departments were roped in to facilitate job creation through three major sectors. These clusters were the economy, the environment and the social sector. National ministries within the economic sector implemented the EPWP through initiatives that provide opportunities for small and medium enterprises.

By 2008 the target of 1 million jobs had been reached and a new upscale phase of EPWP was implemented in 2009 to run up to 2014 with the intention of 4.5 million job opportunities by 2014 (Department of Public Works, 2009). This has made the particular policy useful for articulating government's intention to curb South Africa's unemployment crisis and reduce the unemployment figures. As a result, the national EPWP targets have also been translated into ministerial and sub-national government targets through the infrastructure and social development clusters of these different government functions and tiers.

Accelerated and Shared Growth Initiative – South Africa (ASGISA) and Joint Initiative on Priority Skills Acquisition (JIPSA)

The country also adopted strategies that were targeted to address employability discrepancies within the formal economy with the intention of driving economic growth. The strategies aimed at improving the overall skills available in South Africa to contribute to economic development and reduce the levels of unemployment.

The ASGISA strategy was intended to address the skills shortage were: build a strong foundation in public schooling; focus on areas of greater priority in tertiary education and training; initiate and improve work-based training programmes and scarce skills initiatives; and establish a joint council in government to strengthen and coordinate the activities to address the skills shortage (Presidency, 2006). Additionally, the JIPSA policy was set up to identify, prioritize and manage the direction of resources of scarce skills needed for socio-economic development.

National Development Plan: Vision for 2030

The need to have a longer term development plan was brought to the fore when President Zuma established a strategic planning commission and located it in the Presidency immediately after taking up office. In 2011, the commission on behalf of the South African government amalgamated the previous five year plans into a long-term development plan that intends to make South Africa:

> *a more prosperous country that is progressively addressing poverty and inequality, will also over time, eliminate the effects of apartheid and colonial discrimination that have so scarred our society.*
> (NPC, 2011: 2)

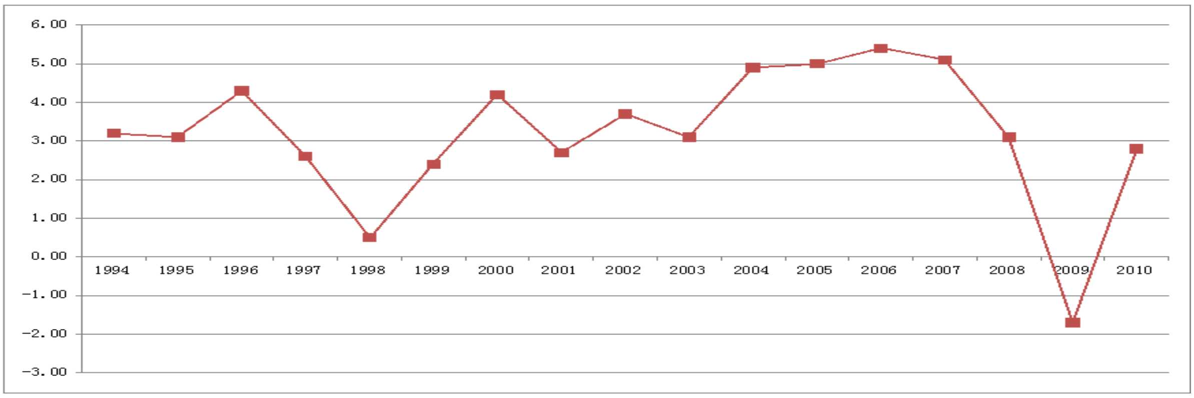
This long-term vision takes a holistic approach that encompasses the entire function of government to promote socio-economic development. The plan recognizes the imperative to improve the South African public service and also acknowledges the need for local fiscal autonomy for larger cities to realize the intended ideal local environment for development (NPC, 2011: 24).

It is important now to reflect upon these national development plans in the context of local government. The restructuring of local government occurred parallel with the national process, and the local protracted process did not enhance the RDP or GEAR given the inward-looking nature of the restructuring of the diversely resourced authorities at that time that had to be rationalized into a developmental local government after 2000 (CDE, 2000; Helmsing, Mogale & Hunter 1996; RSA, 1998).

The result of this local process was that most of the above national plans have been minimally applied by the municipalities. The exceptional and visibly evident case is the EPWP that has been filtered into the country-wide infrastructure, health and environment projects; the local integrated development plans (IDP) and municipal budgets (Department of Public Works, 2009; CoJ, 2011: 96).

Within the above governance context, the South African economy comprises a vibrant mining, financial and services sector that contributes significantly to the annual GDP, placing the country as one of the leading economies in the continent. The country, like most developing countries, reflects a socio-economic contradiction revealing disparities of unemployment and poverty in the second economy (Presidency, 2009). In this disadvantaged strata, pronounced socio-economic disparities are reflected in informal settlements, in townships and in rural areas with rudimentary access to social amenities. Nonetheless, South Africa continued to experience positive economic growth from 1994 to the global crisis of 2008. Table 4.3 below shows this economic trend from 1994 to 2010.

Table 4.3: South Africa's Annual Economic Growth 1994 -2010



Source: SARB, 2011: 6

Table 4.3 above reflects this trend that was affected by the 2008 global crisis shown by the dip in the curve and immediate recovery boosted by the infrastructure investments brought by the FIFA World soccer tournament of 2010. South Africa is a constitutional state which recognizes distinct but interdependent spheres of government (RSA, 1996).

The constitution mandates service provision for local government and permits the generation of local revenues within a legal framework that was promulgated recently on the democratic dispensation of local government, a process that runs parallel with the national deliberations on democracy. The route to democratic local government is debated below with an emphasis on local fiscal reform.

4.4.1 Local Authorities' Revenue during the Apartheid Era

The racial classification of local authorities during the apartheid era meant that ability to generate revenue was unevenly proportioned. White local authorities (WLA) had a supporting legal framework that assured local discretion in the utility of a variety of revenue tools for operating and capital expenditure (Cowden, 1968; CSS, 1991; Simkins, 1991). The revenue sources for the sub-national government were income from property rates (residential and commercial); rent from housing stock; trading services that constituted water, electricity, gas, market licensing and passenger transport; and municipal borrowing for capital expenditure (Cowden, 1968; JCC, 1984; CSS 1990; CSS, 1991).

The WLA were able to leverage local revenue and in some cases reflect a positive fiscus. The former Durban city council is such an example that had accumulated positive reserves by means of a well-established capital development fund (Solomon, 1981). In addition, Regional services councils (RSC) were also created in the mid-1980s to boost municipal revenue through the RSC levies[9] (Department of Constitutional Development and Planning, 1986; Ernest & Whinney, 1987; Humphries, 1991; Solomon, 1989). The RSC levies were scrapped in 2006 because national treasury determined the levy to be an inefficient, inequitable and poorly administered tax. Before its demise, this business tax contribution to the larger South African cities was evident in the RSC levies that comprised 7% of total local government income and had become quite a significant revenue source for urban authorities. Although the national treasury made provision through grants to supplement the loss in revenue, municipalities have not yet sourced a new tax because of the tedious process involved in developing a new tax (Muller, 2010; SACN 2007: 54-56).

[9] The defunct RSC Act 109 of 1985 set up regional service areas in South Africa to "generate additional revenue at local level". The specific revenue tools for the regional service councils were: the sale of regional bulk services; business fees in the form of a regional services levy on employee salaries and wages paid by employers as well as a regional establishment levy based on turnover. The notion of local fiscal autonomy suggested through the regional revenue bodies is disputed by Solomon (1989)

The fiscal figures of the WLA show that these local authorities asserted revenue autonomy primarily and also because revenue was reported separately from other local authorities and thus able to reflect the positive independent sources of revenues including accumulated capital reserves (Solomon, 1981; CSS 1991; JCC, 1984).

Conversely, the rest of South Africa's local authorities had limited access to revenue sources. The erstwhile Black Local Authorities Act 102 of 1982 allowed black local authorities to operate own financial accounts and impose levies for specific services. The meagre income was sourced from housing rentals in the townships[10] and from profits from sorghum beer including sporadic contributions from the WLA rate accounts was insufficient when compared against the financing vacuum for municipal infrastructure in these impoverished areas (Davis, 1992; Poto, 1989). Similarly, Coloured and Asian communities were treated as extensions of the WLA and drew revenue for operating expenditures from the WLA mainly from rates and surpluses from the WLA trading services. These local authorities were administered by parent WLA and were considered fiscally vulnerable since their financial foundations were shaky (AGSA, 1990; JCC, 1990a; Poto, 1989; Simkins, 1991).

The Transvaal rent boycotts of the 1980s were primarily geared to focus attention on the fiscal injustice of the apartheid local government that had resourced the WLAs while the other local authorities had limited revenue tools to finance local expenditure (Poto, 1989; PLANACT, 1990; Tomlinson, 1999). The outcomes of the rent boycotts were multi-dimensional and useful in crafting the agenda for developmental local government in South Africa. The local negotiations acknowledged and thus included the rationale that drove the boycotts in crafting a developmental local government (PLANACT, 1990; CCLGA, 1991).

An important consequence of the boycotts was that the local negotiators were compelled to consider and provide realistic and developmental alternatives on a myriad of issues. Some of the critical issues included writing off of arrears accumulated from non-payment of rents; transfer of houses to residents to increase ownership among the disadvantaged population; drawing attention to the need to upgrade services; instituting affordable service charges for urban poor; creation of a single tax base; establishment of non-racial democratic municipalities.

[10] The Transvaal rent boycotts of the 1980s severely eroded this source of BLA income (PLANACT, 1990)

In addition, to deliberate on the exacerbating fiscal crisis of the BLAs as well as exposing the vulnerability of the apartheid local government system; and finally preventing the use of ad hoc amelioration measures such as bridging finance and RSC levies that had been used to guise the fiscal malaise of the BLAs (PLANACT 1990: 17). Translating the contrasting needs for these racialised local authorities during amalgamation was extended into the development process for a new municipal structure as discussed below.

4.4.2 Transition to Democracy and Quest for Local Fiscal Autonomy

Local government negotiations for democracy ran parallel with the national process and given the magnitude of the socio-economic reflections from a variety of stakeholders required that the municipal course follow a protracted process. The White Paper on local government was the foundation for South African local reform process. This regulation prescribes three phases of local government: the *pre-interim phase* as the period of negotiations for a democratic local government that occurred until 1995 where decisions that envisioned the administrative and political local structures in democracy; *the transition period* after the first local government elections, between 1995 and 2000, during which time transitional local government leadership and structures were established to guide the move towards democracy; the *final democratic phase* proceeded after the second local government elections in 2000 (RSA, 1998).

The attempt to ensure local discretion was evident in various presentations by the WLAs to enhance local fiscal autonomy, a practice that was long employed by the WLAs. In 1967 a united WLA municipal executive made presentations to establish a municipal investment bank for municipal borrowing which central government did not favour at the time [11] (Cowden, 1968: 234-236). The 1980 Browne Committee assessed available options for local government financing in order to consider the increasing transfer payments and the importance of property tax.

[11] In 1983 central government formed the DBSA as a development finance organization. Since 1994 the DBSA function has evolved into a financier that aims to accelerate socio-economic development of local government in the southern region.

Although the WLAs made presentations through channels like the institute for municipal finance officers, (IMFO) on expanding the local revenue base, no new revenue alternatives were suggested by this committee (JCC, 1990a; Solomon, 1981). Another example is the Croeser Working Group of 1982 which recommended against transfer payments but proposed the development and creation of additional sources of income for the WLAs (JCC, 1990a). The presentations continued into the *transition period*.

The National Council for the Coordination of Local Government Affairs of 1991

During the *negotiation phase* of local restructuring, revenue mobilization was a critical concern. The democratic transition required insightful consideration of how to ensure existing local revenue tools were not eroded but also ensure that laws governing equitable transfers were implemented. The (1991) national working group on local government, made up of representatives from national government, parliament, provincial government, the Development Bank of Southern Africa (DBSA) and the WLA was tasked to investigate and report on a viable system of metropolitan government. The proposals made for metro cities included considerations that looked at the financial implications on the possible viability of metropolitan municipalities; the economic interdependency between the WLA and other BLA within the proposed framework; development work required to bring about equity in the townships and, more important, sources of income (OSR).

Proposals were also given to consider the negotiation of long-term loans for financing capital expenditure; income from purposeful investment of funds; income derived from levies; (un)conditional provincial transfer payments; and local income from utilities, license fees, taxes, property rates and regional service levies (CCLGA, 1991:10, 11, 38-41). Parallel to this process, other forums like the Transvaal negotiation process were also concerned with resolving the Greater SOWETO fiscal crisis and specifically to "establish debt situation and negotiate for a writing off of payment arrears" (CWMC, 1992: 8; FWG, 1993). Davis (1992) calls for a realistic stance to be adopted in maintenance costs for urban infrastructure given the disparate situation between the financing needs between the decaying infrastructures in SOWETO as opposed to the expensive high technology in the WLA areas.

Managing this contrast of financing demands for municipal infrastructure needed an integrated interrogation that would in the end produce a unified model for a metropolitan revenue base. These considerations also highlighted the need for financing capital expenditure in the context of larger municipalities to include sources from tax revenue; user charges; reserves; grants; borrowing; leasing and sale of assets. Alternative financing mechanisms for local government in post-apartheid South Africa were also suggested which included rates; poll; income tax; local value added or sales tax; business tax; surpluses on trading services; motoring taxes; informal taxes; grants; revenue sharing arrangements and specialized institutions for financing capital projects (JCC, 1990b; JCC, 1999c; Van Ryneveld,1990). The deliberations on municipal borrowing notably by representation from WLA also resulted in recommendations for management capital reserves and development charges. The WLA history with municipal borrowing pointed to familiar sources of loan funds: namely, the domestic capital market; domestic financial intermediaries; government agencies; international capital market; foreign governments; and international lending agencies (FWG, 1993). Therefore, the thoroughness of interrogation on OSR during the negotiation process meant that revenue assignment remained firmly on the agenda and that subsequently legislation would be promulgated in the democratic dispensation that assured that OSR remained a significant revenue source for the new municipal government.

During the *transition phase* of local government, the amalgamation of over 800 local authorities into approximately 284 municipalities in three broad categories that were constitutionally recognized as independent spheres of government was guided by demarcation legislation as well as the Local Government Transition Act of 1993 (RSA, 1993). Municipal legislation was also promulgated to manage the restructuring of political and administrative structures and processes of South African local government (RSA, 1993; RSA, 2000). Cameroon (2000) and Cameroon (2005) claim that the local restructuring process tended to be disruptive in governance and service delivery particularly in the metropolitan municipalities. Moreover, the financial viability of local government in general remained precarious during this period into the democratic dispensation. Poor financial management; failure to monitor the implementation of municipal budgets; culture of non-payment; and ineffective governance were some issues contributing to the parlous nature of local government finance as determined by CDE (2000).

The *final phase* of local government was to operate as per the constitutional mandate. Given the contradictory nature of municipal service delivery and payment levels inherited from the apartheid era, South Africa's developmental local government attempted to enhance the course of fiscal viability of municipalities while improving the delivery of municipal services (Yemek, 2005; Savage, 2008). This development context that was supported by national legislation promulgated to give effect to the constitutional mandate of local government is examined next (4.4.3).

4.4.3 South Africa's Legal Framework for Local Revenues

Although South Africa's legal instruments for municipal finance were promulgated in the recent past but are seen to be in the infancy stage, the distinction between revenue assignment and revenue sharing that reflects on the capacities of the different categories of municipalities remains (Nkwinika, 2010). This distinction is important because it highlights the importance of OSR to the third tier of the South African government. While the Constitution provides the foundation, additional legislation has been promulgated to support the distinct nature of local government to enhance municipalities' ability to generate local revenue independently and also through an intergovernmental framework that allows for the equitable distribution of revenue across all spheres of government. These legal instruments are briefly explained below.

The Constitution of the Republic of South Africa, No 106 of 1996

As a constitutional state, South African local government derives its municipal mandate and justifies its access to revenue from internal and external sources in the supreme law. The ultimate law allows municipalities to impose rates and surcharges on municipal services as well as borrow funds for capital expenditure as well as for bridging purposes (RSA, 1996 sect 229). Municipalities are also eligible for annual revenue allocations through the intergovernmental system. These sources of revenue have concretized municipal access to revenue particularly for metropolitan municipalities that have higher financial local expenditure demands (RSA, 2006; SACN, 2007; SACN, 2011).

National legislation has also been passed to support these constitutional stipulations for the revenue sharing and revenue assignment function for sub-national government. These instruments are discussed here to emphasize their importance to municipal OSR.

Local Government: Municipal Finance Management Act, No 56 of 2003

The Municipal Finance Management Act (MFMA) sets to promote sound management of the fiscal and financial affairs of municipalities and municipal entities. The act prescribes standards for the management of revenues; reporting and accountability mechanisms for municipal finance; as well as budgetary and financial processes that are required for coordinating these processes with other spheres of government. Although this legislation was adopted in retrospect in the democratic phase, the law intends to guide municipalities' financial management and particularly for larger cities (SACN, 2007; SACN, 2011).

This legislation enables the auditor-general to point out areas of concern and improvement that municipalities may institute in overall financial management. This has been evident in the financial affairs of Johannesburg that utilized the standards set by the auditor-general to ensure the metropolitan municipality emerged from the fiscal crisis after the local government restructuring (AGSA, 2010; CoJ, 2011). The audit function is, therefore, an important tool for improving the local fiscal capacity of the larger municipalities.

Municipal Fiscal Powers and Functions Act No. 12 of 2007

This legislation allows municipalities to impose municipal tax and also surcharges with the approval of the minister of finance. The importance of this legislation is evident in the annual budgeting processes of municipalities. Metropolitan, district and the larger local municipalities integrate this legislative mandate in the annual tariff setting for trading services and other municipal services into the annual municipal budgeting processes. These municipalities with the local fiscal capacity to charge for municipal services are able to guide the generation of OSR through the municipal charges and work towards maintaining sustainable payment levels for these services.

Local Government: Property Rates Act No. 6 of 2004

The Property Rates act regulates the powers of municipalities in rating property and ensuring that the rating policy adopted by municipalities includes processes for fairness, equity and inclusivity in the valuation criteria. More importantly, this act standardized the administration and generation of local revenue through property taxes throughout the country as from July 2005. The SACN (2007: 54-56) concludes that the implications of implementing standardized rating mechanisms by municipalities pose significant challenges particularly to municipalities that use the "site value" for rating purposes as opposed to the new "market value" of properties.

As result of the transition to the new taxing based on the market value of properties, income from property rates has stagnated in the major cities in South Africa, that is, from R 15.1 billion in 2005 and R 14.9 billion in 2010 to R 16.8 billion in 2010 (SACN, 2011: 18). The future creation of an organ for municipalities to address the administrative issues on income from property rates will stabilize this local source of the OSR.

Water Legislation

The management of water revenue from municipal water and sewerage policies is additionally governed by the Water Act (1997) and national policies on water services to oversee the municipal tariff setting processes and policies to maintain the delicate balance of water services as a social and an economic good (DWAF, 1999; DWAF, 2002; RSA, 1997). This is because the use of market-related pricing for water tariffs to finance water services sometimes ostracizes the urban poor. The issue of social justice in water revenues has been repeatedly emphasized to highlight the injustice of charging the poor for accessing water that is otherwise considered a basic human right (Bond & Dugard, 2008; Harvey, 2007; Muller, 2007; Public Citizen, 2004).

National Treasury Regulations on Municipal Borrowing

To support the constitutional clause on municipal borrowing, national treasury adopted guidelines and regulations to promote municipal borrowing prior to adoption of South Africa's democratic local government in 2000 (RSA, 1999). These regulations on municipal borrowing prescribe a market-based relationship for local government and remove the reliance on central government for loan guarantees. The regulations also emphasize the constitutional restriction on municipal borrowing from international markets by means of the prohibitions related to borrowing in foreign currencies.

The restriction means that municipalities can focus on lending from the robust local capital markets and development finance institutions that Johannesburg accesses repeatedly for development projects (Scott, 2000). The need to retain market-based relationships for municipal borrowing asserts creditworthiness and enhances municipalities' ability to engage capital markets for credit. Evidence reflects that capacity constraints inherent in the democratic local government still limit the number of South African municipalities that are able to undertake municipal borrowing (Liebig, Bahrinipour, Fuesers, Knödler, Schönhofen & Stein, 2008; Scott, 2000).

Municipal By-laws

In addition to the Municipal Fiscal Powers and Function Act outlined above, municipalities are required to pass by-laws that reflect the tariffs for municipal services as well as corresponding policies on services on which the tariffs are based. These tariffs form part of the annual municipal budgeting processes and the five-year integrated development plans that municipalities should follow to guide the provision of services.

Intergovernmental Transfers

Section 214 of the Constitution ensures that municipalities annually receive the revenue raised nationally among the "national, provincial, and local spheres of government". This requirement compels national treasury to use equitable allocations to distribute revenue to all the South African municipalities through the Division of Revenue Act that is promulgated at the commencement of each financial year by parliament. This source of revenue remains a significant revenue source for rural and poorly resourced municipalities (Momoniat, 2001; Department of Finance, 2008).

Thus the legal instruments outlined above adequately cater for both the dependent as well the independent sources of municipal revenue. However, the ability to access revenue and adequately finance the municipal mandate still remains a concern for the poorer municipalities (Savage, 2008; Yemek, 2005). It is important to note that this regulatory environment caters for the generation of OSR by the more capable municipalities.

Therefore, the South Africa state reflects a blend of characteristics borrowed from both a federal and a unitary state that recognizes local government as an interdependent yet a distinct government sphere. Historically, although the apartheid state was centralist, significant local fiscal discretion was granted to the WLA at the expense of other local authorities. In the transition to democracy the WLA, as a powerful constituency of local government, was able to negotiate and maintain local fiscal discretion into the constitution and subsequent municipal legislation. This has meant that municipalities with local fiscal capacity to generate significant local revenue have in place the **supporting regulatory framework** to manifest **local fiscal autonomy.** This will be discussed later in the case of Johannesburg's revenue in chapter six.

Conclusion

Nairobi and Johannesburg generate revenue within a regulatory environment that lends itself either to the restriction or enhancement of local fiscal autonomy. The cities have also been part of nation-wide restructuring that Kenya and South Africa have implemented to reinforce the decentralization objective of function and revenue to sub-national government. These reform processes will have an impact on the discretion of local revenue tools that the cities have.

In the case of Nairobi, the city has special status within the national framework; previously provincial status that was granted in the defunct legislative mandate ascribed the decentralization mandate. The position was still maintained through the county status in the new legislative dispensation that also recognizes the city's importance as the primary city of the country. The city still operates in a centralized environment which nonetheless enhances the city's ability to generate local income that has included provisions for additional revenue streams from national government and additional sources of OSR through the SBP. However, this new framework did not engage the local sphere in conceptualizing the local reform but rather prescribed the local adherence to the reforms through implementation. This deficiency excluded the potential for addressing the lack of local fiscal independence. Besides, the political governance processes for improving accountability and service delivery that have taken place in Kenya also concurrently occurred in Nairobi, mirror the adherence to the centralized function of government.

South Africa's transition to democracy has resulted in the implementation of medium-term policies that are directed towards the socio-economic development of all citizens. The country has also adopted municipal legislation that not only promotes the agenda of a developmental local government but also reinstates the local fiscal discretion that was evident in the previous WLA. The merging of disparate local authorities pushed the WLA stance for local fiscal autonomy in the agenda during the local negotiations. The evidence of this strong lobby group in the restructuring process has served to craft the legislative process and maintain local fiscal discretion particularly for metropolitan municipalities such as Johannesburg, eThekwini and Cape Town.

Therefore the **regulatory environment** as has been examined in this chapter issues the two cities with the ability to generate OSR and also access development capital. While in Kenya local government is not compelled to relate these streams of revenue in local fiscal autonomy, in South Africa the underlying emphasis is made for municipal revenue to finance long term debt. The next two chapters examines how the case cities of Nairobi and Johannesburg leverage the respective legislative requirements to generate OSR and the cities experience in asserting local fiscal autonomy.

CHAPTER FIVE

THE PARADOX OF NAIROBI'S LOCAL REVENUE

This chapter presents the findings on Nairobi's local revenue experience. First, the position of Nairobi's overall revenue is given in the context of the fiscal crisis preceding local reform and the resultant effect on water revenue and municipal borrowing. This is shown by the comparison of how the city generates and manages water revenue against its ability to obtain finance through the source of municipal borrowing required to fund capital expenditure and reflect the fiscal capacity to sustainably finance the long-term debt. This comparison seeks to provide the evidence or lack thereof of Nairobi's local fiscal autonomy as proposed earlier in the conceptual framework of the study in section 2.3.

5.1 REFORM FOR NAIROBI'S REVENUE FUNCTION

The national local government reforms brought about fiscal changes in Nairobi that were specifically directed at the city's crisis (GoK, 1996; RoK, 2002a). The fiscal crisis facing Kenya's sub-national government examined earlier in section 4.3 was more accentuated in the capital city that in the other local authorities because a larger proportion of municipal revenue and expenditure is generated by the capital city. The human and financial factors had crippled the city's financial management. The following interview responses from key respondents reiterate the contentions that created the fiscal crisis in the city:

> *Poor discipline, poor record management, revenue losses, loopholes, no roles and responsibilities being given, unqualified staff and generally when you don't have good partnership with the residents of this city then you are in crisis*
> (Interview transcript NO1, 15 August 2012)
>
> *Now the issue of management of revenue was the main problem. Where revenue money could be collected but there were no good internal control systems and that is what actually brought financial crisis*
> (Interview transcript NO3, 16 August 2012)

It is just poor management of the resources and also, we have a lot of debtors out there who owe so much and yet they have not cleared their dues
(Interview transcript NO6, 17 October 2012)

We are really not innovative in terms of looking for other ways for collecting revenue in the council, we have got so many sources of collecting revenue but we don't explore those sources maximally. Another issue is in terms of the staff, in terms of capacity, in terms of the training, in terms of integrity, they don't do what is expected on the ground, a very good example is market sections, you are supposed to collect money and bank in the council account, but the money never reaches that council accounts
(Interview transcript NO7, 30 October 2012)

As early as 1996, the *Omamo Commission* presented particular findings on Nairobi's dismal fiscal state that also included poor financial reporting and the inept generation of OSR (RoK, 1995). The findings also pointed to the fact that regular and audited financial reporting had long been lost in Nairobi's municipal budget processes. The city's fiscal disaster was also exacerbated by the insurmountable loss of the council's financial records and other fiscal documentation through the use of outsourced consultants who had not apprised council staff of services rendered or returned council documents after completion of said contracts (Outsource Data Systems, 2003). This fiscal crisis was such that by 2002, the exact financial situation of Nairobi could not be ascertained. As a result, the parent ministry was tasked with assisting, first, to establish the city's financial situation and second, to support the implementation of reform measures (RoK 2002a; RoK, 2002b).

An overhaul of the financial system required the establishment of new systems and procedures that would enhance the city's financial reporting. Central government gazetted a centralized process on financial management regulations that guided Nairobi's financial reporting (GoK, 2007*a*). These regulations also prescribed the processes on revenue collection and financial recordkeeping, emphatically placing accountability of accurate reporting on the city treasurer as the responsible official (NCC, No Date*a*). After the 2013 elections, the treasurer was replaced by a county treasurer as the official accountable for Nairobi's finances.

LAIFOMS represents the standard reporting template that Nairobi uses to capture financial data to show meaningful categorization of the city's revenue and expenditure in relation to its "budget performance in the respective departments, sections or functions" (GoK, 2007*b*). In order to improve Nairobi's poor financial management, city revenue officials were trained to facilitate the integration of LAIFOMS that had been lacking in the city's financial reporting. This is echoed in the sentiments of senior officials:

> *One is to ensure that our records are clean, the records that we have here, and not only clean, we made sure that they are accurate by getting new records of the new businesses that have been established, new owners of property where the owners have subdivided the property, we made sure that it is included in our database.*
> *Then apart from that, we also sensitized our staff, because there was also pilferage and we lost some of our resources through untrustworthy staff that colluded with the residents to deprive the institution of the finances that we require, so we sensitized them and we also worked together with our anticorruption body, KACC, in fact through integrity testing programme they are stationed here at City Hall so we ensure that we are not losing anything from collection up to banking we sealed the loopholes thereof. Then we also sensitized our staff on the need of us surviving, instead of us collapsing and going home, there was need for us to work together so that the institution survives so they had the sense of change of attitude so that we can work together.*
> (Interview transcript NO5, 16 October 2012)
>
> *"The interventions that were employed include now the internal control systems and the use of computerization for revenue centres including the use of now the so called e-payment system and the LAIFOM system so if you make your payments anywhere… will be reflected in the LAIFOM system.*
> (Interview transcript NO3, 16 August 2012)

Furthermore, an integrated financial system was adopted in the 2008/09 financial year which would thereafter aid the timely compilation of Nairobi's financial statements (NCC, 2008). The city's financial statements are now expected to comply with the Standards of Generally Accepted Accounting Principles (GAAP); International Accounting Standards (IAS); and the International Public Sector Accounting Standards (IPSAS) which are expected to demonstrate the city's accountability in the use of resources for service delivery to citizens and other internal and external government stakeholders. In the future, the city's financial accounting and reporting processes should be more reflective of responsible and prudent financial management practice.

To enhance revenue mobilization, a revenue enhancement plan has been adopted for the respective revenue units. The units comprise property rates; sundry and debtors; car parks; rents from upper class housing; tenant purchase system; cash; market income, that is, rental from the 53 markets throughout the city; revenue from city administration; Eastleigh rentals, comprising poorer council housing; and licensing in the form of the SBP (NCC, No Date*b*). The weekly, monthly and annual revenue targets will filter into the budgeting process through the reporting structures to the assistant town treasurer to report on the overall increase in local generation of revenue in Nairobi as indicated in the responses below:

> *Now one of the interventions we did in decentralization to increase revenue was to have the officers to sign for targets. We knew the capacity of each ward so we called upon the revenue officers to sign for those targets. You either achieve your target and you do all other duties in the wards coz in the wards there are a number of duties; there are those who collect revenue, there are those who cut grass, collect litter, unblock drains. So you either meet your revenue target, either daily or weekly or you are assigned other duties and we get competent people who are able to meet the targets. So, through this way, we have seen revenues increase in decentralization by doubling; in fact initially we were collecting around 400,000 but now we are collection over 900,000 per day.*
> (Interview transcript NO5, 16 October 2012)

Despite the acute fiscal crisis that Nairobi had faced, the capital city was compelled to show almost immediate positive results emanating from the local reform process. The rapid results approach (RRI) was used to determine the effects of the Kenya local government reforms on Nairobi's overall services delivery. Osiche (2008) reveals that the RRI had accelerated the "council's existing strategies, goals, annual work plans and performance contract targets". These indicators have been coupled with the visible infrastructure developments throughout the city such as the clean city binning initiative; outsourcing of public toilets throughout the city and the improvements of the municipal road infrastructure. However, the RRI failed to reduce the revenue haemorrhage the city continued to experience, attributed to corruption and political interference, as some of the factors that conspire to deflate the city's effort to boost local generation of revenue (Osiche, 2008).

The minimal interrogation of local government reforms for the case of Nairobi have a profound effect on the city's ability to maximize on its OSR. National government as shown in the previous chapter did not provide a space to interrogate the agenda of OSR such that the revenue assignment function for local government remained largely unchanged after the local government reforms. In Nairobi the discouraging fiscal landscape for OSR raises flags for the city's future fiscal autonomy. This sentiment was echoed by several interviewees who bemoan the city's inability to realize potential of OSR:

> *We have so many untapped revenue centres and these revenue centres cannot be utilised simply because we don't have proper laws that can assist the council to tap this revenue*
> (Interview transcript NO3, 16 August 2012)

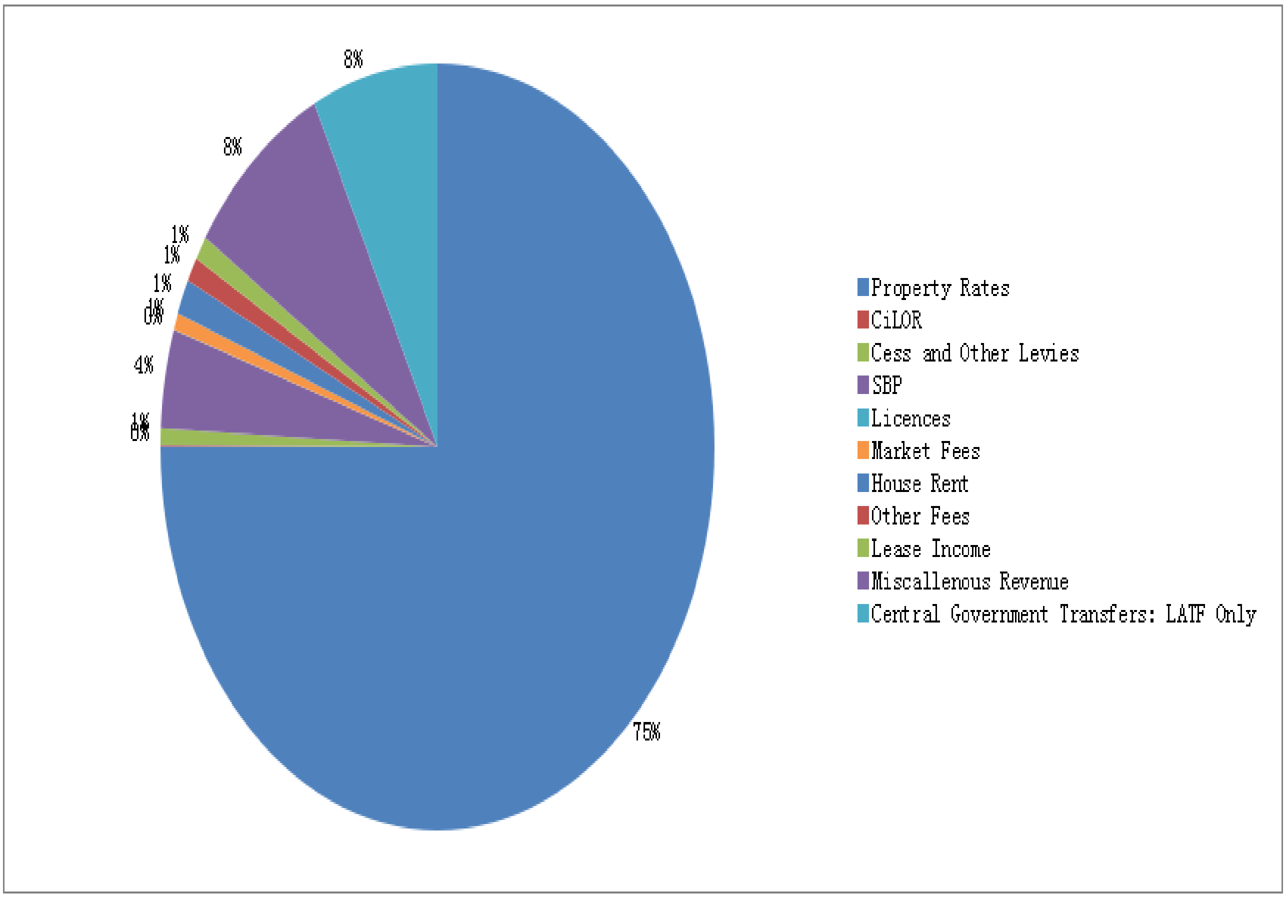
> *In most cases you find some people are complaining that they are paying but what for? So the council is supposed to provide the services so that the people feel proud when they pay.*
> (Interview transcript NO2, 15 August 2012)

> *For local authorities, there are fees that are paid to local authorities and until people realise that for growth and development of our cities, we need to support it by paying what is due to them even for them to reciprocate by providing better services and you know once cities are run well, that means it will attract investments that will mean growth, more employment and all those kinds of things. It also raises the competitive nature of our city with the developed world*
> (Interview transcript NO4, 10 November 2012)

Nevertheless, the regulatory framework of Nairobi's revenues reflects a diversity of tools that gives the city a variety of revenue instruments with which to generate a significant portion of city revenue. This is confirmed by central transfer figures for 2010 that place roughly less than 30% of the city's budget as funds obtained from the intergovernmental transfer system leaving the city with significant room to generate local revenue (NCC, 2010). The city's annual operating revenues are sourced from market fees; lease income[12]; property tax; the SBP; licensing; house rent; levies and access; other fees; grants from central government in the form of CILOR, LATF; and RMF (NCC, 2009; 2011). A snapshot of this revenue allocation is shown below in Figure 5.1.

[12] Nairobi's Water and Sewerage department was dissolved to form a water utility and the city receives a grant from central government as well as lease income to substitute for the loss in water revenue (NCWSC, 2004)

Figure 5.1: Composition of Nairobi's Operating Revenues, 2009



Source: NCC, 2009: 18

Figure 5.1 indicates the composition of funds for Nairobi for the financial year 2009/10. Property tax constitutes the highest percentage of own source revenue roughly comprising three quarters of total revenues. Licenses and contributions in lieu of rates (CiLOR) contribute less than a percent of total revenues while the SBP was 4%. Although the Kenyan local authorities introduced the SBP by 1999/ 2000, Nairobi only started reporting on this source of OSR from the financial year 2007/2008 (Devas & Kelly, 2001; NCC, 2008: 11). The LATF contribution from central government was the only intergovernmental transfer that was reported for 2009. Outside of funds borrowed for capital expenditure, the city directs the rest of its operating revenue to finance municipal services.

The services include primary health care through the council clinics throughout the city; primary education; maintenance of public parks; refuse collection; libraries; low cost housing; as well as the financing of personnel of the council's administration and political office (NCC, 2004; NCC, 2005; NCC, 2006; NCC, 2007). The OSRs depicted above are the result of a holistic effort that the council has made to sustainably generate local revenue. A city official describes the city's effort in this manner:

> *One of it was enhanced revenue collection. The other one was increased good will from the Nairobi residents because we started providing services; garbage collection, doing street lighting, doing lighting in the slum areas, re-carpeting roads making sure there are no port holes. That created goodwill from the residents such that they are also compelled to pay revenue to the council. We also instituted controls in terms of revenue management. There are also several task forces that were put in place to collect debt. Staff motivation, some of the issues were put forward for them, instead of pocketing whatever they are collecting, it now goes to the coffers of the city council. We also introduced the idea of computerising most of our revenue collections, even that one enhanced revenue collection.*
> (Interview transcript NO4, 10 November 2012)

Furthermore, the revenue enhancement plan mentioned earlier has been used in the targeting of particular OSRs in order to sustain the generation of the specific revenues. Income from property rates in particular has been boosted by the focused attention through the use of alternative methods to enhance revenue collection. According to Kelly (2001), the potential of property rates income to contribute significantly to the OSR of Kenya's sub-national government was not being utilized. The city's approach has made inroads in increasing this source of OSR indicated by the property rates representing the highest portion of revenues in Figure 5.1 above. An official ascribed the city's effort to boost income from property rates as follows:

> *As far as the main contributor for the short fall of revenue is rates, the most common intervention which has been used is to lure the people by giving waiver on interest earned on accrued rates so that the property owners are encouraged to pay without the interest accrued there on so this has somehow helped in encouraging the people to comply*
> (Interview transcript NO2, 15 August 2012)

Therefore, within the local restructuring process, Nairobi has been able to streamline the revenue collection strategies through improved financial reporting as well as enhancing the administrative attributes of revenue collection to ensure sustained OSR in the future. The new legislative framework adopted after 2013 maintains the status quo regarding how the OSR are generated. Furthermore, the administrative and structural changes made for OSR were more concerned about complying with the standardized financial reporting from central government than providing the opportunity for the city internally examine and develop on its local fiscal capacity for local fiscal autonomy. The examples of water revenue and municipal borrowing in the rest of this chapter examine this issue further. Attention is first focused on the management of revenues generated through water and sewerage services in Nairobi.

5.2 ASSIGNING MUNICIPAL REVENUE TO WATER AND SEWERAGE SERVICES

Sub-national government should be able to administer, manage and politically account for the municipal revenues generated from the related services. This provides the imperative for trading services, particularly water and sewerage services, to remain the exclusive domain of local government. This revenue autonomy reinforces the proximity and efficiency rationale for local services (Bahl, 1999; Bahl & Martinez-Vazquez 2006: 22; Denters & Lawrence, 2005). The case of Nairobi's water revenue as explained in this section contradicts this assertion on revenue autonomy for water and sewerage services.

Water and sewerage services have been provided in Nairobi as a local government function since independence. The legal provisions mandating water supply and costing were originally derived from Clauses 178 and 180 of the defunct Local Government Act (1963). The municipal mandate for this trading service has been marginally maintained in the new legislation (RoK, 2011). Nairobi was previously allowed to pass by-laws and annually provide tariffs to meet the costs of water supply. This made the setting of the municipal water tariffs, an internal council process that was part of the annual municipal budgeting process that was only subject to the parent ministry's recommendations. Thus the pricing of water had remained invisible to the public with no evidence of a tariff policy to guide the social, economic and political considerations for costing water supply (Bahl &Linn, 1992: 286-287).

This regulatory framework was not utilized to boost the water fund and correspondingly finance water infrastructure as intended but rather the water profits were appropriated by the municipal council for financing the rest of the city's municipal function (Nairobi City Commission, 1988; Nairobi City Commission 1989). Additionally, this sacrifice made on behalf of the city's water function meant that with time the financing of water and sewerage services would prove to be inadequate as the city's population grew and increasingly constrained the overall supply of water and sewerage services (RoK, 1996: 344).

Furthermore, Nairobi's financial management processes required that the water and sewerage department establish a water fund to be specifically operated for water revenues. The surpluses generated from this fund were intended to contribute to the financing arrangements for water infrastructure. The anomaly in the local discretion of the water fund was seen in the blatant misuse of the water revenue. The city generated and maintained significant water revenues that were evident in the water fund that had steady surpluses of water revenue. The water fund for example had water revenue that had increased from Ksh 200 million in 1997/98 to Ksh 390 million in 2000/01. However, the water fund was used to finance other council expenditure through fiscal appropriation, which resulted in the plundering of the water fund. The depletion of the water fund was at the expense of sustained maintenance of water infrastructure, raised the crisis of financial mismanagement (NCC, 2002; RoK, 2002: 2.2A).

Revenue management by Nairobi's water and sewerage services department operated in a chaotic state as a result. The stagnant water tariffs meant the costing of water was not in "consonance with the economic cost of providing water" which impacted on the sustained generation of water revenue. The water fund that accumulated surplus water revenue could not finance the capital expenditure needed for water infrastructure because of local fiscal misappropriation (K'Akumu, 2006: 533).

The centralized management of the water and sewerage department had opened the opportunity for abuse because of the vulnerability to political manipulation that also led to gross inefficiencies for water revenue (Nairobi City Commission, 1988; Sammy, 2004: 16).

Butterworth & De la Harpe (2009) caution on the emergence of corruption risks that are likely to surface with the incidence of fiscal mismanagement in water services and which increasingly aggravate actual losses of water revenue. High levels of unaccounted for water (UAW) and failure to publish regular annual reports of water accounts are indications of "corruption in relation to regular payments: fraudulent meter reading, avoidance or partial payment, overcharging" as was reflected in the Nairobi water revenues.

The mismanagement of Nairobi's revenue was also exacerbated by inept revenue strategies. The flaws in the city's internal controls of the water and sewerage department to produce accurate bills are an indicative example that further constrained water revenue. The department's ineptitude was attributed to the following reasons:

- The sporadic updating of the database of account holders had increased the incidence of incorrect billing
- A large number of the city meters that were "damaged, buried, stuck or inaccessible" (UAW) had increased the levels of unaccounted for water and hence reduced water revenues
- The irregular customer reconciliation of accounts had resulted in errors in billing and payment allocations
- Changes in meters were also not timeously recorded
- Poor computerization, which had been exacerbated by new systems around 2001, had increased the prevalence of data loss and processing errors that were evident in the abnormal entries not picked up by the water department
- Consistent meter reading could not be verified
- The prolonged process of crediting of paid accounts particularly with the consumers with higher accounts such as ministries and industries
- The disconnection policy was not effective even in extreme cases with the larger consumers not paying bills over long periods of time

(NCC, 2002).

At that time, revenue collection of water revenue did not keep pace with the consumption of water in the city. In 1988, for example, water billing arrears continued to increase year-on-year-end even when the city's population exceeded the one million mark (Nairobi City Commission, 1988; RoK, 2001: xxvii).

The sustainability of water revenues was further exacerbated by municipal inefficiencies in costing water supply, for instance, the water revenue inefficiency[13] in the early 1990s stood at an approximate value of 30%, a weakness that had been perpetuated by the static water tariffs that did not incorporate the actual costs of supplying water to consumers (Sammy 2004: 17).

These issues, raised by the auditor general on the city's financial statements as well as by independent audits, were synonymous with the findings on the fiscal problems facing the water and sewerage sector by the Omamo Commission (RoK, 1996: 344) that cites:

- *Incorrect water meter reading resulting from human error or meter readers not visiting properties or inserting fictitious figures*
- *Issuing of bills late*
- *Attitude of City Council personnel in the water accounts office*
- *Lack of funds to connect system to areas not connected like the unplanned settlements*

Table 5.2 below shows that during the fiscal crisis, Nairobi continued to generate OSR although more than half of the city's revenue was derived from water and sewerage services in both the financial years indicated. Moreover, in both years, the high expenditure costs from the rest of the city's departments were almost double total revenues from the general fund and water income combined. As a result, the city acknowledged that it often appropriated funds set for infrastructure to finance the vast shortfall in city income and cover the city's operating expenditure (Nairobi City Commission, 1988; Nairobi City Commission 1989).

Table 5.1: Nairobi OSR compared with expenditure in Nairobi for 2002-2004

in Ksh 000**.**

	2002/2003	**2003/2004**
General Fund (combined city income)	1,038,839	1,015,765
General Fund Expenditure	3,575,927	3,660,513
Water Income	1,227,555	2,158,933
Water and Sewerage Expenditure	1,006,921	1,047,749

Source: NCC, 2004: 17, 18, 19

[13] Revenue efficiency is the amount of water supplied as a ratio of water revenue (Sammy, 2004).

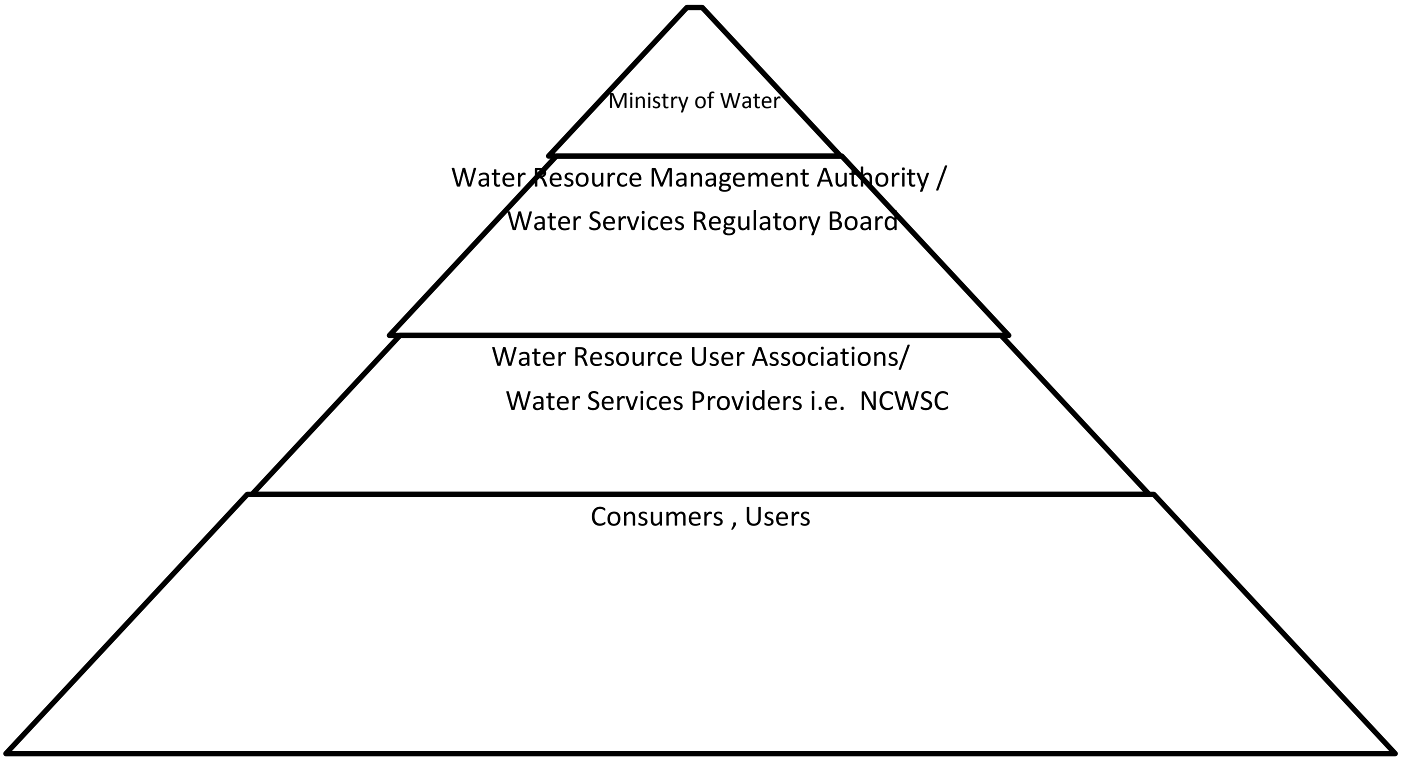
The above example of fiscal misappropriation highlights the constant state of fiscal crisis that Nairobi was facing. At the time of the democratic dispensation, which called for enhanced accountability of the public office in 2002, the ministry of local government intervened in Nairobi's fiscal crisis by appointing an interim oversight board to ascertain the extent of the fiscal crisis and prescribe remedial measures to be done within the framework of local government reforms that Kenya was implementing (RoK, 2002a, RoK, 2002b). Simultaneously, the local revenue function was also reformed to ensure sustained revenue from central government through the intergovernmental transfers as described in the previous chapter. The primary water function in Nairobi also underwent a complete overhaul.

Bakker (2002) cites three main reasons for restructuring the municipal water supply: first, restructuring in the water sector to improve performance is done through structural reforms that promote good governance. Second, restructuring to source financing is useful when infrastructure demands can optimize private financing and reduce the burden on government budgets. Finally, restructuring may be done to meet new legislative requirements for water supply. In the case of Africa, two of these reasons are usually the qualifying criteria for restructuring the water sector. First, improving performance of the water sector remains critical according to Estache & Kouassi (2002).

Moreover, financial irregularities, misappropriation of water revenues and inadequate water infrastructure have resulted in the overhaul of the water sector in Africa where the private sector has entered the arena of water supply or the water utilities within the public sector for water services have been created (Bayliss, 2001; Kauffman, 2007). The second reason alludes to meeting legislative requirements that have been implemented by central government to bring coherence to the water sector (Kauffman & Pèrard, 2007). These two reasons also apply in the case of restructuring Nairobi's water and sewerage services.

A national effort that occurred parallel with the local government reform processes that were meant to address issues on the access and governance of scarce water resources in Kenya resulted in the restructuring of the water sector that even affected water services at the level of local government. The Kenya Parliament passed the Water Act (2002) that places the national ministry of water at the helm of the new institutional arrangement as shown in Figure 5.2 below.

Figure 5.2: Institutional Framework for Nairobi City Water and Sewerage Company



Source: Nairobi Water & Sewerage Company website

In the institutional framework in Figure 5.2 above, the ministry is in charge of overall policy development and oversight of water resources in the country. Next in the hierarchy is the water resource management authority that manages water resources nationally. The water services regulatory board has overall responsibility for regulating a sustainable supply of water and sewerage. Several regional water service boards are responsible for the efficient and economical provision of water and sewerage services in their areas of jurisdiction. Finally, water service providers are contracted by service boards to provide quality water and sanitation services within local areas. Presently, there are approximately ninety registered water service providers operate in Kenya that comprise water utilities that have been created from previous municipal water and sewerage departments; community water suppliers and private water suppliers (WASREB, 2008: 3; Owuor & Foeken, 2009: 27).

Nairobi as an urban authority operates a water utility on the basis of these water sector reforms. The creation of this utility emphasizes the erosion an important source of OSR as one key respondent who states that:

Privatization of water from the local government under the water act 2002 which commercialized water services from a department of the council to a private company but wholly owned by the council
(Interview transcript, NO12, 31 May 2013)

5.3 NAIROBI CITY WATER AND SEWERAGE COMPANY

Sylvia Kanani walks straight into her hovel in Fuata Nyayo slums, Nairobi. She is carrying a 20-litre water container on her back ... she was "lucky" to find a neglected burst pipe on the road. In about 30 minutes, she had collected 40 litres and carried them to her one-room shanty, two kilometres away. This is the third, and she says she wants to carry as much "before the plumbers arrive"... Every morning, she wakes up early to search for this precious commodity. Any lateness would mean she has to queue for long hours without a guarantee that she may get even five litres.
She needs at least six containers per day. For a person who is jobless, spending Sh60 per day is not a joke. Ms Kanani's regimen is no different from those of other residents nearby.
(Maruko, 2011)

The excerpt above typifies the contestations by the various consumers of water and sewerage services around the pricing of water revenue as a municipal trading service that must be considered and incorporated to ensure that a sustained flow of the OSR is maintained. Then, and perhaps more important for African cities, is to ensure provision of vital municipal services for the urban poor and address the need for equity and access of this municipal service. These issues should be encompassed in the notion of local fiscal autonomy that will allow the fiscally capable city to generate revenue as well as provide evidence of financing the equitable considerations within the city's jurisdiction.

The establishment of water utilities in Kenya to operate as per water sector guidelines had been done with additional technical and institutional support from development partners and from multi-nationals (Sammy, 2004; Owuor & Foeken, 2009). In the case of Nairobi, the notion of technical expertise was frequently and openly questioned against the backdrop of a city that was in fiscal crisis (Sammy, 2004).

Prior to the establishment of the Nairobi City Water and Sewerage Company (NCWSC), public outcry denounced the involvement of international water companies in Nairobi's restructuring process. The plausible objections were instigated by the outsourcing attempts of these multi-national companies for the revenue function of Nairobi's water and sewerage services.

In 1999, Vivendi, through its subsidiary Seureca, secured a controversial ten-year water billing and revenue contract for Nairobi (Kauffman & Pèrard, 2007). The contract was originally worth five million US dollars for billing and accounting services intended to boost the revenue collection of Nairobi, and constituted mostly water revenues at the time. Details on the contract later revealed that the multi-national would not undertake any investments into the incapacitated water infrastructure during the term of the contract. This concern was in light of the revenue benefit amounting to 15% of Nairobi's revenue that the company would appropriate for services due.

In this controversial proposal, the water and sewerage department was also required to reimburse Seureca for costs of computer hardware and equipment that the company used with no provision for depreciation. The company had also proposed a costly feasibility study on one of the city's largest slums for the Kibera Urban Environmental Sanitation Project. The contentious contract was later suspended by the government of Kenya in July 2001 ("NCC Water", 2001; "Nairobi Mayor", 2001; Sammy 2004: 15-16). Nonetheless, the NCWSC did make use of technical support from development partners to facilitate the migration process of physical, human and fiscal infrastructure from the previous municipal water department to operating as an autonomous water utility that is owned by Nairobi (NCWSC, 2004; NCWSC, 2005).The institutional framework depicted previously mandates the NCWSC as the conveyor of water services and not Nairobi, as was previously the case. To align with this institutional set-up, the NCWSC was established in 2003 committed solely to the reticulation of water and sewerage services in Nairobi.

The water utility remains a subsidiary of Nairobi County[14]. The transition from a municipal department to a water utility was facilitated by a tripartite agreement between Nairobi, Athi water service board, and the NCWSC that directs the water service delivery and water revenue arrangement as legally prescribed. The tripartite agreement also provides for the transfer of human, physical and fiscal infrastructure assets from local government to the NCWSC.

National legislation also prescribes that an annual service level agreement be in place between the NCWSC and the Athi water service board for reviewing performance of water service delivery (NCWSC 2004: 5). Furthermore, the Water Act (2002) also prescribes that the tariff-setting processes for water revenue be managed within the water sector institutional framework. The above institutional arrangement allows the NCWSC to establish and operate independently (RoK, 2002*c*).

The new Kenya Constitution (2010) and the Urban Areas and Cities Act (2011) effected on March 2013 maintain the municipal mandate for the provision of water and sewerage services by local government. This municipal mandate should be evident through local fiscal autonomy on generating water revenues as well as the local political oversight of the trading service through political governance of the water revenues that was previously the case when NCWSC was a municipal department. The paradox of Nairobi's revenue is examined below in the transformed context of water revenue.

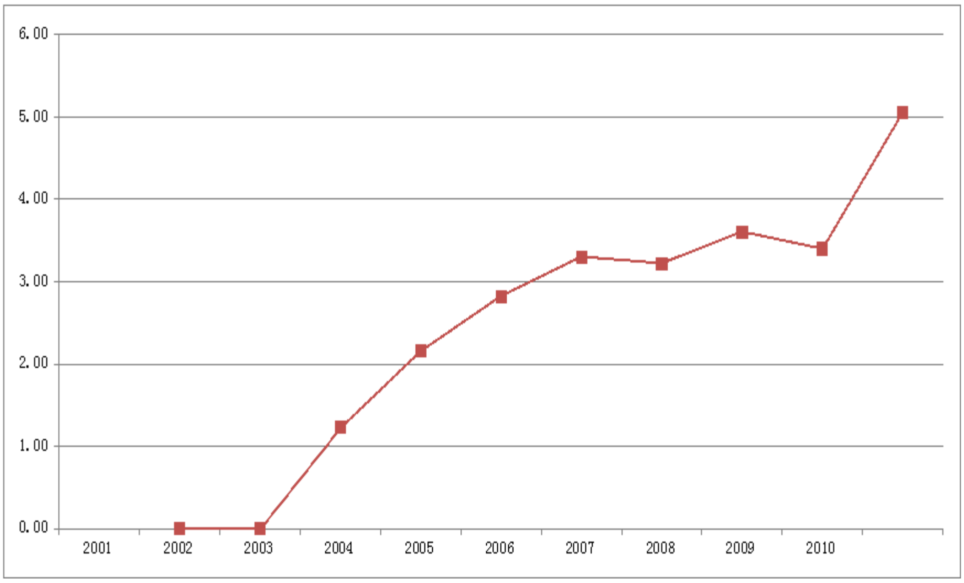
At inception, NCWSC inherited the city's municipal department water and sanitation infrastructure that services approximately 183 000 domestic and industrial water connections and approximately 130 000 domestic and industrial sewerage connections with a projected 10 % annual increase in connections (NCWSC, 2004: ix). The vision of the water utility is to "be a leading provider of reliable quality water and sewerage services in Nairobi and its environs" (NCWSC, 2004: iv). The Nairobi population numbers approximately 3.12 million, comprising of 985 016 households with 96% of the city's diverse population that considers the NCWSC as their primary provider of water (KNBS, 2010: 18).

[14] Under new legislation on county government, Nairobi County replaces the Nairobi City Council

The diversity is reflected in water access which varies from privileged access through piped and metered services right down to water points known as *water kiosks* in the slum settlements which retail water to the urban poor at exorbitant rates (Crow & Odaba, 2010; NCWSC/ AWSB, 2009). The metered consumers that comprise residential and industrial consumers contribute to the sustained water revenue for the water utility (NCWSC, 2010). The utility intends to subsidize water access to the urban poor through the established water points in the water kiosks. Empirical evidence from social justice proponents for water access shows that the urban poor do not receive the benefit of this subsidized pricing for water (Nyangena, 2008).

The trading service of water and sewerage services is able to generate water revenues that cover the costs of water supply and even some aspects that cater for the redistributive elements of water supply through the water kiosks. Table 5.2 below reflects the positive trend in water revenues since the inception of the NCWSC. The steady increase highlights the importance of this municipal service as a trading service that should then in turn increasingly contribute to the sustained overall OSR for Nairobi as espoused by Bahl & Linn (1992).

Table 5.2: Water Revenue for the NCWSC from 2001 – 2010 in Ksh billion



Source: Author[15]

[15] Derived from annual water revenue figures in NCWSC annual reports 2005; 2006; 2007; 2008; 2009; 2010

Table 5.2 does not show the water revenue that was generated by the city prior to the establishment of the water utility. The management of water revenue by Nairobi is now discussed in light of local fiscal discretion and appropriation of this particular OSR.

5.3.1 City Management of Water Revenue

According to Bakker (2002) water utilities are created to enhance efficiency. The creation of the water utility removed the water function from the city to capitalize on this aspect for restructuring. The underlying challenges that the NCWSC inherited at inception were the fiscal inadequacies that threatened the commercial position of the water utility through the "billing inefficiencies and illegal use of water, lack of consumer meters in many areas of the city, grossly inefficient mater reading, obsolete computer billing systems, delayed billing, poor collection ratio" (NCWSC, 2004: iii).

An improvement in the management of water revenues required an overhaul of the present billing and collections system under the city department to a utility that independently manages water revenues. The PPIAF/WSP (2009) prescribes the procedures for customer management of water services which includes the appropriate assignment of the billing and collection functions to respective and responsible sections in the water utility. To support these functions, additional procedures for meter reading, billing, collection, and connection costs are required to enhance water revenue collection. These accountability and transparency measures became visible to consumers and enhanced the revenue collection for the water utility as reflected by the following interviewee responses:

> *Nairobi water has adopted various interventions ... we decided to create some regions to handle the specific areas. We started with 4 regions now the regions have grown to 6. What has happened is, each region has a manager who is handling that area in terms of water provision and also water collection. When the regions were created, we realized that even after creating the regions, we needed to pick few critical accounts, we call them super accounts. We classified them as high consumption accounts. These are the 20% of our customers who give us 80% of our revenue... The beauty of it is that we also hand deliver those bills to customers and we ensure that the billing efficiency and the meter reading efficiency is high to the extent that we have built a rapport between us and our customers*

> *So that has worked well for us because we are able even to track the metering, the aspect of metering of these customers, so we are in close contact, always, almost on a weekly basis and we are even able to link with the customers on the ground. So that has worked well for us, especially classification of our customers.*
> (Interview transcript NO11, 28 May 2013).

> *Installing a reliable billing system that was aimed at: Reducing non-revenue water through physical loss and commercial losses (Unbilled water); Changing faulty meters; Public awareness; Stringent disconnection policy (For non-paying Customers); Ensuring meters are read on actual consumption; and Tariff adjustment*
> (Interview transcript, NO12, 31 May 2013)

Furthermore, financial ring-fencing is recommended because of the importance in delineating water revenue from overall OSR and municipal expenditure. Ring-fencing is then important for water utilities because the production of "more accurate information that can be used for making decisions about resource allocation, management, operations and tariffs" (PPIAF, 2009: 1-2) particularly on financial information shows the performance of the water utility; information to determine appropriate tariffs and building financial viability of water utilities. The NCWSC has followed this model and ring-fenced its financial and operational activities separately from those of Nairobi County. Customers are able to see the utility as separate and billing processes are managed by the NCWSC. This separation of water revenue and of consumers is confirmed by the following summarized responses:

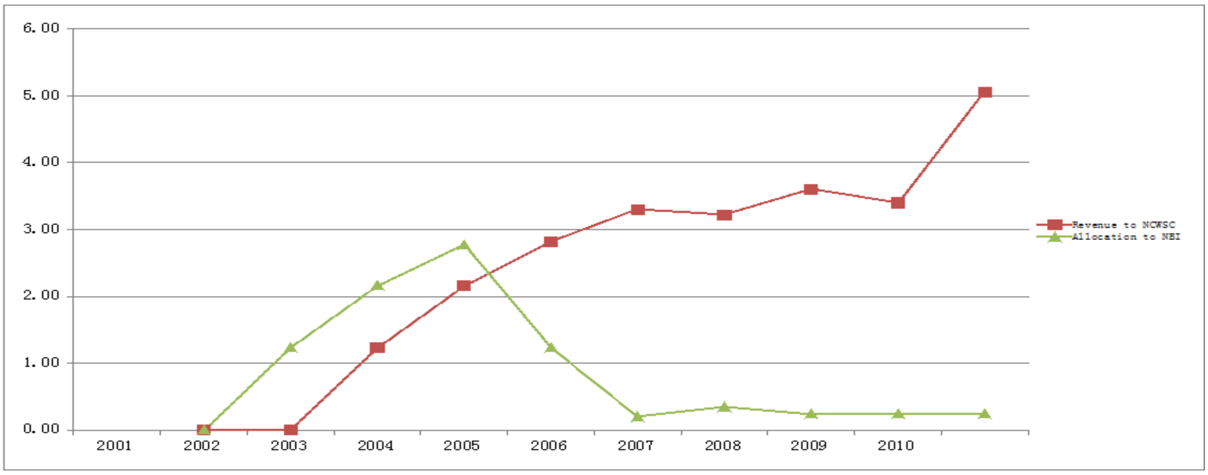
- *Revenue to NCC is ring fenced only percentage paid to NCC*
- *Income from water is not incorporated into NCC*
- *Privatization of water from the local government under the water act 2002 which commercialized water services from a department of the council to a private company but wholly owned by the council*
  (Interview transcript, NO8, 11 February 2013; Interview transcript NO9, 13 February 2013)

Nonetheless, as a trading service, water revenue should constitute a critical component of local government revenue (Crawthorne, 1997; Cowden, 1968; Bahl *et al.,* 1992). Implementing reform measures that detract from this ideal reduces cities' potential to leverage local revenue independently. The water utility's autonomous management of the water revenue function which includes the billing of domestic, industrial and commercial consumers means that revenue from the sale of water and sewerage services is ring-fenced for the utility's expenditure (NCWSC, 2004: 5).

In terms of financing water infrastructure, although the physical infrastructure was transferred to the NCWSC, the medium- and long-term financing costs that are spread between the old municipal department and the water utility are still to be fully reconciled. The city still grapples with financing these loans as evident in the following statement by the city treasurer who emphasizes that: "there are significant amount of loans which were in respect to the water projects and since it was incorporated, the liability on the same has not been cleared on who to bear" (NCC, 2009: 4). From inception, NCWSC has also gone on to engage international institutions for grants and loan that have been used to finance capital and operational expenditure such as the three-year IDA grant for operational support and institutional strengthening (NCWSC, 2004: 19, 21, 22).

Nairobi has, since 2004, annually received monies from the NCWSC as a percentage of annual water revenues as well as supplementary funds in the annual LATF disbursements from central government to subsidize this revenue gap (NCWSC, 2004; NCC, 2008; NCC, 2009). In this case, although the tripartite agreement concedes an annual lease income from the NCWSC due from the water revenue, this amount is pale in comparison with the water revenue that the city had discretion to before the water sector reforms. The table 5.3 below shows the significant drop in water revenue which Nairobi has experienced since 2004.

Table 5.3: Water Revenues in Nairobi 2000- 2010 in Ksh billion



Source: Author[16]

[16] The trends are constructed from annual figures of city revenue and the NCWSC revenue.

5.3.2 The Pricing of Water

The provision of water and sanitation services remains a contentious terrain in terms of access and cost. Various groups including consumers, local government officials, local politicians, central government, general taxpayers and international institutions have contradicting views on how water should be priced. The government sector comprising local officials and politicians as well as national government, aims for the most economical use of available water resources to generate the most revenue while ensuring equitable access to water in communities (Bahl & Linn, 1992: 280 -282).

The international development institutions have also got vested interests in the efficiencies associated with water utilities (Estache & Kouassi, 2002; PPIAF/WSP, 2009) Consumers themselves are diverse groups with diverging views regarding the pricing of water. Industries, residents and the corporate sector are interested in "value for money" regarding the municipal services they pay for. Urban poor on the other hand require access to services on a more equitable basis. Crow & Odaba (2010) argue that the urban poor comprise the sector of water consumers who pay the largest portions of their income for water services. These competing values thus require that the local political leadership consider the social and economic issues in pricing water.

Redistribution for example, is an important consideration in pricing water revenue because access and affordability by the urban poor is a particular concern when cities opt to charge for the provision of this vital service. The cost of purchasing water is seen to be too high a price for the marginalized sectors in cities and should thus be kept at the bare minimum for this sector of the population. This concern should be taken into account when pricing water services (Public Citizen, 2004; Owuor & Foeken, 2009: 10-14). These competing forces persist particularly for urban authorities in managing water supply to include matters such as providing affordable water services to the urban poor; protecting public health; meeting industrial and commercial demand for water; as well as maintaining environmental quality are involved (Bakker, 2002: 6).

Furthermore, the Dublin Statement on Water and Sustainable Resources[17] asserts that water revenue continues to take on relative importance as a viable source of OSR for African cities. To ensure sustainability, the cities must always mitigate for the consideration of the variable and fixed costs of water supply into the water tariffs. The regulatory framework in the Water Act (2002) prescribes adherence to the water sector national framework on the annual tariff-setting processes for the consumption of water and sewerage services that are provided by the NCWSC.

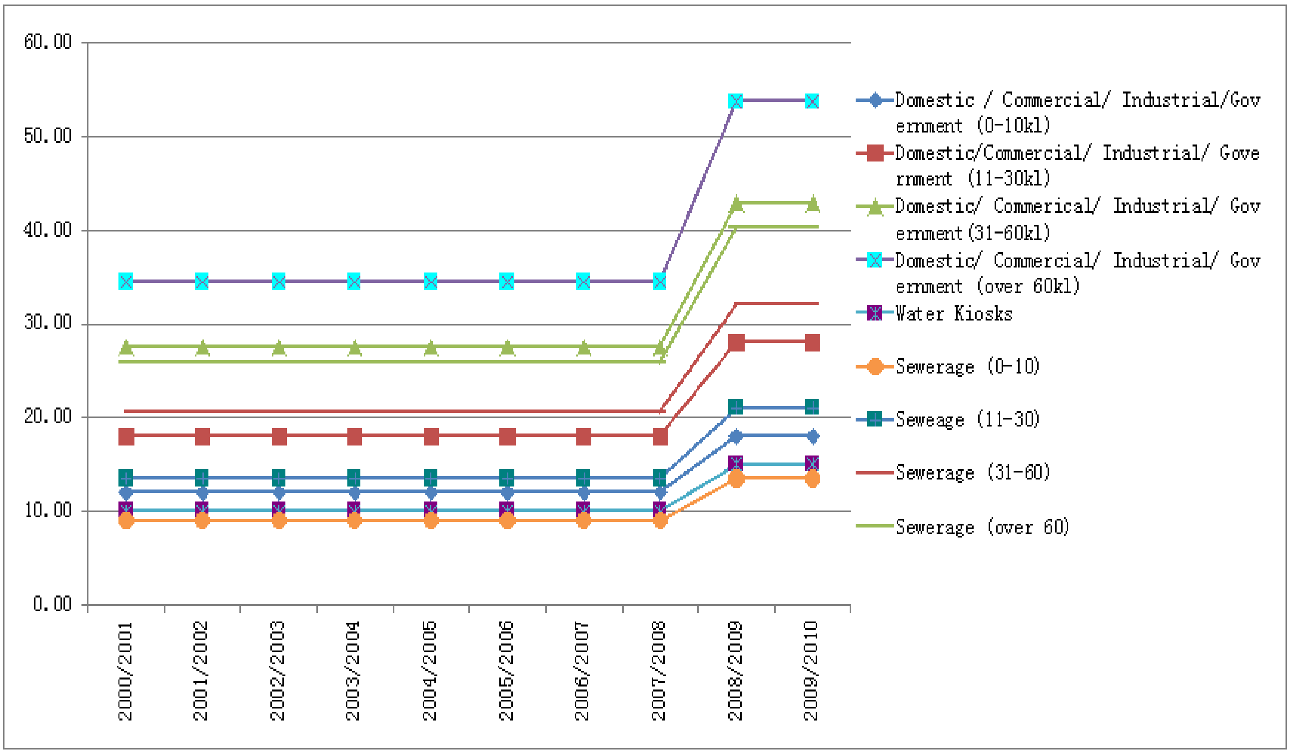
The tariffs should also take into consideration social and financial factors which include ensuring the sustainability of the NCWSC; promoting access to safe water as a basic human right which also caters for access to the poor; reflecting the real costs of water supply; ensuring that the tariffs are simple for consumers to understand the charges on their consumption levels; and promoting the efficient supply of water (WASREB, 2008: 43-44). Marumahuko & Fessha (2011) maintain that the centralized process vested in the minister of local government that is used to approve water tariffs annually for Zimbabwe's local authorities ensures access to water and sewerage services by the urban poor in pricing the tariffs (Marumahuko & Fessha, 2011: 49). The problem therein is that the centralized process forces subsidisation and limits individual city innovations in finding the most suited balance between pricing water tariffs and the necessary subsidization which in turn limits generation of maximum water revenue

Contrary to the need to sustain the economic provision of the trading service, water tariff structures in Nairobi have remained almost static and do not correspond to the cost of supplying water in Nairobi (RoK, 1996: 344; RoK, 2002a). Upon the establishment of the NCWSC, one of the conditions in sustaining and enhancing the financial viability of the water utility was the prior determination that the water tariffs would remain unchanged through the transition period. This determination in itself was an indication of local fiscal discretion such that the price of water would not be too expensive for the city's consumers. The NCWSC anticipated that improving the billing processes with limited increases in personnel and electricity and other input costs could still realize increases in water revenues as the NCWSC stabilized its operations.

[17] The 1992 International Conference on Water and the Environment issued a statement on Water and Sustainable Resources in the Dublin Principles in which Principle 4 recognizes water has an economic value in all its competing uses and should be recognized as an economic good

This determination set water and sewerage tariffs for eighteen months after the founding of the NCWSC (NCWSC, 2004: ix). The tariff remained static until 2009 even when the NCWSC had been in operation for five years. The increase in 2009 shown in Table 5.4 below has been the only increase despite the utility's need to meet the annual increasing costs of water supply as well as inflationary costs.

Table 5.4: NCWSC Water and Sewerage Tariffs from 2000 to 2010



Source: Author[18]

Table 5.4 above shows the trend in water and sewerage tariffs for Nairobi for the period 2000 to 2010. This trend also covers the period leading up to the creation of the NCWSC in 2003 and also reflects the pricing of water in terms of the differentiation of consumers and quantities. The tariffs for water kiosks are the lowest water tariffs although evidence reflects that this subsidized cost is not transferred to the urban poor by the kiosk vendors (Crow & Odaba, 2010). The tariffs remained static even after 2005 and reflect the transitional arrangements made as part of the operationalization of the NCWSC into a water utility (NCWSC, 2004a).

[18] Figures supplied by the NCWSC Head Office

Despite prescriptions to ensure sustainability of water supply through economic costing of the resource, the cost of water supply has yet to be fully incorporated into the tariffs shown by the limited increases on the tariffs in the table above (WASREB, 2008). The inflexibility of this arrangement in the new institutional set up shows that the stagnant tariffs still persist as indicated in responses below: “Non-responsive tariff: Lobbying with the Government for tariff amendments; Tariff was last amended in 2009” (Interview transcript NO11, 28 May 2013; Interview transcript NO12, 31 May 2013).

The implications of retaining a static water tariff to improve the revenue efficiency of water supply and sustained maintenance of water infrastructure costs are dire since the implications of the sustainable financing of water infrastructure are not always calculated into the costs of water supply. The NCWSC has to navigate a centralized framework for tariff setting that was previously a part of the municipal budgeting process, as do the other service providers in the country who do not face a similar magnitude of urban challenges that the NCWSC faces in generating water revenue and improving colonial infrastructure and supply of sustainable water service. This predicament puts the utility in a particularly vulnerable financial position that is perpetuated by the reliance on central transfers and international institutions. Financial dependence will negate the notion of local fiscal discretion in terms of financial sustainability which is implied by the notion of financial ring-fencing highlighted previously. The nature of local discretion is further examined below with the specific considerations of local political governance.

5.3.3 Local Political Oversight

Bakker suggests that municipal government leadership as a governance principle should also be evident in the structure of water management. This is particularly useful in reflecting indications of local discretion in water revenues. Besides, accountability mechanisms for local authorities should be in place to manage the operational activities of water utilities directly through to the municipal council in order to maintain political accountability. These structures ensure that cities maintain local political oversight so as to “limit abuse of monopoly power and ensure(s) protection of vulnerable consumers particularly with respect to pricing and disconnections” (Bakker, 2002: 9).

In Nairobi, the creation of the NCWSC was done within a national centralized process of water sector reforms that watered down this element of local political oversight to the mere representation of Nairobi's political and administrative leadership on the NCWSC board of directors. The NCWSC board representation also eroded the important element of local fiscal discretion that the city previously had on the water function and more important on water revenues. By restricting the level of local public governance that Nairobi had over water revenue as an important OSR to the council's representation on the NCWSC board has served to limit the extent of local oversight that had been historically retained by the city on the management of the NCWSC.

Table 5.5 below reflects the stakeholder representation on the NCWSC board of directors as well as the authority and management structure that is now retained by the water utility. The independent board of directors of the water utility is nominated from the private sector, professional bodies and non-governmental organizations as well as the county government. Representation from Nairobi County[19] constitutes five members on the utilities governing board. This has greatly reduced Nairobi's political oversight of the water and sewerage function from total control to a subsidiary owned by Nairobi and retaining less than 50% representation on the governing board.

[19] Previously mayor, town clerk, city treasurer and two councillors represented Nairobi City Council, After March 2013, county governor, county secretary and chief executive officer sat on the NCWSC board of directors (RoK, 2011).

Table 5.5: Governance Structure of NCWSC

Incorporation date	December 2003
Board members – number	11 non-executive members and 1 executive (managing director)
Board members – term	5 years
Board members – removal	appointed and removed from respective stakeholders
Board members – composition of board and committees	5 members from Nairobi, 7 members from private sector; civil society; professional bodies
Board authority	all powers
Authority delegated to CEO	From board of directors
Authority retained by council	NCWSC is a subsidiary owned by the Nairobi County Interests through board members from county government
Other authority	Athi Water service board; WRMA; WSRB; national ministry
Financial reporting	Annual report
Payments to city	% annual income as per tripartite agreement
Community involvement	Civil society representation on board; customer care processes of NCWSC

Source: Author [20]

The increase in political distance from the municipal council acts as a counterbalance for political interference as was the case in the past (K'Akumu 2007: 533). From a political accountability perspective, the reduced appropriation powers of Nairobi regarding water revenue also means that the city has less revenue for redistribution purposes. Second, the city's allocation of water revenues has reduced drastically to a percentage as discussed in this section diminishes the amount of OSR generated by the city. Therefore, the above discussion on the NCWSC as a water utility that has replaced the provision of this trading service previously done by Nairobi's water and sewerage department highlights the elements of centralism by the national government. The national water institutional framework as it stands erodes water revenues of this local function from Nairobi as well as the local discretion that the city needs to protect the urban poor in the pricing of water revenue.

[20] Adapted from Bakker (2002:24) with data from NCWSC annual reports 2005 – 2010.

This means that the **local fiscal autonomy** that the city previously employed through local fiscal appropriation over water revenue in the past has been depleted through the water reforms that occurred nationally through water institutional framework. The city cannot exercise political governance over this source of the OSR and exercise discretion that can be used to either provide equitable redress in the pricing of water or account for the entire source of the OSR in the city's annual operating revenues. Besides, the reform has also transferred the water fund for financing water infrastructure from the city coffers and ring-fenced the entire water revenue for NCWSC. Proponent for water utilities call for financial ring fencing of water revenue but fail to acknowledge the importance of local political oversight in mitigating for subsidization for purposes of equity of access.

The need to provide a sustainable source of OSR is necessary for maintaining payment levels and municipal creditworthiness. This proviso is closely linked to sustaining the financing needs for development capital by local government (Cowden, 1968). The following section examines Nairobi's municipal borrowing in light of local fiscal discretion and capacity in order to determine how the city sources finance for capital expenditure within a centrally regulated environment.

5.4 NAIROBI'S ACCESS TO DEVELOPMENT CAPITAL

The sustained relay of municipal services is heavily dependent on the provision and maintenance of municipal capital infrastructure. The dearth of municipal revenue inspires cities to explore alternative options to generate revenue for infrastructure. In Africa, as is the case in most of the developing world, the cost of financing municipal infrastructure requires significant capital outlays which tax local authorities' ability to generate OSR. This problem is exacerbated by colonial infrastructure that barely services the cities' contemporary demand for municipal services (UNHabitat, 2009: 13; UNHabitat, 2008; Kauffman & Pèrard, 2007).

Financing for capital expenditure also requires that cities have access to long term debt and the capacity to generate funds from operating revenues that will also finance the municipal debt incurred to its full term. This requirement in loan theory suggests that "municipal credit rests upon revenue raising powers" (Cowden, 1968: 197). Furthermore, given that the longevity of municipal infrastructure spans more than a single generation of users, it stands to reason that the costs of financing should then be borne by both current and future users of municipal services (UNHabitat, 2009: 43).

Given this provision, it then follows that cities should be afforded appropriation decisions to enter into long-term debt that binds future generations that will be financed by the sustained generation of OSR. The regulatory environment should be such that cities can access capital markets for development funding and develop the local fiscal capacity to ensure that the continued generation of OSR is maintained to sustain the debt.

Historically, Nairobi has been mandated to source development finance from internal and external sources (RoK, 1967; ALGA-K, 2006). The internal sources for financing capital expenditure were determined to be capital funds that were expected to "defray capital expenditure and reduce outstanding debts"; renewal funds that should finance the replacement of the city's assets; the water fund that accumulates water revenues to finance water infrastructure; and funds directed specifically to housing development (RoK, 1967; Nairobi City Commission, 1989).

Lewis (2003) determines that most developing countries follow a relationship-based model with central government providing overall guarantees for municipal borrowing. Nairobi ascribes to the same model in which the external sources are backed by guarantees from national treasury take the form of bank loans, external (foreign) loans, and municipal stock and public private partnerships (OPM/MoLG, 2009: 10; ALGA-K, 2006: 20). Funds that are borrowed for purposes of capital expenditure should be managed from the city's consolidated loans fund that was established under section 221 of the Local Government Cap 265 (NCC, 1988; NCC, 2004; NCC, 2005).

In addition, the city's rate for loan repayment was calculated on the basis of its overall income. This call for all loans to "be charged indifferently on all rates and revenues of such local authority and all securities shall rank equally without any priority" (RoK, 1967: Clause 222(2)). This compels Nairobi to ensure that a portion of potential local revenues be dedicated to debt repayment and not be available for other municipal expenditures. Besides, the city is required to have the local management capacity in place to manage municipal debt and sustain municipal OSR to finance the debt (UNHabitat, 2009: 44, PPIAF, 2009: 7). This historical access to development finance means that Nairobi has been able to source funds for capital expenditure for the project described below.

Municipal borrowing has enabled Nairobi to secure financing from international and development institutions to build council housing. The UMOJA/USAID Housing Scheme "comprises a housing scheme funded by the Government of the United States of America under which tenants acquire houses in Umoja Estate under mortgage" (NCC 2004: 29). This scheme was additionally supported by the capital fund that administers tenant purchase schemes in Kaloleni, Ziwani, Makadara and Riruta. The capital fund also manages the housing development fund for parts of Umoja I and II and the Dandora housing development scheme (NCC, 2004: 29). Continuous financial shortfalls in the city's OSR have precipitated the non-servicing of loan arrangements in Nairobi. As early as 1988, defaulting in loan repayments to the National Housing Corporation and the Local Government Loans Authority as well as fiscal appropriation by the general fund for operating revenues from the renewals fund, the consolidated loans fund, water fund and housing development fund were grave fiscal errors reported by the city treasurer (Nairobi City Commission, 1989).

Nairobi has also been able to secure finance for the delivery of critical municipal infrastructure and specifically water infrastructure. Sammy (2004: 15) tracks the historical development of water supply in Nairobi that required significant capital outlays for municipal infrastructure. He finds that Nairobi's first water source was commissioned in 1899 from the Nairobi River which was followed by the Kikuyu springs between 1900 and 1906. In 1938, the first phase of the Ruiru development project was completed and by 1949, a third pipeline from the same river served the city. Sasumua Dam was the next development phase that was followed by the Chania River. In 1985, the third water supply project was initiated and in 1996, Thika Dam was commissioned to contribute to Nairobi's vast water needs. Sammy (2004) found that these projects were unable to meet the growing demand for water in Nairobi.

The financing arrangements for the water infrastructure above show the city's ability to secure foreign loans. Table 5.6 below provides a glimpse of financing sources for the water infrastructure project called the Third Nairobi Water Supply Project (1985) and reflects an overwhelming dominance of foreign institutions financing water supply requiring lengthy repayment periods that would deflate revenues, OSR, that are apportioned to future payment of the municipal debt. It is important to note that the loans "to the Council under subsidiary loan agreements under which the government guarantees payment to the lender" points to the relationship model the Nairobi has with central government as its guarantor (NCC, 2004: 44). As indicated earlier the transfer of this municipal debt burden to the NCWSC awaits final reconciliation of the city's overall debt burden by the inter-ministerial task team (NCC, 2009).

Table 5.6: Foreign Loans for Nairobi Water Project as at June 2004

Foreign Loans	Direct/ on lent by Treasury	Starting	Interest	Period of Repayment
IDA	On Lent	August 1985	9.29%	11 years with 4 years grace period on principal
IBRD	On Lent		7.45%	21 years with 6 years grace period on principal
IDA	On Lent	July 1989	8.00%	
OPEC Fund	On Lent		Interest free	
OPEC Special	On Lent		Interest free	13 years with 5 year grace period on principal
EIB	On Lent	May 1989	12.00%	10 years with 5 year grace period on principal
ADB/ADF	On Lent	April 1989	10% and 8% respectively	13 years with 3 year grace period on principal
OECF-Japan	On Lent	March 1989	10.00%	
Saudi Fund	On Lent			
Paris Club reschedule arrears	On Lent			
ADF Supplementary loan	On Lent			

(Source: NCC, 2004: 44)

The city's financial data shows that financing arrangements for the above water infrastructure projects in Nairobi is scarcely evident in the city's financials. The city acknowledged the administrative challenges of capturing and reconciling loan obligations, despite the 1997 council policy that mandates that foreign loan obligations be reflected in the city's financials. This reporting deficiency meant that with time, inadequate financial reporting on the status of long-term debt has left the city bereft of managing overall municipal debt. This is evidenced by the inadequacies reflected in the financial years ending 30 June 1998 and 30 June 2002, when debt accounts had still not been updated and the city remained unable to project a complete analysis of the loan situation (NCC, 2004: 44).

Furthermore, the city confirmed that vital documents, such as loan agreements, were not available at the treasurer's office as mandated. Nairobi was, neither able to service loans prior to the intervention of the parent ministry within the auspices of the Kenya Local Government Reform Programme discussed earlier, nor was the city able to ensure that the servicing of loans yet been fully reconciled (NCC, 2004: 44; RoK, 2002*a*; RoK, 2002*b*).

In terms of municipal bonds, Nairobi is the only city that has utilized the option of issuing stock to generate local revenue in Kenya. The city has had unsatisfying results from this venture as discussed later in section 5.4.3 (ALGA-K, 2006; Chapman et al., 2003). Nairobi is still able to access development capital despite irregularities in financial management that have been highlighted by the city's key financial officials (NCC, 2004: 2009). Nairobi's state of municipal borrowing is now discussed in light of the city's legal framework for municipal borrowing; availability of information to determine municipal creditworthiness; and relationship with central government.

5.4.1 Legal Framework for Municipal Borrowing

The Kenyan government is expected to provide oversight through a regulatory framework that primarily determines the relationship between central and local government for municipal borrowing and, more importantly, issue fiscal rules by which cities can borrow (Cowden, 1968: 196). A policy framework is thus important in prescribing the matters that relate to the general statutory limits for local borrowing, management of municipal debt, determining safety margins as well as oversight of the elements in the municipal debt market (Moodley & Sing, 1996: 2003).

In Kenya, central government acts as a sole guarantor for Nairobi. This protection has been maintained in the new constitution as well as in subsequent local government legislation (RoK, 2010; RoK, 2011). The lending proposals are channeled through the Ministry of Local Government and processed by the national treasury. In the case of the NCWSC, this arrangement has changed slightly to reflect the new water institutional arrangement.

Given the central government guarantees on Nairobi's debt and the subsequent assistance in debt reduction (NCC 2004: 44), it is not clear from annual reports what the arrangements were or what is proposed for the repayment of the municipal debt for water infrastructure that was inherited from Nairobi's water and sewerage department. An official explained the sporadic response to the city's municipal debt in this way:

> *Municipal borrowing was done in building Ndakaini dam with support from a French loan but central government intervened and a municipal bond was issued…we have argued for LATF to go up because of loss of water revenue*
> (Interview transcript NO9, 13 February 2013)

The new financing arrangement requires that the NCWSC operate within the national framework whereby proposals for infrastructure investment are considered by the Athi Water Service Board. This has been useful in the restructuring project that is supported by the World Bank through the service board that is worth Ksh 1.2 billion (NCWSC, 2004: 2b). A key informant concurred with this assertion by stating:

> *Expansion plans by Nairobi City Water and Sewerage Company are done under the Athi Water service board only and the utility is allowed to put in proposals for borrowing for infrastructure to the service board which is a strict process*
> (Interview transcript NO8, 11 February 2013)

The rest of Nairobi's debts require the use of an inter-ministerial team that was tasked with reconciling the loan values and the balances due. This was primarily to reflect on present liability with loans on water projects (NCC, 2009). By 2009 the city was only able to partially project loan balances on various loans as shown in Table 5.7 below. When compared with the city's overall revenue, figures on total loans show that the debt ratio of Nairobi seems significant despite the increasing trend of overall city revenues that are boosted by the stable sources of local revenue from the SBP and property rates discussed in section 5.1.

Table 5.7: Nairobi Balances of Long-term Loans at 30 June 2009

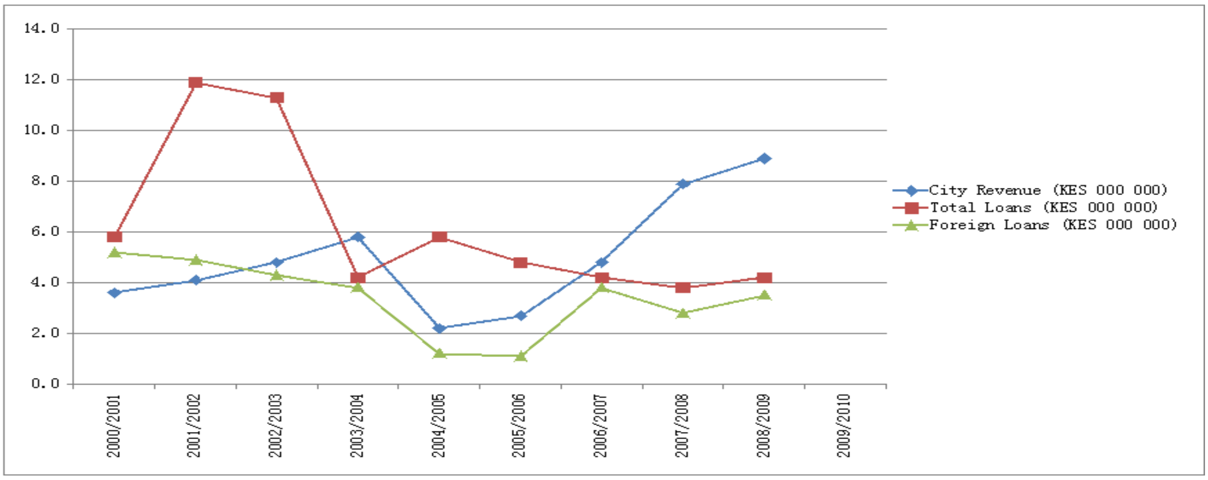
		Consolidated		
Source	**Loan No.**	**Principal Due**	**Interest Due**	**Total**
LGLA	Various	244,097	361,636	605,733
Government Guaranteed		1,569,108	1,979,483	3,548,591
	Totals	**1,813,205**	**2,341,119**	**4,154,624**

Source: NCC, 2009:33

The exact amount of municipal debt has been called to question because of the historically poor financial record keeping and subsequent sluggish attention that has been given to the city's local fiscal capacity to manage its municipal borrowing function both by the Omamo Commission (RoK, 1996) and also by the local government reform process (RoK, 2002*a*; 2002*b*). Partly to blame is the centralized stance adopted in the reform that has not placed significant responsibility on the city to emphatically develop municipal creditworthiness or the fiscal capacity to service long-term debt. The relationship with central government also plays a role in maintaining the status quo as is discussed later in this section.

Table 5.8 below presents this precarious financial situation in a ten-year term during which total loans exceeded city revenue until the year 2003/2004. Although revenue is on the increase after the final reforms in 2008, reconciliation on the total municipal debt burden is still outstanding. The fiscal disjuncture is also confirmed by the findings of the Kenyan auditor-general (RoK, 2012).

Table 5.8: Nairobi City Revenue Compared with Municipal Debt Burden 2000-2010.



Source: Author[21]

As Nairobi is a city with access to the municipal debt market, it is allowed to borrow funds from the capital markets and through municipal bonds. The former option requires more stringent requirements as presented by the market-based relationship for municipal borrowing. Meeting these requirements is hindered by Nairobi's reliance on national treasury for bail-outs (Martell, 2008; Hernández & Pèrez, 2004). These requirements centre on the city's ability to provide credible financial information, its credit rating and creditworthiness determined in the remaining section below.

5.4.2 Availability of Information for Credit Rating

The availability of information to municipal credit lenders is important for two reasons. Information on the fiscal, social and economic situation of the city and respective country is used by independent credit rating agencies to determine the local "willingness to repay commercial debt at specified times" so as to issue a credit rating (PPIAF, 2009:8). Credit rating agencies use information on the local and national economy, debt, financial and administrative strategies that reflect local government's future ability to repay loans (Lipnick, Rattner, & Ebrahim, 1999; Jackson, 2006:23).

Municipal creditworthiness and credit rating are important for acquiring long-term debt since these factors facilitate local access to loans from capital markets as well as the obtaining of credit at favourable interest rates (Scott, 2000; PPIAF, 2009:8). It is also important that the

[21] Figures derived from Nairobi financial statements 2002 – 2009.

information provided to credit institutions be useful in reflecting the current and future state of debt management (Hernández & Pèrez, 2004). Therefore, highest credit quality is with risk factors, which are negligible at "AAA" while "DD" reflects the likelihood of defaulting on debt obligations (PPIAF, 2009: 9). These ratings have a bearing on the rates of interest attached to municipal debt that the city incurs and require a city to improve on its rating so that it may actively draw funds from capital markets (Lipnick et al., 1999).

Although the importance of providing information to credit lenders has been underscored, the long-standing fiscal crisis of Nairobi meant that there was a dearth of information particularly on the fiscal situation and management of the city. This gap in critical information has detached the city from developing the capacity to manage municipal debt, and limited the ability to establish municipal creditworthiness since rating agencies are unable to conduct a credit rating on the city. Table 5.9 below shows that only a sovereign rating has been conducted on Kenya, and the credit rating was only began after the 2008 multi-party election. Table 5.9 has no rating for Nairobi which points out that credit rating is not an indicator that the city is able to use to determine credit worthiness despite the city's access to development finance from international institutions.

Table 5.9: Long-term Credit Rating: Nairobi

Year	Nairobi	Kenya
2000 - 2007	-	-
2008	-	B+ (foreign) BB- (local)
2009	-	B+ (foreign) BB (local)
2010	-	B+ (Foreign) B+ (local)

Source: Author[22]

[22] Ratings provided by international rating agencies: Standard & Poor and Fitch

Nairobi is allowed to borrow from capital markets, an option that the city has not yet fully explored. The city's inability to meet requirements through credit ratings and the lack of certainty of municipal creditworthiness are partly responsible (Jackson, 2006). The capital market also remains wary of the city's ability to manage municipal debt. The city's attempt to enter the capital market has also been met with trepidation as confirmed below by a key informant:

> *We tried doing a structural bond three years ago with the World Bank in it, it was the first time that we tried this kind of borrowing and these are the issues that came up, we didn't have a rating*
> (Interview transcript NO9, 13 February 2013)

The new city envisages that the local government reforms, particularly intended to improve Nairobi's financial processes and management, and reverse the long-standing dismal history of fiscal crisis into transitioning into a new county structure after 2013, will mandate county government to borrow funds for capital expenditure. Although the legislation prescriptions for municipal borrowing prevail, the challenge in asserting Nairobi's fiscal capacity to engage the local capital markets and municipal stock persists since the local government reforms do not emphasize restructuring of the environment for municipal borrowing. This means that the local fiscal capacity cannot yet be explored in terms of local fiscal discretion and appropriation to manage municipal debt.

5.4.3 City Relationship with Central Government

The central-local relationship reflects the reliance on national government as a guarantor, as well as the municipal capacity to engage (or not) capital markets for municipal borrowing. This relationship-based model that is preferred in developing countries has not compelled local government to enhance local capacity to repay municipal debt (Lewis, 2003; Leigland, 1997; World Bank, 2000). The regulatory environment for municipal borrowing which Nairobi has operated from since independence, emphasizes a central-local relationship whereby central government provides surety for Nairobi when the city sources external loans for capital expenditure. The dearth of fiscal rules on the loan regulations and repayment capacity of Nairobi resulted in the insolvency and illiquid state of Nairobi's fiscal resources (RoK, 2002a; RoK, 2012).

As a result, the central government has had to take over significant responsibility of the municipal debt as was confirmed by a senior official: *"Bonds were given when Ndakaini was built, loans were not being serviced and therefore in the last years the Kenya government decided to intervene on behalf of the city and pay" (Interview transcript NO9, 13 February 2013).*

In summary, Nairobi has a **prescriptive legal framework** that allows the city to engage local and international markets for long-term loans. While the city has been able to leverage loans from international institutions for water infrastructure and housing developments mainly facilitated by the relationship-based model with the national treasury, the city has not proactively developed its **local fiscal capacity** to engage capital markets. These alternative options require strict adherence to requirements of municipal creditworthiness which include the availability of credible financial information and a stable credit rating. The city has also not kept up with meeting its financial obligations on the long-term debt which reflected in the derisory financial reporting of the municipal debt burden that required intervention from central government. The unreconciled financing arrangements on the debts for water infrastructure between the NCWSC, a subsidiary of the city and the city itself, perpetuate the crisis in Nairobi's state of municipal borrowing.

Conclusion

Literature suggests that a regulatory framework is basic in relating the revenue assignment function to cities. This requirement is reflected in the political will at national level to promulgate legislation that relates local revenue to specific local functions. The laws that are in place should enhance the city's ability to generate local revenue and improve on fiscal capacity and thereby reflect local discretion.

In the above case, a centralist perspective from the national government has influenced the way legislation has been implemented for revenue enhancement, and in the manner in which reform measures have been undertaken in the capital city of Nairobi. Additional revenue from the newly reformed SBP has become an important contributor to the city's revenue. The additional emphasis that has been placed on property rates income by the city has resulted in this OSR rise to become the premier source of Nairobi's independent local income.

The interviews and financial data presented converge on the unrealized potential of the critical OSR of water revenue and municipal borrowing. Contrarily, water revenue has been eroded from the city's fiscal discretion through the new national water institutional framework that assures the financial ring-fencing of water revenues for water expenditure and infrastructure. The city receives an annual water lease income from the NCWSC and an additional grant from central government, but this amount does not come close to the water revenue the city was fiscally responsible for prior to the water reforms in Kenya.

The result of the local reform on local fiscal autonomy is twofold. The city previously had fiscal discretion over the water fund and annual water revenues. The misappropriations that were a result required an introspection that should have improved the city's fiscal capacity to manage water revenue and not the incorporation of NCWSC into the water sector. Secondly the implications of financial ring-fencing for NCWSC meant that the city now has limited political governance over water revenues. The additional drawback has severe implications in pricing the water for urban poor who continue to be marginalized in the pricing structure that does not ensure that the disadvantaged are beneficiaries of the equity intentions of pricing water revenue.

Nairobi's municipal borrowing environment remains in a state of chaos, an unenviable situation that is indicative of the city's fiscal inability to manage and sustain municipal debt, even with a framework that permits borrowing from international and national capital markets. The reliance on central government which is reflective of developing countries, has not only evidenced the national government paying off some of Nairobi's municipal debt but also reflected in the poor record keeping on the status of current and past loans which debilitated the city's creditworthiness.

CHAPTER SIX

THE CASE OF JOHANNESBURG'S LOCAL REVENUE

This chapter presents the findings on the experience of local fiscal autonomy in Johannesburg's local revenue function. The evolution of Johannesburg's revenue after local government restructuring is first presented to capture the process before, during and after local government reform. The next section examines local fiscal discretion and appropriation of water revenues within the city of Johannesburg. Finally, the municipality's state of municipal borrowing is presented in light of revenue autonomy.

6.1 REFORM FOR JOHANNESBURG'S LOCAL REVENUE FUNCTION

Bahl & Martinez-Vazquez (2006) prescribe that implementing decentralization through reform should be preceded by a national process of adopting decentralization law that reflects fiscal decentralization; which includes local revenue autonomy. Local government can proceed to implement revenue assignment. This sequencing provides local government with the legal mandate within which to generate and manage local revenue streams. This autonomy is particularly important in the case of water and sanitation services in which the social, financial and economic considerations of water supply are critical and should be implicit in legislation (Bahl & Linn, 1992). Johannesburg's experience of managing and generating water revenues contradicts the above regulatory path since the city underwent local government restructuring simultaneously as the national government promulgated legislation on local fiscal discretion.

The metropolitan municipality of Johannesburg experienced a protracted process of tumultuous upheaval during South Africa's local government transition which required the merging of thirteen disparate local authorities (PLANACT 1990; Cameron, 2005; Tomlinson, 1999). The city's negotiations were concerned with maintaining local fiscal autonomy; dealing with the municipal infrastructure backlogs in the township areas as well as the mounting debt levels that increased with the continued non-payment of services (CWMC, 1992; Davis, 1992; FWG, 1993; JCC, 1990a; PLANACT, 1990). During the apartheid era, the WLAs had maintained a steady flow of own source revenue for operating and capital expenditures as well as a favourable risk profile for municipal borrowing (Cowden, 1968; JCC 1984; JCC, 1990b; JCC, 1990c). Operating revenues constituted income from trading services for WLAs and were mainly drawn from electricity, gas, market, airports, transport, water and sanitation surcharges as well as income from residential and property rates (JCC, 1984: viii; CSS, 1991). Obtaining finance for capital expenditure for the WLAs was regulated by the provincial Transvaal Local Government Ordinance of 1939 that prescribed the borrowing of funds from local and international markets and issued municipal stock with no statutory or automatic limits imposed by the former provincial administration. Central government provided guarantees for local lending although local fiscal capacity was emphasized for municipal borrowing (Cowden, 1968: 200).

On the other hand, the impoverished Black local authorities experienced crippling infrastructure backlogs that mainly pushed the 1980 rent boycotts, which spurred the culture of non-payment for services. Critical financing for municipal infrastructure, particularly for electricity and for water and sanitation was not sufficient to service the populous townships and squatter settlements in the Johannesburg area (CWMC, 1992; Davis, 1992; Simkins, 1991). During the transition phase, Johannesburg's disparate local authorities were gradually merged to form a two-tier metropolitan structure first with seven substructures then finally with four metropolitan local councils, that is, the Northern, Southern, Eastern, Western councils under the Greater Johannesburg Metropolitan Council, according to the Local Government Transition Act of 1993.

This merger accentuated the fiscal, administrative, human and infrastructural disparities that had divided the previous local authorities and rendered the newly formed metropolitan municipality incapable of providing constitutionally mandated services to Johannesburg's residents (GJMC, 2000: 4). The city faced crises on three fronts: first, the merger had not integrated the levels of municipal services, poor revenue management or payment levels persisted in the poor institutional arrangements, and the continued fragmentation of service delivery by local transitional structures as confirmed in the officials' responses below:

Did they understand the magnitude of bringing together eleven different administrations, not only through culture but the understanding of collecting rates, you know the proportional subsidization of communities, management skills, you know the integration of cultures..

We now have to run these seven sub structures within a destiny here, go in to five structures because what was the policy of the ruling party, a uni-city, one tax base, one property rate base, right, so now if in one year the democratic elections people are not even beginning to understand that we knew the challenge.
(Interview transcript JC1, 25 April 2011)

There is an organization design which was poor that was between the locals and the Metro, it weakened revenue streams. That was the diagnosis I made when I came. It was part of the diagnosis of the whole thing about the one city, you can imagine this, Metro has to buy the electricity from Eskom, sell it on to the local, the local sells it on to the customer. There are four locals, all of them are buying electricity that is the accounting of it and they sell to the customer. So now Eskom sends a bill to Metro and Metro must pay in full. Metro sends a bill to local and local has been budgeting as though everyone is going to pay. They do not pay, local does not catch, local is not paying Metro, they are the last people to pay. So you have got the cash flow woes between the Metro and the local which was based on the structure of the thing.
(Interview transcript JO2, 8 April 2011)

Second, the city experienced significant losses in terms of skilled staff that left the civil service employ during the city's restructuring process. The resulting skills shortage inadvertently undermined the overall management capacity of Johannesburg in creating a uni-city (GJMC, 2000: 5). An interviewee reflected on the implication of the staff exodus on the city's institutional memory in this way:

Staff were walking out of the door. They just resigned; the city lost a significant number of people but what it meant was that all wages were going up with inflation, our staff salary bills stayed constant. But lots of people left and you know lost a lot of institutional memory and it's an interesting thing if you ever do some of this sort of work and you compare eThekwini, they did not lose institutional memory in the same way at all, you get people now who have been eThekwini for 25 years you don't find them in CoJ. A few, because a lot of those people walked they have been dribbling out ever since. The skills base in CoJ is a lot less.
(Interview transcript JO2, 8 April 2011)

Finally, the fragmented revenues and expenditures that were now brought under the canopy of the uni-city severely debilitated the city's ability to finance municipal services and even more so to "maintain the city's infrastructure and extend service provision to historically disadvantaged communities" (GJMC, 2000: 5). The table below reflects the extent of the fiscal crisis that the city faced at the time.

Table 6.1: State of Johannesburg's Fiscal Position in 2000/2001

	1997/1998	**1998/1999**	**1999/2000**	**2000/2001**
Budget deficit	R 183 million	R 134 million	Nil	Nil
Overdraft	R 405 million	R 241 million	Nil (Jan 2000)	Nil
Service arrears	R2.6 billion	R 2.9 billion	R 2.8 billion	R2.8 billion
Payment levels	90%	92%	88%	93%
Operating budget	R 7.7 billion	R 8 billion	R 8.4 billion	R 8.8 billion
Capital budget	R 655 million	R 369 million	R 379 million	R 828 million

Source: GJMC, 2000: 5

The situation was also exacerbated by inherently high debt levels inherited from the WLA and fiscal deficits from the other local authorities that had all merged into the metropolitan substructures as shown in the responses below:

> *The crisis was aggravated by the new municipality using Old order financial directives; No proper budget, City could not make payments.*
> (Interview transcript JO3, 26 August 2011)

> *Metro which had all the responsibilities of servicing debt and paying for things like the metro traffic department and all those functions had no direct revenue powers at all. All the revenue powers went to the four local councils and there was an arrangement in terms of which they were supposed to pay over on a monthly basis, a sum of money to the metro.*
> (Interview transcript JO2, 8 April 2011)

The culture of non-payment of services had also permeated into the inner city with drastic consequences for the revenue collections on services from the high rise buildings in the central business district. A senior official explains this predicament on the intensity of non-payment in the city:

> *I think at that time the debt was close to 2 billion and when you looked at these things, it is not poor people who owed this money. It was owed by people who owned probably most of the inner city, people who were absent landlords, you cannot even track down you keep sending bills, the kind of thing the situation that was there at that time. A debt that was created by a lot of people who were almost relieved of the discipline of paying and they were let off the hook, the rich people who owned most of the buildings where the amount owing was over many years. But then also you would have a relaxed practice by people at that time, it was kind of tolerated.*
> (Interview transcript JO1, 6 April 2011)

The issues above required the city to implement a plan that would provide financial stability; service delivery; an accountability framework; efficiency in the city's administrative structures; as well as the provision of defined political leadership (Smith, 2006: 7). As a result, Johannesburg adopted a city development strategy that was intended to align its administrative structures and processes with the constitutional mandate of service delivery. The strategy guided these structures to eventually merge into the uni-city of Johannesburg through the iGoli 2002 and iGoli 2010 processes with the goal of *one city one tax base* (CoJ, No Date*c*; CoJ, No Date*d*; GJMC, 2000).

These city development strategies were implemented in the context of a long-term plan known as *Joburg 2030 Vision* that directed the city's resources to strive towards improved access to social services and continued economic growth (Allan, Gotz & Joseph, 2001). Later in 2006, the city adopted the *GDS 2040* strategy to replace the *Joburg 2030 Vision.* In addition, the city developed the *Joburg Human Development Strategy* which is intended to support and realise the objectives contained in the legally prescribed medium-term planning of the IDP (CoJ, 2006*a*).

Through iGoli 2002 and iGoli 2010 the municipality formed a unified structure to meet the city's constitutional mandate. The city used a combination of restructuring efforts that were targeted at the city's political governance structures, core administration, utilities, agencies and corporatized entities (UAC). The Municipal Structures Act (1998) prescribed political governance to be provided through an electoral system that allowed for proportional representation and direct representation through wards in metropolitan municipalities. Johannesburg has 217 elected councillors with 108 elected from political parties in terms of proportional representation while 109 councillors are directly elected from the wards in Johannesburg (CoJ, 2009: 26).

Furthermore, to strengthen the city's local political governance over the urban administration, legislation allows the mayor to appoint a mayoral committee from the councillors to support the political responsibility of ten specified clusters, such as finance and infrastructure clusters (GJMC, 2000: 6). In light of this political process, the metropolitan municipality has been governed by the ruling party since 2000 as explained in Section 4.4. The central administration is tasked with policy implementation, regulation and coordination specifically in "implementing policies; regulating the operations of all service points, including the regulation, monitoring and evaluation of utilities, agencies, and corporatized entities" (GJMC, 2000: 22; CoJ, 2011). Regional administrations manage region specific operations in the eight regions that comprise Johannesburg

Three public utilities were created through iGoli 2002 for specific municipal services previously classified as trading services that now operate as municipal business enterprises with the municipal council of Johannesburg as the sole shareholder of the entities (GJMC, 2000: 10). Johannesburg Water was created in 2001 for provision of water and sanitation services; City Power caters for electricity services while Pikitup merged the previous waste management functions of greater Johannesburg into one (GJMC, 2000: 12-14). Gas reticulation in Johannesburg that was previously a trading service in Johannesburg was sold off to a consortium of private sector companies that now manage this service as iGoli Gas. The sale was to enhance the city's cash reserves that had been eroded by the restructuring. The loss of this trading service is explained by a senior official in this manner:

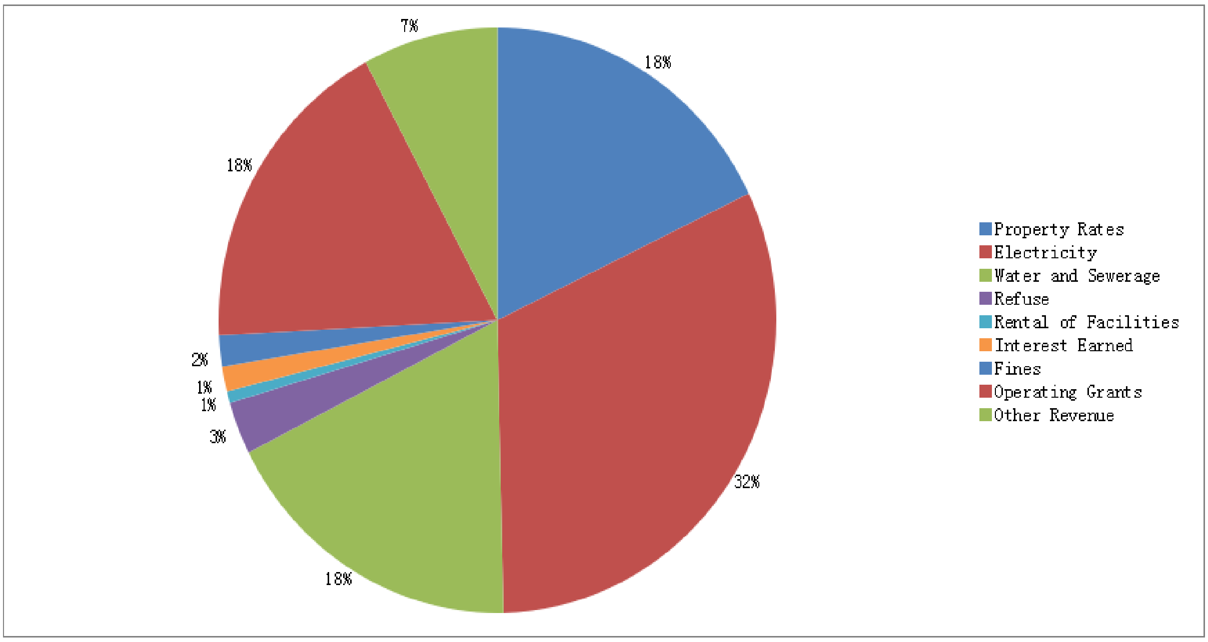
> *For example one of the big privatization initiatives was iGoli Gas used to be the gas department of the city of Jo'burg, it was wholly owned by the city and sold through iGoli 2002 what they did was they looked at that and they said well it's not a core function. Gas as a form of energy is minimal in terms of percentage usage amongst the whole of Jo'burg; should the city then still be focusing so much of time, energy and resources into that and the answer was well if we can sell it lets sell it.*
> (Interview transcript JO7, 10 November 2012)

The city also created agencies that provide specific municipal services which "do not attract a direct user charge and are reliant on the rates account for funding" (GJMC, 2000: 16). The agencies are the Joburg Roads Agency which manages the road network within the city and City Parks was set up in 2000 which is a central entity that manages Johannesburg's parks and cemeteries (GJMC, 2000: 16-17). Corporatized entities were also established to perform the rest of Johannesburg's municipal functions through dedicated units with appropriate governance and institutional structures, and these consist of Johannesburg Zoo; Johannesburg Fresh Produce Market; Metrobus; Johannesburg Civic theatres; and Johannesburg Property Company (GJMC, 2000: 20). Altogether the UAC cater for the array of Johannesburg's municipal services.

Cowden (1968) argues for municipal services and respective revenues to be regarded as a "whole and not units which should allow for urban authorities to aggregate profits or losses incurred". Municipal revenue for Johannesburg is sourced internally from service charges that constitute electricity, water, refuse removal, sewerage and sanitation and other services; property rates; and interest from Johannesburg's assets that are depicted below in Figure 6.1. External sources of revenue for Johannesburg come from national government in the form of grants and subsidies; and municipal borrowing from capital markets and development finance institutions.

The sustainable generation of OSR is required to finance the city's vast municipal mandate that has its roots in the constitution. Johannesburg continues to experience an upward trend in operating revenues which constitute over 80% of total revenues while the proportion of intergovernmental transfers is less than 20% as shown in Figure 6.1 below.

Figure 6.1: Own Revenues for City of Johannesburg for 2009/2010



Source: CoJ, 2011: 12

In the Figure 6.1 above shows the composition of own revenues for the city of Johannesburg during 2009/2010 when the trading services of water and sewerage, refuse, electricity and property rates drew in more than two thirds of the city's total income. The central management of revenues by the city after local reforms allows for **local fiscal appropriation** for Johannesburg. However, administrative constraints in the implementation of centralized revenue management have emerged as in the case of Johannesburg discussed below.

Revenue and Customer Relations Centre

The iGoli plan envisaged the IT function as a critical function for "ensuring the delivery of the iGoli 2002 plan" (GJMC, 2000: 19). This function would assist the city to gain the goal of one tax base intended during the restructuring process as well as increase and sustain payment levels critical to the fiscal viability of Johannesburg. A series of interventions has thus been implemented that has centralized the city's revenue function into the revenue services centre that is responsible for overall billing and collections from the municipality's services.

The result of this process is the Regional Shared Services Centre that incorporates the revenue management unit, Joburg Connect and the People's Centres (CoJ, 2002: 84-86; CoJ, 2003*a*: 108; CoJ, 2011: 64). The specific revenue issues that this strategy intended to address were data cleanup; billing backlogs; statement delivery; meter reading and billing process re-engineering (CoJ, 2002: 59-60). These issues have remained problematic, despite the focused attention directed by the revenue strategy. The magnitude of capturing data, particularly on revenue, is depicted in the following responses by a councillor and senior municipal official:

> *Part of the mess had to do with a loss of skilled IT people over time who used to retrieve the data until they internalized it and some got lost, and in the establishment of the five councils as and when some functions were being consolidated within those functions they were also a whole range of things that were not handled properly that were rushed and resulted in data integrity issues. So we took a view that we needed to move to a city wide revenue collecting system and we embark on the process, and we chose Venus to implement that. It also had its own problem, you know migrating data from multiple system into one, there were huge issues, how long do you keep their own legal system particularly if they had credit that date back and that need to be investigated you need to go to those legal system processes and so on, the data was captured differently so you couldn't just design and do a mapping exercise to transfer data because you are transferring from multiple systems with different levels of integrity oh it was a gemors*
> (Interview transcript JC1, 25 April 2011)

> *So what they need for example for meter readers and it's part of maybe a BBE approach, is that you get the small companies to come and read but these people did not read meters properly. They often estimated it and that caused a major problem; so you would actually have a genuine reading and estimates creeping in; so this caused a whole range of feuds. Now if a wrong figure is put in it is put in basically, so there is a huge citizens' issue.*
> (Interview transcript JO5, 4 October 2012)

6.1.1 Restructuring Johannesburg's Water Function

Historically, the local management of revenue from water and sanitation services in the greater Johannesburg areas was vested in the domain of the WLA[23] which helped the privileged authorities to maintain a consistent stream of revenue from water services (CSS, 1990; CSS, 1991). The former Johannesburg city council as illustration, generated a continued increase in income from gross water revenues as shown in the Table 6.2 below when compared with the corresponding increased gross expenditure in the water department:

Table 6.2: Water Gross Revenue and Expenditure:

Water Revenues	Gross Income	Gross Expenditure
1983/1984	R 53 697 386	R 55 910 345
1982/1983	R 51 392 071	R 51 660 696

Source: JCC, 1984: viii

Conversely, Poto (1989) and Simkins (1991) find that water income was not a source of revenue for other local authorities. The black local authorities in particular were not permitted to provide the municipal service and instead relied on white local authorities to manage the supply and charge a flat rate for the townships to access water and sewerage service as confirmed by an interviewee's response:

> *The actual usage that people were paying was actually less than what they were paying prior to the prepaid system. Now prior to the prepaid system what was happening is people were being charged a flat rate. So every month you basically got an account regardless of how much water you used, you got a bill for R110, I can't remember what it was – you could have actually used a lot less and our own research showed that people who were getting billed R130 a month were actually using less than R130.*
> (Interview transcript JO7, 10 November 2012)

[23] From 1986 upon establishment, the Central Witwatersrand Regional Services Council was permitted to deal with the bulk supply of water as well as sewerage processing and pipes, seen as a trading function shared with the WLA and not seen as practical (Solomon, 1989: 79).

This meant that all the water revenue was at the discretion of the privileged local authorities. Having autonomy over the water revenue meant that the infrastructure for this municipal service in the white areas was quite developed and sophisticated in contrast with that of the marginalized local authorities. The townships in particular had a "dilapidated water and sewerage system" where minimal maintenance was exercised (Davis, 1992). This infrastructure contrast was confirmed by key informants:

> *A lot of that was because of old systems and the way the apartheid government basically designed the infrastructure there was if I can just show you – if that was the road and those are the individual houses, the correct way is you run the water connections here and then it feeds in. Now if this was the neighbour, so this is your back neighbour, under apartheid what they basically did was they ran the water pipe there so it was easier and less costly so it would feed both these houses. But what happened over time was people then extended their house and it went over, or they built a garage so you couldn't really access that waterline any more. So if there were water leaks there it was gone, you would never be able to fix it.*
> (Interview transcript JO7, 10 November 2012)

> *The engineers design more high-grade stuff which is going to take forever to pay off. They do not care about the billing, they are actually having fun. Now the billing, it could be a lot better if we could bill less because we bill something rudimentary rather than on top of the range. In Joburg actually we inherited a lot of very fancy technology and there was a sudden outfall so ... which was actually world class etc. It really could have been held back a bit. So that was a standard story we were putting up. These are structural issues. More causes of crises, this is more important, culture of abundance, this is what I mean that the insiders were being very lavish with money.*
> (Interview transcript JO2, 8 April 2011)

This fiscal disjuncture raised two revenue issues that had to be addressed by the Constitution during the turbulent transformation period in Johannesburg: a democratic legal framework and the local government restructuring process. First, the question around the economic value of water had to be maintained and addressed. The pricing of water in the WLA had always been based on the "ability to pay principle" and had been fairly well managed; this had to be balanced with what was happening in the townships where water infrastructure had to be upgraded as a matter of urgency. On the other hand, a culture of payment for government services had to be cultivated which went against the grain of the status quo as was reflected by key informants:

> *So there was this drive to ensure that. In a way the regions also came up and they played a role in trying to encourage the customers or people down there to understand that for a service you have to pay. It was not an easy thing especially for many of these people came from a culture where it was mainly boycotts and that kind of a thing. If you are not happy with something you boycott, if you are not happy with something you stop paying etc. So they had to also understand that so that the problem doesn't become exacerbated, you are not adding to the problem.*
> (Interview transcript JO1, 6 April 2011)

> *... was that under the old system because it was a flat rate even if you didn't pay for water you still continued to get the supply, and that is why in a sense payment levels in Soweto were low because there was very little in terms of actual cutting off that could happen*.
> (Interview transcript JO7, 10 November 2012)

Second, the call for greater autonomy, particularly financial independence to be conferred on metropolitan areas, had repeatedly been made during the local government negotiations (CCLGA, 1991). This meant that Johannesburg expected to manage its water revenue after the local government transition process in 2000. Bakker (2002) highlights the need to improve on efficiency as a motive for restructuring water services from municipal departments to water utilities. Johannesburg faced a similar predicament that had been brought about by the restructuring process in which five different council departments were integrated to streamline the management structures and, more important, to improve the efficiency of municipal water services (Smith, 2006: 15). It was during the restructuring process depicted in section 6.1 earlier, that the city created Johannesburg Water.

6.2 JOHANNESBURG WATER

Johannesburg Water emerged as the premier provider of water and sanitation services in the metropolitan municipality from the iGoli 2002 process. The water utility presently provides water and sewerage services to approximately 3,8 million people who constitute 750 000 domestic, commercial and industrial consumers. The water utility uses a network of 11 000 km of distribution pipes, over 100 reservoirs and water tanks to reticulate water to consumers and also collects waste through a waste water network of 11 000 km. Johannesburg Water purchases over 1000 Ml per day from Rand Water and daily treats 970 Ml of sewerage per day (JW, 2010: 5). The payment levels from water and sewerage services, an important revenue stream for the metropolitan municipality of Johannesburg, stand at just under 90% (CoJ, 2011: 15). Access to water and sanitation services in Johannesburg has improved, as shown in Table 6.3 below:

Table 6.3: Water and Sanitation Services in Johannesburg 2001-2010

	Household Services					
	Flush Toilet Connected to Sewerage %		Weekly Refuse Removal %		Piped Water inside Dwelling %	
City of Johannesburg	2001	2011	2001	2011	2001	2011
	82.3	87.1	90.9	95.3	50.1	64.7

Source: StatsSA, 2011: 41

The water utility was created by the city of Johannesburg and was initially outsourced through a management contract that was a five-year performance management contract with a joint venture known as Johannesburg Water Management (JOWAM) comprising the Suez group of France and subsidiaries in the UK and in South Africa. The venture also included a black empowerment group that had 27% of JOWAM shares. JOWAM was expected to be responsible for the operational aspect of water services which includes billing, customer management as well as infrastructure development and management.

Governance of the water utility initially prescribed dual management by the managing director appointed by the utility's board and the CEO of JOWAM (JW, 2004a; Smith, 2006: 15; Van Rooyen, De Wet, Marais & Korth, 2009: 17, 18). At inception, the water utility was conceptualized to operate as an entity with managerial and financial autonomy that was directly accountable to the municipal council of Johannesburg for the provision of water services and management of water revenues (JW, 2003).

Van Rooyen et al. (2009) assert that the efficiency of the water utility improved during the five-year term under the JOWAM contract. On operational efficiency, residents' access to water and sanitation services increased to over 90% by 2005/06 including improvement in the quality of water and waste water to satisfy the national prescribed norms. The financial viability of the water utility was also enhanced as reflected by increased year-on-year revenues. The overall improvements in operational efficiencies and financial viability have prevailed even after termination of the JOWAM contract (Van Rooyen et al., 2009).

Water utilities can enhance managerial autonomy, particularly in water revenues through financial ring-fencing, to ensure that the revenues are utilized for financing water-related expenditure and infrastructure without the element of fiscal appropriation from local government. Moreover, financial ring-fencing is important in boosting water revenue and should help in aligning and setting water tariffs to reflect costs of water supply as well as providing proportional pricing of water to different categories of consumers including the urban poor (WSP/ PPIAF, 2009; Smith 2009: 7-8).

It is also important to reflect on the evidence of executive political leadership of water utilities. The leadership should provide political accountability on behalf of the city's consumers for the water services (Bakker, 2002: 21; Bahl & Linn, 1992). The 1992 Dublin Principles[24] asserts that the economic value of water continues to take on relative importance as a viable source of local revenue for African cities. Integrating the fixed (infrastructure) costs and variable costs of water supply ensures that the water tariffs calculated contribute to pricing that gives a predictable and sustainable source of water revenues. Nyoni (1999) states that, with the use of a blended price to ensure cost recovery in Zimbabwe, water pricing still adversely affects small subsistence farmers as opposed to large commercial farmers in Zimbabwe.

The present structures of the Johannesburg municipality that separates municipal function through the UACs proved useful in the merging of municipal functions in differently resourced areas during the municipal reforms. In the case of water and sewerage services that were also disparately financed throughout the former various local authorities; Johannesburg Water has made inroads in reversing the inequalities to access to the municipal service in impoverished areas in the city. Previously, archaic water infrastructure in the WLAs had been incrementally developed during the apartheid area and limited the full potential of water revenue being realized. The minimalist financing of the water and sewerage infrastructure also reinforced the minimal levels of townships access as highlighted by Davis (1992). This has also kept the gap in water infrastructure between the well-resourced areas and the poorer areas in the city. A city official explains the city's motivation for realignment to reverse the water crisis in this manner:

[24] The underlying importance of these principles is the acknowledgement that the pricing of water services must include the costs of water supply despite opposition that has been repeatedly raised by social justice activists (Harvey, 2007; Public Citizen, 2004).

> *A lot of that was because of old systems and the way the apartheid government basically designed the infrastructure there was if I can just show you – if that was the road and those are the individual houses, the correct way is you run the water connections here and then it feeds in. Now if this was the neighbour, so this is your back neighbour, under apartheid what they basically did was they ran the water pipe there so it was easier and less costly so it would feed both these houses. But what happened over time was people then extended their house and it went over, or they built a garage so you couldn't really access that waterline anymore. So if there were water leaks there it was gone, you would never be able to fix it.*
>
> (Interview transcript JO7, 10 November 2012)

Furthermore, the ability to finance access to water for the urban poor in the townships should be considered in the pricing of water which is a basic human right as determined by Public Citizen (2004). Bahl & Linn (1992) find that charging for water services in developing countries requires the costing of water to take into account financial, administrative and equity considerations, more than concerns for efficiency in water supply. These considerations should also dictate the processes on tariff setting to cover water supply costs. The evidence of local discretion may be evident in the fiscal appropriation of trading profits regarding other municipal services or the redistributive elements for equity and access to water and sanitation services. These issues that emphasize the **need for local fiscal autonomy** are examined further in this section below.

Bahl & Martinez-Vazquez (2006) and Smoke (2001) stress the importance of a regulatory framework that determines how local revenues can be generated for local services, emphasizing the need for revenue autonomy. Several laws prescribe the regulatory environment for the generation of water revenues for the city. Based on the constitutional mandate to provide water and sanitation services in a sustainable manner, Johannesburg is allowed to impose "surcharges and fees for services provided" within a national legal framework (RSA, 1996).

The Municipal Fiscal Powers and Functions Act (2007) prescribes the norms and values for service charges, which include maximum charges for consumption levels and the annual tariff increases (RSA, 2007). The Municipal Finance Management Act (2004) allows for the setting of water tariffs that must include the consultation on these tariffs with the Johannesburg community as is required by the Municipal Systems Act (2000) (RSA, 2000; 2004). Finally, the Water Services Act (1997) specifies the revenue requirements for water and sewerage tariffs such that the tariffs should also ideally cover the cost of raw water, capital invested, and operational cost including cost of replacement and refurbishment (RSA, 1997) . Besides, the right to access water for the urban poor through subsidized costs is considered mandatory (DWAF, 1999; 2002).

Johannesburg may also legislate and pass by-laws on “water and sanitation services limited to potable water systems and domestic waste water and sewerage disposal systems” (RSA, 1996). This legal framework allows the metropolis to set water and sewerage tariffs for its industrial and domestic consumers annually, taking into account economic and social equity principles. Therefore, the city is required to promulgate by-laws that cater for social, economic and financial considerations in charging for water and sanitation services with a guiding tariff policy.

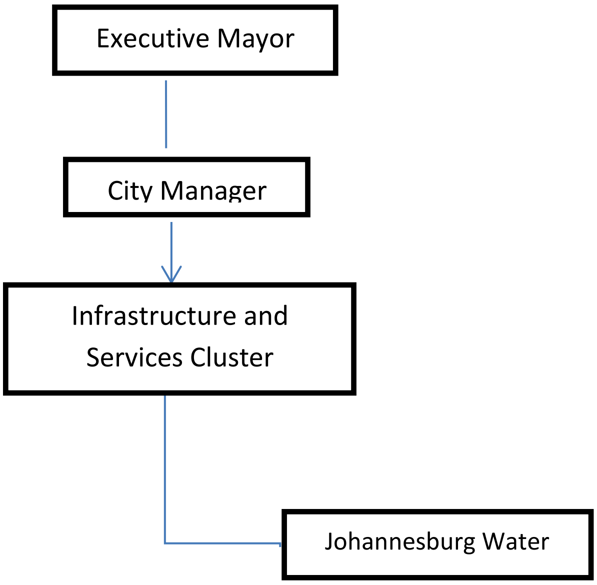
The utility engages with Rand Water as the responsible water board for bulk supply of water and complies with the legal framework shown above in determining annual water tariffs. Tariffs are done through the municipal council as part of the city’s annual budgeting processes in the city budget office in line with national treasury guidelines. The revenue function for Johannesburg Water is managed centrally by the city’s regional services centre which includes customer and billing management as set out in Johannesburg’s by-laws on water services, credit control, customer, and debtor management. The Regional Services Centre acts as the customer interface that submits water utility charges and received water revenue through a consolidated bill that shows municipal charges on water and sanitation, property rates, electricity and refuse collection (GJMC, 2000).

Water revenues were previously partially managed by Johannesburg Water on the understanding that the utility would eventually manage its water revenue function. However, the revenue function was eroded from the utility over time. From inception to 2010, the utility only managed the billing function of top customers and the city annexed the water revenue function entirely through the revenue services centre in 2010 (JW, 2001: 9; JW, 2004: 4, 5; JW, 2010: 19). In maintaining local fiscal autonomy, the city management of water revenue and local political oversight are important in this municipal service as trading services whose revenues are more likely to be appropriated by respective urban authorities to show **local fiscal autonomy** (Cowden, 1968). These issues are examined further in this section.

6.2.1 Local Political Oversight

The issue on local political oversight comes into play to enhance local fiscal autonomy which assumes that overall control of local revenue remains as close as possible to local expenditure for purposes of expenditure. Besides, municipal government leadership should be evident in the regulatory framework (Bakker, 2002: 21). This is reflected in how the city maintains political oversight through the political structures of the municipal council; portfolio committees and through open and regular engagement with the governing board of Johannesburg Water. Johannesburg Water operates within the municipality's institutional framework as depicted in the Figure 6.2. The utility is located within the infrastructure and services sector in the city. Within this framework, the city maintains oversight through the Shareholding Unit and the Contract Management Unit located in the city administration as shown in Figure 6.2 below.

Figure 6.2: Institutional Framework for Johannesburg Water



Source: City of Johannesburg, (2008: 13)

Smith (2006) maintains that this institutional set up in itself severely curtails the autonomy of Johannesburg Water as had been earlier proposed in the JOWAM agreement with the intention of assuring financial ring-fencing for water utilities. The regulatory function of the contract management unit and the centralized revenue function illustrate the subservience of the utility to the city. Johannesburg Water is also expected to adhere to the city's policies and development plans with relation to water services. This means that the financial and management processes are under the close scrutiny of the council to ensure that the municipal mandate of providing sustainable water and sanitation services as well as the generation of local revenue are adhered to. Smith (2006: 12) believes that this close proximity may lead to political interference, as reflected in the following sentiments from a key informant:

But part of the logic of this is we would set up a utility, you are going to put a professional board there. The board is going to count as CEO, you know. Joburg would appoint the board and in theory it is then the board's business. So that was logic behind that because now you do not get political micro management, you get a board protecting the organization and the board was very driven to deliver outcomes, that sort of thing
(Interview transcript JO2, 8 April 2011)

The municipal legal mandate supersedes the water utility and issues the metropolitan municipality with executive and political authority over Johannesburg Water as illustrated above. According to Smith (2006), the political governance of the water utility is also maintained through the board of directors and reporting structures. The municipal council is responsible for the appointment of the utility's board of directors as per council regulations as well. The level of political oversight that the municipality has over the water utility is shown in Table 6.4 below.

Table 6.4: Governance Structure of Johannesburg Water

Incorporation date	21 November 2001
Board members – number	5 (min) 11 (max)
Board members – term	CEO term – 5 years Other board members not prescribed
Board members – removal	Municipal council
Board members – composition of board and committees	No board members are council members No board members are city officials No board members are members of national/provincial legislature Hiring process regulated by municipal council procedures
Board authority	All except those reserved for municipal council
Authority retained by council	Board size and composition Appointment and remuneration of board members
Financial reporting	Part of prescribed annual municipal budgeting and IDP process; Annual report
Payments to city	Entire water revenue appropriated
Community involvement	IDP and budget consultation process; Customer care of regional services centre

Source: Author[25]

Therefore, the local reforms that Johannesburg implemented during the democratic transition resulted in the placing of its water utility within the institutional framework of the city. This has served to ensure that the municipal council asserts local political oversight through the tights reins that are legally prescribed for governance. The reporting structures that are required from utility's board of directors show a significant level of oversight of Johannesburg Water (JW, 2010). As a result, the municipality is able to affirm authority over the direction of water revenue generated by the utility for the city's broad municipal mandate. This asserts the **local fiscal appropriation** for the municipal council because the council is able to make decisions such as subsidising costs for the urban poor.

[25] Adapted from the governance model proposed by Bakker (2002:24) and information from Johannesburg Water's Articles of Association (JW, 2004*b)*

6.2.2 City Management of Water Revenue

Johannesburg centrally manages Johannesburg Water revenues and appropriates the entire water revenue to the municipality. The billing and customer management functions remain in the regional services centre despite the "service level agreement signed in 2001 to transfer the function" to Johannesburg Water (Smith, 2006: 12). The water utility initially controlled 15% to 40% of its revenue function that constituted customer billing for the top customers until 2010 when this portion of customer billing reverted to the city (JW, 2001: 9; JW, 2004*a*: 5; JW, 2005: 20; JW, 2010:12).

This has given full control of the water revenue function to the municipality and erodes the utility's autonomy for financial ring-fencing (Smith, 2009: 7, 8). Water utilities are seen to perform more efficiently if they are autonomous and, more important, if the water revenue is ring-fenced for water infrastructure (PPIAF/WSP, 2009). However, Johannesburg's municipal mandate supersedes the JOWAM intention of an autonomous water utility as mentioned earlier in section 6.2. These tensions were repeatedly highlighted in the water utility's annual reports until 2010. A councillor heading the infrastructure cluster summarized this tension as follows: "Utilities cited losing fiduciary duties needed guarantees" (Interview transcript JC1 25 April 2011)

This form of local fiscal appropriation enables the city of Johannesburg to ensure redistribution through the city's indigent policy to provide water access to urban poor. The maintaining of a zero tariff to a majority of the urban poor ensures equitable access that is prescribed by a national framework for free water services in South Africa. The city also appropriates revenues for other municipal services that are not able to generate enough revenue to finance the respective expenditure that relies on the rates account for funding (GJMC, 2000: 16).

However, the centralization of local revenues has brought problems with it evidenced in the city's billing processes and faulty data management. This ineffective data management spans from the transition period to the present, despite significant investment in reversing the crisis (Smith, 2006: 35). Johannesburg residents have repeatedly complained about the billing crisis that obviates the city's resolution to maintain and sustain a steady flow of the OSR through the various revenues including water revenue. The billing crisis remains unresolved (*The Star*, 2013). A senior city official emphasizes the magnitude of the billing crisis that still plagues the city in the following manner:

> *... which is centralizing so even those components that were in the MOEs have been pulled to the centre and what you are basically seeing is just a change that is hurting the institution level or at the level of mechanisms .... you find a very big part of it is, you see the name 'customer relations' and 'revenue management' so there might be this semblance of an emphasis of this 'customer relations' but I am not seeing how even that new approach – customer relations- emphasizing on relations of the customer has really had so many outputs. What are the outputs there because it seems like that is probably the philosophy, good customer relations will lead to good revenue management. I think the CoJ is still struggling*
>
> *So basically it was a much more elaborated institution for revenue generation and I personally do not feel that it made such a huge difference because in a way what happened now, what you are finding is a very centralized ... You know, it's not really looking at the systems of how revenue is coming in*
> (Interview transcript JO1, 6 April 2011)

The centralized management of city revenues is, therefore, plagued with administrative woes. Nonetheless, the centralized management of the water revenue and, more important, the city revenue function has been beneficial in providing for equity and access. The fiscal appropriation is necessary for ensuring access to the financing of water services through the pricing of water as examined in section 6.2.3 below.

6.2.3 The Pricing of Water

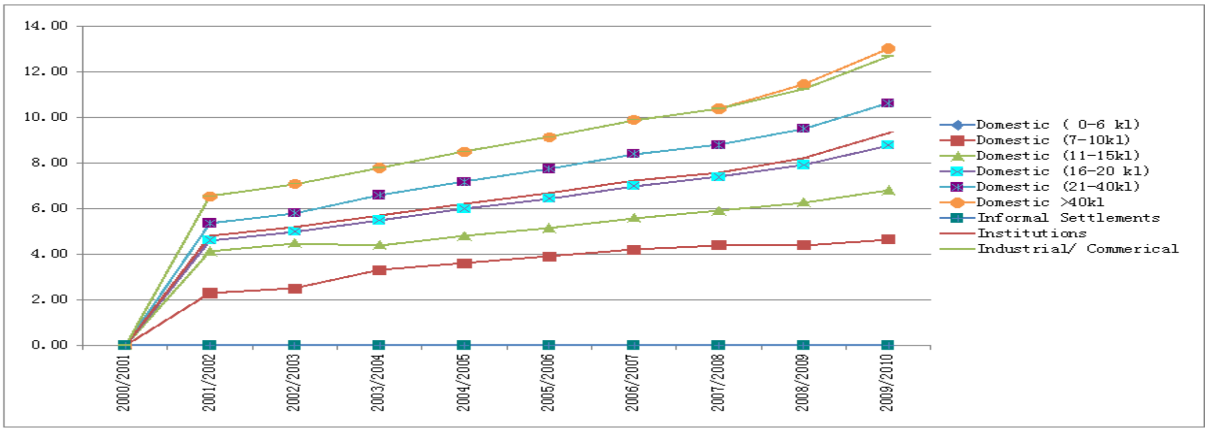
The process of setting water tariffs forms part of a municipal process that integrates an annual budgeting process into the municipal five year plan, the IDP. The annual tariff policy adheres to national regulations that prescribe the inclusion of an indigent policy in the tariffs that will afford the urban poor access to water and sanitation services (DWAF, 1999; DWAF, 2002). This regulatory framework prescribes that Johannesburg ensure that its urban poor are able to access water and sewerage services in the pricing of water.

By appropriating long-term debt for capital expenditure particularly for the water and infrastructure sector from 2000 and through initiatives such as *Operation Gcina Manzi* and *Project Thonifho,* Johannesburg Water installed pre-paid meters in townships. The *Gcina Manzi* project was intended to move away from the "non-payment paradigm" and reduce the high levels of unaccounted for water through infrastructure that would introduce a pre-payment system for water in the townships commencing with SOWETO (JW, 2004*a*: 69). These water charges were for consumption that went beyond the prescribed six free kilolitres per month.

The Public Citizen (2004) confirms citizen dissatisfaction with the pre-paid meter system in Johannesburg. The Mazibuko court case is an instance of public outcry for equity where legal representatives of urban poor who are vehemently opposed to the pre-paid system took the matter as far as the Constitutional Court, which found in favour of the City of Johannesburg to install pre-paid meters (Bond & Dugard., 2008; JW, 2009: 5-6). By 2008 almost 100 000 pre-paid water meters had been installed (JW, 2008: 17). Harvey (2007) finds that the local communities have been adversely affected by the commoditization of water through pre-paid systems in Johannesburg's townships and proposes an alternative framework within which the countermovement against pre-paid meters may engage.

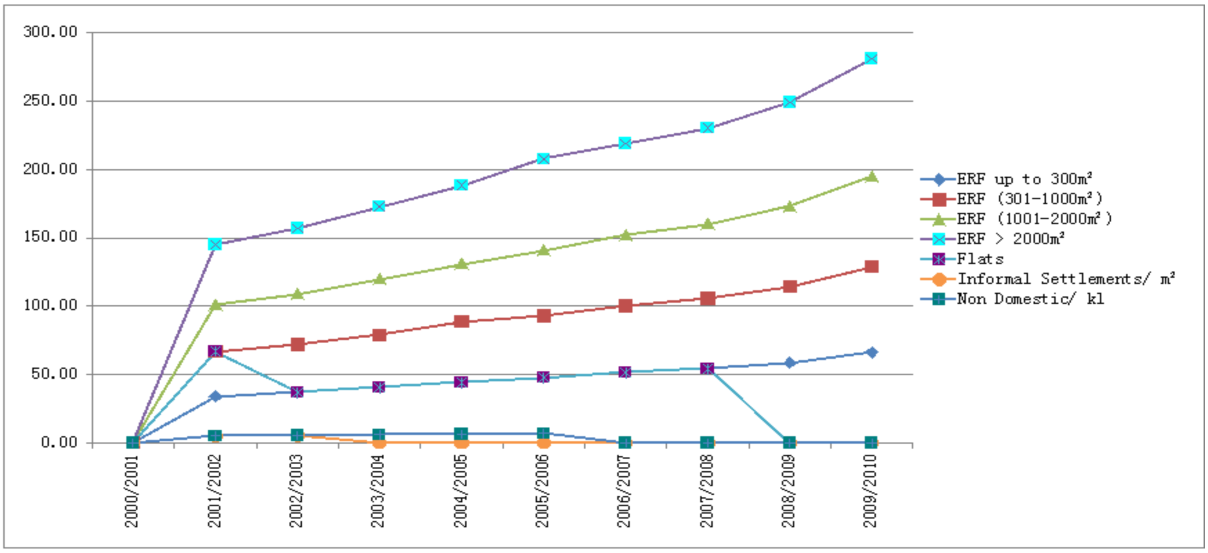
The prominence that has been given to this pricing aspect of water and sewerage services has compelled the municipality to emphasize the number of households that access the basic level of water and sanitation services (CoJ, 2011: 172). The pricing trend for water and sanitation services is shown in the tariffs in Table 6.5 and Table 6.6. The tables also show the zero charges for both tariffs, an indication of subsidisation in pricing water revenue so that Johannesburg's urban poor get to access to the basic level of services. The utility uses water tanks to transport water to informal settlements to enhance water access to this marginalized sector of Johannesburg's municipal population (JW, 2009; 2010).

Table 6.5: Water Tariffs for Johannesburg Water 2000-2010



Source: Author[26]

Table 6.6: Sewerage Tariff for Johannesburg Water 2000-2010



Source: Author[27]

[26] Constructed from annual water tariffs provided by Johannesburg Water in annual budget and municipal IDP 2000-2010

Table 6.5 and Table 6.6 above indicate that the annual water and sewerage tariffs have increased steadily from the time the utility was incorporated in 2001 to 2010[28]. This steady increase corresponding with the annual inflationary costs that are incorporated into the metropolis's domestic and industrial tariffs is confirmed by Muller (2007: 36). The centralized management of water revenue explained earlier in section 6.2 erodes Johannesburg Water's autonomy control, the billing processes of its customers, debtors, cash collection and limits the utility's ability to manage a significant portion of its business (JW, 2001: 7, 15-18; JW, 2004: 8, 10).

The utility can thus not fully incorporate the fixed and variable costs of water supply into the water pricing since the tariff setting process is managed by the city's central budget office. The political consideration of cross-subsidization of municipal services is also maintained by the executive mayor through the budget office which further erodes the notion of financial ring-fencing that was earlier envisioned in the JOWAM agreement. A senior council official summarizes the centralized management as follows:

> *The bottom line is, as much as Joburg Water is seen as corporate entities, they still firstly all policy matters had to be approved by the council. So for example Jo'burg Water couldn't go and increase rates by 50% because it wanted to show a better margin – the rates had to go through public processes, it had to go out, people could lodge complaints and objections against increases like it has done now, there was no unilateral decision making that was taking place. None of those entities were owned by private sector, they operated like businesses but there was no private sector ownership in any of them, so at least those assets still remain within the sort of family jewels in a sense.*
> (Interview transcript JO7, 10 November 2012)

Smith (2009: 7) confirms the similarity in costing water supply exists in the majority of water utilities in South Africa, where the economic value is yet to be fully integrated in costing process and reflected in financial ring-fencing of water revenue. It is important to note that the national prescriptions regarding the setting of tariffs which do include a pro-poor component and reduce the UAW losses have been maintained by Johannesburg Water (JW, 2004*a*; JW, 2010).

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[27] Constructed from annual sewerage tariffs provided by Johannesburg Water in the annual budget and IDP 2000-2010

[28] No consolidated figures on greater Johannesburg for 2000 were available

Therefore, the objective of creating Johannesburg Water to streamline the efficiency of the provision of water services in the city has been partly realized; the utility has managed to maintain a steady increase of revenues as well as access consumers to water and sanitation services. Financial ring-fencing which was suggested as an important component to sustain the autonomy of water utilities does not seem to be integrated into the operation of the water utility (PPIAF/WSP, 2009; Smith, 2009). This aspect of autonomy eludes Johannesburg Water since the revenue and billing functions as well as the tariff setting process are centrally managed by the revenue services centre, and form part of the city's budgeting process.

In summary, the centralization of water services from the fragmented water departments into Johannesburg Water in the municipality has enhanced operational efficiencies and increased water access, particularly to the urban poor in Johannesburg. The centralized billing function by the revenue shared services centre has raised concerns regarding customer management which has also isolated Johannesburg Water from the utility's fiduciary function of financial ring-fencing. Nonetheless, the city has been able to assert **local fiscal autonomy** maintaining fiscal discretion and appropriation for its water revenue. The revenue autonomy that was evident in the OSR for the former WLAs has, therefore, been transferred to the metropolitan municipality through the restructuring process. Maintaining discretion over water revenue is important to ensure that the city's OSR are sustainable in the long run. OSR are also important in reflecting local fiscal capacity which Johannesburg needs in order to access development capital which is explained in section 6.3 below.

6.3 JOHANNESBURG'S ACCESS TO DEVELOPMENT CAPITAL

Development capital is important to Johannesburg because the city must finance municipal infrastructure across the vast jurisdiction, addressing apartheid backlogs and moving the city to meet its contemporary infrastructure needs. Historical access to capital markets has required the city to realign its diverse fiscal capacity to be able to access long-term loans. This course of realigning Johannesburg's local fiscal discretion is examined here.

Matovu (2003) notes that there are critical specific issues that should be met so as to improve overall municipal financial capacity and enhance governance. These concerns should address and provide clear and internally consistent systems of local revenue generation as well as the provision of prudent conditions for municipal borrowing. Urban authorities in particular should reflect the capacity to manage this relationship between the generating of local revenue and the capable financing of long-term debt. This requires that a portion of potential local revenues be dedicated to debt repayment and not be available for other use, which calls for the cities to have the local management capacity in place to manage municipal debt and sustain municipal revenue generation (UNHabitat, 2009b: 44, PPIAF, 2009: 7). This requires that Johannesburg rely on its own resources to finance municipal debt over a long period.

Furthermore, it stands to reason, given that the longevity of municipal infrastructure spans more than a single generation of users, that the costs of financing should then be borne by both current and future users of municipal services (UNHabitat, 2009b: 43). This requirement permits the municipal council to appropriate future income generated from the OSR and use the future monies as collateral to incur long-term debt to finance municipal infrastructure displaying local fiscal appropriation.

Prudent conditions for municipal borrowing are provided in two ways: first, in the role that central government plays in the lending environment as a guarantor and, second, through the regulatory environment that urban authorities use to access long-term loans. The central-local relationship reflects the reliance on national government as a guarantor and determines the responsibility with which local governments engage (or not engage) capital markets for municipal borrowing. On the other hand, the market-based relationship between central and local government compels local agencies to take deliberate measures for present and future management to enhance local fiscal capacity and increase municipal credit worthiness for local lending.

These advancements are slowly gaining recognition in developing countries as shown in empirical evidence from Brazil and South Africa (Martell, 2000; 2007; 2008; Liebig et al., 2008). Besides relationships, a policy framework is also important in prescribing issues that relate to the general statutory limits for local borrowing, management of municipal debt, determining of safety margins and oversight of the elements in the municipal debt market (Moodley & Sing, 1996).

Local lending is reliant on three specific conditions which are: central government oversight; availability of information to the municipal credit market; and own resources to repay municipal debt. In South Africa, there are various avenues for municipal borrowing that can be sourced from central government, capital markets and the issue of municipal stock (Cowden, 1968: 193).

At the commencement of the local democratic dispensation, Johannesburg had aspects of a well-developed history of municipal borrowing in place. The city's borrowing history was inherently transferred from the WLAs during local restructuring. This institutional memory had been developed from the WLA legal mandate to borrow for capital expenditure on the strength of local fiscal capacity. This was achieved by ensuring sustained OSR and obtaining municipal council approval to get into long term debt with minimum interference from provincial or central government. Johannesburg's **regulatory framework** is examined in section 6.3.1 to shed light of the city's municipal borrowing trends.

6.3.1 Legal Framework for Johannesburg's Municipal Borrowing

Martell (2000) and Martell (2007) concludes that fiscal institutions determine the central-local relationship for municipal borrowing as well as the fiscal discipline that local government adopts regarding long-term debt. These institutions are inherent in the regulatory environment, particularly through legislation. Previously, in the greater Johannesburg area, the former WLAs were mandated to acquire long-term debt through the Transvaal Local Government Ordinance no 17 of 1939 which allowed the WLA councils discretion to borrow for capital expenditure. The exceptions to this rule were issues related to health and capital investment in township areas; these required engagement with central government (Cowden, 1968: 203).

During the transition period of local government restructuring, the Local Government Transition Act (1993) maintained this local discretion through schedule 2 (25) which allowed transitional local structures the authority to borrow money with the approval of the provincial administration. However, attention on the local restructuring that encompassed municipal administrative and political reform eclipsed capital investments that were not funded through the intergovernmental revenue sharing arrangements.

In the democratic dispensation, the Constitution allows Johannesburg to borrow funds for capital expenditure and prescribes that national legislation support this mandate (RSA, 1996: section 230). The MFMA stipulates that long-term debt intended for the municipal purpose of capital expenditure and refinancing of old debt may be secured with municipal council approval and accompanied with security, disclosure and guarantee conditions that will be carried by the municipality. Municipal borrowing from international markets and institutions is prohibited (RSA, 2003).

The MFMA also permits municipal entities to acquire long-term debt that is aligned with respective municipal IDPs and requires the entities to adhere to similar debt conditions as those required of municipalities. Municipal entities are allowed to borrow but this must be underwritten by the municipality. As a municipal entity, Johannesburg Water is allowed to incur debt only if the loans are underwritten by the metropolitan municipality. In practice, this means that it is the municipality that accesses loans and then indicates to which capital expenditure or municipal entity the funds will be directed.

Central government, through national treasury regulations prescribes Johannesburg's municipal borrowing. The policy first provides the institutional framework for long term debt which guides investors in municipal markets; the regulator is identified as the Financial Services Board (FSB); and market facilitators include credit rating agencies that assess municipal creditworthiness for the capital markets (RSA, 1999: 7). The policy also protects central government from implicit and contingent liabilities of municipalities and prohibits borrowing in foreign currencies.

The policy firstly identifies various stakeholders who facilitate and operate in the municipal lending market. The credit rating agencies provide services on the credit worthiness of municipalities. International rating agencies have been useful in opening the municipal borrowing market for local authorities in developed countries (Lipnick et al., 1999). Dethier (2013) determines that unfettered access to municipal borrowing for sub-national governments in developed countries has resulted in urban fiscal stress from the global crisis and in some cases has led to the insolvency of some local authorities. Secondly, financial advisors are useful in assisting municipalities to develop and implement funding strategies. Financial underwriters may assist with the preceding matter prior to the issue of municipal debt. Existing financial institutions that play the dual roles of trustee and paying agent and the other groups comprise legal counsel and bond insurers for municipalities (RSA, 1999).

These regulations from the national treasury elaborate on the municipal borrowing environment. The borrowing policy acknowledges the importance of sustainable OSR which includes "trading services" that need to be substantiated in order to finance capital investment; hence the need for municipal borrowing. Therefore, in essence, this policy requires that capable municipalities develop their **local fiscal capacity** to manage municipal debt. The policy also reinforces a market-based relationship with central government for municipal borrowing as explained in section 6.3.2 below.

6.3.2 City Relationship with National Government

Previously the WLAs operated in an open regulatory environment that permitted local and international borrowing for municipal debt. The former Johannesburg City Council is an example of WLAs that were able to issue stock and borrow from local and foreign financial institutions (JCC, 1984: 162-163). Financial statements also show that the sustained generation of OSR was important in developing the municipal borrowing environment as earlier suggested by Cowden (1968). A former senior official confirms this:

> *Look originally the borrowing powers were subject to provincial approval, but that was watered down largely as a result of an endless series of petitions and lobbying and so forth, and in the end the major cities were given some form of discretion. But their borrowing powers were pretty wide; in fact I think the need to approach the province was mainly nominal from the 80s" onwards.*
> (Interview transcript JO4, 30 August 2011)

Although the internal municipal capacity for borrowing was maintained into the transition phase, a proviso inserted in the regulations (see section 6.3 above) curtails foreign lending. During the local reform era, even previous borrowing that was considered during the transition period was summarily halted. This subtle change is shown in the following comments by senior council officials:

> *I think that would have given Johannesburg the break through which as an international city it really needed; to have access to foreign markets and to make itself independent of constant governmental control and all the rest of it. But the loan was stopped, there was a consent that was issued on the Friday and on the Tuesday the loan was to be floated – in fact we were already all in London to run through the briefing sessions for the presentation on the Tuesday. The Monday we got a telephone call from our lawyers to say The Gazette had gone out on Friday forbidding all loans in foreign currencies.*
> (Interview transcript JO4, 30 August 2011)

> *So what happened in 1997, there was an attempt to raise an offshore loan, it was disallowed*
> (Interview transcript JO2, 8 April 2011)

Therefore, this action by national government entrenches the municipal borrowing regulations that remove higher government guarantees on Johannesburg's long-term debt and reinforces a **market-based relationship** for the municipality and national government. With the adoption of the democratic dispensation, municipal borrowing in foreign currencies is no longer permitted. The sole reliance on Johannesburg's internal capacity is assessed below in the municipality's lending environment.

6.3.3 Johannesburg's Fiscal Capacity for Municipal Borrowing

Leigland (1997) asserts that during apartheid the capacity and discretion for municipal borrowing in the WLAs was enhanced by specific effort that had been directed to "strengthen credit quality and build market for municipal borrowing". Borrowing could also be done internally through municipal stock or various external sources, including foreign loans (Cowden, 1968: 193,199). This had garnered increased capital expenditure by the WLAs as indicated in the following perspective on WLA infrastructure spend:

> *Just prior to that there were huge investments that were made, one in the Civic Theatre, there was a good couple of hundreds of millions that went into that upgrade. Whether or not it was necessary, whether or not it was something that needed to happen at that point in time was debatable. There were huge amounts of money spent on upgrading the Johannesburg Stadium, again hundreds of millions.*
> (Interview transcript JO7, 10 November 2012)

Although the former WLAs had managed municipal debt, the emerging challenge was to enlarge the institutional capacity of this function during the restructuring process to encompass the jurisdiction of the metropolitan municipality. According to Davis (1992), the **local fiscal capacity and discretion** that was evident in the WLAs was very different from the fiscal capability of township areas regarding local financing for capital expenditure. In the latter case, the RSC levies were instances of not only funds having been used to finance infrastructure but also serving for bridging finance in fiscal crises, for example, CWRSC financed the BLAs R1444.2 million in 1993/4 (Moodley & Sing, 1999: 203).

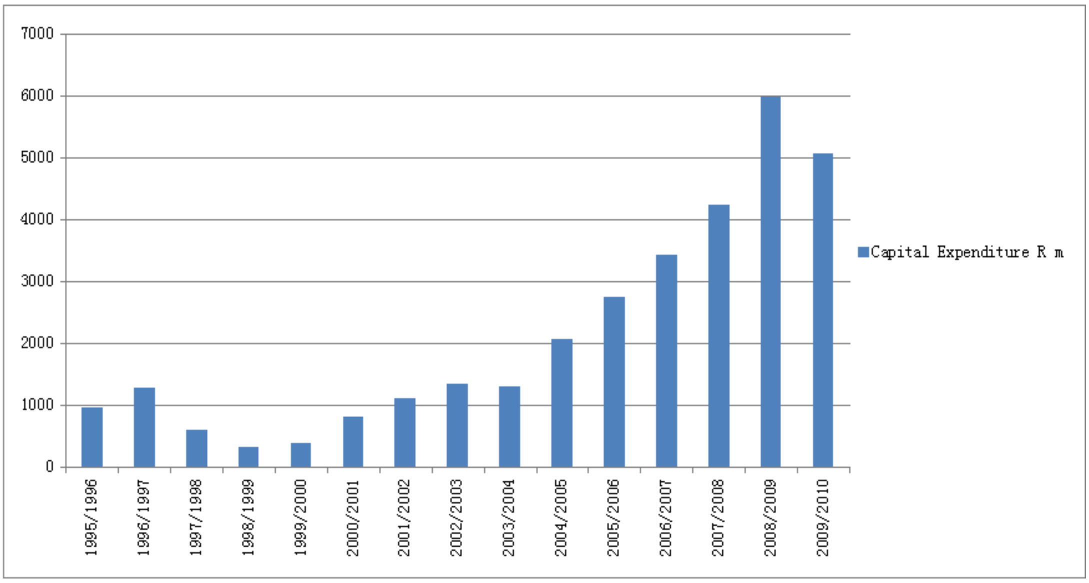
The merging of the apartheid local structures meant that the transition needed far greater funds for municipal infrastructure. This need required that the new urban authorities to develop the fiscal capacity to manage the escalating need to finance municipal infrastructure while concurrently developing municipal legislation to address municipal borrowing. Rationalizing this merger during the municipal fiscal crisis after the advent of local government reform meant a scaling down of capital expenditure when rationalizing urban administration. The contracting revenues that were highlighted earlier in section 6.1 could not meet the capital expenditure needs of the city. This dilemma is encapsulated in a councillor's comment as follows:

> *It had to do with very ambitious expenditure programme that the CoJ embarked for which empowered, had to do with heightened expectations with the set of councillors coming into office with very, very high desires to transform the lives of people of Joburg, in particular the poorest of the poor within the shortest possible time given to them. So there was a revamp of expenditure on the capital programme.... I suppose quite ambitious expenditure programme. Unfortunately you can only spend what you have and there was a huge mismatch between the revenue and expenditure.*
> (Interview transcript JC2, 16 May 2011)

After the restructuring, Johannesburg had a fiscal crisis which meant a rethink on the borrowing against the pressing need for infrastructure investment. The need to balance the pressing financing needs for archaic municipal infrastructure against the declining payment levels on OSR is as indicated by a senior official as shown here:

> *There was just no money for CAPEX, we had to work out how we were going to get money for CAPEX and we had called all of our loans onto one page and we were managing them properly and our first loan is actually in 2000/2001 we were debt restructuring but, and at that point we wanted to see if we were credit worthy and we wanted to go out in order to borrow. But our advice at that point was we should not proceed with the full credit rating because we are not going to succeed that was in 2001.*
> (Interview transcript JO2, 8 April 2011)

Table 6.7: Capital Expenditure in Johannesburg 1995 -2010



Source: CoJ, 2002: 57; CoJ, 2011: 68

Table 6.7 provides an illustration of a fifteen-year trend on how Johannesburg's capital expenditure was influenced by the city's restructuring process. Table 6.7 shows that capital expenditure was minimized during the restructuring period to stabilize the fiscal crisis in the city. The dip in capital expenditure that was between the years 1997/1998 and 2000/2001 is attributed to the reduced financing for capital expenditure which was instead redirected toward the local restructuring process. The emphasis on restructuring is inherent in the following responses:

> *DBSA gave a loan provided we see the RSC levies income and that become one of my ambitions to get rid of that session. We basically said you can take our (revenue)... if we fail to pay you …in early 1999 we were preparing for this budget what we had projected was to spend R60Mlln, the only reason it raised to R309million. was because we got a restructuring grant from National Treasury that was that R525Mlln over three years and we used a couple of hundred of that as CAPEX to get us up there. But otherwise this city had stopped investing in CAPEX just out.*
> (Interview transcript JO2, 8 April 2012)

> *Treasury gave Johannesburg a restructuring grant to support the iGoli intervention to bring in change (took about 4 – 5 years). The Treasury also supported through monitoring and evaluation of the municipality's budgeting processes*
> (Interview transcript JO6, 14 September 2011)

Johannesburg's institutional capacity was restructured to support the political decisions to improve the city's financial condition that had been allayed by the protracted restructuring process. In terms of administrative restructuring, legislation requires that a metropolitan municipality establish a central unit in the administration to strategize the municipality's capacity for risk and liquidity that is essential for long-term lending (CoJ No Date*a;* CoJ, No Date*b).* During the 2003/4 budget *Lekgotla*, the city established an Asset and Liability Committee (ALCO) "as an enterprise wide management vehicle, which oversees the implementation of Treasury and financial risk management policies, with the objectives of achieving sustainable and good levels of liquidity, and also increase tenure of the City's investments to match the underlying liabilities" (CoJ, No Date*a*: 18; CoJ, No Date*b*: 11).

The centralized management of the municipality's capacity to engage long-term debt is reflected in the issuing of debt and is a reflection of fiscal appropriation in which funding for the diverse capital needs, including water infrastructure, is centrally pooled. The containment of the entire revenue function within the municipal budgeting process has also enhanced the discretion Johannesburg has over revenue-raising powers which are critical in determining municipal creditworthiness (Cowden, 1968; UNHabitat, 2009b).

For Johannesburg, the restructuring process assures central management of the municipality's debt through the ALCO to centralize the liquidity and risk factors for municipal borrowing. Placing a central unit to manage the city's risk profile has meant that the financing needs for capital of the UACs are centrally managed which enhances the political governance aspect of the municipality. This local fiscal appropriation by centralizing the risk function that was entrenched during the city restructuring has been useful for Johannesburg in issuing municipal debt as was described by a city official:

> *We also developed this liability profile, just watch all the loans and then we just started working on core funding this started becoming important later it is where we got the idea of bonds it was in this kind of context. Politically, it was through a committee called ALCO*
> (Interview transcript JO2, 8 April 2011)

Once the city's core administration and the UACs were in place, the municipality was able to steadily increase the capital expenditure of the varied municipal functions. The city proceeded to work on its fiscal crisis through its integrated units to reduce debt levels, and ensure sustained payment levels through the various revenue streams. Additionally, the restructuring grant from the DBSA sustained the operating costs as the utilities stabilized and enhanced revenue collection.

Hard budget constraints required to enhance local fiscal capacity are prescribed through the MFMA and prescriptions of the GAMAP compelled the city to improve payment levels, to centralize the revenue function of the city's trading services; to address specific risk factors associated with municipal borrowing such as municipal creditworthiness; to minimise Johannesburg's reliance on IGT funds; and to ensure sustained OSR flows from other municipal services (CoJ, 2011: 60). As a result, Johannesburg is the most indebted municipality in South Africa (SACN, 2011: 30-32).

The proceeds from this particular capital funding are directed towards roads infrastructure; municipal clinics providing primary healthcare; water, sanitation and electricity infrastructure services provided by the city's UACs (CoJ, 2007b). The vast municipal mandate requires the city to be able to borrow from a robust capital market. The city has been able to obtain development finance from the DBSA, and local capital markets. These loans are reliant on the city sustaining the long-term range and generation of the OSR for municipal services that are payable by future generations.

The steady revenue trends from the various sources of municipal revenue, the improved financial management practices on debt management, credit control, and payment through the GAMAP and the MFMA requirements have served to reflect a positive financial environment for the city. Johannesburg followed this course of realigning local fiscal capacity to enhance the city's creditworthiness. The availability of the financial and economic information coupled with Johannesburg's willingness to undergo credit rating positively reflects on the city's creditworthiness. Johannesburg has actively engaged the municipal markets as shown in Table 6.9 below which reveals the profile of Johannesburg's long-term borrowings in 2010.

Table 6.8: Profile Johannesburg's Long-term Debt as at 30 June 2010

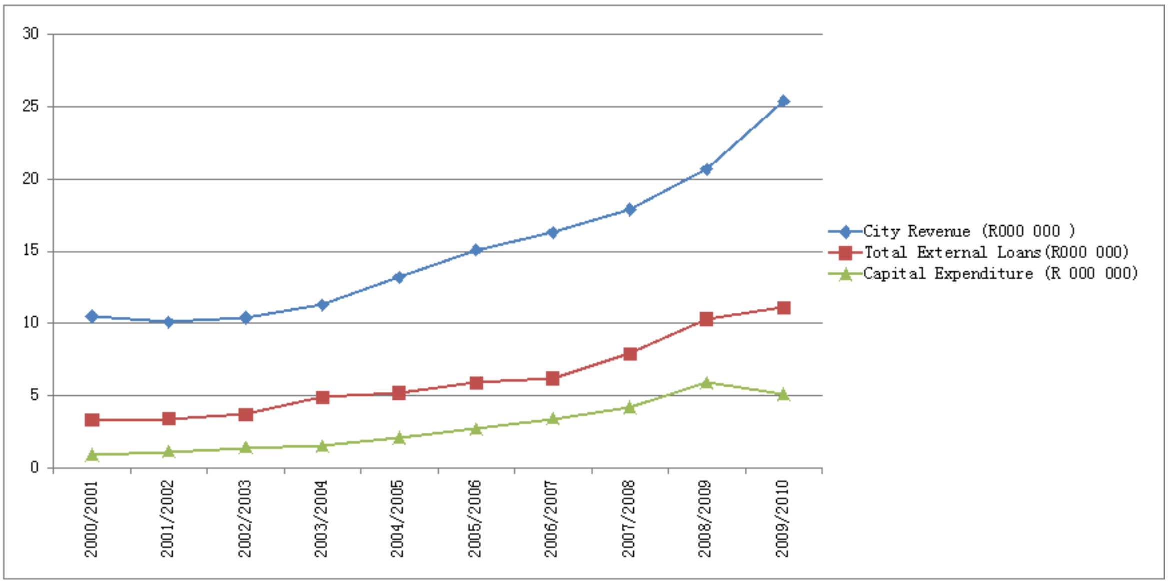
Long-term Borrowings	**R'000**
Structured loans	934 378
DBSA	1 585 829
Local registered stock loans	30 000
Municipal bonds	6 601 000
Johannesburg bonds	55 109
Other financial liabilities	1 881 467
Total	**11 087 783**

Source: CoJ, 2011: 76.

The responsible borrowing in Table 6.8 above shows that the city borrows more significantly as city revenue grows. As a result, Johannesburg has emerged from the fiscal crisis with the highest municipal debt ratio in the country and is the first South African municipality to issue a municipal bond in the democratic dispensations, the *Jozi bonds* issued in 2007 with a two; three; and five year maturity (Viljoen, 2010; CoJ, 2007b).

The city's ability to access long-term loans relies on the sustained generation of the OSR as suggested by Cowden (1968). Johannesburg should be able to generate local revenue from the various local revenue tools and the basis for future revenue provides the collateral against which the municipality engages the lending markets. Table 6.9 below shows how overall city revenue compares with city capital expenditure and the overall indebtedness the city had from 2000 to 2010.

Table 6.9: Johannesburg Overall Revenue compared with Capital Expenditure 2000-2010



Source: Author[29]

According to Table 6.9, when compared with overall revenue trends, the debt ratio of over 50% of the city is high which as confirmed by findings from by Viljoen (2010) and Liebig et al. (2008). The trends depicted in Table 6.10 points to the steady increase of revenue against total external loans and capital expenditure for the city of Johannesburg. This shows that as the city grows its revenue, it also increases spending on the corresponding capital expenditure programmes which should be synonymous with urban conurbations (UN Habitat 2008; 2009*a*).

Therefore, what the trends in Table 6.7 that represents Johannesburg's capital expenditure and Table 6.9 city revenue, long term loans and capital expenditure reveal is that the institutional memory for municipal borrowing was maintained even through the fiscal crisis and local restructuring. This means that the **local fiscal capacity** for municipal borrowing remains inherent in the metropolitan municipality and is captured by Johannesburg's high indebtedness as given in section 6.3.4 below.

[29] Drawn from Johannesburg's financial statements 2000 - 2010

6.3.4 Availability of Information for Credit Market

The availability of information to municipal credit lenders is important for two reasons. Information on the fiscal, social and economic situation of the city and respective country is used by independent credit rating agencies to determine municipal "willingness to repay commercial debt at specified times" and to issue a credit rating (PPIAF, 2009: 8). Credit rating agencies use information on the local and national economy, debt, financial and administrative strategies that reflect local government's future ability to repay loans (Lipnick et al., 1999; Jackson, 2006:23). Creditworthiness and credit rating are important in municipal debt since they enable local access to loans from capital markets and also enable the obtaining of credit at favourable interest rates (PPIAF, 2009:8).

It is important that the information provided to credit institutions is useful in reflecting the current and future state of debt management (Hernández & Pèrez, 2004). The provision of Johannesburg's financial information and information about the city's political governance in directing socio-economic development using municipal infrastructure within a cooperative governance framework assists the rating agencies to provide a risk profile over the long term. Furthermore, given that Johannesburg is a primary city, the direction of economic and industrial policies would highlight the "concentration of a significant portion of urban population, control of flows of capital, financial transactions, industrial production and national revenue" (UNHabitat, 2009: 26). The socio-economic responsibility placed on Johannesburg as a primary city compels the municipality to enhance local fiscal capacity to manage long-term debt.

The rating agencies then provide a rating for the municipality which influences its risk profile, access to loans, and interest rates. As a result of the city's overall improved financial performance and provision of credible financial information, the city is able to improve its credit ratings which have a bearing on the municipality's ability to source finance from the robust local capital market (Liebig et al., 2008). Table 6.10 below shows a ten-year trend of international credit rating of Johannesburg alongside South Africa's sovereign rating that has positively influenced the city's state of loans and growing capital expenditure.

Table 6.10: Long Term Credit Rating: Johannesburg

Year	Johannesburg	South Africa
2000	BBB+ (Fitch)	BBB+ (Foreign) BBB+ (Local)
2001	BBB+(Fitch)	-
2003	A-(Fitch) A (CA)[30]	BBB- (Foreign) BBB+ (local)
2004	A- (Fitch) A(CA)	BBB- (Foreign) BBB+ (local)
2005	A- (Fitch) aA1.za (Moody's)	BBB (Foreign) A- (local)
2006	A – (Fitch) aA+.za (Moody's)	BBB(Foreign) A (local)
2007	A+ (Fitch) aA+.za (Moody's)	BBB(Foreign) A (local)
2008	AA- (Fitch) aA1.za (Moody's)	BBB+(Foreign) A (local)
2009	AA- (Fitch) aA2.za (Moody's)	A3 (Local - M) A3 (foreign – M)

Source: Author[31]

In summary, Johannesburg inherited the **local fiscal capacity** to manage municipal debt from the former WLA. The local government restructuring and massive demands for municipal expenditure in the impoverished areas required that the municipality boost the existing local fiscal capacity for municipal debt. The furnishing of municipal financial information which shows the sustained generation of OSR and the maintaining of a credit rating even in tumultuous times highlight the long-term projections needed to manage municipal debt. The local fiscal capacity and discretion have correspondingly increased Johannesburg's debt burden to finance municipal infrastructure.

[30] Local rating agency provided credit rating for Johannesburg until 2007 when CA was incorporated into Moody's Investors Service, an international credit rating agency
[31] Ratings provided by CA; Fitch; Moody's credit rating agencies (CoJ, 2004*a*: 30; CoJ, 2011: 77)

Therefore, from the above discussion, the generation of OSR by Johannesburg has now been enhanced through local government restructuring and an amended municipal regulatory framework that entrenches local fiscal autonomy for metropolitan municipalities. The administrative improvements for the income from the property rates through the Property Rates Act (2004) should henceforth improve the income from this source of OSR. The legislative framework should also allow the city more local discretion and appropriation in the generation of OSR that are considered trading services or in the accessing of development capital.

Dethier (2013) cautions against the unchecked increase in municipal indebtedness by sub-national government in getting loans indiscriminately because it may lead to urban fiscal stress. This has been recently experienced by American and European cities during the global crisis. These sub-national governments gained unfettered access to domestic and international capital markets which had led to insolvency.

As a fairly young municipality, finding and maintaining the balance between sustained OSR to fund both operational expenditure and also finance Johannesburg's long term debt should take precedence than increasing the municipal debt levels. Therefore, the oversight that is maintained through political governance over the generation of OSR both current and long term is what reflects local fiscal autonomy when the city remains cognizant of the needs of the urban population against the regulatory environment in which OSR must be generated.

Conclusion

Johannesburg has enhanced its revenue function as a result of the municipal financial legislation that was adopted in democratic South Africa that entrenches local fiscal discretion. The city has been able to increase the overall revenue base year on year. Of significance to OSR is the importance placed on trading services to sustain revenue autonomy for the city. The creation of Johannesburg Water through iGoli 2002 city development strategy that was done by the municipality assured that water revenue remained at the city's fiscal discretion for the redistributive aspect of water services to urban poor as well as for subsidizing other municipal entities. However, administrative challenges that have surfaced from the centralization of the revenue function particularly for water revenue have also reduced the associated efficiencies of revenue collection that would have been realized had the water revenue function been managed autonomously by the water utility.

On the part of municipal borrowing, the emphasis of the market-based relationship with central government has forced Johannesburg to implement fiscal discipline not only to get out of the imposed fiscal crisis that was a result of local government restructuring, but also to prove that the city could manage municipal debt after the restructuring process. The rationalizing of the municipal borrowing environment was made more difficult by the inherited disproportionate municipal borrowing environment inherited from the apartheid local authorities The resultant bad debt had severe implications for the city's credit rating and corresponding municipal creditworthiness. National treasury provided some fiscal relief through restructuring grants, but the city had to rely on its own revenue sources, fiscal management capacity as well as credit ratings to manage the municipal debt.

Johannesburg's local fiscal discretion can, therefore, be determined to be enhanced through the peculiar regulatory framework that borrows traits from both centralist and federal states. These contrasting characteristics allow the city to navigate the local revenue environment. The caps placed by the hard budget constraints and prohibitions on foreign borrowing point to the market relationship-based model that South Africa adopted for municipal borrowing. Therefore, local fiscal autonomy for Johannesburg is reinforced by the regulatory framework in which the municipality generates its OSR.

CHAPTER SEVEN

EXPOSITION ON LOCAL FISCAL AUTONOMY

This chapter examines the findings that are presented in the preceding chapters in light of the discourse on fiscal decentralization that gives a framework of local fiscal autonomy for cities with the urban capacity to generate local revenue and to manage municipal debt. The preceding two chapters presented Nairobi's and Johannesburg's overall revenue functions to examine how the revenue examples of water revenue and municipal borrowing to illustrate local fiscal discretion and appropriation in OSR. The implication of local fiscal autonomy in these two cities is discussed here.

7.1 Independence of the Local Revenue Function

This study was concerned with how the case cities are able to independently leverage OSR using examples of water revenue and municipal borrowing. The two country contexts offer the legislative environment in which the said revenue mobilization occurs. Additionally the countries have also implemented decentralization through reform initiatives that have had varying effects on these cities' generation of OSR.

Based on South Africa's experience with local government restructuring, Smoke et al., (2003: 278-280) suggest that more research work on sub-national reforms should be done to examine what the effects have been on decentralized governance after restructuring. Besides, the these authors find nuances that point to the localized "political nature of decentralization" will reveal issues that are particular to African cities Smoke et al. (2003: 280). This knowledge gap is premised on the understanding that fiscal decentralization does not occur in a vacuum. Rather it is a nationally determined process that is informed by a national development agenda and political inclinations that are intended to enhance the capacity of local government towards a more independent way of financing municipal service delivery.

In this vein, the **regulatory framework** with which urban authorities generate OSR affects the manifestation of local fiscal autonomy and eventually municipal income. In this instance, national government is expected to promulgate laws that develop local fiscal capacity as suggested by Crawthorne (1997). Furthermore, the larger cities should expect special treatment in their revenue function within this framework (Dethier, 2013: 5). Normative emphasis is made in local government reforms that decentralization policy should first be adopted before the actual restructuring for fiscal decentralization takes place (Boex, 2009; Bahl & Martinez-Vazquez, 2006).

The reform experience in Kenya and South Africa shows that these governments had already dispensed laws that catered for a decentralized form of government with the corresponding revenue functions. The countries rather amended present laws in the case of the former or promulgated new legislation in the latter case to give effect to generation of OSR. What distinguishes the two country's experiences is the effect that these legislative changes have had on the local fiscal capacities of their respective cities.

In Kenya, the local government reform process either altered the legislation to enhance revenue or designed new municipal legislation to give effect to the developmental democratic mandate for its sub-national government. Previously, the country had a legal framework in place that conferred special city and provincial status to Nairobi. The municipal legislation enabled the city independent OSR while central government provides guarantees to access funding for capital expenditure. These revenue instruments ascertained that Nairobi had full discretion of significant revenues and access to external sources of revenue.

Despite the significant fiscal independence the financial state of the city remained in disarray because of the city's misappropriation of the various OSR notably water revenue and reckless borrowing. Additionally, city's inadequate checking mechanisms show the inability to entrench local financial management. To reverse this situation, Nairobi received special attention during Kenya's local government reform process through the parent ministry of local government to address the city's fiscal crisis. Nairobi's implementation of LAIFOMS has resulted in improved financial reporting. The standardized reporting process ensures that the city is able to depict all revenue instruments and relate the income to corresponding municipal expenditure.

The targets in the revenue enhancement plan ensure that the focus on generation of OSR both individually and collectively by the various revenue instruments is preserved by the city throughout the municipal budget year (NCC, 2009; NCC, 2010). The system has also been made more visible to the public through the annual publication of tariffs and charges and visible evidence of provision of critical municipal services which have served to encourage city residents to make service payments in order to increase revenue. An interviewee commented:

> *One of it was enhanced revenue collection. The other one was increased good will from the Nairobi residents because we started providing services; garbage collection, doing street lighting, doing lighting in the slum areas, re-carpeting roads making sure there are no pot-holes. That created goodwill from the residents such that they are also compelled to pay revenue to the council. We also instituted controls in terms of revenue management. There are also several task forces that were put in place to collect debt.*
> (Interview transcript NO4, 10 November 2012)

Thus the country's local government reform process and recent elections have amended and also passed laws which allow the city to generate more revenue from additional revenue instruments as the SBP as well as enhance the regular flow of revenue from central government. The national water framework now compels Nairobi to cede water revenue to the water sector but maintain that water and sewerage as a local function. This represents a contradiction of sorts since the city needs water revenue to integrate social considerations in the pricing of water for the urban poor as well as cross-subsidize other municipal services.

With respect to development capital an important OSR for financing municipal expenditure, concrete measures had not been implemented to address city's limited capacity to manage municipal debt. Additionally, the regulations on municipal borrowing have not been altered by these restructuring changes but rather the city continues to grapple with this OSR which cannot be effectively leveraged to finance municipal capital expenditure.

More importantly, the limited involvement of the local sphere in the conceptualization of the local government reforms is an indicator of this superficial restructuring of local government that adopted a rather centralist approach. The Omamo Commission provided evidence and justification for revenue autonomy which requires that local expenditure be aligned with local corresponding instruments as well as the need for local fiscal autonomy (RoK, 1995, Bird, 1999; Bird, 2000; Smoke, 1994). The literature also shows the premium placed on the generation of OSR through the local utilization of trading services such as electricity and water; the need to improve the administration of the incomes from property taxes; as well as the importance of local fiscal capacity towards municipal borrowing are seen as important in asserting this discretion in local autonomy (Bahl & Linn, 1992; Bahl, 1999*b*; Franzsen & Olima, 2003; Kelly, 2000; Liebig, et al., 2008).

Separating these instruments of OSR in Kenya's local restructuring process means that the objective of revenue autonomy for Nairobi as an important component of the country's sub-national government remains largely ignored. This obstacle restricts the city from manifesting local fiscal autonomy. Additionally, the benefits gained by the improvements in the other revenue instruments may soon be overtaken by the growing demand for municipal services by the city's increasingly vibrant economy and population if the city does not local manage its water revenue or municipal borrowing. A local councillor articulates this apprehension about the limited revenue tools at Nairobi's discretion in the following manner:

> *You realize that most of the fees were set several years ago as early as early 80s and they were not increased so you find that like the local authority houses you will find a double roomed house, people are paying as little as 300 shillings and these people don't pay for water, may be they will pay for electricity but they don't pay for any other services so you cannot even break even with the little money they pay so what we thought as politicians is that the economy has actually changed so we tried to a little bit increase the fees and charges of these particular places, so I think is has improved it somehow though I think that you are aware that all the local authorities are not allowed to levy taxes, they can only charge fees, may be rental fees and may be single business permit fees, nothing else so we are limited to that extent so we cannot say that we are going to expand or enlarge what we are supposed to get from the people, it is not possible. So that's where the problems are.*
> (Interview transcript NC1, 16 October 2012)

Furthermore, although the local government reforms assisted Nairobi to gradually improve the precarious fiscal positions that had plagued the city in terms of revenue management, the city has yet to introspectively restructure local fiscal capacity to enable it to manage the critical and sustainable revenue concerns for municipal borrowing. The city's inability to overhaul the ineffectual financial system which had consequently perpetuated corruption, decay of municipal infrastructure, and the sustainable financing of municipal services is being addressed at a snail's pace by the intergovernmental process that should be more municipally inclined to enhance local capacity than it is (NCC, 2010; RoK, 1996: 352; RoK, 2002*a*; 2002*b*). The official's response below reiterates the chaos that was caused by the inadequate systems:

> *Nairobi, council has got, I can say a broader revenue base but now the issue of management of revenue was the main problem. Where revenue money could be collected but there were no good internal control systems and that is what actually brought financial crisis.*
> (Interview transcript NO3, 16 August 2012)

Therefore, the local government reforms in Kenya and the resultant regulatory framework clarify the IGT process and processes for revenue enhancement. Nairobi as part of the reforms was able to improve on its financial reporting and eventually on the overall local financial management capacity by requiring the city to provide periodic and sustained evidence of local financial accountability. The opportunity for Nairobi to improve local fiscal capacity to independently manage revenues of critical trading services and to improve the city's own municipal creditworthiness was lost in the reform process and new legal mandate.

South Africa, on the other hand, with a constitutional foundation that acknowledges the independent role and function of the local sphere, proceeded to restructure the local sphere and to pass municipal laws that would give effect to this constitutional mandate. The southern country previously had laws that emphasized revenue autonomy for the select WLAs but not for the rest of its local authorities. Internalization of the local restructuring process has brought more profound effects to the grassroots sphere. The country's new municipal legal framework was developed after municipalities had been realigned with a constitutional mandate and provided for the capable metropolitan and larger municipalities to assert fiscal independence.

Although this regulatory framework also caters for revenue through the IGT system, a majority of municipalities have been unable to utilize the funds because of the limited fiscal capacities of the individual authorities. The disconcerting municipal inability to maximize on the robust fiscal legislation has been corroborated by Dickovick (2005) and Elhiraika (2007).

Two negative critical revenue consequences of the evolved fiscal architecture are the administrative burden imposed by the property tax and the abolition of revenue from the RSC levies. The introduction of the improved Property Rates Act has added to the administrative burden of municipalities. The act prescribes that income from property rates must be based on a composite rate that includes land values and improvements. This stipulation requires municipalities generating revenue from this instrument to subsequently align their local tax administration.

In due course this revenue source will provide steady inflows to the local sphere although the administrative process of introducing these new changes to the tax does not realize all the potential income from property rates (Muller, 2010; SACN, 2007). Conversely, the removal of the RSC levies benefits the business community but not local government. Recent periodic surveys on the state of South African cities confirms that when the national treasury scrapped the RSC levies, a significant portion of local revenue was eroded and that none of these larger municipalities have engaged the respective urban authorities in developing an alternative tax as was proposed by national treasury (Muller, 2010; SACN, 2007; SACN, 2011).

Johannesburg underwent significant restructuring that presently maintains the municipality's prudence in the independent generation of a significant portion of its local revenues (CoJ, 2010; CoJ, 2011). The restructuring process preceded the promulgation of municipal fiscal legislation which saw the city pioneer and charter details on the municipal revenue function that would subsequently guide the national regulatory framework. An official in the national treasury noted the integration of Johannesburg's fiscal restructuring into municipal legislation as follows:

> *Johannesburg operated with fledgling of legislative framework which was one constitutional section on municipal finance now developed into the MFMA… for example, the Constitution has also been amended:… section 230 (a) introduced giving municipalities borrowing powers to bind future council of present municipal decisions to loan.*
> (Interview transcript JO6, 14 September 2011)

The municipality was also able to centralize the local revenue function within the city administration (GJMC, 2000). The localized centralism has also made the charging of municipal services more prominent than it was during the apartheid era of cross subsidization. An official explained the emphasis on charging for municipal services in Johannesburg in this way:

> *From the Southern metro council side they tried to convince people to start paying rates and they introduced user charges in places like libraries and increased charges in the sports and recreation spaces. The swimming pool tariffs were I think inappropriate. People don't understand that swimming pools are generally meant for the poor; rich people don't use public swimming pools. Another one was the zoo; the zoo became a corporate entity; they charged separately so it became inaccessible to the poor.*
> (Interview transcript JO5, 4 October 2012)

Therefore, the experiences of local government reform in South Africa and in Kenya reflect the contrast in which they were implemented. These contrasts mirror reform initiatives that have been conducted in advanced Anglo-American countries (Dollery et al., 2008). Like Kenya, Ireland has minimally incremented local government reforms and preserved local revenue sources as local taxation from commercial property; charges for the use of municipal services; and allocations from central government (Callanan & MacCarthaigh, 2008).

On the other end of the spectrum, federalism asserts local fiscal autonomy as evidenced in Canada where local government reforms have augmented local fiscal autonomy (Garcia & Le Sarge, 2008). Local government reforms in the United States reflect three important changes in the composition of municipal revenues: the increasing reliance on user fees and charges as a key source of local revenue; the declining value of property tax as a source of local income; and finally the growing reduction of the IGT particularly from the federal states (Svara & Hoene, 2008: 141). South Africa has asserted local discretion as in the latter cases particularly for the larger urban authorities.

The nature in which legal instruments are developed to give effect to revenue autonomy frames the way a city manifests local fiscal discretion. In South Africa, the acknowledgement of an interdependent sphere of government has resulted in municipal fiscal laws that place local responsibility on capable municipalities to sustainably utilize independent revenue sources. Larger municipalities such as Johannesburg are compelled to improve financial reporting and management as well as the utility of available revenue instruments to maximize operating and capital revenues.

In Kenya, urban areas and cities are now able to be more transparent and accountable in the generation and utility of operating revenues through implementation of the LAIFOMS system. The preferential treatment of Nairobi as the primary city has served to enhance the administration of individual and collective revenue instruments through the use of closely monitored revenue enhancement plans. This determination concurs with the provision of an enabling regulatory requirement for purposes of fiscal decentralization in the literature (Bahl & Martinez-Vazquez, 2006; Smoke, 2001).

These findings present evidence on the premier importance that should be placed on the revenue function of larger cities in the continent as has been suggested by Dethier (2013: 5). The **regulatory framework** in both countries delineates tariffs for the various municipal services as well as funding for capital expenditure. The distinction in revenue sources should afford cities opportunity to use local fiscal capacity to generate OSR and access development capital. The revenues of Nairobi and Johannesburg confirm the local fiscal capacity to generate OSR and reflect a steady trend that has been maintained even after both these cities have undergone local reform measures.

However, the generation of particular OSR will highlight nuances in the respective regulatory frameworks that either affirm or impede the independence of local revenue for these case cities. These OSR, which are the autonomy of water revenue and municipal borrowing are examined below in light of this regulatory framework.

7.1.1 Autonomy in Water Revenue

Water revenue is an important component of municipal income because the internal source is able to finance the capital costs of the municipal service, and also in the redistribution of water and other municipal services (Cowden, 1968; PPIAF/WSP, 2009). This trading service is based on the principle of the 'ability to pay' and requires local discretion to promote and ensure that revenue efficiency of water supply is realized with the redistributive needs of the urban poor in cities.

In the case of Nairobi, **local fiscal discretion** has been eroded by the moving of the municipal water and sanitation function into a national water framework. National priority is prescribed by the Kenyan government to manage scarce water resources supersedes the mandated municipal function and corresponding financing arrangements. The creation of the NCWSC thus compelled Nairobi to cede control of water revenue which has also limited the utilization of water revenue specifically to water infrastructure. The framework also prescribes financial ring-fencing for the water utility. The NCWSC is independently responsible for the overall management of water revenue including the billing and customer management processes (PPIAF/WSP, 2009; NCWSC, 2004). The water utility has been able to project steady increases in revenue that are boosted by the improvements in the metering system and procedures for water supply (NCWSC 2004; NCWSC, 2005; NCWSC, 2006; NCWSC, 2010). Nairobi presently receives an annual lease income from the NCWSC and a contribution from CILOR (NCC, 2007; NCC, 2008; NCC, 2009).

Another result of this centralized arrangement negatively affects the pricing of water and subsequent revenue efficiency of water supply. The national water framework stipulates an arrangement by which annual tariff setting arrangements are centrally regulated and managed through the water resources management authority that should "develop guidelines for the fixing of tariffs for the provision of water services" including recommendations on "the cost-effective and efficient management and operation of water services" (RoK, 2002c: section 47).

By 2008, the NCWSC was able to show full cost recovery of water supply and continues to rely on “justifiable tariff adjustments” to improve on financial performance (WASREB, 2008: 21). The negotiations that are conducted annually between the governance structures of the water utility with those situated in the national framework on tariff increases have had limited results as summarized by one official as: “non-responsive tariff: lobbying with the government for tariff amendments”(Interview transcript NO12, 31 May 2013)

Keeping the water tariffs static over long periods of time does not relate to the utility’s need to increase the revenue efficiency of water supply and subsequent sustained water supply in Nairobi. Although the justification for redistribution still exists for Nairobi’s poor, the fiscal effort to provide a basic service is limited to improving the quality of the water supply to the distribution points in the water kiosks but not free access (NCWSC/ AWSB, 2009). Nairobi has also experienced a drastic reduction in political oversight of water revenue in comparison with the time when the function operated as a municipal water and sewerage department. The political representation on the utility’s governance board now means that arbitrary political decisions cannot be taken regarding water revenues.

The downside of this arrangement of financial ring-fencing for water revenues is the erosion of local political oversight for Nairobi. The principle of horizontal accountability calls for the governance by local councillors not to be restricted to the provision of single units of service but rather to the delivery of municipal services as a whole. The curtailing of local accountability to the governance board and not entire service suggests an arms-length engagement with this critical municipal services which goes against the ideal of bringing the governance of services closer to the accountability structures that represent the local population. Ndegwa & Levy (2003) reiterate the need to keep governance processes closer to the local population but this has evidently not happened for Nairobi’s water revenue.

In the case of a more streamlined regulatory framework, the experience of local fiscal autonomy means that larger cities are expected to develop and sustain local fiscal capacity. Johannesburg’s uni-city structure means that the metropolitan municipality centrally manages the customer management, billing and water revenues of Johannesburg Water. This has helped the city to draw from the cumulative revenues and finance overall municipal expenditure (CoJ, 2010; CoJ, 2011). Additionally, *Programme Phakama* that was implemented in March 2005 intended:

> *to establish a single revenue management value chain across all relevant business units; to establish a single customer interface value chain across all relevant business units; to ensure that both value chains are supported by a single integrated IT system across all business units; and to establish a new customer service and revenue organisation, re-built from bottom to top.* (CoJ, 2006c: 107)

The revenue services centre has experienced chaos perpetuated by the administrative challenge of the mammoth revenue function which haves filtered to the water utility. This was compounded by the eventual confiscation of the consumer and revenue function from Johannesburg Water. This appropriation undermines the efficiencies of financial ring-fencing that were initially envisaged in creating the water utility (PPIAF/ ESP, 2009). This is evident as the utility's inability to "control a larger proportion of its revenue base left it relatively powerless to address significant commercial losses resulting from poor data, erroneous billing patterns and high non-payment levels" (Smith, 2006: 12). Thus the notion of revenue autonomy for the water utility remains elusive.

The national institutional set-up in which Johannesburg Water purchases bulk water from Rand Water which carries the fixed and variable cost of water supply to the point of sale means that the responsible municipality prices water and sewerage to cover supply costs. This has resulted in a steady increase in domestic and industrial tariffs as confirmed by Muller (2007). These tariffs also comply with national regulations that prescribe assured access to water by the urban poor. Consumers residing in informal settlements access water services for free as well as the benefit that accrues to each water consumer in Johannesburg of the six free kilolitres of water per month.

According to Dinar & Subramanian (1997), international experience in developing countries shows that providing free access to water services for the urban poor as human right remains problematic and more unlikely to be realised. Johannesburg within its regulatory environment has achieved this social advancement as has repeatedly recorded in the provision of water and sewerage services by the municipality (CoJ, 2006; CoJ, 2011).

Therefore, the efficiency argument for the financing of local goods finds resonance in the fiscal devolution of tools for related local functions. The experience of water revenues as a trading service runs contrary to the need for local discretion over water revenue. In Nairobi's experience, legally the water and sewerage services remain a city function while the management of water revenue resides within a national framework that erodes local political oversight. The NCWSC is not able to leverage much needed increases in the tariff structure due to the alignment in Kenya's water sector. This represents a contradiction of sorts for water revenue since financial ring-fencing has taken over what was the local discretion that an urban local authority would have had within a national framework to enable the city's administration to engage with the water sector institutional framework over the pricing of water as South African municipalities' experiences show in the pricing of water services (Muller, 2007).

Furthermore, the corresponding political accountability is diminished by limiting the political representation to the governance board representation and not overall management of water revenues. Questions then arise regarding the new legislation on urban areas and cities that prescribe public participation and integrated development planning in local governance processes and how this new legal framework really guides the local participation in the delivery of municipal services and in particular the aspect of revenue management of trading services.

Johannesburg, on the other hand, has been able to leverage significant revenue and provide for access to urban poor through the tariff structure that caters for the redistributive objectives set by the national norms that require universal provision of water services in municipalities (ANC, 1994; DWAF, 1999). Conversely, Johannesburg Water remains a utility that cannot improve on the efficiencies of water revenue specifically for water infrastructure since the revenue function is centrally managed by the parent municipality. This contradiction reduces the utility's overall accountability regarding fiduciary duties. Indeed the investigation on water revenues reveals that centralist tendencies exist both in a centralized and decentralized framework and both experiences have positive and sometimes adverse revenue implications.

7.1.2 Local Capacity and Discretion in Municipal Borrowing

Access to development capital is important in financing municipal infrastructure as it compels cities to engage local capacity and improve credit rating and financial reporting in order to obtain favourable lending rates (PPIAF, 2009; Jackson, 2006). The experience of Johannesburg and Nairobi shows that both cities have a history of long-term borrowing that was entrenched by a regulatory framework that supported the long-term funding of capital expenditure. The emphasis of municipal debt directed to capital expenditure is reflected in the respective countries' legal stipulations which have resulted in a significant concentration of the municipal debt being carried by the two cities in their respective countries (Leigland, 2008: 110; Viljoen, 2010; Wamwangi & Kundishora, 2003). However, the cities' states of long-term debt also reveal a stark contrast in the local fiscal capacity for municipal borrowing.

The borrowing environment for Nairobi has not enhanced the city's development of its local fiscal management capacity mainly because of the relationship-based model between Nairobi and central government. Although Nairobi has been able to access local and international loans to finance water infrastructure and housing developments on the basis of guarantees from national treasury, the borrowing did not utilize the city's fiscal management capacity to improve on creditworthiness and sustained financing of municipal debt. The deficiency attributed to the absence of legal instruments for local fiscal discipline has not filtered to the city's municipal debt burden. While the repayment of the loans remains problematic and the national treasury picks up on the shortfalls of these debts, the city has yet to establish municipal creditworthiness by providing rating agencies with credible financial information that is necessary to leverage additional finance for municipal expenditure (Lipnick et al., 1999). Nonetheless, although financial reporting has improved in the aspect of revenue management for Nairobi, fiscal discipline is yet to filter into the city's municipal debt burden despite the special legal status Nairobi enjoys in the regulatory environment regarding local lending.

This ***relationship-based model*** is reminiscent of other developing countries. In Indonesia, for example, "local government loan repayment has been more than a little problematic" with debt incurred from similar channels as Nairobi, that is, local development funds and international institutions (Lewis, 2003: 1059). The high incidence of loan defaulting has prompted a move towards a market-based system in Indonesia through improved local financial management (Lewis, 2003). A similar predicament is shared by local authorities in Zimbabwe where the "debt recovery system is poor" (Ndoro, 2010: 338). Therefore, according to Martell (2000) in her study on Brazil's sub-national debt, the relationship model for municipal borrowing does not compel local government to improve local capacity to manage long-term debt despite increasing access for development capital.

Conversely, a ***market-based relationship*** for municipal borrowing places the onus for managing long-term debt on local government with no national treasury guarantees. The legal instruments and stakeholders that are prescribed in the regulatory framework require that local government first develop the local fiscal capacity to manage municipal debt through discipline regarding financial management and establishing municipal creditworthiness (Liebig et al., 2008: 110). The importance of sustained municipal revenue-raising powers also bears on the sustained financing of the municipal debt (UNHabitat, 2009b; Cowden, 1968).

In the democratic dispensation, Johannesburg faced a mammoth task of reconciling the tedious demand for capital investment in the city's impoverished areas while assuring the sustained generation of local revenues to finance the city's debt burden. This predicament simultaneously occurred during the tumultuous restructuring period when the city experienced a drop in overall payment levels from overall local revenues as well as limited access to capital revenues. Moreover, the market-based model rooted in the national regulatory framework compelled the city to improve on local financial management through provision of credible financial reporting and improvement of its rating status. As a result, Johannesburg's debt ratio is the highest in the country with a corresponding steady increase in capital expenditure (SACN, 2011; CoJ, 2011).

Therefore, the experiences of both cities in the local revenue function in general and management of water revenue and the local fiscal capacity for municipal debt in particular reflect the historical existence of a regulatory framework in Kenya and South Africa that permits fiscal decentralization to illuminate the aspect of revenue assignment for the larger cities. It then follows that local revenue autonomy should reflect particular facets of local discretion and appropriation. These nuances in city OSR are examined in more detail in the following section.

7.2 Implications of Local Fiscal Discretion

While the course of fiscal decentralization does not necessarily follow a predetermined sequence as espoused by Bahl (1999*b*) and Bahl & Martinez-Vazquez (2006), the manifestation of the function of revenue assignment shows that periodic contemplation is necessary to effect revenue transformation that keeps cities abreast of the vast financing needs of local public goods. The colonial legacy of decentralization that Kenya adopted at independence conferred the revenue assignment function to Nairobi as the country's primary city. Legislative and structural reforms have somewhat watered down the city's local fiscal discretion. The South African local government reforms, on the other hand, proved to be protracted and have had more far reaching in realizing local fiscal autonomy for municipalities' specific local revenue instruments

Ebel & Talierco (2004) state that changes in the fiscal architecture of sub-national demographic, economic and institutional composition determine its municipal ability to sustain and improve on revenue generated from the local tax base. Nairobi's population has grown exponentially in recent decades; this continues to place an unprecedented demand on municipal services and increasing municipal infrastructure to support this demand. These changes precipitated the city's fiscal crisis which required an overhaul of the local fiscal capacity. The economic base from which the primary city draws its revenue has also increased with the city's administration to manage local revenue as shown in the emphasis of SBP as an important OSR. However, the city's reluctance to engage the fiscal nuances for generating OSR which include cross-subsidization of OSR to ensure access to municipal services by urban poor as well as improve municipal creditworthiness.

Johannesburg's massive jurisdiction required that the city contemplate the local fiscal capacity in light of rapid urbanization and economic growth in the region. This re-demarcation during the democratic transit called for introspection of the local financing arrangement for municipal revenue. After implementing *iGoli 2002* and *iGoli 2010* strategies, the city had adopted a centralist stance in managing OSR.

Fiscal discretion allows cities to "tailor outputs to local tastes" while enabling the cities to generate local revenue (Rosen, 2005: 516). Additionally, fiscal discretion engages local fiscal capacity to "undertake experimentation and pioneering by few communities" as well as innovation in locally produced goods (Rosen 2005: 516; Bahl, 1999: 4; Eckstein, 1967: 37). Through *Operation Gcinamanzi* and *Project Thonifho,* Johannesburg Water installed prepaid water meters and improved sanitation facilities in the townships, moves intended to reduce the levels of unaccounted for water (UAW) and improve water revenue (JW, 2009; JW, 2010). The municipality of Johannesburg also utilizes an indigent policy to assure water access by urban poor. This subsidization in the pricing of water highlights the social considerations that are incorporated in costing water supply which is maintained at the governance level by the annual approval of the water tariffs by the municipal council.

Taxes that can be administered through OSR glean more revenue when imposed on local residents and provide no competition to taxable sources for central government income (Bird, 2000). These OSRs require cities to strengthen tax administration in order to enhance the income generated from these local revenue instruments (Tanzi, 2001: 10). Johannesburg was compelled to realign its administration of property rates with new legislation which now reflects as a fifth of the city's total OSR (SACN, 2011: 40). In Nairobi the SBP income has also became a stable contributor to OSR as echoed in an official's comment below:

> *What we have seen, what has worked very well is in terms of the task forces that we have formed, the special inspection team that goes around to inspect the fake licence to ensure revenue is collected as a requirement by the council. Again what has worked well is the stake holders involvement in terms of the EACC and the traders themselves coz these are the people, the traders, who give us their money, for example in the markets, the retail markets that were at Landhies road, the chairman of the association of the traders, is involved in the collection, is involved in the audit so it has worked very well.*
> (Interview transcript NO7, 30 October 2012)

The market-based relationship for municipal borrowing in South Africa with the national treasury providing a capacity-building role has helped Johannesburg improve its fiscal capacity and conditions for long-term debt. Martell (2008: 30) determines that the factors affecting municipal borrowing include history, debt burden, debt security, pledged security, national legislation and constitutions. The constitutional and legal provision for municipal borrowing in South Africa directs that municipal capacity be based upon municipal creditworthiness and sustained-revenue raising powers (Cowden, 1968). This is confirmed by Gildenhuys who argues that “an analysis should be made of the short-as well as the long term financial consequences...especially the long term financial impact” on the generation of OSR (2012: 140).

Conversely the absence of local discretion is shown in the financial ring-fencing experience of the NCWSC and management of Nairobi’s long-term debt. The national institutional framework that makes management of water resources and services a national concern compels Nairobi to cede control of water revenue while the special status accorded in the legal framework has not improved its creditworthiness.

Using de Mello’s framework that provides policy recommendations for revenue alignment and fiscal discipline to enhance municipal borrowing, Martell (2000) maintains that while the debt limit in Brazil is centrally determined, the regulatory framework provides no incentive to improve on local fiscal autonomy and that these regulations make credit limited and costly. Kenya’s relationship-based model that engages municipal borrowing under the auspices of the parent ministry of local government places no onus on Nairobi to improve local fiscal capacity as indicated in the following responses by treasury officials: “Treasury only does remittances; Ministry of Local Government quite powerful and provides directives to specific local authorities” (Interview transcript NO10, 15 February 2013).

The importance of the parent ministry of local government on the continent is also evident in the municipal tariff-setting process and veto over municipal borrowing in Zimbabwe as highlighted by Ndoro (2010). The importance of local fiscal capacity in the critical aspect of development finance is paramount and requires a shift toward a framework that does afford local discretion. Appropriation of local revenue is important in showing how local governance exerts political accountability and to ensure that the redistribution of local public goods is also carried into the generation of OSR. The implications of appropriation are discussed in the following section.

7.3 Implications of Local Fiscal Appropriation

Income from trading services has a dual manifestation of local appropriation which requires close political proximity in these cases to assure that the OSR generated indeed finances the fixed and variable costs of municipal service supply, that is, municipal infrastructure for the specific trading service. In addition, the OSR should cover the redistributive elements in the local supply. Regarding the acknowledged need for provision of water services by the urban poor, the NCWSC instituted the lowest tariffs to water kiosks in Nairobi while Johannesburg Water provides the first six kilolitres by Johannesburg Water free of charge to every resident. Additionally the costing of water supply into the tariffs should present a sustainable stream of water revenues as aspired to by both water utilities.

However, managing the revenues of water infrastructure as opposed to overall municipal infrastructure presents the disjuncture of political accountability by the two water utilities. The cumulative result of Johannesburg's central management of total OSR has had a positive impact on the financing of capital expenditure over the long term which is augmented by the added option of using the surpluses to finance municipal debt by trading services (Cowden, 1968; Solomon, 1989). This enables the city of Johannesburg to apply local discretion in "making expenditure decisions more rationally and to apply own values to government programmes" (Eckstein 1967: 36).

The caution that has been raised in fiscal decentralization literature that the various OSR devolved must be related directly to the specific municipal function to which they apply. This distinction ensures that the local revenue is "for different treatment of function" where water services are financed mainly from water revenue; community services from licensing fees; and capital expenditure from development finance (Prud'homme, 1995: 209). However, Cowden (1968: 117) argues that "municipal services should be regarded as a whole and not units" when he suggests that municipal revenues are not distinct in themselves and that this perspective should move from a silo perspective of funding the various municipal services. This means that the revenue function is thus centralised such that the city can always maintain local oversight over all the OSR. The oversight allows the cities to make decisions over the pricing of municipal services; cross subsidization across municipal services and decisions on development capital.

Thus the centralisation of the revenue function as presented by Cowden allows for the cities to assert appropriation over OSR where the "aggregation of profits or losses from municipal revenue is necessary" (1968: 118). This is particularly important for the financing needs of municipal infrastructure which may cut across municipal service provision. The local fiscal appropriation is also particularly useful directing OSR especially in the case of municipal borrowing where the municipal councils incur municipal debt that will be sustained over the medium and long term by the current and future consumers of municipal services. This form of appropriation relies on the sustained source of OSR and allows the cities to manifest revenue autonomy with minimal reliance from the IGT.

As a result, local appropriation is necessary for providing for political accountability; for enabling the cities to consider the holistic revenue requirements of their municipal mandate as well as for specific municipal services that thus "provide local goods that best reflect citizen preference" (Jackson, 1993). This assertion by cities is important for the independent generation of OSR.

7.4 Lessons Learnt for Local Fiscal Autonomy

The experience of fiscal decentralization and of the assignment of revenue autonomy in the African context proves to be particularly complex in each individual experience. Prud'homme (2003) acknowledges this complexity by calling for the experience of fiscal decentralization in African countries to be prudently examined. The contemplation on fiscal devolution should whether decentralization is "tailored to the priority goals and circumstances of each country" which shows the appreciation and "understanding of the instruments available, the objectives or impact areas...and the mechanisms linking the objectives and instruments" (Prud'homme, 2003: 26).

African states have made provision for a decentralized state in one form or the other which historically acknowledged in the existence of a national regulatory framework. Furthermore, in Kenya and South Africa, fiscal decentralization has been maintained through the democratic transition and local government reform. Through the reform, there was also the need to holistically provide an environment that filters local political accountability for the local population as well as local fiscal capacity for revenue autonomy is critical for the financing of the urban services of African cities.

This makes the OSR of African cities of particular importance regarding the aspect of revenue autonomy. The financing needs of municipal services should reflect the ability to respond to the diverse needs of the urban population. The larger African cities have a municipal infrastructure that does not always correspond to the demands of the municipal populations. Cities such as Cairo and Kinshasa with populations of close to 10 million inhabitants and Lagos, with over 20 million (UNHabitat, 2008) require devolved revenue autonomy that matches the municipal mandate and enhances local political accountability. The revenue requirements of these cities in some cases do not always correspond with the OSR available which has adverse implications on the availability of critical municipal infrastructure and subsequent supply of local goods to the urban populations (Dirie, 2006).

The integration of the political economy into the nature of fiscal decentralization is also important in the theoretical assertion of local fiscal autonomy. The assertion acknowledges that while the distinct role of urban authorities remains, the interdependence of the national and sub-national government to enhance the socio-economic aspirations of citizens through a political-administrative framework requires the local financing of government activity even at the grassroots level. Oates (2008) concurs with this assertion which “recasts the basic framework of the problem to encompass both rent-seeking political agents and explicit systems of legislative and electoral behaviour” in order to “characterize fiscal decentralization and provide new insights into the conditions”.

This corresponds with the determination of the key fiscal issue around laboratory federalism that asserts fiscal decentralization to essentially include the “capacity to foster innovation in fiscal institutions and public policy more generally...laboratory or experimental federalism has been the source of many approaches to addressing a wide range of fiscal or regulatory issues” (Oates, 2008: 330). In the cases of Nairobi and Johannesburg, the assertion of revenue autonomy within the different country contexts shows aspects of centralization from central government or from urban authorities that erode certain aspects of local fiscal discretion and appropriation for the cities. Johannesburg has been able to manifest local fiscal autonomy to generate OSR while Kenya’s centralised regulation curtails Nairobi’s fiscal discretion and appropriation in the city’s OSR.

Conclusion

The need for fiscal decentralization is particularly important for African cities that have the local fiscal capacity to leverage OSR for municipal infrastructure and services. Firstly, the cities must drive and sustain the generation of OSR which finance municipal services. The sector of the urban population with the knowledge base that drives the cities' economy provides an economic base on which local taxes are used to sustainably generate OSR in the medium and long term. Secondly, the diversity in the urban population requires that urban poor are afforded access to basic municipal services as a human right through the pricing of municipal services. The rational for revenue autonomy has been presented in the two case cities of Nairobi and Johannesburg as African cities.

The decentralized form of government and local government reforms implemented by South Africa has also had meaningful impact on the revenue autonomy of their respective cities. The evidence presented in the Johannesburg's experience of local fiscal autonomy mirrors the developmental national agenda that is enshrined in the constitutional mandate. The centralisation of the city's local revenue function allows for the local centralization of OSR within the metropolitan administration. The centralised revenue management allows the municipality to manage OSR in a manner that shows local fiscal discretion and appropriation on sustained generation of OSR; pricing municipal services which will cater for the concerns around redistribution of government services.

Fiscal discretion also directs the financing for capital expenditure to ensure the sustained overall economic development that will sustain the OSR for the larger municipalities. The local fiscal autonomy works well to improve municipal capacity for municipal creditworthiness. Conversely, the city's centralized revenue management faces a mammoth administrative task for any individual OSR as shown in the example of water revenues that deflate from the overall revenue strategy.

Nairobi retains special county status in the new legal framework and has improved the city's overall OSR trend through revenue management strategies that are a result of the local government reforms. However, these are not sufficient to enhance overall revenue autonomy because discrepancies persist in the city's fiscal capacity. Financial ring-fencing of water revenues, for instance, means that political accountability over this revenue is drastically reduced for Nairobi while the local fiscal capacity for municipal long-term debt also needs improvement. These issues point to the erosion of local fiscal appropriation and discretion in Nairobi's OSR.

The literature confirms these contrasting pictures of fiscal decentralization. The two experiences have presented the nuances of local fiscal autonomy in African cities that capture the essence of fiscal discretion and appropriation that is also shown in the cities' local fiscal capacities. In the case of Nairobi, the study shows that states that are centralist are more inclined to draw most revenue functions towards central government. This centralism persists even when the regulatory framework confers special status to Nairobi as the primary city. This contradiction alters the manifestation of local fiscal autonomy by the city in generating OSR particularly trading services such as water revenue. As a result, the city has not been able to leverage local fiscal capacity to improve its municipal creditworthiness as well as manage municipal debt.

In Johannesburg the study shows that countries that favour a decentralized form of government devolve local function and revenue function to sub-national government. The fiscal devolution has allowed Johannesburg to rationalise the generation of OSR particularly in ensuring the pricing of trading services like water revenue still subsidizes water supply to the urban poor. The city has also improved its capacity to manage municipal debt and is the most indebted city in the country. However, centralist tendencies still persist even in this local government which has resulted in the administrative quagmire of the revenue sharing services centre. The centralised revenue management has also depleted Johannesburg's autonomy as a water utility.

CHAPTER EIGHT

CONCLUSIONS AND IMPLICATIONS

The purpose of this study was to reflect on the experience of local fiscal autonomy in the African cities of Johannesburg and Nairobi within the respective legal and institutional frameworks that the cities operate in to independently generate a significant portion of local revenue through OSR. Local fiscal autonomy in the revenue assignment function is conceptualized as the use of fiscal discretion and appropriation of particular OSR of these cities. The key argument of the study was to examine the influence of the political economy and regulatory framework on local fiscal autonomy.

The study firstly recognized that the multi-dimensional demand for municipal services on the cities stem from competing factors which include the access to basic services from urban poor that are an unfortunate result of urbanization; and the demand for sustained municipal services by the economic and knowledge hub in the cities driving economic growth. This requires African states to promulgate a regulatory framework that acknowledges and stipulates the unique financing needs of African cities.

In this context the study firstly determined how the regulatory framework provided special attention to the cities' financing needs for the diverse municipal mandate. Despite the vast municipal mandate that the larger African cities bear, little research attention has been paid to reflect upon the constraints that the cities have in their use of revenue autonomy. This study sought to examine the manifestation of local fiscal autonomy of two cities with similar contemporary urban demands but contrasting approaches to revenue assignment in the African context.

A perspective based on the efficiency rationale for fiscal decentralization provided the theoretical basis to analyse local fiscal autonomy in the cities. The demand for municipal services requires that the efficiency rationale for fiscal decentralization justify the devolution of revenue autonomy to the cities (Oates, 1999). This perspective informed the use of an illustrative case study through the examination of the two particular African cities' experience of the revenue assignment function.

The study findings suggest that the country contexts historically provided a legal mandate that acknowledged and catered for revenue assignment in the respective cities. Local fiscal autonomy was evident in this decentralized form albeit in extreme cases which partly drove local government restructuring efforts in Kenya and in South Africa. Although the cities have been able to leverage revenue significantly since local government reforms, the regulatory environment that the cities' significant OSR operates in does occasionally detract from the manifestation of local fiscal autonomy. These findings concurred with the similar determination of a recurring central issue within the discourse of fiscal decentralization that is essentially:

> *a trade off between the capacity of a centralised solution to provide coordination of local outputs, that is internalise spill-over effects and the ability of a decentralised system to tailor outcomes to the preferences of the local jurisdiction*
> (Oates, 2008: 330).

8.1 CONTRIBUTIONS OF THE STUDY

The central research question on the evidence of local fiscal autonomy of African cities was answered by the study with the corresponding research sub-questions which examine the experiences of Nairobi and Johannesburg as the case cities purposefully selected to highlight the experience of municipal revenue assignment in larger cities on the continent. The study findings are summarised as:

1. How do the respective national frameworks establish local fiscal autonomy in the African cities Johannesburg and Nairobi?

The study found that the cities of Nairobi and Johannesburg are constituted within a national framework that asserts cooperation and interdependence among the different spheres of government. The study confirms that in both countries, the legislation framework for revenue autonomy historically provided for fiscal decentralization and conferred the cities with special treatment for the generation of OSR. Local government reforms enabled both cities to assert certain aspects of revenue autonomy.

Although literature confirms the need for an enabling framework for decentralization, the historical regulation in support of revenue assignment in African countries is not readily acknowledged (Bahl & Martinez-Vazquez, 2006; Prud'homme, 2003; Smoke, 2001). As a result, analysis of the local reform effort did not always acknowledge the institutional memory that was inherently transferred through the restructuring processes.

2. What are the instruments that leverage significant local revenue?

The revenue assignment function for Nairobi and Johannesburg is evidenced by the cities' ability to generate significant municipal revenue to finance municipal services. Water revenue and municipal borrowing were purposefully examined because regulatory framework prescribes these OSR instruments' fiscal mandate be vested at the discretion of the cities. Restructuring enabled the cities to create utilities, specifically, Johannesburg Water and Nairobi Water and Sewerage Company with corresponding impact on water revenue. Municipal borrowing gave the cities access to capital markets for funding for capital expenditure. Managing long term debt required the cities to enhance their local fiscal capacity. These two cities have a contrasting experience in asserting local fiscal autonomy.

3. What are the emerging issues as the cities assert local fiscal autonomy?

Although the revenue assignment function is prescribed in the regulatory framework in Kenya and in South Africa. The nature of these states ultimately has a bearing on the manifestation of local fiscal autonomy for the case cities. In the case of Nairobi, although the reform was instituted through central government, the city was able to refine its financial reporting processes as well as individual OSR through revenue enhancement plans. The autonomy that had been associated with vital OSR particularly water revenue was eroded through the parallel water sector reform process, while the city did not improve its local fiscal capacity to manage municipal debt. Therefore local fiscal discretion and appropriation was not manifested in the water revenue or municipal borrowing.

In Johannesburg's case, municipal reform was introspectively implemented through the iGoli 2002 and iGoli city development strategies. As a result the revenue function was centralised in the revenue shared services centre for all OSR. This has enables the metropolis to manifest local fiscal discretion to manage municipal debt. Local fiscal appropriation has been useful in subsidising the pricing of water supply for the urban poor. The envisaged financial ring-fencing that was proposed at the inception of Johannesburg Water was not realised which has reduced the autonomy of the utility in dispensing fiduciary duties as a company. In addition the centralised management of OSR has presented the city an administrative quagmire.

The existence of a regulatory framework guides the generation of OSR to meet the financing needs of the two cities. In the generation of OSR the cities used opportunities provided in municipal legislation which unearthed specific issues that emphasised the need for local fiscal autonomy for the cases. These findings contained the study's contribution in the discourse on the governance of public and local finance.

8.1.1 The Conceptualization of Local Fiscal Autonomy

The study initially provided the theoretical basis on which revenue autonomy may be determined for cities. Local fiscal autonomy is conceptualized as the manifestation of fiscal appropriation and discretion in OSR. The researcher used Cowden's (1968) approach to justify the fiscal jurisdiction that cities have over the generation and use of OSR. The cities should be permitted to ascertain through local capacity the sustained trend of generating OSR using significant revenue instruments like trading services, and also be permitted to enter into long-term debt.

Additionally, the perceived ability to sustain the generation of local revenue particularly through OSR justifies council decisions to enter into municipal debt and commit current and future generations of consumers of municipal services not only access to services provided by the municipal infrastructure but also to finance the long-term debt.
The notion of local fiscal discretion is drawn from Bahl & Linn (1992) whose study shows that pricing water supply is affected by various factors which include social, political and

equity concerns more that economic efficiency concerns. These authors argue that political concerns drive the pricing of trading services such that pricing redistribution should also reflect local discretion for the purpose of equity. The local fiscal discretion should then direct the financing of municipal services to urban poor which does not preclude them from accessing the municipal service. This conceptualization sought to provide the basis on which cities are ascribed revenue to perform the allocated function of government. Fiscal decentralization literature suggests that the magnitude of the municipal expenditure in the cities alienates central government from responding to these local goods. The rationale of economic and political efficiency remains important for African cities that are required to rely more on OSR than on transfers from central government to provide mandated municipal services.

The cities provide similar functions albeit in different scales. Trading services such as water and sewerage services that are required by both the industrial and residential consumers; municipal clinics; markets that offer trading spaces for informal and small scale traders in the inner city and schools; and a variety of trading and advertising licences. This preclusion provides leeway for cities to finance the bulk of this municipal expenditure independently. Municipal legislation should, therefore, prescribe local fiscal autonomy for cities to independently manage the manner in which significant OSR is generated as well as tailor local tastes and preferences to the generation of OSR. The regulatory framework of the two case cities confirms the enabling environment for fiscal devolution as presented by Smoke (2001) as well as by Bahl and Martinez-Vazquez (2006).

In the African context, the focus on an enabling environment to boost socio-economic development at the regional level must be integrated with city resources that enhance economic activity to boost economic growth at regional and country level. This fiscal devolution should be highlighted more in the allocation function of government for its third tier and in the regional and continental agenda to boost economic growth.

The ability of African cities to cognitively assert local fiscal autonomy enhances the sustained generation of OSR and a building of the local fiscal capacity of cities. The assignment of the revenue function should then show that the cities are able to independently and responsibly make critical decisions which are reflected in local discretion and appropriation in the generation of OSR to finance the bulk of municipal expenditure.

On the basis of this premise, the function of local revenue assignment in African cities, the theorization on local fiscal autonomy provides the voice to leverage significant OSR independently. This legal mandate in turn allows for the local OSR to be examined at the intersection of political accountability and management of OSR by the city administration to reflect how much discretion cities hold on these streams of local income. The evidence of these concepts in generating OSR through trading services and development capital provides for the existence of local fiscal autonomy in these cities.

8.1.2 How Revenue Assignment Manifests Local Fiscal Autonomy

The sequential scrutiny of fiscal decentralization as proposed by Smoke (2001) and Bahl & Martinez-Vazquez (2006) was useful in ascertaining how cities derive the revenue assignment function. The study however found that regulation does not always precede local fiscal function as determined in the two case cities. The regulatory environments in which the cities generate OSR provide the precursor for local fiscal autonomy. The evidence of revenue autonomy previously presented in the centralist country of Kenya, and the hybrid blend of centralism and federalism in South Africa reveal extreme examples of local fiscal autonomy.

In the former case, previous revenue autonomy conferred on the city manifested local fiscal appropriation in Nairobi and limited political accountability. As a result, the city plunged into a fiscal crisis that still requires central government intervention to enhance its local fiscal capacity. The centralisation of reform in Nairobi's case has subsequently eroded Nairobi's local fiscal autonomy.

In the latter case, the preference afforded to the WLAs by the apartheid government meant that local fiscal autonomy was used to sustain select local authorities with the capacity to generate significant OSR and incur municipal debt at the expense of future generations. Through local government restructuring and an amended municipal regulatory framework, the revenue autonomy has been transferred to the metropolitan municipality of Johannesburg.

Subsequently, the introspection through local government restructuring has had profound effects on the city's significant OSR. Localized introspection in Johannesburg has resulted in entrenching local fiscal capacity for the city's revenue function which has enhanced the environment for municipal borrowing. On the contrary, the centralisation of Johannesburg's revenue function has impeded the administrative environment to centrally manage OSR which has been brought on by local appropriation of OSR and particularly water revenue. In Nairobi the centralized reforms have enhanced the city's revenue management strategies but eroded its discretion regarding the trading service of water as well as local fiscal capacity for municipal borrowing.

8.2 IMPLICATIONS FOR THEORY

The implications for theory were discussed in the theoretical consideration of significant OSR in cities. By examining two critical OSR that should be devolved to increase revenue autonomy shows the importance of local fiscal autonomy in the fiscal function for cities. Water revenue as a trading service and municipal borrowing are significant OSR that require local introspection of local fiscal capacity to ensure that the cities maintain and sustain the generation of these OSR. The local fiscal capacity in turn will be shown through the local fiscal discretion and appropriation that cities have over the management of OSR. This proposition concurs with arguments made by the proponents of fiscal decentralization who emphasise the need to ascribe to significant OSR to local government and show revenue autonomy (Oates, 1999; Bird, 1999; Bird, 2000). Furthermore, to the manifestation of local fiscal autonomy is the use of local political governance in the management of the OSR. This is presented in the evidence from the case cities in the pricing and management of water revenue as well as municipal creditworthiness.

The prescription of local function through a legislative framework allows cities to generate revenue that is essential for the financing of local services. Municipal financing is in turn achieved through the generation of OSR and the city's ability to incur municipal debt. This has proved useful in making a case for local fiscal autonomy in the African cities that continue to grow exponentially and are often seen to be in a state of flux. This study had findings similar to those of Martell's (2000; 2008) empirical work on Brazilian municipal borrowing on the importance of developing local fiscal autonomy in local revenue instruments. Therefore, local fiscal autonomy could also be determined through the introspection of cities to improve local fiscal capacity to sustainably manage the generation of OSR.

8.3 IMPLICATIONS FOR POLICY AND PRACTICE

Literature has repeatedly emphasised revenue autonomy in sub-national government. This fiscal devolution is particularly important for African cities that face pressing demands to independently generate revenue for municipal expenditure. Smoke (1994) and EISA (2010) both call for more devolution of revenue tools to local government generally while the administration of property tax and trading licences has gained prominence in Africa (Asibuo, 1998; Devas & Kelly, 2001; Kelly et al., 2001; Muller, 2010).

The simultaneous municipal generation of OSR particularly in the use of trading services and municipal borrowing shows that revenue autonomy is increasingly becoming an important aspect of fiscal decentralization (Liebig et al., 2008; Bahl & Linn, 1992; SACN, 2007; SACN, 2011). The delegation of local political governance through regulation is also important in generating OSR. African cities with a pressing demand for municipal services should also be provided with the municipal mandate to make political decisions over the generation of critical OSR such as water revenue and municipal borrowing. The sustained generation of OSR in Johannesburg and Nairobi confirms that while the legal mandate for fiscal decentralization exists, local fiscal capacity remains paramount for the use of local fiscal autonomy.

The rapid urbanization and robust economic activity that contemporary African cities face require that the respective country contexts provide adequate regulatory frameworks that guide the financing needs of the cities without compromising the revenue needs of the central governments. Trading services and municipal borrowing have been shown here to be local revenue instruments that compel the introspection of cities towards local fiscal capacity for the sustained generation of OSR. Therefore this study proposes that attention should be paid to cities' local fiscal capacity to manage the generation of OSR.

8.4 DIRECTIONS FOR FUTURE RESEARCH

With regard to future research, it may be interesting to interrogate the capacities and regulatory frameworks of other large African cities to explore the nuances that may manifest in local fiscal autonomy. It would also be interesting to examine the interface between consumers of municipal services and the urban administrations to provide a primer that may be used to balance the particular city's need for OSR and manage equity concerns in the evolving nature of African states. In conclusion, it is hoped that this study provided a clearer understanding of the element of local fiscal autonomy and its importance in the function of revenue assignment.

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APPENDIX ONE

PARTICIPANT INFORMATION SHEET

My names are Angelita Kithatu-Kiwekete. I am a postgraduate (PhD) student at the Graduate School of Public and Development Management, Wits University. Presently, I am conducting a research on revenue mobilization of African cities: Nairobi and Johannesburg.

The interviews are scheduled for senior 230ouncilors and senior officials that helped shape the positive fiscus of the (name of city).

The purpose is to solicit information to better understand the processes that went into shaping the city's turnaround. The information provided will be confidential.

You have been approached to describe your involvement as a (politician/official) during this transition period and I would be particularly interested in obtaining information regarding your insights into and experience of the turnaround of the revenue mobilization process of (name of city).

The interview will run for less than an hour and your consent will be established before the interview commences. Please note that you are free to discontinue the interview at any time in the duration. Thank you for your time.

(At the end of the interview): I will analyse the information that you and other interviewees give me for my dissertation. On completion, I will be happy to send you a copy if you are interested. Thank you once more for sharing your experience and your time.

CONSENT FORM

The research process I sought for my interviews was in-depth interviews with key informants who constituted officials and politicians who had been involved in the transition process of both cities. The key informants were purposefully selected because of their insightful proximity to the fiscal processes of the city in question during and immediately after the fiscal crisis. The positions they held in municipal council was also instrumental in crafting the direction and agenda for fiscal revitalisation. Some of the key informants may have since left the cities and are either working in higher government departments or the private sector.

Peabody et al. (1990) assert that such interviews are potential high yield ways to obtain insightful information that is not often recorded in written form such as archival material, policies and books. Furthermore, the key informants who may have moved on to other positions have retained their “institutional memory”, hence are often a strong data source and comfortable with the practice of scholarly research (Peabody et al., 1990: 453). It is for the above reasons that verbal consent will also be obtained prior to the interview.

As a key informant, please understand that **your participation is voluntary** and you are not being forced to take part in this study. The choice of whether to participate or not, is yours alone. If you choose not to take part, you will not be affected in any way whatsoever. If you agree to participate, you may stop participating in the research at any time Furthermore, any study records that identify you will be kept **confidential** to the extent possible by law.

CONSENT

I hereby agree to participate in research on the “Revenue Mobilization of African cities”. I do understand that I am participating freely and I also understand that I can stop participating at any point should I not want to continue and that this decision will not in any way affect me negatively.

I understand that this is a research project whose purpose is not necessarily to benefit me personally in the immediate or short term.

I understand that my participation will remain confidential.

I retain / decline the right to remain anonymous during and after the interview.

……………………………..

Signature of participant **Date**:…………………..

APPENDIX TWO

NAIROBI OFFICIALS' INTERVIEW SCHEDULE:

My names are Angelita Kithatu-Kiwekete. I am a postgraduate (PhD) student at the Graduate School of Public and Development Management, Wits University. Presently, I am conducting a research on revenue mobilization of two African cities: Nairobi and Johannesburg.

The interviews are scheduled for senior councillors and senior officials that helped shape the positive fiscus of the City Council of Nairobi.

The purpose is to solicit information to better understand the processes that went into shaping Nairobi's turnaround. The information provided will be y regarded as confidential. The interview will run for less than an hour and your consent will be established before the interview commences.

The Nairobi City Council was plagued with financial woes until the recent local government transition processes.

1. What brought on the fiscal crisis in Nairobi?
2. What interventions were employed to reverse the city's fiscal crisis?
3. What specific interventions to revenue mobilization were adopted by the city?
4. To what extent did your unit advance the revenue mobilization effort of the city?
5. What has worked well? Please elaborate.
6. What revenue mobilization strategies should be discontinued? Why?
7. What revenue mobilization strategies should be scaled up? Please provide justification.
8. What were some barriers that you encountered? Staff turnover? Lack key support?
9. How did you overcome the barriers?
10. What effect, if any, did you feel the revenue strategies have had on the city?
11. What recommendations for revenue mobilization can you give for cities with similar context in region/continent?
12. Is there anything more that you would like to add?

I will be analysing the information that you and other interviewees provide for my thesis. On completion, I will be happy to send you a copy if you are interested. Thank you for your time.

APPENDIX THREE

NAIROBI COUNCILLORS' INTERVIEW SCHEDULE:

My names are Angelita Kithatu-Kiwekete. I am a postgraduate (PhD) student at the Graduate School of Public and Development Management, Wits University. Presently, I am conducting a research on revenue mobilization of two African cities: Nairobi and Johannesburg.

The interviews are scheduled for senior councillors and senior officials that helped shape the positive fiscus of the City Council of Nairobi.

The purpose is to solicit information to better understand the processes that went into shaping Nairobi's turnaround. The information provided will be regarded as confidential. The interview will run for less than an hour and your consent will be established before the interview commences.

The Nairobi City Council was plagued with financial woes until the recent local government transition processes.

1. What brought on the fiscal crisis in Nairobi City Council?
2. What political interventions to revenue mobilization were adopted by the council?
3. What has worked well? Please elaborate.
4. What revenue mobilization strategies were scaled up? Please provide justification
5. Which revenue mobilization strategies were discontinued? Why?
6. What were some barriers that the council encountered?
7. How did the council overcome the barriers?
8. What effect, if any, did you feel the revenue strategies had on the city?
9. What recommendations for revenue mobilization can you give for cities with similar context in region/continent?
10. Is there anything more that you would like to add?

I will be analysing the information that you and other interviewees provide for my thesis. On completion, I will be happy to send you a copy if you are interested. Thank you for your time.

APPENDIX FOUR

JOHANNESBURG'S OFFICIAL INTERVIEW SCHEDULE

My names are Angelita Kithatu-Kiwekete. I am a postgraduate (PhD) student at the Graduate School of Public and Development Management, Wits University. Presently, I am conducting a research on revenue mobilization of two African cities: Nairobi and Johannesburg.

The interviews are scheduled for senior 234nalyzing234 and senior officials that helped shape the positive fiscus of the City of Johannesburg.

The purpose is to solicit information to better understand the processes that went into shaping Johannesburg's turnaround. The information provided will be regarded as confidential.

The interview will run for less than an hour and your consent will be established before the interview commences

The City of Johannesburg Metropolitan Municipality was created during South Africa's democracy era following a lengthy local government transition process in 2000. However, at that time the city was experiencing a severe financial crisis.

1. What brought on the fiscal crisis in Johannesburg in the late 1990s?
2. What interventions were employed to reverse the city's fiscal crisis?
3. What specific interventions to revenue mobilization were adopted by the city?
4. To what extent did your unit advance the revenue mobilization effort of the city?
5. What has worked well? Please elaborate.
6. What revenue mobilization strategies should be discontinued? Why?
7. What revenue mobilization strategies should be scaled up? Please provide justification.
8. What were some barriers that you encountered? Staff turnover? Lack of key support?
9. How did you overcome the barriers?
10. What effect if any did you feel the revenue strategies had on the city?
11. What recommendations for revenue mobilization can you give for cities with similar context in region/continent?
12. Is there anything more that you would like to add?

I will be analyzing the information that you and other interviewees provide for my thesis. On completion, I will be happy to send you a copy if you are interested. Thank you for your time.

APPENDIX FIVE

JOHANNESBURG COUNCILLORS' INTERVIEW SCHEDULE:

My names are Angelita Kithatu-Kiwekete. I am a postgraduate (PhD) student at the Graduate School of Public and Development Management, Wits University. Presently, I am conducting a research on revenue mobilization of two African cities: *Nairobi and Johannesburg.*

The interviews are scheduled for senior councillors and senior officials that helped shape the positive fiscus of the City of Johannesburg. The purpose is to solicit information to better understand the processes that went into shaping Nairobi's turnaround. The information provided will be regarded as confidential.

The interview will run for less than an hour and your consent will be established before the interview commences.

The city of Johannesburg was plagued with financial woes until the recent local government transition processes.

1. What brought on the fiscal crisis in Johannesburg?
2. What political interventions to revenue mobilization were adopted by the council?
3. What has worked well? Please elaborate.
4. What revenue mobilization strategies were scaled up? Please provide justification
5. Which should revenue mobilization strategies were discontinued? Why?
6. What were some barriers that the council encountered?
7. How did the council overcome the barriers?
8. What effect, if any, did you feel the revenue strategies had on the city?
9. What recommendations for revenue mobilization can you give for cities with similar context in region/ continent?
10. Is there anything more that you would like to add?

I will be analysing the information that you and other interviewees provide for my thesis. On completion, I will be happy to send you a copy if you are interested. Thank you for your time.

APPENDIX SIX

KENYA RESEARCH PERMIT 2013

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THIS IS TO CERTIFY THAT:
Prof./Dr./Mr./Mrs./Miss/Institution
Angelita Kuasa Kithatu
of (Address) University of Witwatersrand
South Africa.
has been permitted to conduct research in

Location
District
Nairobi Province

on the topic: Mobilising local Revenue capacities of African Cities: Johanesburg and Nairobi.

for a period ending: 31st July, 2013.

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Research Permit No. *NCST/RCD/14/012/74*
Date of issue *6th July, 2012*
Fee received *KSH. 1,000*

Applicant's Signature

Secretary
National Council for
Science &Technology

APPENDIX SEVEN

WITS RESEARCH CLEARANCE CERTIFICATE