Kingdom of Lesotho
Local Governance, Decentralization and Demand-Driven Service Delivery

VOLUME I: MAIN REPORT

DRAFT REPORT - CONFIDENTIAL

WORLD BANK
IN COLLABORATION WITH GOVERNMENT OF LESOTHO, GTZ, AND FAO

JUNE 27, 2007
ACKNOWLEDGEMENTS

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The study team was led by Aziz Bouzaher (Lead Specialist, Team Leader), and included: (i) from the World Bank, Preeti Arora (Sr. Country Economist), David DeGroot (Sr. Urban Specialist), Charles Annor-Frempong (Sr. Country Officer), and Erika Odendaal (Team Assistant), (ii) from GTZ, Silvio Decurtins (Program Manager), Rajeev Ahal (Decentralization Advisor, MoLGC, and Elizabeth Zimmermann (Public Service Advisor, MoPS); and from FAO, Guy Evers (Sr. Advisor, FAO Investment Center), and Pamela Pozarny (Sr. Rural Sociologist, FAO Investment Center). Hans Binswanger (consultant) was a special advisor to the team and contributed significantly to all phases of the ESW and the preparation of the final report. In addition, the following consultants contributed specific sector studies that formed the basis of the ESW: (a) status of decentralization: Thuso Green; (b) legal review: Q. Letsika; (c) fiscal decentralization: A. Yorke; (d) upscaling agriculture and natural resource management practices: K. Muir-Leesh, and (local consultant); and (e) community profiling case studies: Maria Saur (anthropology), P.J. Lerotholi (decentralization/service delivery), Maseabata Ntoanyane (community/rural development), Maseabata Ntoanyane (research assistant), Kamohelo Monyau (research assistant), Evaristus Leseli Masisenyane (research assistant); and Vuyani Monyake (research assistant). Stuti Khemani, Anwar Shah, and Deepa Narayan from the World Bank were peer reviewers. Louise Fox, Trond Vedeld, Thomas Pave Sohnesen, Lynn Brown, T. Mpoy-Kamulayi, and Lilia Burunciuc, also from the World Bank provided valuable comments.

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# Table of Contents

**ACKNOWLEDGEMENTS**  
**TABLE OF CONTENTS**  
**LIST OF ABBREVIATIONS**  
**EXECUTIVE SUMMARY**  

## 1. INTRODUCTION  
1.1 BACKGROUND  
1.2. OBJECTIVES OF THE ANALYTICAL WORK  
1.3 CONTRIBUTION OF THE PROPOSED ANALYTICAL WORK TO IMPLEMENTATION OF LESOTHO’S PRS AND PREPARATION OF THE SUPPORTING PRSC  
1.4 HOW THE ANALYTICAL WAS DONE  
1.5 COORDINATION ARRANGEMENTS  

## 2. THE CHANGING INTERNATIONAL CONTEXT  
2.1 LOCAL GOVERNANCE AND LOCAL GOVERNMENT  
2.2 LOCAL AND COMMUNITY-DRIVEN DEVELOPMENT  
2.3 MAKING SERVICES WORK FOR POOR PEOPLE  

## 3. THE LOCAL GOVERNMENT SYSTEM IN LESOTHO  
3.1 THE CURRENT LOCAL GOVERNMENT SYSTEM  
3.2 THE ROLE OF WOMEN IN THE LOCAL AUTHORITY SYSTEM  
3.3 THE SECTORAL RESPONSIBILITIES OF LOCAL AUTHORITIES  
3.4 PLANNING  
3.5 FISCAL ARRANGEMENTS  
3.6 BY-LAWS  
3.7 ROLES AND RESPONSIBILITIES OF DISTRICT AND COMMUNITY COUNCILS  
3.8 ROLES AND RESPONSIBILITIES OF THE DISTRICT ADMINISTRATOR  
3.9 STAFFING OF LOCAL AUTHORITIES  

## 4. THE STATUS OF IMPLEMENTATION OF DECENTRALIZATION  
4.1 METHODOLOGY AND CHAPTER OUTLINE  
4.2 STATUS OF AWARENESS ABOUT DECENTRALIZATION  
4.3 POLITICAL WILL AND COMMITMENT AT CENTRAL LEVEL  
4.4 STATUS OF IMPLEMENTATION OF THE PROVISIONS OF THE ACT AS AMENDED  
4.5 STATUS OF DECENTRALIZATION IN SPECIFIC LINE MINISTRIES  

## 5. COMMUNITY AND DISTRICT PERCEPTIONS OF DECENTRALIZATION  
5.1 METHODOLOGY  
5.2 THABA TSEKA DISTRICT AND THE CCs AND VILLAGES VISITED  
5.2 GENERAL FINDINGS
5.3 RELATIONSHIPS AND PERCEPTIONS AT THE DISTRICT LEVEL ................................................................. 66
5.4 RELATIONSHIPS AND PERCEPTIONS AT THE CC LEVEL AND BELOW ................................................ 67
5.5 ACCOUNTABILITY SYSTEMS .................................................................................................................... 70
5.6 RELATIONSHIP WITH CHIEFS ............................................................................................................... 70
5.7 OVERALL PERCEPTIONS OF THE CENTRAL GOVERNMENT AND LOCAL AUTHORITIES .................. 73

6. PRIORITIES, ACCESS AND QUALITY OF SERVICES 75

7. HARMONIZATION OF THE LEGAL FRAMEWORK 86
   7.1 EXISTING LEGAL FRAMEWORK ON LOCAL AUTHORITIES ................................................................. 86
   7.2 RESPONSIBILITIES AND FUNCTIONS OF LOCAL AUTHORITIES ......................................................... 90
   7.3 LEGAL RELATIONSHIP OF THE LOCAL AUTHORITIES WITH THE CENTRAL GOVERNMENT .......... 91

8. IMPROVING FISCAL DECENTRALIZATION 97
   8.1 INTRODUCTION ...................................................................................................................................... 97
   8.2 GRANTS .................................................................................................................................................. 97
   8.3 OVERVIEW OF REVENUE CURRENTLY RAISED BY LOCAL GOVERNMENT ....................................... 99
   8.4 THE REVENUE RAISING POTENTIAL OF LOCAL GOVERNMENT ...................................................... 105
   A. IMPORTANCE AND PRINCIPLES OF LOCALLY GOVERNED REVENUE ........................................ 105
   B. ASSESSMENT OF EXISTING SOURCES OF REVENUE ...................................................................... 106
   C. THE CLASSIFICATION OF COMMUNITY COUNCILS ...................................................................... 109
   D. RECOMMENDATIONS ON POTENTIAL REVENUE GENERATION ................................................... 110
   E. SUMMARY OF RECOMMENDATIONS ................................................................................................. 114
   F. KEY PROCESSES TO BE UNDERTAKEN TO SUPPORT REVENUE GENERATION .............................. 114
   8.5 RECOMMENDED GOVERNMENT GRANT MECHANISM ..................................................................... 116

9. PROMISING AGRICULTURAL AND NATURAL RESOURCE PRACTICES 125
   9.1 RESOURCE ENDOWMENT AND AGRICULTURE .................................................................................. 125
   9.2 STUDY APPROACH .............................................................................................................................. 129
   9.3 SUMMARY OF CASE STUDIES .......................................................................................................... 130
   9.4 RECOMMENDATIONS ON AGRICULTURE AND NATURAL RESOURCES ........................................ 143

10. CONCLUSIONS AND RECOMMENDATIONS 145

REFERENCES 160

Volume II: Annexes

Annex 1: Literature Review on decentralization in Lesotho
Annex 2: Detailed assessment of the implementation of the Act
Annex 3: Concept Paper On Change Management
Annex 4: Perceptions of Decentralization at Community and District Level
Annex 5: Priorities, Access and Quality of Services
Annex 6: Proposed legal changes
Annex 7: Allocation of FY2006/07 Capital Grant to Community Councils
Annex 8: Detailed agricultural and natural resource recommendation
Annex 9: “Open Space” recommendations from the Review Workshop
## Exchange Rate

1.00 US$ = 7.18 Lesotho Maloti  
1 Lesotho Maloti = 0.139 US$

## List of Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
<th>Description</th>
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<tbody>
<tr>
<td>ALC</td>
<td>Action Learning Cycle</td>
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<td>APCBP</td>
<td>Agricultural Policy Capacity Building Programme</td>
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<td>ASS</td>
<td>Agricultural Sector Strategy</td>
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<td>BKB</td>
<td>Boeremakelars Koop Brokers (BKB)</td>
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<td>CAS</td>
<td>Country Assistance Strategy (World Bank)</td>
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<td>AGO</td>
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<td>BC</td>
<td>Budget Controller</td>
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<td>Community Action Plan</td>
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<td>CBA/W</td>
<td>Community Based Agent or Worker</td>
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<td>CC</td>
<td>Community Council</td>
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<td>CCS</td>
<td>Community Council Secretary</td>
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<td>CDD</td>
<td>Community-Driven Development</td>
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<td>CMW</td>
<td>Cape Mohair and Wool Brokers</td>
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<td>CMC</td>
<td>Catchment Management Committee</td>
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<td>CRS</td>
<td>Catholic Relief Services</td>
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<td>CSAFE</td>
<td>Consortium for Southern African Food Security Emergency</td>
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<td>CRs</td>
<td>Casualty Returns</td>
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<tr>
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<td>Department for International Development (UK)</td>
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<td>DLS</td>
<td>Department of Livestock Services</td>
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<td>District Planning Unit</td>
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<td>DDF</td>
<td>District Development Fund</td>
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<td>DPO</td>
<td>District Planning Officer</td>
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<td>EM</td>
<td>Effective micro-organisms</td>
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<td>FAO</td>
<td>Food and Agr Organization of the UN</td>
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<td>EDAL</td>
<td>European Donor Agencies in Lesotho</td>
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<tr>
<td>LHWP</td>
<td>Lesotho Highlands Water Project</td>
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<td>LLDP</td>
<td>Local Level Development Plan</td>
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<td>LPSC</td>
<td>Local Public Service Commission</td>
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<tr>
<td>LIC</td>
<td>Livestock Improvement Center</td>
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<td>LNWMGA</td>
<td>Lesotho National Wool and Mohair Growers Association</td>
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<td>LPMS</td>
<td>Livestock Products Marketing Service</td>
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<td>LRAP</td>
<td>Livelihoods Recovery through Agriculture Programme</td>
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<td>LWP</td>
<td>Lesotho Woodlot Project</td>
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<td>MADF</td>
<td>Machobane Agricultural Development Foundation</td>
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<td>MAFS</td>
<td>Ministry of Agriculture and Food Security</td>
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<td>MDTP</td>
<td>Maloti Drakensberg Transfrontier Project</td>
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<td>MFDP</td>
<td>Ministry of Finance and Development Planning</td>
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<td>MFLR</td>
<td>Ministry of Forestry and Land Reclamation</td>
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<td>MGYSR</td>
<td>Ministry of Gender, Youth, Sports and Recreation</td>
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<tr>
<td>MHSW</td>
<td>Ministry of Health and Social Welfare</td>
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<td>MoLGc</td>
<td>Ministry of Local Government and Chieftainship</td>
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<tr>
<td>MPWT</td>
<td>Ministry of Public Works and Transport</td>
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<tr>
<td>MTEC</td>
<td>Ministry of Tourism, Environment and Culture</td>
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<tr>
<td>MTICM</td>
<td>Ministry of Trade and Industry</td>
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<tr>
<td>MRA</td>
<td>Managed Resource Associations/Area\ Memorandum of Understanding</td>
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<tr>
<td>NGO</td>
<td>Non-governmental Organization</td>
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<tr>
<td>NWMGA</td>
<td>National Wool and Mohair Growers Association\</td>
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<tr>
<td>PNTD</td>
<td>Participatory and Negotiated Territorial Development</td>
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<td>PRS</td>
<td>Poverty Reduction Strategy</td>
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<td>PRSC</td>
<td>Poverty Reduction Strategy Credit</td>
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<td>PSRIP</td>
<td>Public Sector Reform and Improvement Programme</td>
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<tr>
<td>PT</td>
<td>Private Trader</td>
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<tr>
<td>PS</td>
<td>Principal Secretary</td>
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<td>ESW</td>
<td>Economic and Sector Work</td>
<td>PSC</td>
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<tr>
<td>DF</td>
<td>Fiscal Decentralization</td>
<td>PSDM</td>
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<td>FDTT</td>
<td>Fiscal Decentralization Task Team</td>
<td>RMA</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
<td>RSDA</td>
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<td>GNP</td>
<td>Gross National Product</td>
<td>SADPMA</td>
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<td>GOL</td>
<td>Government of Lesotho</td>
<td>SANReMP</td>
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<td>GROW</td>
<td>Gardening for Rural and Organizational Wellbeing</td>
<td>SMARDT</td>
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<td>GTZ</td>
<td>German Technical Co-operation</td>
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<td>ICM</td>
<td>Integrated Catchment Management</td>
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<td>IFA</td>
<td>Intergovernmental Fiscal Architecture</td>
<td>TA</td>
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<td>IFAD</td>
<td>International Fund for Agricultural Development</td>
<td>UES</td>
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<td>IPM</td>
<td>Integrated Pest Management</td>
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<td>Input Trade Fairs</td>
<td>USAID</td>
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<td>KfW</td>
<td>Kreditanstalt fur Wiederaufbau</td>
<td>VVW</td>
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<tr>
<td>LCNGO</td>
<td>Lesotho Council of Non-Governmental Organizations</td>
<td>WFP</td>
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<tr>
<td>LGA</td>
<td>Local Government Act</td>
<td>WMGA</td>
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<tr>
<td>LGFB</td>
<td>Local Government Finance Board</td>
<td>WMMA</td>
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<tr>
<td>LHT</td>
<td>Legal Harmonization Team</td>
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Executive Summary

After more than 35 years, the elected local government system in Lesotho was reestablished in 2005 through the election of the Local Authorities, i.e. the Community and District Councils (CCs and DCs). Across the political spectrum, the political will to move forward was at its peak. An exemplary campaign to educate the entire population as to the purposes and functioning of the new Local Authorities, and the electoral process preceded the election. The purposes of the new system are the improvement in services and access to government, broad participation of the local population in their own development combined with enhanced accountability to them, and promotion of equitable development in all parts of the country. Local Authorities are envisioned to be independent within the broad framework of the Local Government Act (LGA or Act). The Local Government System created by the Act is reviewed in Chapter 3 of the report.

Since the election, under the leadership of the Ministry of Local Government and Chieftainship (MoLGC), implementation of the new system has been actively pursued, including via the provision of training, the appointment of Council Secretaries, Council staff and a District Administrator, the shifting of staff and assets of some ministries under the control of the Local Authorities, and the financing of the cost of functioning of the Councils and some investment programs by the Central Government. The status of implementation of the local government system is reviewed in chapter 4.

The establishment of the Local Authorities and their election was received by even the remotest populations with great enthusiasm, and the elected Councilors have taken up their job with energy and commitment (Chapter 5 on Service Delivery and Community Empowerment). Taking into account that the novelty of the system, the period required for training and getting used to the new roles and accountabilities, the Local Authorities have had just a little over a year to really implement the new system. The evaluation presented in this report is therefore a very early one. It is not an impact assessment, but instead assesses the implementation of the system and early results. In the spirit of the initial quote, it is intended to take stock and provide clear recommendations on how to make the system successful and sustainable.

Origins, Components and Approaches of the Report

The objectives of this report derive from the general priorities of the Poverty Reduction Strategy (PRS) of Lesotho which emphasizes pro-poor growth, community empowerment, improved governance and public sector performance. The specific priorities of the PRS have been set as employment creation, food security, infrastructure development, deepening of democracy, governance, safety and security, access to health services, increasing human resource capacity, managing and conserving the environment, and improving public service delivery. Cross cutting priorities include combating HIV and AIDS, and addressing gender inequalities as well as issues related to children and youth.
GTZ has been assisting the decentralization process in Lesotho for a number of years and became a full partner in the preparation of this report. Its objectives include supporting efficient decentralized institutions, and improved service delivery especially for the poor. Based on the PRS, the World Bank’s International Development Association (IDA) 2006 Country Assistance Strategy (CAS) for the Kingdom of Lesotho highlighted four strategic objectives: Fighting HIV and AIDS, sustainable pro-poor growth and job creation, improving human development outcomes, and improving service delivery through government reform. It emphasizes rural areas where poverty is most pervasive and deepest. And it identifies support to the decentralization process as an important means to achieve the above objectives. The CAS envisages a gradual shift of support to the Kingdom of Lesotho from individual projects to budget support that would be provided jointly with other development partners. Support to decentralization based on the present report will be a major component of the budget support operation of IDA that is planned for 2008.

A Concept Note was prepared and agreed between the GOL, GTZ, FAO and the World Bank. It set out the following objectives for this report: Support the ongoing decentralization process in Lesotho, and in particular (1) to strengthen local governance (particularly fiscal decentralization) and the ability of communities and individuals to access services and hold service providers accountable; (2) to strengthen the ability of service providers to effectively respond to the demand and scale up their service and infrastructure provision; and (3) to assist the local governments and other local actors to strengthen the management of natural resources and improve agricultural and livestock productivity.

In the Concept Note it was agreed to carry out the following five components of the sector work:

1. Review the Status of Decentralization;
2. Service Delivery, Community Empowerment, and the Dynamics of Local Institutions through a Community Profiling Study
3. Legal Harmonization
4. Fiscal decentralization, including a specific study on Fiscal Grants and Revenue Raising Capacity of Local Governments
5. The identification of promising agriculture and natural resource management practices

From among all the possible sectors, agriculture and natural resources were selected because: (i) the local authorities have a mandate for the promotion of economic development and the management of natural resources; (ii) improvements in these areas are necessary for economic development, poverty reduction, and for improving the tax base and revenue generation capacity; and (iii) improvements require collaboration between local authorities, communities, sector institutions, and the private sector, a collaboration in which the Local Authorities sit at the center of the network of co-producers.

The multi-sector nature and the complexity of the task required careful coordination by the government. The government has set up a coordination committee for the proposed budget support and chaired by the Ministry of Finance and including Local Government and other key agencies. Another important coordination body within government is the Fiscal Decentralization Task Team (FDTT), whose work received special support. The coordination for the study was jointly done by the government of Lesotho, the World Bank, and GTZ. Within the Government of Lesotho the coordination was jointly managed by the Director of Local Government in the MOLGC, and the co-chairs of the Fiscal Decentralization Task Team (FDTT) from the MFDP and MOLGC. The World Bank, GTZ and FAO were full partners in the sector work in coordination with DFID, the EU, UNDP, and Irish AID.
The individual components were carried out by a team of researchers under terms of references agreed in the Concept Note. They used a variety of methods, including review of international and Lesotho literature, study of existing documents and implementation reports, individual and group interviews with all stakeholders and actor groups in decentralization. The resulting studies were subject to an initial validation workshop with government representatives from the MoLGC, MOFDP, and the various sector ministries (held on June 13-14, 2006). The researchers reviewed decentralization from the perspectives of the ministries in the capital of Maseru, the District Councils (DC) and Community Councils (CCs) and their staffs, the staff of the various ministries represented in the districts and the CC areas, the Members of Parliament, the Chiefs, the private sector, NGOs, Development Partners, and of course the citizens in urban, semi-urban and rural areas, many of which could only be reached on foot or on a horse. Jointly the consultants carried out hundreds of individual and group interviews in which at least a thousand individuals participated. The report thus looks at decentralization from above, from below and from all sides. Despite these many angles, a consistent and compelling picture emerges.

In order to put the Lesotho experience into perspective, the report starts with a brief review of the changing international context for local governance. It then describes the Lesotho Local Government system. Each of the five components is the subject of an individual chapter, and additional details can be found in the Annexes (Volume 2). A concluding chapter includes a policy matrix bringing the recommendations of the report together.

**International Experience on Local Governance**

The concept and practice of local governance has recently become an important component of the academic and development practice literatures. “Globalization and the information revolution are forcing a reexamination of the citizen-state relations and roles and the relationships of various orders of government with entities beyond government – and thereby enhanced focus on local governance.” (A. Shah and S. Shah, 2006). “The dominant concern in this literature is that the incentives and accountability framework faced by various orders of government is not conducive to a focus on service delivery consistent with citizen preferences. As a result, corruption, waste and inefficiencies permeate public governance. Top down hierarchical controls are ineffective; there is little accountability because citizens are not empowered to hold governments accountable” (ibid, p. 21).

For these and other reasons, many developing countries, including in Africa, have decentralization initiatives under way. However, in most developing countries the local governments continue to play a very small role, and discharge only a few functions mandated from above. Tax and revenue decentralization has not kept pace with political and expenditure decentralization. Most local governments have little autonomy in hiring and firing their own employees. Overall, local governments in developing countries provide a small range of local services directly. The new vision, with local governments assuming a network facilitator role to enrich the quality of life of local residents is yet to be realized in any developing country” (ibid, p. 21).

*Community Driven Development (CDD):* The concept of harnessing the energies and talent of communities for poverty-reducing rural development has deep historical roots. However, in practice, most developing countries adopted highly centralized strategies of rural development, often paying only lip-service to decentralization. This top-down approach failed widely across the globe. CDD goes well beyond the community consultation and community participation to *community empowerment*. It makes funds available directly to communities and devolves the
implementation responsibility for projects entirely to them. In its most advanced form, such as in Burkina Faso, it provides untied funds to communities under a formula as part of the sharing of central revenue. Communities augment these resources through co-financing in cash and in kind, and through collection of user fees. This empowered communities to plan and execute subprojects according to their own perceived priorities. In this approach, government agencies and NGOs operate primarily as facilitators and trainers.

The rethinking about decentralized development in the 1990s found its synthesis in Local and Community-driven Development (LCDD). It links together three previously disconnected and competitive approaches to local development, namely community empowerment, local government development and de-concentrated sectoral programs that are organized according to specific services into a coherent, coordinated framework. Under this approach, local development is seen as a co-production of communities, local government and the sectors, rather than a program of just one of these actors. Their linkage can produce synergies and reduce duplication and turf battles. It helps clarify the precise functions and responsibilities of national governments, local governments and communities, and empower all actors to fully execute their roles (especially in regard to finances and skills). The global consensus is evolving towards LCDD, and the challenge is to devise ways of scaling it up.

Too often in developed and developing countries alike, services fail the poor – in accessibility, quality and affordability. However, there are many examples across the world where this is not the case. The main finding of the 2004 World Development Report is that “successful services for poor people emerge from institutional relationships in which the actors are accountable to each other.” (World Bank, 2004, page 46). It distinguishes between a long route to accountability and a short route. The “long route” to accountability implies that services are provided through the government. Citizens hold politicians accountable through voting and voice, and politicians hold providers of services accountable. Citizens pay taxes and pressure and influence policymakers; policymakers, in turn, influence providers and set incentives for them. The “short route” to accountability connects clients and providers directly. When it comes to market transactions, the accountability relationships are clear (through the market), but in non-market transactions—public service delivery—the accountability is less clear-cut. Social or community accountability requires an enabling environment for civic engagement and the development of appropriate tools for participatory monitoring and evaluation. School boards, parents associations, and user committees, are frequently used. Other solutions consist of the introduction of user fees, increasing the choices of the clients, or giving them the chance to participate more actively in the service provision process.

**Lesotho’s Local Government System**

Lesotho’s constitution required parliament to establish a system of local government which must perform such functions set out in an Act of Parliament. A final local government dispensation was developed and implemented through the promulgation of the Local Government Act 1997 and the Local Government Election Act 1998. It was not until 2005 that local government elections were held. At that time there was no system of local government in the country, except in Maseru, and all public services were provided by the Central Government through its ministries. Coupled with the establishment of a local government system is a policy of Decentralization to transfer the provision of certain central government services to the local level.

The Local Government Act and its programme of implementation envisions autonomous Local Authorities, and sets some broad objectives for decentralization, emphasizing the involvement of people by giving them better access to government structures, bringing service delivery closer to
people and improving it, and involving them specifically in decision making, planning and implementation of development programs. It also stresses enhanced control by people over the development process, i.e. the accountability of government and service providers to end users. Finally, it emphasizes regional equity in access to human, institutional and infrastructure resources.

The following local government structures, which are collectively referred to as local authorities in Lesotho, as well as and their roles and functions, have been established in the Local Government Act, 1997. Community Councillors are elected directly in electoral divisions, and in turn elect representatives to the District Councils to which they belong. The administrative head in municipal and urban councils is the Town Clerk (TC), while in the District Council it is the District Council Secretary (DCS).

The intention is to establish District Councils as the core institutions of the local government system in Lesotho. District Councils will eventually have the full range of powers and functions commonly associated with modern local authorities. It is further envisaged that District Councils (DC) will have the resources, capacity and infrastructure to deliver a wide range of developmental services to the people living and working in their areas. As the Local Government system matures, Community Councils may receive more powers and functions from District Councils in whose areas they fall. This does not mean that Community Councils are subservient to District Councils, but neither are they autonomous from them. The two levels of local authority are distinct from one another but they are inter-related with one another and interdependent on each other.

The District Councils shall delegate certain functions to the Community Councils especially such functions that can be best performed at Community Council level. At the same time, District Councils will be required to provide technical, administrative and financial management assistance to Community Councils, based on the modern practices of shared service centres and close council cooperation, in order for Community Councils to perform their functions and exercise their powers.

A District Planning Unit (DPU) must be established for each administrative district. The DPU consists of planning and other officers of any Ministry that carry out their functions within the administrative district. Each local authority must establish a standing committee of Council that must submit development plans and schemes for projects to the District Development Co-ordinating Committee (DDCC) for their consideration in drawing up the District Development Plan. The functions of the DDCC are to consider draft development plans for the District prepared by each Council and to aggregate such plans into a composite District Development Plan and to approve such plan. These initiatives are an attempt to co-ordinate the work of Central Government ministries with local authorities and ensure that there is a bottom-up approach to planning.

The Fiscal Decentralization Task Force (FDTF) is in charge of designing and supervising the implementation of a new Intergovernmental Fiscal System. Locally elected political office bearers have to take responsibility for generating revenue at a local level. Taking into account poverty, population, geographical and economic factors, there are limitations on the amount of revenue that can be generated locally and locally generated revenue will have to be supplemented through fiscal transfers from the Central Government. The Decentralization process is being done by identifying specific functions that are currently being undertaken by line ministries and transferring both the financing and responsibility of managing such functions to local governments via the MOLGC budget. In this way, the establishment of a matrix structure
between local governments and line ministries will be avoided. This approach is appropriate and will avoid accountability conflicts when functions are decentralised.

The Act enables local authorities to impose and levy property rates subject to any limitations prescribed by the Minister (of LGC). The Minister may, by an order in the gazette, declare that the provisions of the Valuation and Rating Act 1980 apply to a local authority. It appears that the Minister sets the parameters of taxes, levies or service charges that may be levied by defining the scope of taxes, levies or service charges and setting out the maximum amount that may be levied for each tax, levy or service charge. To date, the Minister has not made such a determination.

Every local authority must have a Standing Committee on Finance. This Committee must deal with all financial matters that are not included in the approved budget prior to submission to the Council. The Town Clerk or Council Secretary must submit a monthly income and expenditure statement to the Council. At year-end a detailed financial statement reflecting the financial status of the Council must also be submitted. The accounts must be audited every 6 months by the Government Auditor or any other qualified auditor appointed by the Minister. The Minister must prescribe the form of the budget, which must in summary set out expenditure, rates and other income. It appears that there can be no deficit as rates income must be used to balance the budget. All revenues received must be deposited in an approved bank account and accounted for in the Council Fund. The expenses incurred by the local authority are financed from this fund. A monthly statement of receipts and disbursements must be submitted to the Council.

By-laws must be promulgated as required in terms of the Act or which are necessary for Council to carry out its duties. By-laws must be approved by the Minister, which notification must be gazetted. The National Assembly must ultimately approve all by-laws enacted in terms of the Act.

There is a District Administrator (DA) in each district who is appointed by the Prime Minister in consultation with the Minister. The DA, who reports to the MoLGC, is the representative of Central Government at a District level. The DA co-ordinates the functions of the various central government ministries in each district and is also the official inter-phase between local government and the Central Government.

There are sub-accountancies in each DA’s office and this is where certain revenues collected at a Community Council level are deposited. In certain instances these monies are deposited in the sub-accountancy suspense account, which means that the Community Council can use these funds accordingly. However, the criteria for depositing the monies in the suspense account or the sub-accountancy account, which is credited to the account of central government, is also not known. The relationship between the DA’s office and the District Councils is not regulated through a legal framework. There is no direct relationship between the DA and the Community Councils, other than the requirement that the Community Councils deposit the cash collected in their Community Council area in the sub-accountancy account. The future role of the DA in a decentralised system is not known and this could be part of the reason why there is not necessarily a good working relationship between the DA’s office and the District Councils.

**The Role of Women in the Local Authority System**

In Lesotho, women on average have higher levels of literacy than men. A third of the CC seats are reserved for them, which is implemented by assigning a third of the electoral divisions in each CC area to women candidates only. In addition, they can compete in the remaining two thirds of the electoral divisions. Thanks to this reservation and to their ability to compete for open seats,
they currently hold over sixty percent of CC seats in Lesotho. A number of women are also chiefs. As a consequence of the long absence of many men from villages for prolonged periods of time as herdsmen or migrant workers, women have for a long time played the major role in agriculture and livestock production, as well as in the management of other local affairs. The issue of how women’s roles play out in practice is further discussed in chapters 5 and 9.

To facilitate women’s equitable rights and entitlements underpinning access to resources, opportunities and benefits, GoL is promoting strategies to eliminate discrimination and strengthen women’s inclusion in agricultural activities; these include notably the PRS, and the National Gender and Development Policy. Most importantly in the context of the role of local authorities the National Land Policy and proposed Land Bill provides women’s equal status to men with regards to land rights (to hold, use, transmit, obtain and deal with), and includes: women’s entitlement to hold and register land in their own names, required consent of both spouses during disposal of community of property land, inheritance based on merit rather than sex, and women’s representation on local land adjudication committees.

**Implementation of Decentralization**

Analysis of the implementation of the Act shows that most of the issues related to human resources have been addressed. Key positions have been filled and most of the functional staff is in place. But some of the key operational issues are still to be addressed. The most relevant is to elaborate on the functions as presented in schedules 1 and 2 of the Act that define the functions of Local Authorities. Key fiscal arrangements needed to operationalize the process are still to be finalized. Most district level staff from line ministries have been “assigned” to local authorities. Issues which have the greatest impact on the implementation of the Act which are still outstanding include establishing and gazetting by-laws, defining areas where councils can levy taxes and impose fines, streamlining the operations of the District Planning Unit and establishing and operationalizing the Local Government Service Tribunal.

To ensure effective coordination of the process, as the driver of decentralization, MoLGC needs to strengthen its capacity to systematically monitor and evaluate implementation, keep track of what has been done and what is outstanding, and what plans are in place to address outstanding prioritized issues in a timely manner. It is also recommended that the MoLGC would need to develop a strategy to ensure gradual and progressive decentralization to make sure that resources are matched with existing capacity.

To enhance the role MoLGC to effectively lead the process of implementing the Act, it is necessary to: (i) ensure that the Department of Decentralization is the lead agency in MoLGC; (ii) distil the decentralization policy from Vision 2020, PRSP, etc. into one document; (iii) develop a strategic plan and a change management strategy to be able to take on the challenges that the process has brought about; (iv) operationalize compliance and performance inspection; (v) put into place a mechanism for conflict management and resolution for all levels; (vi) develop a strategy for consultation with line ministries involved in decentralization; (vii) develop a conceptual understanding of decentralization in terms of transition and gradual empowerment of local authorities; (viii) translate the Local Government Act and other key documents into Sesotho but ensure that the translation does not change the interpretations of the Act; and (x) address the role of NGOs and other civil society entities.

The three-legged line of command (DA or DCS, Department Head in district and Headquarters in Maseru) is responsible for endless problems and poor service delivery. The role of parent ministries continues to be significant due to the fact that they still resource the district staff. Since
functions have been transferred to local structures but not positions, issues of career development for assigned staff have to be addressed.

At district level, roles, responsibility and authority between the various institutions are poorly defined. The DA is head of central government and DCS is the head of local government but their functional relationship is vague, and this is a hindrance to efficient management. In addition, departmental teams have been divided between the DA and DCS and operational efficiency is highly compromised. This is exacerbated by the fact that there is no clarity regarding what has to happen to people assigned to the DCS and local authorities.

Lack of infrastructure to support the process of decentralization is a major drawback for local authorities. Also poor access to resources for operational purposes is a major hindrance to performance. Demand for services from the community through the councils has increased but this has not been matched by availability of resources.

Although the roles of councils and chiefs are supposedly clear, in practice they are the source of many problems. The police report an increase in conflicts that in some cases result in criminal acts due to lack of clarity of roles and authority between councils and chiefs. Legal officers at DCS level confirm police reports and they note an increase in the number of court cases against local councils. In addition to clarification of roles, there is a need to foster a culture of tolerance and acceptance, since the two institutions complement each other.

Maseru Municipal Council experiences should have been used to guide most aspects of the development of the decentralization process. The major problem is that the Act treats all councils alike despite the fact that town councils have very different challenges compared to rural councils. In addition, Maseru Municipal Council challenges are also different from those of other towns. Some of the provisions of the Act are regressive for MMC because it already had established procedures and regulations.

Extensive sensitization activities were undertaken prior to local government elections when political will was at its peak. Post elections, political will appears to have declined and the MoLGC and the FDTT were largely left alone to lead an enormously complex task of implementation. While training of Councilors was good, across the board sensitization activities of those affected by decentralization have been less than adequate, leading to misunderstandings of roles and function of different actors. There is a need to foster debate on decentralization and to ensure fuller understanding of the process at all levels. Most people understand the aim of decentralization but few fully understand the processes and procedures. Debate on experiences is necessary to foster deeper understanding and appreciation of the issues. It is necessary to revitalize support for decentralization at the highest levels of government. Sensitization has to be an ongoing process.

**Perceptions of Decentralization at Community and District Level**

The first phase of the intensive profiling study for service delivery, community empowerment and decentralization has been completed in Thaba-Tseka district, but field work for Maseru district is still ongoing. While therefore only Thaba-Tseka results are reported here, they are very consistent with the results discussed in the previous section. The methods involved enabled people from all walks of life ample time, often in repeat visits, to air their views of decentralization and service delivery. The open-ended approach used to collecting data resulted in high motivation and satisfaction on the part of those interviewed with their contributions to the research process.
Thaba-Tseka district has some unique features that other districts do not have. It was the last to be established and has tracks of pasture land that falls under a number of principal chiefs such as Matsieng, Qacha’s Nek, Mokhotlong, Tsikoane, Peka le Kolbere, Rothe etc. The district is prone to adverse effects of Lesotho harsh weather especially in winter.

It is clear that at all levels there were high expectations and goodwill for the introduction of the decentralization, which is perceived as an advance in democracy. Knowledge about the local authorities among the population and all stakeholders is most astonishing. Bottom-up planning processes were carried out with strength and resolve. Councils have gotten deeply involved in natural resource management, allocation of land, range management, collection of grazing fees and fines, development of infrastructure (where they have resources), and HIV/AIDS related issues.

Councils are by and large unable to deliver on the priorities of communities because of a crippling lack of resources. These shortcomings are a serious threat to the credibility of the new local governance system, and in particular the Councils. However there remains a reservoir of goodwill for the new institutions that has not yet been dissipated.

Nevertheless the study found a significant erosion of goodwill in populations, councilors and the staffs of the Councils and the sectors, although it has not yet completely evaporated. Overwhelming expectations were placed on the roll out of local government that under the realities of limited implementation and achievements have led to frustration ranging from mild to most intense. The frustrations reflect the implementation issues discussed in the previous sections: Overlapping and unclear functions of DAs and Councils, lack of autonomy of Councils in hiring and disciplining their staffs, conflicts between Councilors and Chiefs, and Councils and the DA, and highly inadequate resources to implement community priorities resulting from the lagging fiscal decentralization.

While the training provided to Councilors and their staff gave them a clear view of their competencies and roles, their roles are not clear to other participants. The District Councils work effectively with their staffs, but they have major problems mobilizing the staff and resources of the sectors which are nominally assigned to them, because the sector chiefs still report to the DA, and most assets have not been transferred with the staff. The lack of availability of Thaba-Tseka’s DA and the poor collaboration of his office with the Councils add to the confusion and conflict that is apparent even to the most remote populations. At the level of the CCs the collaboration between Councilors and staff ranges from very good to strained.

Current councils’ personnel have been hired by the Central government, and in some cases selection was apparently influenced by the members of parliament. This has created some divisions and acrimony between the councilors, the council staff, and central level authorities. Council staff feels that councilors have no right to even know what they do, let alone assess their performance, while councilors feel that ownership and supervision of the staff is their responsibility.

There is a clear demand for much more fiscal decentralization to the councils. A lot of the overwhelming sympathy for the failures associated with the new councils and councilors rests on the fact that a variety of role players and stakeholders recognize that councils are bound to fail just on the basis of lack of funding. In turn the Councilors feel trapped between the demands of their constituencies and the lack of response from the Center and the DAs office. As a consequence a number of them would not like to be candidates at the next election.
People recognize that decentralization was introduced to strengthen democracy. At the same time they perceive a great lack of trust of central government in local government councils that is undermining long-term sustainability of the system. They feel abandoned by the Center, and believe it is not seriously committed to decentralization.

The relationship between councilors and chiefs is the most complex issue encountered. Data from community level also reflects that chiefship system still plays an important role in the lives of people. Their position is that local government has relieved chiefs of a lot of burdens and chiefs can now focus more on peace keeping functions. There is a perception that the turnover of responsibilities for range management in the winter pastures and land allocation from the chiefs to Councils has led to a deterioration of these services. In addition, there is a lack of understanding that the chiefs are an integral part of the local government system. There is a strong consensus that there needs to be a clear plan for integration of chiefs into the local government system which has hitherto been overlooked.

As a consequence the relationships between councilors and chiefs range from very good to very bad, and even criminally obstructive. The in-depth analysis unearthed a number of cases where some chiefs have tried to undermine the system using their traditional support base. The fact that most principal chiefs reside outside of the district and the system of selection of Chiefs to CCs has probably contributed to this unsatisfactory outcome. Only chiefs who were already gazetted in 1966 are eligible to serve on the CC, i.e. only very old chiefs who have to work with much younger councilors. In one CC only two chiefs were eligible and therefore automatically elected. One of these no longer resides in the CC area while the other is reputed to be corrupt and authoritarian, poorly motivated to serve on the CC, and often absent from CC meetings and training. He therefore does not want and cannot fulfill the role of reporting to the other chiefs in the CC council area nor in representing them. Clearly the selection process must be made much more open. Training of the majority of chiefs that do not sit on the Councils is seen by all as a necessary step, as well as facilitated negotiations down to the village level on roles and function.

**Priorities, Access and Quality of Services**

These topics were assessed in 19 communities or “villages” corresponding to electoral divisions in four Community Councils areas of Thaba-Ts eka, using the same methods used for assessing the perceptions of stakeholders of decentralization. The resulting qualitative data were used to develop scores and rankings.

Services in Thaba-Ts eka are delivered by a wide variety of providers: the central government agencies (such as the Lesotho Mounted Police Service, the Judiciary, and many roads), Local Authorities, Sector Agencies (only some of which fall under the purview of Local Governments), Churches (especially in health and education), the private sector (especially in input supply and marketing), and some NGOs. The transfer of competencies, staff, assets, and financial resources to the local authorities is yet very incomplete even in the areas under their purview. As a consequence there is widespread confusion about whether some services are indeed the responsibility of the Local Authorities. In particular, because all health posts in the district are managed by religious groups rather than the Ministry of Health, albeit with partial government finance, the population and even many councilors feel that the councils should not have anything to do with them. Alternatively people feel they are not entitled to demand quality services from private providers, and as a result communities turn to demanding similar government services, even though this may cause duplication. In general, accountability of service providers to beneficiaries has not yet developed.
As noted in the PRS, the highly fragmented villages and difficult terrain, poor agricultural potential, limited literacy, and de-motivated population used to relying on remittances and skeptical of returns to agriculture, poor salaries, low morale and limited supervision and accountability of public servants (especially to client communities) and the limited access to transport and suitable training and technologies, have all combined to contribute to the lack of services and consequent extreme poverty and limited engagement of rural people, especially those in remote mountain districts. It is not surprising that the local authority system has not yet been able to make a major impact on these long established problems.

Beneficiary opinions of service delivery in the district of Thaba-Tseka are wide-ranging yet at the same time homogenous. Health, education and agricultural services were said to be between average to very poor, and also suffered from lack of funds, staff, mobility, and some obstruction by the DA’s office. Many service providers would like to be more responsive, but lack finance, staff capacity, inputs and especially mobility. District and Community Councilors, their staff, and others in charge of coordination or delivery of services are conscious of the inadequacy of what they have been able to do, as well as their constraints.

Communities do not have a culture of demanding services from duty bearers, or hold them accountable. In fact the opposite often pertains, that people that exercise their right to demand services are considered as trouble-makers by the officialdom. Mechanisms of monitoring and evaluation at community level are very poor, and no grievance procedures are in place. Service providers do not have a culture of accountability to users.

Community priorities were generally well elicited at the level of the electoral divisions, and CC priorities reflected these priorities quite well. However, partly as a consequence of the overwhelming scarcity of funds, projects which were eventually approved tended to favor road construction, water supply and sanitation, which could be scaled to fall within the budgets actually allocated to the Councils.

In each village the priorities for services and data on access and quality were aggregated across the different interviews by the research team and translated into scores. By far the highest priority among all communities, both urban and rural, are access to range management and to employment. The importance of livestock and labor income in the lives of the people are reflected in these scores. The second priority is chieftainship services, police services, land allocation, road improvement and Justice. This shows the enormous priority of safety and law and order concerns among the population. Security is particularly important in the pursuit of livelihoods by herders and widely dispersed workers. The next set of priorities is cell phone towers (revealed in the interviews as very important to prevent stock theft and other crimes), health, HIV/AIDS groups, primary education, markets, birth certificates, and agricultural extension. The lowest score of around 8 is for water supply and sanitation.

Gaps between access and priority reveal the following pattern. Again it is in the area of employment that the need is most intensely felt, with the largest gap. Land allocation and Range management have gaps are next. Smaller gaps are observed in roads, markets, cell phone towers, health, justice, birth certificates, police and chieftainship services. The lowest gaps are seen in agricultural extension, HIV/AIDS groups, and water and sanitation.

Disaggregated data between those communities with relatively good road access (urban, semi-urban communities, and villages accessible by car) and remote communities that can only by accessed by 4x4 or on foot and horse shows the following: In the easy access communities, the gaps in employment and land allocation are felt more intensely than in the remote communities,
perhaps reflecting the fact that in remote communities self employment in agriculture and livestock activities predominates, and land is more easily accessible. The difference in the gap between remote communities and easy access communities is most striking in the areas of roads, showing the enormous disadvantage of remote communities in terms of road access. Large differences are also observed in HIV and AIDS, cell phone towers, police, justice, health (but not primary education), birth certificates, agricultural extension, and range management.

Data were collected on whether services had improved, stayed constant or deteriorated since the start of decentralization. The main finding is one of no change in most of the villages, which is not surprising given that councillors have had only a little more than a year since they could make a difference, and given the low allocation of fiscal resources to local authorities. A number of services have improved in a few villages without deteriorating in others. Among these the most improved service is conservation, the planting of trees, which reflects the strong commitment the MFLR has made to working with CCs. This is followed by some improvements in electricity (in 4 of the 19 communities), post office, family latrines and public transport (3 of 19 communities), and health, agricultural extension and schools (2 of 19 villages) and church, public latrines, old age pension, and correctional services in one of the villages.

The most deteriorated service is rangeland management, consistent with the picture of conflict that was painted in the last two sections. Support groups, site allocation and chief services have deteriorated in five or six of the 19 villages, with no or little compensating improvement in any of the other villages. Road services have deteriorated in six villages while they have improved in four villages. Finally court services are perceived to have deteriorated in four villages. No data is available on police services. Qualitative interpretation of these findings for each of the services is provided in chapter 6.

Finally, in view of the high demand for employment, GOL should consider a system of provision of employment or employment guarantees as practiced successfully in other countries. Local authorities should be in charge of implementing such a system, as they usually already have a long list of local priorities that could be implemented with labor intensive methods by them or the communities. Moreover they have a significant advantage in determining those most in need for employment and therefore are in a better position to target the program. The development of such a system would also sharply reduce the need for ad hoc food for work programs. The corresponding resources could be channeled to the new program. In designing such a system the GOL should rely on the international literature and successful programs in the area.

**Harmonization of the Legal System**

The problems described in the previous sections stem partly from lack of clarity and/or conflict in the legislation or regulations governing local government and other sectors. The legal review chapter makes suggestions on how the various statutes and regulations could be harmonised. Some of the recommendations are based on the consultations with the relevant stakeholders and evaluation of the field reports from other chapters. A tentative amendment Act is attached in Annex 6.

The creation of Councils as corporate bodies has to take into account their “vertical integration” within the whole government system, because the local government system must operate within the framework of overall government policy without undermining their autonomy. The relationship between District Administrators as representatives of the Central Government’s interests at district level and the District Council Secretary has to be defined. The government
should consider the role of District Administrator in the local government given divergent views on this issue. The process of making by-laws, required in terms of the Local Government Act, has to be reconsidered in view of the fact that there is a general law dealing with such matters and it stipulates a different process for validating by-laws. The role of chiefs and Councils in land use and grazing control needs to be more precisely defined. Since chiefs are part and parcel of the local government system, it is desirable that they should not perform the functions that have been reserved to the local authorities, but instead operate within the system. It is suggested that efforts should be made to better integrate chiefs into the local government.

Because of its critical role, the Range Management and Grazing Control (Amendment) Regulations of 2005 should be published. The provisions of section 65 in particular need to be reconsidered to clarify issues relating to the acting authority under circumstances when suspension or dissolution of Councils is in effect. It is also suggested that public health issues such as cemeteries, nuisance, foodstuffs and water supply have to be left completely to the jurisdiction of local authorities. The Forestry Act should be amended for purposes of ensuring that local authorities play a meaningful role in the preservation, improvement and control of designated forests within their areas and that they are able to collect revenue from them for purposes of increasing their revenue base.

**Fiscal Decentralization**

The GOL clearly recognizes that decentralization of functions and resources to fulfil them must go hand in hand, and is pursuing a gradual approach to do so. At the present time decentralization of public service responsibilities is very limited. However, Government intends to decentralize health, water and sanitation and other services in 2008, and transfer the necessary resources along with the responsibilities. In this way, the establishment of a matrix structure between local governments and line ministries will be avoided. This approach will also avoid accountability conflicts when functions are decentralised.

To promote strengthened local governance and accountability, the establishment of an effective and adequately funded system of local government is paramount to the process of Decentralization. Taking into account poverty, population, geographical and economic factors, there will be limitations on the amount of revenue that can be generated locally, especially for rural councils. Supplementing locally generated revenue through fiscal transfers from the Central Government will be necessary, and will assist in the establishment of an effective local government system. Nevertheless, locally elected political office bearers need to take responsibility for generating revenue at a local level that will be used to provide services required by citizens and which are the mandate of local government.

Local revenue generation is paramount to support the relevance and effectiveness of a system of local government. Grants from the Central Government will always be limited and insufficient to meet the service delivery and developmental challenges that are required at a local level, although grants will always remain an important financing source to some local governments due to poverty and limited revenue raising opportunities, amongst other factors.

Local governments need to provide public good services and finance their administrative costs through local taxes (property rates) or government grants, deliver services that are recovered from the specific beneficiary of such service, and generate revenue from the cost of certain administrative tasks undertaken by Councils (for example town planning permissions) through levies. In addition, local governments may need to undertake commercial activities (for example
the sale of natural resources) where the main objective is to generate profits that can be used to subsidize the costs incurred in sustaining that resource.

The extent to which Councils are able to maximize the revenue sources that are available to them, taking into account local circumstances, will depend much on the political will of councilors who will need to make decisions on how best to raise the revenue required to deliver services and undertake the development required by citizens.

Generally, there is little revenue that is being presently collected by Community Councils. The reasons for this are threefold. Firstly, there is no incentive to maximize revenue as most of the revenue collected has to be paid to the sub-accounts in the District Administrator’s office. Secondly, very few services are delivered by Community Councils. The major activities appear to be the development projects that are financed from the Capital Grant and land allocations. Experience shows that revenue cannot be generated where local services are not provided (or poorly provided). Thirdly, there are poor internal controls and accountability over existing revenue sources collected, particularly the sale of natural resources and grazing fees/fines, which are currently one of the main revenue sources.

The recurrent budgets of Community Councils are mainly used to finance the standardized staffing levels—which appear costly in relation to the activities of the Community Councils—and administrative operating costs. There is little available to finance services or the development objectives of the Community Councils. The District Councils are responsible for determining the allocation between Community Councils, which results in conflict and resentment by the Community Councils in the District.

There is no distinction between urban, peri-urban and rural Community Councils although the service delivery obligations and citizens’ needs are likely to differ. The potential to generate revenue also differs between these classifications of Community Councils. The reason is that urban Community Councils, due to the concentration of businesses and residences, will be required to provide urban roads, address environmental health issues such as refuse collection and ensure that there are logical settlement developments, amongst others. Urban Councils are also in a better position to generate property rates revenue and user charges through the provision of these services which are affordable due to the high concentration of businesses and residences, thereby becoming substantially self-financing. Peri-urban Community Councils have similar service delivery obligations and opportunities to generate revenue but, due to the absence of significant business activities, it is unlikely that such Community Councils will be able to raise significant revenues. There will be a need to subsidize a part of the operating costs of such Community Councils. In rural areas, transport and accessibility to public health facilities and water, amongst others, are likely to represent citizens’ needs. However, rural Community Councils will not be able to generate significant amounts of revenue due to poverty and will remain largely dependent on government grant financing for sustainability purposes.

It must be noted that the references made to self-financing relate to basic local government services, such as minor roads, refuse collection and burial sites. Once functions are decentralised from line ministries, particularly health, financing in the form of grants will be required. These decentralised functions and the financing thereof are outside the scope of this assignment.

To generate the necessary revenue, it is recommended that existing sources of revenue be retained but a mechanism to address the lack of systems of internal control be devised. There is

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1 This is the Capital Grant of M15 million that was paid to all Community Councils in the 2006/07 year that is allocated on the weighting of registered voters (75%) and land area (25%).
no record or database of locally generated revenue. Part of the reason is that the appropriate financial management systems are still being implemented; the other reason is that local authorities do not retain the revenue that is generated locally (it is paid into the sub-accountancies as described earlier in this section). There is a need to obtain this information from a policy and fiscal decentralisation perspective, and one of the recommendations to achieve this objective is to include a revenue incentive component in the grant designed for local governments that is explained later in this section.

In addition, it has been recommended that the various legal processes that are set out in the Act be undertaken to legalize revenue collections. This will require the Minister to make the necessary determinations and a process put in place to accelerate the development of by-laws. It is also recommended that urban and peri-urban local governments be given the authority to implement a property rating system and introduce user charges where the appropriate services are provided. Other recommendations regarding the generation of new sources of revenue by rural Community Councils have also been made but it is recognized that these revenue sources will be marginal (see more details in Chapter 8).

Regarding the government grant, it is recommended that the grant be based on three components. The first component is to finance the institutional cost of District and Community Councils, including payments to councilors, to ensure that local governments are able to operate from a political and administrative perspective. This is not too different to the current recurrent budget that is allocated to local government structures. Whilst this is not ideal in the longer-term, taking into account the limited revenue sources together with the lack of service delivery, it will not be realistic to expect Community and District Councils to fund the cost of their institutional arrangements. However, as this component will only finance standard institutional structures, should a Community or District Council expand its staff structure, these will need to be financed from own revenues generated.

The second component of the recommended grant is a revenue incentive. A small part of the pool of grant funding available, not more than 10%, should be allocated to Community Councils based on the revenue actually collected. The reason for this recommendation is that this will provide an incentive to all Community Councils to not only collect the maximum revenue possible, but also to record such revenue. Although there is an administrative burden associated with this recommendation, over time it will provide reliable information on the revenue collected at a local government level. Once a property rating system has been implemented for urban and peri-urban Community Councils, the revenue incentive should only be available to rural local governments.

The added benefit of this recommendation is that it will also reinforce the work regarding financial management practices that was commissioned by the FDTT to firstly assess current financial management practices and secondly to provide training to overcome the weaknesses identified in the assessment.

The third component of the recommended government grant is a development financing component. Currently, the Act requires all local governments to prepare development plans under the auspices of the District Planning Unit. A District Plan is then prepared and approved by the District Development Coordinating Committee, which should include the line ministries that operate in the District Council area, and which currently is chaired by the District Administrator. Whilst it is acknowledged that the legislated planning processes are still being implemented, research has indicated that the plans contain a number of projects and initiatives that will not be implemented due to a lack of financing.
The third component of the recommended government grant provides funding at a district level to support the implementation of the District Plan. This will require the District Council, in consultation with the Community Councils in its area of jurisdiction, to jointly identify projects to support the implementation of the District Plan, which will be financed by the development financing component of the grant. This should also eliminate the current anomaly whereby planning is done at a district level whilst the capital grant is disbursed at the Community Council level.

There other possible options were considered. The first option was based on an application for development funds that get assessed in terms of pre-determined criteria and which get assessed for feasibility by the MoLGC or MFDP. The second option considered was to consider the use of population profiles (poverty indexes and demographic information) and development indexes (which quantify development backlogs) and use these indices as a basis of distributing the grant between Community Councils and District Councils. This option requires extensive data at the Community Council and District Council level. The third option consists in using service delivery standards that determine the allocation of the grant. Pre-determined costs are determined for each service that local authorities should provide and the number of citizens that should receive such services, and these are converted into a grant and paid to each local authority. There is an incentive to the local authority to provide the services at the cost included in the grant or at a lower cost to maximise the grant available. It is also strengthens accountability of local governments to citizens as there will be a valid expectation of what services can be demanded of local governments.

**Agriculture and Natural Resource Management**

The decentralization programme provides opportunities for community-driven development and promotion of co-production approaches that could improve access to services, market linkages, and sustainable management of natural resources under the coordination of newly elected Community and District Councils (CCs and DCs) and in accordance with principles of subsidiarity, comparative advantage compatible incentives. There are a number of recent initiatives to improve agricultural service delivery (relevant to resource constrained households) and community-based natural resource management. Those that show promise for scaling up are highlighted in this study. The aim of the agricultural and natural resource chapter is to provide recommendations concerning promising agricultural and natural resource management experiences with potential for scaling up within the context of decentralization, based on local experiences and informed by international experiences. The study distils factors and institutional arrangements inclusive of key stakeholders with potential to: provide greater economic and investment opportunities, increase incomes, and generate employment; generate competitiveness in local, national, regional and international markets; and thereby improve food security and reduce poverty. The study has been carried out using a “modified” case-study approach of “representative” cases of promising production/natural resource management systems; these include: rangeland management, wool and mohair, and homestead gardens and horticulture. These studies will be published separately.

The highlight of the study is that, thanks to a long history of efforts at pilot and medium scale, there are indeed a range of promising approaches and technologies that can be scaled up via collaboration, or co-production between local governments, government services, community groups, and the private sector (producer associations, entrepreneurs, and NGOs). Local Authorities can play a key role in providing the network services among all these actors, provision of infrastructure such, roads, more regular and reliable service delivery, periodic markets, promotion, and financial support to community groups and producer associations.
Indeed, the presence of elected governments provides a latent capacity that previously did not exist or was marginalized.

Promising initiatives from rangeland management include the setting up of various forms of legal mandates to enable establishment of socially accepted user-groups (such as Managed Resource Associations/Areas (MRAs), linked with CCs, DCs and technical assistance, who assume responsibility for management and use over range and watershed resources, within the policies set by the CCs and DCs, including enforcing range use agreements, managing relationships between associations over boundaries and cattle post areas, etc. This will however require clarification of land tenure rights, roles and responsibilities including access, control and security, all of which should promote reduced stock theft, improved range management, and increase livestock productivity.

In wool and mohair promising initiatives highlighted include the promotion of Village Veterinary Workers (VVWs), who are community-based individuals providing veterinarian services at a fee; and support to the Wool and Mohair Grower Associations (WMGAs), who are key user groups in the sector and well positioned to promote services in the industry by assuming management over pending privatized government woolsheds (linked with CCs), and by promoting access to services, transport, and trade, among other activities.

Promising initiatives identified among homestead gardening and horticulture experiences include several labor and water-saving technologies that could contribute to year-round improved household nutrition, food security and incomes, particularly vital for poor and vulnerable households, which are often subsistence-based de jure female-headed (and include HIV/AIDS-affected). Already fairly successful innovations include key-hole gardens, drip irrigation, soil-fertility practices, improved market strategies and processing, and Machobane farming system. CCs and DCs can play a major role in fostering and running periodic service delivery and market systems that have been successful elsewhere in Africa. These can be linked to input trade fairs, and overcome constraints of inaccessible inputs, services and markets, with active involvement of commodity groups and extension staff. Streamlining of extension and CCs planning processes, imperative to coordinated planning and interventions, shows progress in some cases and holds promise for scaling up.

Initiatives regarding watershed management and donga reclamation are important to sustainable resource use in Lesotho. The study found that there is an urgent demand for more research on understanding the causes of the degradation - both geological and human. Research is also needed on technical options for reclaiming and protecting watersheds and on the institutional and economic options for ensuring sustainable use. Current pilot projects are promoting innovative approaches to watershed management based on decentralized structures (i.e. CC coordinated), namely the government’s national water catchment initiative, and need to be monitored and supported to ensure both technical and local user and management sustainability.

Many of the interventions noted above are already scaling up on their own but could be more effective and widely spread if provided with greater opportunities for capacity building, information dissemination, adaptive research and management systems, and broadened participation. There is still insufficient data and analysis concerning economic costs and benefits of proposed interventions, and prior to scaling up, it will be important to further analyze these factors, including the promising pilot interventions in progress. In addition, potential risks that will have to be addressed include lack of clarity in land tenure arrangements and authority over rangelands; incomplete implementation of the decentralization programme (including administrative, financial and capacity); limited markets; poorly adapted or inaccessible
technologies; and limited partnerships and coordination among local authorities, private sector actors, producer organizations, Chiefs, decentralized ministry staff, etc.

**Conclusions and Recommendations**

The results of the in-depth review and analysis of the status of decentralization and service delivery in Lesotho, summarized in the present report, reveal a mixed picture of progress and shortcomings. The findings provide a solid basis for the Government of Lesotho, with support from the World Bank, GTZ and other development partners, to strengthen both the policy framework and the implementation support mechanisms that would enable decentralization to deliver on its political, economic, and social promises. While the report’s focus is on identification of issues, constraints and challenges, as well as solutions going forward, it is important to also emphasize that significant progress has been achieved since the advent of the local government elections in 2004.

The study’s findings and insights re-confirm that the main problems faced by decentralization implementation in Lesotho are not new, and many have been experienced in other countries while also known—albeit in fragmented and incomplete manner—by Lesotho decision makers. The robustness of the findings comes from the fact the core issues and problems were identified from a number of different angles by different research teams, including separate reviews and assessments of the legal and regulatory framework, the institutional framework (both at the national and local level), the status of fiscal decentralization, and the impacts and perceptions at community level. This has allowed the identification of a set of specific and detailed recommendations, and a clear map on the way forward.

The detailed diagnostic and analysis provided in the various chapters of this report have identified a number of issues and challenges with the current status of decentralization in Lesotho. Of these, five stand out as the most fundamental:

(a) Relationship between central and local government, including the level of autonomy afforded to local authorities, clarification of institutional roles and responsibilities, the role and relation with the District Administrator.

(b) Role of traditional authorities (Chiefs). The advent of local councils with new functions and prerogatives was not accompanied by commensurate enforceable adjustment in the role of traditional authorities, particularly in the areas of land allocation, range management, stock impoundment, and security and justice.

(c) Role of the sectors (line ministries). While nine ministries have been targeted for decentralization, and most have started devolving selected functions and resources, the role of sector ministries in service delivery and their relationship with local authorities remains unclear at best, leading to confusion and slow progress on implementation even in areas where specific functions have been devolved. Institutions and mechanisms need to be developed to assist in embedding devolved personnel and resources into CCs.

(d) Fiscal decentralization. Local governments continue to be a fiscal appendix of MoLGC. Despite the introduction of a capital grant system (for funding community council priority development projects), and the payment of the recurrent budget of community and district councils, very little has happened in terms of building the fiduciary and financial management capacity of local authorities, and their ability to identify and collect revenues, as well as the inclusion of district councils into the MTEF budget process.

(e) Communities, particularly in remote areas, continue to be marginalized, are not very clear on the respective roles of the CCs and the Chiefs, and lack capacity and mechanisms for holding
CCs and service providers accountable. Full empowerment of the CCs to effectively integrate service delivery to villages is essential for success of decentralization.

While formal local accountability systems are improving, downward accountability of Councils and service providers to their communities are in their infancy and will need to be strengthened if the dream of demand-driven rural development and service delivery is to be realized.

The recommendations of the study are detailed in Matrix 1 and provide a road map for GoL to put in place a comprehensive program to complete and deepen the process of decentralization. The findings indicate that most of the immediate important measures needed are of an “implementation support” nature, including strengthening the Department of Decentralization, clarifying in practice (and in law, as needed) the roles and responsibilities of key institutional players, rolling out extensive awareness and training programs, setting up fiduciary mechanisms in order to accelerating the flow of funds to local governments and communities, and developing a program of monitoring and impact evaluation.

In addition to the above implementation support measures, a few important issues require policy decisions. The most important ones relate to: (i) the level of autonomy to be provided to local governments; this would have particular implications in terms of capacity to generate and use revenue locally, flexibility in using grants from central government and raising funds through borrowing, personnel and asset management, and accountability for results; (ii) the relationship between the District Administrator’s office and the District Council; (iii) clarification and enforcement of the role of the Chiefs as implied by the provisions of the Local Government Act (and its future revisions); and (iv) finalize the design and mechanisms of the inter-gouvernmental fiscal system to enhance availability of resources at the local authority and community levels, and fiduciary accountabilities.

It is important to note that most of the recommendations provided in the report fall under components 2 and 3 of the Government’s Public Sector Reform and Improvement Program, which identifies public sector reform objectives and activities, as well as processes for donor coordination.

Finally, the study proposes that a mix of instruments (including policy-based--PRSC, TA operation, an IDF grant) be used to support such a program of decentralization implementation and policy reform, by the World Bank in collaboration with other development partners.
1. Introduction

After more than 35 years, the elected local government system in Lesotho was reestablished in 2005 through the election of the Local Authorities, i.e. the Community and District Councils (CCs and DCs). The new system of local authorities had been home grown, based on lengthy analysis of international experience. Across the political spectrum, the political will to move forward on decentralization was at its peak. An exemplary campaign to educate the entire population as to the purposes and functioning of the new Local Authorities, and the electoral process preceded the election. Since then the government has implemented the system and transferred staff, functions and some resources in a gradual approach. With few exceptions, support from development partners to this important task has been limited. This report analyzes the new system and how it has been implemented, what it has achieved so far, the challenges of implementation, and how they can be overcome.

1.1 Background

The Kingdom of Lesotho is a landlocked country with an estimated 2.2 million people living on some 30,000 km². Most of the country is mountainous with peaks that rise to 3500 meters above sea level in the Maluti Mountain range. GDP in 2004 was US$1.6 billion and per capita GDP US$402 with a Gini coefficient of 0.6. It ranked 145 out of 177 countries in 2004 on UNDP’s Human Development Index (HDI). Some 80% of Lesotho’s population lives in rural areas although agriculture contributes only around 17 percent of GDP. About half the income of rural households comes from remittances and despite declining opportunities in South Africa they still account for almost one third of GNP. Lesotho’s population is relatively young with about 37 percent below the age of 15 years. The national average population density for the country is 71 persons per km². However some of the lowland districts have densities exceeding 100. Most of the mountain districts have much lower population densities but they have the deepest incidence of poverty (77 percent compared to Maseru urban 27 percent). Lesotho now has the third-highest rate of HIV prevalence in the world, having risen from 4 percent in 1993 to 23.2 percent by the end of 2005. Fifty-nine percent of the population falls below the poverty line and 40 percent of the population is in the ‘ultra-poor’ category. Studies indicate that HIV/AIDS is a leading factor in the drastic reduction of household income for much of the population contributing to falling agricultural production which, combined with external trade and declining remittances, increase the vulnerability of poor households to food insecurity (USAID 2007, UNDP 2006, FAO 1992, GOL 2005a).

Service delivery, poverty reduction and growth are hampered by the difficulties of the terrain and the inadequacy of the infrastructure. In some mountain areas children walk up to 6 hours each day for schooling. Accessing banks, grinding mills, woolsheds, veterinary facilities, pension offices etc. all require extensive investment in time, and even then may be unavailable. Most of the road transport infrastructure built since 1960 has served the main import/export routes in the lowlands, reinforcing the pre-existing spatial inequality (Walker et al 2005).

In designing this sector work, the World Bank closely followed the priorities set out by Lesotho's Poverty Reduction Strategy (PRS). The relevant objectives and strategies are therefore briefly reviewed here. The PRS articulated the goal "to provide a broad based improvement in the standard of welfare for the current generation of Basotho, without compromising opportunities for future generations". The PRS recognizes the importance of achieving pro-poor growth and of empowering communities and improving governance and public sector performance. In order to achieve these objectives, the national PRSP priorities have been set as employment creation; food
security; infrastructure development; deepening democracy, governance, safety and security; access to health services; increasing human resource capacity; managing and conserving the environment; and improving public service delivery. The highest ranking cross cutting national challenges include combating HIV and AIDS, and addressing gender inequalities as well as issues related to children and youth.

During the community consultations for the PRS “frequent concerns were expressed regarding poor service delivery and the poor attitudes of civil servants charged with serving the public. Delays are frequent, which lead to loss of livelihood opportunities and the creation of fertile ground for bribery. This is apparent in services most sought after, such as obtaining timely medical attendance by outpatients, terminal benefits by civil servants, disbursements of scholarship, work and residence permits and passports. GOL is committed towards identifying and removing public service delivery bottlenecks and rooting out corruption. Reform of planning, monitoring, budgeting and fiscal management processes will be an important part of this. Thus, the following programmes will be undertaken over the next three years:

- Improve the management of public finances through better budgetary operations, and stronger oversight, management and accounting systems;
- Decentralise service delivery within the provisions of the Local Government Act; and
- Improve public service delivery by implementing reforms directed at productivity and management, such as performance appraisals and incentives for delivery in key PRS priority areas.” (PRS, p. xx)

Within the objective of improving governance, the strategies envisaged by the government include the following (PRS, p. xvii):

“Creating and strengthening structures for public participation in governance, at local level, through a clearly developed devolution plan;
Establishing appropriate financial structures for local government as well as financial systems that will enable local communities to implement their local plans;”

In the PRS the Government states that food security is a multidimensional concept that includes production and its equitable distribution, as well as household access to food. It expects improvements in food security will come primarily from expanding formal and informal work opportunities, and through boosting the purchasing power of those with employment. “For those with land, every effort will be made to ensure that they use it as productively as possible either for consumption or income generating purposes, both of which improve food security.” (PRS, p. xiv). Because of this statement, and because agriculture and natural resources fall directly under the competencies of local government agriculture and natural resource practices are therefore given special attention under this sector work. The selection of this priority also took into account that improvements in these sectors are critical both for improving the welfare of the poorest segment of Lesotho’s society, as well as improving the potential tax base for local authorities. In addition, the PRS includes the following strategies for natural resource management (p xix): “Promote environmental conservation for improved productivity by targeting committed families to be taught to harness water resources, increase ground cover and incorporate conservation and agro-forestry techniques into production; Address range management issues by establishing and/or revitalising grazing associations in collaboration with new local government authorities;…”

Until the recent World Bank/IDA Country Assistance Strategy (CAS) for the Kingdom of Lesotho (March 2006), the organization provided little support to decentralization beyond the
The CAS highlighted four strategic objectives: Fighting HIV/AIDS, Sustainable Pro-poor Growth and Job creation, Improving Human Development Outcomes and Improving Public Service Delivery through Government Reform. "The Bank's focus in the CAS is on the rural space, addressing capacity and institutional constraints and empowering communities for improved service delivery and agricultural performance. In addition to funding rural roads, the Poverty Reduction Support Credit (PRSC) proposed for FY08 will have a focus on decentralization and on key reforms in land policy and the provision of water infrastructure" (p20).

The Priority Area Strategy Paper of the Lesotho German Development Cooperation contributes to the implementation of key PRSP strategies and to the implementation of the Public Sector Reform and Improvement Programme (PSIRP) components 2 (Improving Service Delivery through Decentralization) and 3 (Public Service Reform). While the overarching goal of the Lesotho-German cooperation (through GTZ and KfW) is poverty reduction, its specific aim is to create efficient decentralized institutions, including well-functioning local self-administration, and thus contribute to improved service delivery, especially for the rural poor. The cooperation program addresses primarily the political/institutional environment with the goal of enabling the decentralized administration system to deliver effectively and efficiently important tasks for promoting rural development. Key areas of the cooperation are: Decentralized administration and development planning (main focus); land policy and land management; and rural infrastructure; HIV/AIDS and gender are overarching and important cross-cutting issues. The cooperation program involves national, district and community levels and includes, among others, policy advice, capacity building for organizations and human resources, and the financing of concrete development activities.

1.2. Objectives of the Analytical Work
A Concept Note was prepared to guide the analytical work, and the objectives and approaches to the analytical work which was agreed are briefly noted here. The Concept Note stated in particular that Lesotho has been moving ahead with decentralization at a deliberate pace. It found that, as in many other countries, political decentralization has moved ahead of administrative and especially fiscal decentralization and it is urgent to correct this balance. It noted that community empowerment has only been integrated in terms of political accountability and proposed planning from below, and little is as yet happening in terms of strengthening downwards accountability to communities and families by local governments and other service providers, or to involve them fully into the implementation of community-driven development. It found that the status of social capital at household, community and local government levels was poorly documented, and there exists no baseline for the assessment of service delivery at this time which could help design improvements, and serve as a baseline for future impact assessment. Donor coordination and support of decentralization and community empowerment has not been impressive, including the support by the World Bank. The objectives and activities of the sector proposed analytical work were therefore designed to strengthen the already ongoing decentralization processes, and to overcome the identified weaknesses. They take account of the issues identified in each of the previous sections.

Overall objective
The overall objective of the analytical work is to support the ongoing decentralization process in Lesotho, and in particular (1) to strengthen local governance and the ability of communities and individuals to access services and hold service providers accountable; (2) to strengthen the ability of service providers to effectively respond to the demand and scale up their service and
infrastructure provision; and (3) to assist the local governments and other local actors to contribute to local development through improved agriculture and natural resource management.

Specific objectives

The following more specific objectives contribute to achieving the overall objective described above:

1. Describe and analyzed the status of decentralization, community empowerment and service delivery in Lesotho.
2. Strengthen the empowerment of local communities; their ability to implement, co-produce, or demand services and infrastructure; and their ability to hold service providers and local governments accountable.
3. Support the further development and implementation of the intergovernmental fiscal and delivery system, including the capacity of local government to raise revenue, and the design of a grant system from central government to local government.
4. Promote the scaling up of promising agricultural and rural development experiences, with special emphasis on the poor

To better assist the Government of Lesotho's implement the ongoing decentralization and changes in community empowerment and service delivery, the World Bank and GTZ/KfW provided ongoing expertise (technical assistance on demand) to the Government of Lesotho for the establishment of the necessary protocols and systems to make decentralization effective. At the same time the programs analytical work will strengthen the basis for the implementation of the government’s decentralization and service delivery program. The analytical work has been based on through review of existing literature, analysis of existing data, selected rapid assessments.

1.3 Contribution of the proposed analytical work to implementation of Lesotho’s PRS and preparation of the supporting PRSC

As indicated in the CAS, the proposed analytical work supports the preparation of a budget support operation by:

a. Help develop consensus on next steps with decentralization and community empowerment
b. Help with the development of the intergovernmental fiscal system, and the accountability mechanism for the use of funds by local government and communities (fiduciary requirements)
c. Provide an initial assessment of service delivery, and constraints to it, in Lesotho based
d. Help to identify specific actions for the upcoming PRSC policy matrix
e. Laying some research foundations for subsequent PRSCs, and baseline for the future evaluation of PRSPs and PRSCs.

1.4 How the analytical was done

Consistent with the Concept Note, the team carried out the following components, and integrated their findings into the present report:

Component 1: The Status of Decentralization: An analytical report prepared under this component summarizes the status of implementation of decentralization in Lesotho since April 2005, including (a) the status of implementation of the provisions of the Local Government Act (LGA - “the Act”) (b) the roles and implementation capacity and performance of key institutional
players: MOLGC, the nine decentralized ministries, and the local councils and district administration, and (c) the status of service delivery and accountability mechanisms. The report was largely based on literature review and extensive interviews with officials and service providers at both national and local level.

Component 2: Service Delivery, Community Empowerment, and the Dynamics of Local Institutions. This component was pursued by a Community Profiling Study that was carried out to gain in depth understanding of key socio-political and institutional issues facing community development in the context of decentralization. A particular objective of this study was to assess the status of community empowerment within the new institutional context that rests on two pillars: The accountability of elected authorities and service providers to them, and the ability to plan and implement their own development priorities. The study provided information in particularly on: (i) activities and achievements of communities, Community Councils (CC) and (DC) over the past two years; (ii) service delivery, access, and quality of services under the purview of local government; (iii) relationships and accountability at community, CC and DC levels; and (iv) identities and motivations of all involved.

Service delivery, decentralization, and community empowerment was assessed both from the perspective of the households and communities (the users), as well as from the perspective of the sectors. The user perspective was analyzed by using existing studies and data generated by the Community Profiling Study described below. The provider perspective looked at methods of providing the services, and the coverage and quality of the services as assessed by the sectors and other providers themselves. The adjustments that sectors and other providers have already made or are preparing to make to fit in with the ongoing decentralization process, community empowerment, and the new emphasis of government on improved service delivery will be documented (covered in both this component and component 1).

Component 3: Legal Harmonization. The study carried out under this component supports the work of the Legal Harmonization Team (LHT) of the MOLGC, through a review of the (decentralization) legal and regulatory framework, with a more specific focus on gaps, overlaps, and conflicts among national, local, and sectoral legislation.

Component 4: Fiscal decentralization. This component was closely related to the Public Financial Management Programme which government is embarked in with the coordinated support of a number of development partners. It focused specifically on the sub-national and community level, with a particular attention to the revenue raising capacity of local governments and the design of an inter-governmental fiscal grant system. Under this component technical assistance was provided to the Fiscal Decentralization Task Team (FDTT) on: strengthening its membership among key departments in both MFDP and MoLGC, strengthening the weight of its recommendations to a PS-level steering committee; linking its work program to that of the PFM team; developing specific actions to deal with various 2007/08 budget related problems; and preparing a road map to complete the design and implementation of fiscal decentralization. The FDTT requested support on carrying out the following study:

Study on Fiscal Grants and Revenue Raising Capacity of Local Governments. This study is in support of Lesotho’s fiscal strategy and building its larger Intergovernmental Fiscal Architecture (IFA) through:(i) reviewing the initial recurrent and capital transfers since the advent of

\[\text{Local Government; Health and Social Welfare; Forestry and Land Reclamation; Agriculture and Food Security; Trade and Industry; Public Works and Transport; Tourism, Environment and Culture; Natural Resources; Gender, Youth, Sports and Recreation.}\]
decentralization, for inclusion in the FY07/08 budget; (ii) reviewing IFA international/regional experience and recommending options for Lesotho; and (iii) undertaking a study on the revenue raising capacity of local governments, to inform further developments in the IFA.

Component 5: Identification of promising agriculture and natural resource management practices. Based on assessments of key selected local experiences in agriculture and natural resource management, and taking into account ongoing relevant initiatives in Lesotho, the study analyzed constraints and proposes options and approaches to promote effective and responsive rural service delivery within the framework of decentralization. These options are based on appropriate and adaptive arrangements specific to local contexts, inclusive of key stakeholders, and in promotion of community-driven approaches and empowerment.

1.5 Coordination arrangements
The multi-sector nature and the complexity of the task required careful coordination by the government. The government has set up a coordination committee for the proposed budget support and chaired by the Ministry of Finance and including Local Government and other key agencies. Another important coordination body within government is the Fiscal Decentralization Task Team (FDTT), whose work received special support. The coordination for the study was jointly done by the government of Lesotho, the World Bank, and GTZ. Within the Government of Lesotho the coordination was jointly managed by the Director of Local Government in the MOLGC, and the co-chairs of the Fiscal Decentralization Task Team (FDTT) from the MFDP and MLOGC. The World Bank, GTZ and FAO were full partners in the sector work in coordination with DFID, the EU, UNDP, and Irish AID.
2. The Changing International Context

Lesotho is not alone in its decision to strengthen local governance and democratic local authorities, but is responding to issues and needs experienced around the world. In this section we first discuss why local governance has become an issue around the world, what different strands of literature say about it, and what roles local governments are increasingly expected to fulfill in both developed and developing countries. Readers familiar with the literature may want to skip this chapter and move directly to chapter three. We then discuss two sets of mechanisms that could help local governments fulfill their network and service delivery roles and make them accountable to the end users: Local and Community-Driven Development; and how to make services work for the poor via enhanced accountability of service providers to their clients. These three topics are not separate issues but highly inter-related and complementary. In all three areas there has been a growing literature in both developed and developing countries that have resulted in new visions and development practices. The global context is intended to provide a perspective on how Lesotho’s own problems, efforts, mechanisms and achievements fit into what is going on in the World at large.

2.1 Local Governance and Local Government

While the concept and practice of local governance has cut across the entire history of humankind, it has recently become an important component of the academic and development practice literatures. “Globalization and the information revolution are forcing a reexamination of the citizen-state relations and roles and the relationships of various orders of government with entities beyond government – and thereby enhanced focus on local governance.” (Shah and Shah, 2006). While Local Government” refers to specific institutions created by countries to manage local areas and deliver services to local populations, Local Governance deals with all forms of collective action at the local level, and encompasses the role of local government and higher order governments, as well as the role of norms, networks, community organizations and neighborhood associations. Growing bodies of literature from political science, law, economics, public administration, federalism, and the New Institutional Economics are examining local governance and local government. Shah and Shah (2006) have summarized the lessons from these literatures and developed and integrated vision, and a framework for the comparative analysis of these issues. “The dominant concern in this literature is that the incentives and accountability framework faced by various orders of government is not conducive to a focus on service delivery consistent with citizen preferences. As a result, corruption, waste and inefficiencies permeate public governance. Top down hierarchical controls are ineffective; there is little accountability because citizens are not empowered to hold governments accountable” (ibid p. 21).

In considering the broad roles of local authorities, and how they should discharge them the following widely accepted reflects a growing consensus in the different bodies of literature.

Table 2.1: Functions and approaches of local governments

Local Governments

- Overcome market failures and government failures
- Assign functions based on subsidiarity
- Are primary agent for citizens; responsible and accountable to local voters
- Innovate and take risks within limits
• Are externally focused, competitive, open and quick
• Function as coordinators of government and other providers, purchase local services, mediate in conflicts, and develop social capital
• Are autonomous in taxing, spending, regulatory and administrative decisions
• Are accountable for results
• Are inclusive and participatory
• Are focused on transparency
• Recognize that results matter
• Provide for civic dialogue and for exit options through direct democracy provisions and citizens charters
• Are fiscally prudent and cost less

Based on table 1.9 in Shah and Shah, 2006

While the list is largely self-explanatory, a few points in deserve some explanation. Collective action, often spearheaded by government, is needed where markets fail (and of course to provide the institutional basis for markets in the first place). In the recent literature, however, and therefore under the new vision, not only market can fail, but so governments can fail as well, and therefore a framework for local governance needs to account for the possibility of government failure.

Elite capture of the benefits of government actions and resources is a risk for both central and local governments, and an important feature of the history of both developed and developing countries. It is fostered by exclusiveness, secrecy, and coercion. Participation, competition, transparency, and accountability to citizens are some of the mechanisms by which it can be mitigated or avoided.

In the past, many local governments were given residual functions that were not the purview of higher level governments. Under the principle of subsidiarity local authorities assume all taxing, spending and regulatory functions that they are capable of performing, and unless a convincing case can be made to assign them to higher levels of government. The subsidiarity principle guides the assignment of functions to levels of government in the European Union.

Local government is no longer seen necessarily as producers of local services. Instead they coordinate, purchase and contract. The local government sits at the center of a network of that mediates between citizens, communities, various levels of government, and government and private service providers. It produces services only when there are no other service providers who can be contracted for services, such as communities, the private sector, and specialized government entities. Within their functions, and subject to accountability to both its citizens, and for the resources provided by central government and the taxpayers, Local authorities are autonomous entities.

For the reasons discussed in this section and other reasons, many developing countries, including in Africa, have decentralization initiatives under way. However, in most developing countries the local governments continue to play a very small role, and discharge only a few functions mandated from above. Tax and revenue decentralization has not kept pace with political and expenditure decentralization. Most local governments have little autonomy in hiring and firing their own employees. “Overall, local governments in developing countries typically follow the old model of local governance and simply provide a small range of local services directly. The new vision [see list above], with local governments assuming a network facilitator role to enrich
the quality of life of local residents is yet to be realized in any developing country” (ibid, p. 21). It should be added here that few developed countries have yet achieved the vision as well.

2.2 Local and community-driven development

But what is the role of communities in local development, and how can local governments coordinate and assist them in their efforts, and provide them with improved services? And what is the role of technical agencies, i.e. the “sectors”? Local governments can act as independent facilitators to harness the power of communities and other actors. Some of these come for free, including goodwill, consent, good Samaritan values, community spirit, collective public action and compliance. (Moore 1996). The concept of harnessing the energies and talent of communities for poverty-reducing rural development has deep historical roots. In India Mahatma Gandhi had a vision of village republics as the way forward. However, in practice, most developing countries (including India) adopted highly centralized strategies of rural development, often paying only lip-service to decentralization (for a historical review see Binswanger et al, 2006). This top-down approach failed widely across the globe. It induced rethinking about decentralized development in the 1990s that found its synthesis in “Local and Community-driven Development.” The thinking has evolved through three stages:

1. Community Based Development (CBD) was often the starting point. There were two main variations of this approach. (a) The first variation was the community consultation model. In this, government agencies or NGOs consulted communities, but operated as direct service providers using their own staff. This model was widespread in the provision of frontline services to rural areas such as agricultural extension. (b) The second variation was the community participation model. Government agencies or NGOs invited participation from communities in choosing development priorities and project design, co-financing the projects with contributions in cash or in kind, and operating the projects after completion, including the levying and management of user fees. This approach was common, for example in rural water supply and small scale irrigation. It had the potential of gradually building community capacities, but did not empower communities by devolving funds and implementation responsibility to them. High overhead costs associated with the management of community projects by service providers reduced the sums actually available for subprojects. Contracting and auditing processes were often too unwieldy for small-scale disbursement.

2. Community Driven Development (CDD) went well beyond the community consultation and community participation model to a community empowerment model. It made funds available directly to communities and devolved the implementation responsibility for projects entirely to them. In its most advanced form, such as in Burkina Faso, it provides untied funds to communities under a formula as part of the sharing of central revenue. Communities augmented these resources through co-financing in cash and in kind and through collection of user fees. This empowered communities to plan and execute subprojects according to their own perceived priorities. In this approach, government agencies and NGOs operated primarily as facilitators and trainers. Communities were heavily involved in the design and choice of technology for their chosen projects, and usually manage the project funds and directly contract for goods and services. The successful Aga Khan Foundation programs in the mountains of Pakistan and in India utilized this approach. Community Driven Development (CDD) is a phrase that has meant different things for different agencies, covering a host of approaches ranging from community consultation to empowerment. But as defined today by the World Bank, CDD means the community empowerment model.
It quickly became apparent that the community empowerment model could not function in an institutional vacuum, but required coordination and support at the local government level, and from specialized sector agencies. So it evolved towards the concept of **Local and Community Driven Development (LCDD)**. This links together community empowerment, local government development and the adaptation of sectoral programs into a coherent, coordinated framework. Under this approach, local development is seen as a co-production of communities, local government and the sectors, rather than a program of just one of these actors. (Box 2.1). Their linkage can produce synergies and reduce duplication and turf battles. It helps clarify the precise functions and responsibilities of national governments, local governments and communities, and empower all actors to fully execute their roles (especially in regard to finances and skills). The global consensus is now evolving towards LCDD, and the challenge is now to devise ways of scaling it up.

**Box 2.1: Linking Community Empowerment, Decentralized Governance, and Sector Approaches to Local Development**

Three alternative approaches to local development—decentralized sector approaches, local government approaches, and community support approaches—emphasize many of the same principles: empowerment of the poor and other marginalized groups, responsiveness to beneficiary demand, autonomy of local institutions, associated with greater downward accountability, and enhancement of local capacities.

The three approaches organize their efforts differently. The sectoral approach is organized according to the services to be provided. The local government approach is organized round a territorial jurisdiction with some autonomy. The community support approach is organized around social groups that, traditionally or voluntarily, make collective decisions. Each approach has generated a distinct body of theory and practice. Many countries use all three approaches. This can lead to confusion and duplication. Local and Community Driven Development is a new framework that seeks to link all the three organizational structures, and sees them as co-producers of local development. It promises to improve coordination, synergy, efficiency, and responsiveness in local development processes.

*Source: World Bank, Local Development Framework paper, 2005*
2.3 Making Services Work for Poor People

Too often in developed and developing countries alike, services fail the poor – in accessibility, quality and affordability. However, there are many examples across the world where this is not the case. The main finding of the 2004 World Development Report is that “successful services for poor people emerge from institutional relationships in which the actors are accountable to each other.” (World Bank, 2004, page 46). For this reason we will pay attention in this ESW on how well the accountability relationships work in Lesotho.

Figure 2.1. Institutions of service delivery: Short and long routes of accountability

The "long route" to accountability implies that services are provided through the government taking responsibility rather than through market based transactions. Citizens hold politicians accountable through voting and voice, and politicians hold providers of services accountable. Clients as citizens pay taxes and pressure and influence policymakers; policymakers, in turn, influence providers and set incentives for them. When the relationships along this long route break down, service delivery fails and human development outcomes are poor. When the relationships are strong, good outcomes result. There are several mechanisms through which citizens can exert power over policymakers: elections are the most obvious ones, but participatory development planning, budgeting, and reporting are other mechanisms through which the citizens can influence politicians and policy makers. Following the example of Porto Alegre, Brazil, participatory budgeting could work well to make municipal government more accountable.

We will review the process and practice of budgeting, planning and reporting at the levels of Communities, Community and District Councils. We will also investigate whether providers have the incentives to fulfill their service obligations. For instance, is service providers’ pay affected by the fact that the services are actually provided or not? And even more basic, do service providers show up for work? Teachers’ and nurses’ absenteeism rates in schools and clinics provide a clear example of non-provision of statutory services.
Many government use “compacts” (here defined as results-agreements within the public sector) or “contracts” (formal contracts between government and service providers) to strengthen these incentives. While compact describe duties and rights of service providers in great detail, contracts in addition make the provider’s pay directly dependent on the actual provision of the service, i.e. to establish a contract-based relationship. In realizing the vision of local governance discussed above, such compacts and contracts are likely to pay an important role.

The “short route” to accountability connects clients and providers directly. Citizens demand accountability from service providers in terms of implementation, targeting and performance of programs. When it comes to market transactions, the accountability relationships are clear: the client delegates the service to the service provider and finances it. The provider performs his task and has the obligation to minimize information asymmetries. Enforcement mechanisms protect clients and allow them to withdraw from contract obligations if they are not satisfied with the quality of the service.

But in non-market transactions—public service delivery—the accountability is less clear-cut. How does one establish the client’s power over the provider? Social or community accountability requires an enabling environment for civic engagement and the development of appropriate tools for participatory monitoring and evaluation. School boards, parents associations, and user committees, are frequently used. However the powers and resources given to such fora differ widely across and within countries, and where they are very limited, there is little strengthening of accountability. Other solutions consist of the introduction of user fees, increasing the choices of the clients, or giving them the chance to participate more actively in the service provision process. An additional mechanism often advocated is the use of citizen report cards, or hotlines for citizens to bring grievances to the service manager or the responsible authorities. As discussed in the section on local and community-driven development, empowering communities to design and manage project and services directly, and control the money used to contract service providers is an important approach to direct accountability.

Strengthening the short route of accountability through such mechanisms works particularly well when the clients and the type of service to be provided is very heterogeneous, and when policymakers/ supervisors lack the necessary information to monitor how well service delivery to the clients is working. This is the case for many services in rural and mountainous areas.
3. The Local Government System in Lesotho

Lesotho has had a long experience with different approaches to decentralization which is reviewed fully in Volume 2, Annex 1. After Lesotho gained independence, the Government of Lesotho in 1968 abolished the District Councils set up by the colonial government. It then went on to put in place its own model of decentralization and allocated a short list of minor functions to local structures. The head of the district – District Administrator - supported by heads of line Ministries departments as his/her consultants, saw to it that the decisions of the Central Government were implemented. To promote participatory local development planning and administration the Local Government Act 1969 was put in place to establish District Development Committees (DDCs) Village Development Committees (VDCs), Constituency Committees (CCs) and Ward Development Committees (WDCs). In the late 1970s and early 1980s, efforts were made to open up decentralization to become more inclusive. This system experienced difficulties because of inadequate training to the local authorities marginalization of chiefs, and un-clear separation of functions in service delivery between VDCs, line ministries and chiefs, little funding, and weak community participation in decision making and planning.

The 1980s saw a change in name of the head of district from that of District Administrator (DA) to that of District Coordinator (DC) who were under the Prime Minister’s Office. These efforts were again frustrated by the lack of clarity on specific powers of the DCs, lack of decentralized budget, and marginalization of chiefs. During the military government after 1986, new legislation created the post of the District Military Officer (DMO) as the top manager at district level. In order to become democratic and people-driven, decentralization was backed-up with elections of office bearers every 5 years, a decentralized lump-sum budget allocation and depoliticization through the banning of political party participation. The performance of decentralization was impaired by lack buy-in and cooperation from chiefs.

The Maseru City Council (MCC) which was created in 1990 by the Military Government. The MCC was to be autonomous and govern the Maseru City in all respects, However, it was again undermined by a lack of political will to relinquish central power, poor training, unclear separation of powers between the MCC and institutions in Central Government and continued conflict among the MCC, the Ministries, and the Chiefs

3.1 The Current Local Government System

The new democratic constitution clearly articulated the will of the Basotho to move forwards with democratic decentralization. It required parliament to establish a system of local government which must perform such functions set out in an Act of Parliament. A final local government dispensation was developed and implemented through the promulgation of the Local Government Act 1997 and the Local Government Election Act 1998. Due to the political instability at a central government level that ensued in 1998, local government elections were only held in 2005.

The Local Government Act envisages autonomous Local Authorities. The “Programme for implementation of Local Government in Lesotho” approved by Cabinet on February 10, 2004 states the following broad objective for Decentralization in Lesotho.

- Deepen and widen public access to the structures of government;
• Bring services closer to the people thereby improving service delivery;
• Promote people’s participation in decision making, planning and implementation of development programmes. This gives the electorate greater control over the development process;
• Promote equitable development in all parts of the country through the distribution of human, institutional and infrastructural resources.

These objectives articulated in the Act and in the Programme of Implementation incorporate many of the features of local governance that recent literature emphasizes that are listed in Table 1.1. Specifically it emphasizes the involvement of people by giving them better access to government structures, bring service delivery closer to people and improve it, and involving them specifically in decision making, planning and implementation of development programs. It also stresses enhanced control by people over the development process, i.e. the accountability of government and service providers to end users. It also emphasizes regional equity in access to human, institutional and infrastructure resources. It is important to view the gradual process towards decentralization in the context of the Lesotho homegrown approach to decentralization that is articulated in the Local Government Act. It combines elements of both devolution and deconcentration.³

The following local government structures, which are collectively referred to as local authorities in Lesotho, have been established in the Local Government Act, 1997 (Figure 3.1)

Figure 3.1: The Structure of Local Government in Lesotho

³ Devolution or democratic decentralization is a process in which local authorities are created by law that are separate from the central administration. Local representatives – either elected or appointed by the population – are progressively given powers to decide on a variable range of public matters and progressively gain access to resources which can be utilized at their discretion; the political base is the locality, and powers are devolved. Deconcentration is a process in which a field office, or official, or a central department or ministry acquires some degree of delegated authority to make decisions or otherwise regulate the operations of the office. This authority may vary from day to day. The office or official is responsible to the central agency for these decisions. The political base is the nation and powers are delegated.
The country has distinct urban and rural areas. Geographically, the country is divided into mountainous and low lands. The mountainous regions are characterised by a lack of infrastructure such as electricity, water, roads and communication systems. The major urban and peri-urban areas are typically located in the lowlands, where infrastructure investments have been made over the years but the areas surrounding the urban and peri-urban areas have limited infrastructure.

The programme of action of 2003 makes reference to the three types of local government structures in Lesotho, namely Community Councils, Municipal Councils and District Councils. The functions and roles of each of these types of local government are set out. These are summarised as follows:

**The functions of Community Councils are defined as:**
- Identity and discuss local opportunities and needs;
- Formulate, implement, monitor and evaluate community-based Plans; and; through the technical assistance of the District Council, solicit the assistance of donor and other development agencies to implement self help initiatives or community based plans;
- Provide a forum of contact between and among community representatives, local leaders, and politicians to enhance the flow of development information;
- Represent community in development matters and act as a source of reference point in matters pertaining to community development;
- Coordinate development activities of participating voluntary organisations and local agencies to enhance smooth planning and implementation;
- Coordinate National activities in their respective areas, and
- Any other functions delegated by the District Council outlined in the Local Government Act 1997.

**The functions of Municipal Councils are defined as:**
- Identity and discuss local opportunities and needs;
- Formulate, implement, monitor and evaluate community-based Plans;
- Through the technical assistance of the District Council, solicit the assistance of donor and other development agencies to implement self help initiatives or community based plans;
- Provide a forum of contact between and among community representatives, local leaders, and politicians to enhance the flow of development information;
- Represent community in development matters and act as a source of reference point in matters pertaining to community development;
- Coordinate development activities of participating voluntary organisations and local agencies to enhance smooth planning and implementation;
- Coordinate National activities in their respective areas, and
- Any other functions delegated by the District Council outlined in Schedule 1 of the Local Government Act 1997.

**The functions of District Councils are defined as:**
- Management of functions outlined in Schedule 1 of the Local Government Act 1997;
- Monitor performance of Community Councils in the provision of services;
• Assist and support Community Councils in the provision of services. The envisaged support may be technical, financial etc;
• Monitor performance of Line Ministries and other service providers within the district;
• Coordinate activities of service providers within the district;
• Monitor the implementation of the District Plan;
• Consolidate all other sources of funding as per the emerging priorities of Community Councils.

Clearly many of these functions place local authorities at the heart of networks.

The relationships between District Councils and Community Councils are also addressed in the program and are summarised below.

The intention is to establish District Councils as the core institutions of the local government system in Lesotho. District Councils will eventually have the full range of powers and functions commonly associated with modern local authorities. It is further envisaged that District Councils will have the resources, capacity and infrastructure to deliver a wide range of developmental services to the people living and working in their areas.

As the Local Government system matures, Community Councils may receive more powers and functions from District Councils in whose areas they fall. This does not mean that Community Councils are subservient to District Councils, but neither are they autonomous from them. The two levels of local authority are distinct from one another but they are inter-related with one another and interdependent on each other.

Where District Councils will have a strong development and service-delivery role, Community Councils will have a strong representative and oversight role as far as it concerns their specific communities.

The District Councils shall delegate certain functions to the Community Councils especially such functions that can be best performed at Community Council level. Therefore, an important aspect of the District Council's task would be to build the capacity of Community Councils to take responsibility for managing and delivering services (or aspects of services) that could best be managed and delivered at community level.

At the same time, District Councils will be required to provide technical, administrative and financial management assistance to Community Councils, based on the modern practices of shared service centres and close council cooperation, in order for Community Councils to perform their functions and exercise their powers. For example, District Councils will be required to keep the accounting records of Community Councils, to submit financial reports to Community Councils and to provide human resources management services for Community Councils. It is envisaged that District Councils may employ personnel that they will assign to assist, and to work in the offices and areas under the supervision of Community Councils.

It should be noted that the Programme complements the legislation and provides a better understanding of certain matters that are not addressed in the Act. The Programme acknowledges the need for a revision to the Act and the need to issue regulations but this has yet to happen. It has also influenced the relationship between Community and District Councils.
3.2 *The Role of Women in the Local Authority System*

In Lesotho, women on average have higher levels of literacy in Lesotho than men. A third of the CC seats are reserved for them, which is implemented by assigning a third of the electoral divisions in each CC area to women candidates only. In addition, they can compete in the remaining two thirds of the electoral divisions. Thanks to this reservation and to their ability to compete for open seats, they currently hold over sixty percent of CC seats in Lesotho. A number of women are also chiefs. As a consequence of the long absence of many men from villages for prolonged periods of time as herders or migrant workers, women have for a long time played the major role in agriculture and livestock production, as well as in the management of other local affairs. The issue of how women’s roles play out in practice is further discussed in chapters 5 and 9.

To facilitate women’s equitable rights and entitlements underpinning access to resources, opportunities and benefits, GoL is promoting strategies to eliminate discrimination and strengthen women’s inclusion in agricultural activities; these include notably the PRS, and the National Gender and Development Policy. Most importantly in the context of the role of local authorities the National Land Policy and proposed Land Bill provides women’s equal status to men with regards to land rights (to hold, use, transmit, obtain and deal with), and includes: women’s entitlement to hold and register land in their own names, required consent of both spouses during disposal of community of property land, inheritance based on merit rather than sex, and women’s representation on local land adjudication committees.

3.3 *The Sectoral Responsibilities of Local Authorities*

The sectoral responsibilities of local authorities are set out in the First Schedule to the Act. Certain of those functions are specifically reserved for Community Councils. The Act states that local authorities are charged with the regulation, control and administration of all matters of these functions, which are summarised in Figure 3.2 below.

**Figure 3.2: Responsibilities of Local Authorities[^4]**

<table>
<thead>
<tr>
<th>Schedule 1: Responsibilities of Local Authorities</th>
<th>Schedule 2: Specific Responsibilities of Community Councils</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Health (e.g. food inspection, refuse collection and disposal)</td>
<td>Control of natural resources and environmental protection</td>
</tr>
<tr>
<td>Physical planning</td>
<td>Land/site allocation</td>
</tr>
<tr>
<td>Promotion of economic development</td>
<td>Minor Roads</td>
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<tr>
<td>Streets and public places</td>
<td>Grazing control</td>
</tr>
<tr>
<td>Parks and gardens</td>
<td>Water supply in villages (maintenance)</td>
</tr>
<tr>
<td>Control of building permits</td>
<td>Markets (provision and regulation)</td>
</tr>
<tr>
<td>Fire</td>
<td>Burial grounds</td>
</tr>
<tr>
<td>Education</td>
<td></td>
</tr>
<tr>
<td>Recreation and Culture</td>
<td></td>
</tr>
<tr>
<td>Roads and Traffic</td>
<td></td>
</tr>
</tbody>
</table>

[^4]: As set out in Schedules 1 and 2 to the Act.
<table>
<thead>
<tr>
<th>Schedule 1: Responsibilities of Local Authorities</th>
<th>Schedule 2: Specific Responsibilities of Community Councils</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Resources</td>
<td></td>
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<tr>
<td>Fencing</td>
<td></td>
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<tr>
<td>Local government administration of central</td>
<td></td>
</tr>
<tr>
<td>regulations and licences</td>
<td></td>
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<tr>
<td>Care of mothers, young children, the aged and</td>
<td></td>
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<tr>
<td>integration of people with disabilities</td>
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<td>Laundries</td>
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<td>Omnibus terminals</td>
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<tr>
<td>Mortuaries and burial of bodies of destitute</td>
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<tr>
<td>persons and unclaimed bodies</td>
<td></td>
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<tr>
<td>Public decency and offences against public order</td>
<td></td>
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<tr>
<td>Agriculture: Services for the improvement of</td>
<td></td>
</tr>
<tr>
<td>agriculture</td>
<td></td>
</tr>
<tr>
<td>Forestry: preservation, improving and control of</td>
<td></td>
</tr>
<tr>
<td>designated forests in local authority areas</td>
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</tbody>
</table>

There is a definitional challenge in understanding what the functions set out in the First Schedule of the Act mean from a practical and implementation perspective. Furthermore, the roles and responsibilities of specific local government structures have not been fully developed. Schedule 1 of the Act appears to apply to all local authorities while those functions set out in Schedule 2 of the Act are the specific responsibility of Community Councils. In other words, where there is a municipal council, as in the case of Maseru, the responsibilities in Schedule 2 will be the responsibility of Maseru as there are no Community Councils in the Maseru Municipal Council area of jurisdiction. It also does not appear that the functions set out in the First Schedule have been adopted by District Councils, whose responsibilities emanate more from the Programme of Action rather than the Act.

### 3.4 Planning

In terms of the Act, a District Planning Unit (DPU) must be established for each administrative district. The DPU consists of planning and other officers of any Ministry that carry out their functions within the administrative district. The DPU must undertake the following functions:

- Provide planning services for the Councils within its district;
- Consider draft development proposals submitted by Councils and prepare an annual District Development Plan, which are submitted to the DDCC;
- Finalise the District Development Plan after taking consideration of the recommendations of the DDCC;
- Ensure that the District Development Plan conforms to the National Development Plan.
- There is a District Administrator (DA) appointed for each administrative district. The DA, who reports to the Minister of Local Government, is responsible for co-ordinating all public officers (excluding the staff of local authorities) in the district.

Each local authority must establish a standing committee of Council that must submit development plans and schemes for projects to the District Development Co-ordinating
Committee (DDCC) for their consideration in drawing up the District Development Plan. The functions of the DDCC are to consider draft development plans for the District prepared by each Council and to aggregate such plans into a composite District Development Plan and to approve such plan. These initiatives are an attempt to co-ordinate the work of Central Government ministries with local authorities and ensure that there is a bottom-up approach to planning. Theoretically, integrating planning is an effective mechanism that enables co-ordinated planning between different tiers of local government. The Act promotes this form of integration. In practice, it is much harder to achieve the objectives of planning where there are considerable resources constraints, particularly finances, as plans that emanate from communities are usually cut-back from an affordability perspective. Internationally, research has shown that local government planning processes tend to be ineffective where such plans are prepared in the absence of realistic financial parameters and not linked to the budgeting process.

Figure 3.3 is a summary of the planning linkages between Central Government, District Councils and other local authorities as envisaged by the Act.

### Figure 3.3: Planning Linkages

<table>
<thead>
<tr>
<th>National Development Plan</th>
<th>Prepared by MFDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Development Plan</td>
<td>Prepared by DPU after inputs of DDCC</td>
</tr>
<tr>
<td>Council Development Plan</td>
<td>Standing Committee of Council with input from DPU</td>
</tr>
</tbody>
</table>

#### 3.5 Fiscal arrangements

The GOL clearly recognizes that decentralization of functions and resources to fulfill them must go hand in hand, and is pursuing a gradual approach to do so. At the present time decentralization of public service responsibilities is very limited. However, Government intends to decentralize health, water and sanitation and other services in 2008, and transfer the necessary resources along with the responsibilities. In this way, the establishment of a matrix structure between local governments and line ministries will be avoided. This approach will also avoid accountability conflicts when functions are decentralised.

To promote strengthen local governance and accountability, the establishment of an effective and adequately funded system of local government is paramount to the process of Decentralization. Taking into account poverty, population, geographical and economic factors, there will be limitations on the amount of revenue that can be generated locally, especially for rural councils. Supplementing locally generated revenue through fiscal transfers from the Central Government will be necessary, and will assist in the establishment of an effective local government system. Nevertheless, locally elected political office bearers need to take responsibility for generating revenue at a local level that will be used to provide services required by citizens and which are the mandate of local government.
The identification of operating costs (excluding staff) has been undertaken and it is envisaged that the transfer of these funds will be “decentralised” together with the appropriate budgets from the line ministries that will be affected by Decentralization.

Revenue generating responsibilities and ability to borrow
The Act enables local authorities to impose and levy property rates subject to any limitations prescribed by the Minister. The Minister may, by an order in the gazette, declare that the provisions of the Valuation and Rating Act 1980 apply to a local authority. It should be noted that the Minister’s limitations override the Valuation and Rating Act. It appears that the Minister sets the parameters of taxes, levies or service charges that may be levied by defining the scope of taxes, levies or service charges and setting out the maximum amount that may be levied for each tax, levy or service charge. To date, it does not appear that the Minister has made such a determination.

The Minister is responsible for also issuing general regulations regarding borrowings. The regulations must state the maximum allowable rate of interest and conditions for repayments. The approval of the Minister is not required if total loans outstanding, including the envisaged borrowings, does not exceed the revenue of the Council intending to borrow for the past two financial years. The approval of the Minister is required where the rate of interest on the proposed borrowing will exceed the maximum rate that is regulated. Borrowings may be secured, with the consent of the Standing Committee on Finance. The form of security shall be prescribed by rules, regulations or by-laws. The overall limitation on borrowing is 5 times the average of the last two years’ annual revenue. Other than the MMC, there have not been any borrowings by local authorities.

Financial governance responsibilities
Every local authority must have a Standing Committee on Finance. This Committee must deal with all financial matters that are not included in the approved budget prior to submission to the Council. The Town Clerk or Council Secretary must submit a monthly income and expenditure statement to the Council. At year-end a detailed financial statement reflecting the financial status of the Council must also be submitted. The accounts must be audited every 6 months by the Government Auditor or any other qualified auditor appointed by the Minister. The Minister must prescribe the form of the budget, which must in summary set out expenditure, rates and other income. It appears that there can be no deficit as rates income must be used to balance the budget. It appears that a supplementary budget may also be prepared, provided that a copy is submitted to the Minister. All revenues received must be deposited in an approved bank account and accounted for in the Council Fund. The expenses incurred by the local authority are financed from this fund. A monthly statement of receipts and disbursements must be submitted to the Council.

3.6 By-laws
By-laws must be promulgated as required in terms of the Act or which are necessary for Council to carry out its duties. By-laws must be approved by the Minister, which notification must be gazetted. The National Assembly must ultimately approve all by-laws enacted in terms of the Act.
3.7 Roles and responsibilities of District and Community Councils

Based on the field trips undertaken, the District Councils see their role as supporting Community Councils to undertake their functions and as a conduit between the MOLGC and the Community Councils. The District Councils are responsible for consolidating the financial reports of Community Councils, procuring goods and services, managing the cash of the Community Councils, settling disbursements on behalf of the Community Councils using the cash managed at a District Council level on behalf of all the Community Councils, consolidating and approving the budgets of Community Councils and allocating the grant received from the MoLGC between themselves and the various Community Councils in their District.

The role of the Community Councils is to prepare plans, identify capital projects that can be funded from the Capital Grant, enforce and collect grazing fines, generate revenue from the sale of natural resources and participate in land allocation matters. In some of the more urban Community Councils, additional minor projects are undertaken that are funded from the recurrent budget. There is limited evidence that the roles and responsibilities set out in the Act are being undertaken.

It should be noted that the consolidated budgets of all the Community Councils in the District that is submitted to the MoLGC by the District Council usually exceeds the grant that is allocated by the MoLGC. The District Council involved therefore has to reduce the budgets prepared and submitted to it by the Community Councils to bring it in line with the allocation received from MoLGC on whatever basis they believe is appropriate (in some cases it is a pro-rata reduction whilst in other cases a more scientific basis is apparently used).

3.8 Roles and responsibilities of the District Administrator

There is a DA in each district who is appointed by the Prime Minister in consultation with the Minister. The DA, who reports to the MoLGC, is the representative of Central Government at a District level. The DA co-ordinates the functions of the various central government ministries in each district and is also the official inter-phase between local government and the Central Government.

There are sub-accountancies in each DA’s office and this is where certain revenues collected at a Community Council level are deposited. In certain instances these monies are deposited in the sub-accountancy suspense account which means that the Community Council can use these funds accordingly. However, the criteria for depositing the monies in the suspense account or the sub-accountancy account which is credited to the account of central government is also not known.

The role of the DA in relation to local government is not certain. There is also confusion on the roles of the DA in respect of local service delivery and revenue collection. For example, in the Leribe District, the revenue from public toilets is credited to the sub-accountancy account whilst the Community Councils that have public toilets are responsible for the cleaning thereof and the provision of consumables for such toilets, pay for the water consumed and also are responsible for paying the electricity charges, where applicable. In Butha Buthe, the District Council is responsible for monitoring and administering the market but the market fees generated are paid into the sub-accountancy at the DA’s office.

The relationship between the DA’s office and the District Councils is also not regulated through a legal framework. In one of the District Councils visited, the relationship between the DA’s office and the District Council was strained. The District Council did not believe that there was any
support from the DA’s office and therefore communicated directly with the MoLGC rather than doing so through the DA’s Office. The reason for the strained relationship was not established.

The future role of the DA in a decentralised system is not known and this could be part of the reason why there is not necessarily a good working relationship between the DA’s office and the District Councils. The uncertainty of Decentralization was detected as a concern at most of the DA’s offices visited during the course of this assignment. There is no direct relationship between the DA and the Community Councils, other than the requirement that the Community Councils deposit the cash collected in their Community Council area in the sub-accountancy account. It should be noted that several Community Councils in the Butha Buthe District had only recently become aware of this requirement and have still to deposit the cash collected into the sub-accountancy account (the cash was being kept in an office safe at the date of the visits).

3.9 **Staffing of local authorities**

A standard organogram of staffing structures has been established for the District Councils and Community Councils. These structures are uniform across the 10 District Councils and the 128 Community Councils. The structures for the Community Councils in particular, in terms of their current functions, appear to be costly and absorb significant funding. Whether this will change in the future with Decentralization, due to efficiencies arising from economies of scale, is not known.

The organograms are as follows:

**Figure 4.1: Standard staffing of local authorities**

<table>
<thead>
<tr>
<th>District Councils</th>
<th>Community Councils</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Council Secretary (DCS)</td>
<td>Community Council Secretary (CCS)</td>
</tr>
<tr>
<td>Administration manager</td>
<td>Accounts clerk</td>
</tr>
<tr>
<td>Finance Manager</td>
<td>Clerical assistant</td>
</tr>
<tr>
<td>Human Resource Manager</td>
<td>Messenger</td>
</tr>
<tr>
<td>Legal Officer</td>
<td>Cleaner</td>
</tr>
<tr>
<td>Procurement Officer</td>
<td>Night watchman</td>
</tr>
<tr>
<td>Planners</td>
<td></td>
</tr>
</tbody>
</table>

These structures are uniform across the 10 District Councils and the 128 Community Councils. The structures for the Community Councils in particular, in terms of their current functions, appear to be costly and absorb significant funding. Whether this will change in the future with Decentralization, due to efficiencies arising from economies of scale, is not known.
4. The Status of Implementation of Decentralization

The aim of this chapter is to provide an analytical report on the status of implementation of decentralization in Lesotho during the past two years (since April 2005). More specific objectives of the study include review of: (i) the status of implementation of the provisions of the Local Government Act 1997; (ii) the roles and implementation capacity and performance of key institutional players: Ministry of Local Government and Chieftainship (MoLGC), the nine decentralized ministries5, and the local councils and district administration; (iii) the status of awareness about decentralization; and (iv) implementation progress at the district level.

4.1 Methodology and Chapter Outline

The chapter is based on reports in the MoLGC, extensive review of the literature, meetings with many officials in the decentralized line ministries, and field visits to Leribe District. The findings on program implementation at the district level from visits to four additional districts by the fiscal decentralization consultant complete the chapter. The analysis addresses issues of political commitment to the process, Decentralization policy, strategic or project planning for Decentralization, the potential role of corporate governance principles and practices in the running of the newly established entities, the need to institute a process of change management, and the role of civil society organisations in enhancing the process of Decentralization.

4.2 Status of Awareness about Decentralization

There is little doubt that tremendous efforts were directed at sensitizing people about local government prior to the local government elections in 2005. Some people interviewed in line ministries indicated that they got involved in the exercise. They noted that this is the only time in the whole process where there was extensive inter-ministerial collaboration on the subject of local governance. Post local government elections, some people in line ministries indicated that they had little interaction with MoLGC regarding decentralization.

The best source of information on the impact of the sensitization exercise that was held prior to the elections is the Afrobarometer Round 36 results which are based on survey that was conducted shortly after the election in Mid 2005. People were asked a series of questions about the recent local government elections that had just taken place. More than 96 % of those interviewed knew that the elections had taken place, and 52 % said that they voted. The proportion casting their votes was significantly higher in rural areas than urban areas; a result which is not entirely surprising in that more concentration was placed on decentralization and the rural areas were particularly targeted. The results of the survey show a significant correlation between education and voting.

5 Local Government; Health and Social Welfare; Forestry and Land Reclamation; Agriculture and Food Security; Trade and Industry; Public Works and Transport; Tourism, Environment and Culture; Natural Resources; Gender, Youth, Sports and Recreation.

In the survey, people were asked to assess the performance of the local authority on four functions; namely road maintenance, keeping the community clean, collecting local taxes and spending local income. The table below, carried out just prior to the elections can serve as a future baseline for the assessment of the impact of decentralization. At that time a good number of those interviewed said that they did not know enough about the local council to answer the question. It will be interesting to see whether people’s trust of local authorities increase in time compared to the results of the 2005 Afrobarometer results. It is worth noting that the same survey asked people whether they favored the new system of local government or prefer the old system. A 60% majority of the respondents noted that they prefer the new system.

Table 4.1 Baseline assessment of functioning of local authorities at the time of their creation

<table>
<thead>
<tr>
<th>Activity</th>
<th>Very badly</th>
<th>Badly</th>
<th>Don’t know</th>
<th>Well</th>
<th>Very well</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintain roads</td>
<td>24%</td>
<td>12%</td>
<td>30%</td>
<td>22%</td>
<td>12%</td>
</tr>
<tr>
<td>Keep village clean</td>
<td>26%</td>
<td>16%</td>
<td>32%</td>
<td>18%</td>
<td>8%</td>
</tr>
<tr>
<td>Collect taxes</td>
<td>13%</td>
<td>7%</td>
<td>70%</td>
<td>7%</td>
<td>4%</td>
</tr>
<tr>
<td>Spend revenues</td>
<td>13%</td>
<td>6%</td>
<td>72%</td>
<td>5%</td>
<td>4%</td>
</tr>
</tbody>
</table>

The nature of decentralization is such that sensitization has to be an ongoing activity that provides continuous debate and examination of progress and not a once off stint as has been the case so far.

4.3 Political will and commitment at central level

Prior to the Local Government elections in 2005, there was extensive coverage regarding the implementation of the Local Government Act. Everyone in GoL was involved from the Head of Government through the Ministers, Principal Secretaries to other functionaries in GoL. At that time, although the MoLGC was the driver of the process, there was little doubt about the level of commitment to the process of Decentralization at the highest levels of government. After the 2005 Local Government elections, the MoLGC has largely remained the only Ministry that continues to talk about the Decentralization issues and support for local governance. Structures such as the inter-ministerial sub-committees that came into being before the elections have ceased to function and little is being done regarding sensitization of people about local government. There is little or no public debate of issues around local government. It is recommended that MoLGC should develop a strategy to rekindle support for Decentralization at the highest levels of GoL.

4.4 Status of Implementation of the Provisions of the Act as Amended

This section presents a detailed assessment of what has been achieved in terms of implementing the provisions of the Local Government Act 1997 (No.41) as amended in 2004 (Local Government (Amended) Act 2004 No. 53).

The Cabinet approved the programme for the implementation of local government in Lesotho on 10 February 2004. The programme sets out key principles that explain the basis of the system of local government and which provide certain insights into the Decentralization process as well as inter-government relations. Extracts of this programme are set out in this section of the report. The reason is to gain better insight into the current local government system, particularly in
respect of those matters that have not been adequately addressed in the Local Government Act 1997.

The Programme sets out the following timeframes: (i) a 2 year transition phase (2004-5), leading to the election of the District Councils and Community Councils, and the devolution of some functions; (ii) a 5 year development phase (2006-11), where additional functions will be decentralised; and (iii) a 5 year consolidation phase (2012-16), where operation of local government is refined, and efficiency and effectiveness are improved.

Provisions of the Act, achievements and outstanding issues

Apart from presenting the list of the issues and actions, Annex 2 in Volume II indicates which of these issues and actions have been addressed and which have not. Furthermore, it indicates who was responsible for initiating the action. Finally, it presents comments on the issues or actions. The information used to complete the table was largely garnered from discussions with key staff members of the MoLGC and also from the literature review as well as from interviews conducted during the course of the study.

It is clear from Annex 2 that most of the provision of the Act have been addressed except a few, such as the establishment of the Local Government Service Tribunal, opening of accounts of CCs, development of by-laws, gazetting levies and rates, gazetting lists of items subject to tax or levy, putting into place mechanisms for auditing council accounts, operationalization of district tender boards, gazetting of accounting (finance) regulations, and establishment of council offices.

It is important to note that although most of the provisions of the Act have been addressed; those that have not been addressed are some of the most critical for the implementation of the Act. The provisions which have not been addressed largely relate to resourcing of the council in terms of infrastructure and funds to make things happen. The resources that are currently available are concentrated at the higher operational levels (DA and DCS) while the CCs are still faced with many operational challenges. It is necessary to try and strike a balance in providing resources; there should be equitable distribution to ensure that all levels are able to operate.

Need to monitor the process of implementation of the Act

The MoLGC does not yet have a systematic approach for keeping track of where the process is in terms of implementation of the Act. Therefore, as a matter of urgency, the Department of Decentralization (MoLGC) will need to monitor and document the process of decentralization implementation (e.g., provisions implemented, who was involved, what plans are in place to resolve outstanding issues and what resources are needed to do so). It is also necessary for MoLGC to maintain adequate documentation of the process (e.g., copies of some of the key documents originating at council level; this will also serve as a backup and safe keeping of these key documents). This will only be possible if the compliance and performance inspectorate starts to work as planned. It is essential that the Department of Decentralization be the one that drives the compliance and performance inspection process.

Moreover, it is necessary to develop and maintain a list of outstanding priority actions requiring implementation and follow up. Such a priority list should be premised on trying to attain operational efficiency of the system. It is evident that there will never be enough resources for the implementation of the Act, and therefore, the limited resources available would have to be used such that they leverage the highest level of efficiency. This prioritization should be done
urgently and it must be a collaborative effort between the MoLGC and councils. It is necessary to note that consideration should be given to developing a strategy that provides for a gradual implementation of the process of Decentralization. The biggest problem is that at present the plans aim at a fully operational local government system despite the fact that the resources available from GoL do not allow for the rollout of such an ambitious plan.

4.5 Roles, Implementation Capacity and Performance of Key Role Players

This section examines roles, implementation capacity and performance of key role players in the implementation of the Local Government Act as amended. The information used for this analysis is based on literature review, discussions with staff of MoLGC, interviews with representative of line Ministries, Maseru City Council (MCC), discussions with the District Administrator Leribe, Chairperson of Leribe District Council, members of the Linare District Council and Community Council members in Qoqolosing.

The Ministry of Local Government and Chieftainship

The MoLGC as the lead agency on decentralization is the anchor for the implementation of the Local Government Act. Within the MoLGC, the Department of Decentralization is tasked to be the driving force, a centre of authority, a repository of knowledge of the Act, a reference point for councils in terms of interpretation of the Act, a contact point for other line ministries and an entry point for civil society’s participation in local governance. The findings of the assessment suggest key actions that are needed for successful implementation of the Act:

(a) Department of Decentralization has to become the leader in MoLGC: The Director of Decentralization was only appointed in October 2006 following the departure of the incumbent in August 2005. Until now, the locus of authority and responsibility has been dispersed among other departments within MoLGC. Due to the fact that human resource challenges of the process have been extensive, the Department of Human Resources has ended up being the one that does most of the work. The Department of Decentralization should have a functional structure and all the staff in the department need to be actively involved in the process. This has to be embedded in a functional structure for the Ministry that is clear to all and has details of roles, responsibilities and lines of command. Proposals have been made in this regard but they have not been accepted and/or put into operation. The Department of Decentralization has to be empowered to be the gateway for the MoLGC in dealing with the Decentralization issues. Support of the Principal Secretary to the Department of Decentralization is going to be the key to its ability to be effective and make a difference in the implementation of the local government Act.

In most of the interviews conducted, people repeatedly mentioned that misinterpretation of the Act was a major source of problems. The Department of Decentralization needs to designate a spokesperson who is given the sole responsibility of addressing this issue. Under his or her leadership the Department should develop a reference book or manual that provides very clear interpretation of terms and meaning which should be the sole reference that is used in the implementation of the Act. The legal section of the Ministry and or the office of the Attorney General could be asked to help on legal matters.

(b) The government needs to re-state government policy on local government and decentralization. While the policy on Decentralization derives from the Act, the Poverty Reduction Strategy (PRS), and Vision 2020, it is necessary that the MoLGC restate and articulate
the policy in a publicly available policy document. The decentralization policy needs to be seen as a government-wide policy and not that of MoLGC, and should be the overarching policy requiring sector ministries to align their policies to it. This is essential to provide a context and direction for all those involved in the Decentralization process, especially the MoLGC itself. The development of a policy framework for Decentralization will assist other line ministries to develop their own policies on Decentralization. For example, the Ministry of Health and Social Welfare has developed its own Decentralization policy. Such policies should be based on an anchor policy on Decentralization as developed by MoLGC. Therefore, line Ministries should be encouraged to develop their Decentralization policies which also clearly articulate the services and functions that are devolved or deconcentrated. This will be the beginning of a process of harmonization of decentralization policies and development of guidelines for the people affected by the process.

(c) The government needs a strategic plan for the implementation of the Local Government Act. The lack of a strategic plan could largely be responsible to the apparent poor implementation of the Act. A typical strategic plan has the following elements: (i) vision and mission; (ii) value statement; (iii) key focus areas; (iv) outcomes; (v) strategic objectives; (vi) strategies and resources; (vii) key performance indicators; (viii) responsibilities and roles; (ix) schedule of activities; (x) stakeholder analysis; (xi) opportunities and threats; and (xii) risk management.

In developing the strategic plan, MoLGC would be confronted with many of the issues now coming up all over as impediments to the Local Government Act. It is recommended that MoLGC should develop a strategic plan whose purpose is to take corrective action and ensure that the many issues that are cropping up do not derail the process. The development of the strategic plan would allow MoLGC to stop and reflect on the process and avoid the current situation where it is largely working in a “crisis management mode”. A major plus will be to assess the capacity of MoLGC to lead the process of implementing the Local Government Act. Clearly there are issues of capacity within MoLGC that need to be addressed systematically to be able to lead the process of implementing the Act.

(d) The MoLGC and other ministries need to undertake a process of change management in response to the huge challenge that the process of Decentralization requires. There are many issues that are hampering the implementation of the Act due to the fact that some of the pertinent issues of change management have not been taken into consideration. The MoLGC needs to develop and put into place structures and procedures that will allow it to take on the challenges that are brought about by the process of Decentralization. In addition, the failure to go through a process of change management has meant that it has not been possible to anticipate and prepare for potential problems. For example, the issue of managing resistance to change is very relevant in the implementation of the Local Government Act at all levels. The following issues have contributed to the some of the observed reactions of people:

- **Threatened self-interest** – people will resist change if they think their job will lose its value.
- **Uncertainty** - people work better with certainty; the unknown creates fear, hence resistance.
- **Lack of trust and misunderstanding** – people will resist if they do not understand the purpose or they have no trust in the one bringing in change.
- **Different perceptions** – people have different approaches to problems; the identified change technique must be appraised with others and be continually sold to stakeholders.
• **Low tolerance for change** - people resist because they fear they will not be able to develop the required competencies; they may factually understand the need for change but emotionally they may not accept it.

• **General reasons** – include inertia, peer pressure, timing, surprise

Strategic planning and change management are not the same process. To be able to amplify people’s understanding of change management, Annex 3 has been attached to the report to present the concept. It is recommended that this issue be given urgent attention.

**(e) The government needs to institute a mechanism for continuous learning and feedback to address challenges that are experienced in a systematic manner.** Ideally this mechanism, led by the MoLGC, should have been the **compliance and performance inspection.** A multidisciplinary inspection team has been trained and the tools have been developed. Based on the existing manual, it is clear that this is the mechanism that would be able to pick up issues that need to be addressed in the implementation of the Local Government Act. However it is not yet clear where the Inspectorate belongs or who is responsible to in the MoLGC. Operationalization of the Inspectorate should be given the highest priority. The MoLGC should put into place a committee of MoLGC directors on Decentralization that is headed by the PS to address challenges that are picked up by the inspection process. This committee should ensure that the other line ministries are brought into the picture and ensure that the Department of Decentralization is effectively engaging and informing other line ministries on pertinent issues.

**(f) The government needs an improved mechanism for conflict management.** The implementation of the local government Act has generated lots of conflicts at different levels, but most are concentrated at the district and community levels. In the MoLGC itself there are many conflicts which result from poor definition of roles, communication line and responsibilities. Reference was made by most of people in MoLGC that people “work in silos.” It was also noted that there is poor coordination within the various departments but that there does not seem to be a mechanism that is used to address the conflicts and create an environment conducive to tackling such a momentous task. Clearly many issues remain unresolved. It is thus necessary to develop a mechanism where issues are brought into the open. It is also possible that the problem is poor or lack of a clear communication strategy within MoLGC.

Similarly, there are many areas of conflict at the district and lower levels. There are conflicts at the district level which are largely brought about by the lack of clarity of roles, responsibilities and lines of command. The dual authority of the DA and DCS at the district level has brought about dynamics which are conducive to conflicts. At the local level, there are extensive conflicts between the councils and the traditional chiefs. In Leribe the police indicated that these conflicts have resulted in increased criminal activity. It is very clear that there is a need to put into place conflict resolution mechanisms that can be used to ensure that issues do not fester and result in major problems. It is clear that an independent professional will be needed to tackle the issue of conflict management. The Centre for Conflict Resolution in Cape Town has provided training to a number of Basotho who would be more than able to help the MoLGC in addressing conflicts and developing a conflict management strategy for the Ministry.

**(g) The MoLGC needs to revive mechanisms for consultation with other line Ministries.** Although Decentralization affects a number of line ministries and many people from the ministries has been “assigned” to local authorities, there is no set procedure for consultations and coordination between the MoLGC and line ministries. People interviewed from other line ministries are frustrated by the lack of responsiveness on the part of the MoLGC they call for
coordination meetings. The MoLGC has to ensure that there are extensive consultations which are aimed at ensuring that challenges are effectively addressed.

In discussions with people from other line ministries it is clear that there are many areas where there is lack of clarity as to what has to happen. Roles and responsibilities are vague and it is not clear how people have to relate to one another. It is not clear to some people in line ministries which members of the staff have to report to the DA or the DCS at district level. Processes to be followed for budgeting, use of resources and access to equipment are not clear to some. It is not clear to all what future arrangements are being made to cater for the district staff in terms of offices and access to resources. Unless the MoLGC takes the lead and ensures that there is dialogue with other line ministries, the implementation of the Local Government Act will continue to be handicapped. Bringing together all the key government and other stakeholders (development partners etc.) through a Steering Committee of PSIRP component 2 which meets, say quarterly, will enhance the multi-stakeholder support for the process.

Other line ministries have been or are in the process of putting together strategies for Decentralization. The best example is the Ministry of Health and Social Welfare which is in the process of establishing District Health Management Units (DHMUs). It is therefore necessary to ensure that there is a common and coordinated approach in the development of strategies for Decentralization for all line ministries.

(h) The government needs to clarify roles and responsibilities based on Schedules 1 & 2. Boundaries of authority and responsibility are not clear at most levels of the local government structures. Lack of clarity on the meaning and interpretation of Schedules 1 and 2 is responsible for many problems. Schedules 1 and 2 are vague, and although attempts were made to provide more details, the Act was not amended to ensure that the detailed descriptions become law. People on the ground are experiencing major problems as a result of the poor definition of the schedules. For example in Leribe, the Legal Officer of the district council lost a case because it was noted that “Burial grounds” in schedule 2 was not a function. It is recommended that the issue of clarifying the schedules be addressed urgently and the Act should be amended.

Another area which creates discomfort is the poor definition of boundaries of authority and responsibility in the Act. The Act indicates that each council is a body corporate that has the authority to make decisions related to their scheduled functions. But the Act does not define the boundaries of authority relative to the authority of Central Government and other institutions such as chiefs. The end result is that councils try and make decisions and end up being told that certain decisions are beyond their jurisdiction. It is necessary to define where the powers and authority of the councils start and stop, and where those of Central Government and other entities start and end.

(i) The MoLGC should use corporate governance principles develop regulations for the councils. Although corporate governance bodies have largely been seen as relevant business entities, the rules and regulations developed for meetings, responsibilities, relationships with stakeholders, code of conduct of members, liability of members, establishing vision mission and values, etc. are very relevant to the implementation of the Local Government Act. If one looks at the provisions of corporate governance in terms the roles of the board (the equivalent of the councils), the following factors are relevant: (i) determining strategic options, selecting those to be pursued and deciding the means to support them; (ii) determining the strategies and plans that underpin the strategy; (iii) ensuring that the organizational structure and capability are appropriate for implementing the chosen strategies; (iv) determining monitoring criteria; (v) determining and managing risk; (vi) determining and instituting effective integrated reporting mechanisms; (vii)
ensuring that internal controls are effective; (viii) determining and putting into effect communications strategies; (ix) understanding and taking into account the interests of stakeholders; (x) monitoring relationships with stakeholders by gathering and evaluating appropriate information; (xi) where necessary delegate authority to sub-committees and monitor and evaluate the implementation of policies, strategies and plans; and (xii) exercising accountability and responsibility to relevant stakeholders.

There are many aspects of corporate governance which would or will still be useful for developing procedures for governance of local authorities. These include how to hold meetings, how to make resolutions, how to address discipline among members, how to pay seating allowances, etc. It is important to note that the four pillars of corporate governance (farness, accountability, responsibility and transparency) as developed into seven primary characteristics (fairness, accountability, responsibility, transparency, discipline, independence and social responsibility) are relevant to the work of councils. It is therefore recommended that the MoLGC should look at how it can use corporate governance guidelines to beef up the operational efficiency and efficacy of councils.

(j) Government should provide for better conceptual understanding of the transition process to Decentralization. In the earlier definition of the process it was noted that the process of Decentralization has to happen gradually and powers and authority have to be developed gradually and progressively. In Lesotho the gradual process has not been fully explained, and this has caused major challenges. For example the councilors were told from their first day in office that they had full rights and authority to make decisions and determine how to use resources. Then when the councilors started to take action on the basis of this understanding they met with resistance from central government and in some cases they were told that their powers did not extend to making certain decisions.

(k) The government needs to translate all key documents into Sesotho. In discussions at the District and Local Council levels, the issue of translating the Local Government Act and other key into Sesotho was mentioned. Translation of the documents would aid the councilors to better understand and interpret the Act and some key documents. The translation should be done once the Act has been harmonized with other legal instruments. Furthermore, an amplified document on the schedules as well as roles and responsibilities will also have to be translated into Sesotho.

(l) The MoLGC needs to clarify the role of the Minister in the implementation of the Local Government Act. Most of the provisions of the Act require action by the Minister. The MoLGC has to review this issue and decide if, in interest of expediency, this is the best arrangement. It is necessary to note that in the case of the Land Act, the duties of ensuring the implementation are vested in the Commissioner of Lands. The review has to address issues of operational efficiency and practicality. In addition, it has to look at harmonization not only with the MoLGC but GoL in general.

(m) There is a need to provide more space for civil society participation. A missing link in the implementation of the Local Government Act is the role of NGOs and other civil society organizations. The Act does not make clear provision on how these should be engaged. The MoLGC has to address this deficiency in the Act and ensure that space is created for NGOs, CBOs and other civil society entities to play a role in the Decentralization process. Due to the limited capacity and resources in GoL, NGOs and other groups have played a major role in making sure that service are brought closer to the people. The same has to be the case in the new dispensation. It has to be very clear how the Decentralization process intends to harness the
energies of NGOs and other groups. It has to be appreciated that NGOs and other civil society organizations are still working with the people at different levels and they are using whatever mechanisms that they find appropriate to ensure that their activities continue.

**District Administrators, District Councils, and Community Councils**

There are three major factors that are responsible for the challenges experienced at the district level, namely poorly defined roles and responsibilities, access to resources and lack of infrastructure. At district level the DA is by design the head of government and people constantly translated this into Sesotho “ke hloho ea puso seterekeng”. On the other hand the Chairperson of the District Council is also seen as the head of local government in the district. Staff from line ministries are “assigned” to the local authorities through the office if the DCS. At the community level, the council is “implicitly” the local government but it is not clear who the local authority is between the chiefs and the local councils.

In discussion with people at the district level, the major point of contention is the poorly defined roles at all levels in the structure. The roles are defined too briefly in the Act and there is a need for extensive amplification of these to be able to ensure that common misunderstandings are dealt with effectively. It is necessary to clearly define the relationship between the DAs and DCSs and be clear whether the current state of affairs is a transitional one or whether it be the same even in the future. For example, the budget for DCS and CCs is being channeled through the DAs who seem to have a large measure of authority as to when and how to pass the funds to the DCS and CCs. Also it is not clear for line ministries what powers the DAs and CDSs have over the people who have been “assigned” to both DAs and DCs. Further down the line, the DCS seem to be the authority over the DCs while the DCs are of the opinion that they are body corporates and have all the authority and mandates to determine their own destinies.

The problem of poor understanding of roles has been made worse by the different interpretations that the various organs of the Decentralization process gave to the people during sensitization, to the councils in their orientation, to the civil servants during their assignment and what is written in the Act and various other documents that the MOLGC has issued.

During interviews and discussions, people have called for a “road map with signs and guidelines” that will help guide the process of Decentralization and help reduce the prevalent discretionary acts of those involved in the implementation of the Act. At the DC and CC levels, it is not clear whether the councilors are supposed to have the capacity to implement or just work with the civil servants who are the ones that should be hands-on and implement.

At the community level, the confusion in terms of roles between the councils and the chiefs is a source of very many problems. On one hand, the councilor’s reading of their roles based on what they were told at induction is that they are de facto authorities at the community level and that the chiefs are part of the councils and thus do not have separate powers from those of councils. On the other hand the chiefs still have all the powers and take themselves as de jure rulers and authorities at the community level. The result is conflicts regarding issues such as management of natural resources (range management, management of trees, mining of sand and gravel, etc.) and land allocation. Legal officers from the DCS offices have noted that there are a growing number of legal cases that are being brought to the courts. In most of the cases chiefs and councils are at loggerheads. It is therefore necessary to address this issue of roles and responsibilities and relationships between councils and chiefs urgently for law and order to continue to reign.
Poor access to resources for the district level institutions is a major challenge. The DAs feel that they need resources to make things happen and because they are administratively active in the implementation of programmes. Vehicles are the main resource that the DAs feel they desperately need. The DAs do not have the resources to support the staff who have been “assigned” to them and parent ministries continue to provide the resources needed.

At the DCS’s level, resources are very scarce. It was the understanding of the DCSs that the assigned staff should have brought with them the resources needed for implementation of the Act. This has not been the case for a number of reasons. First, staff assigned have not physically moved from the original offices to the office of the DCS with their resources (computers, desks, vehicles, etc). It is not clear to all parties what should actually happen in this regards. The assigned people are of the opinion that being assigned does not imply physical movement from their offices but that they are available to technically assist the District Councils from their present offices and available resources. The DCS’s view is that there should be a huge complex where all the assigned staff can be under one roof. Thus although human resources have been made available to DCSs and CCs, there is practically very little in terms of other resources at the disposal of CCs to operate with.

At the community level, the same perceptions exist. The councilors feel that they have not been resourced to be able to implement their plans as demanded by the people. They feel that civil servants assigned to their councils or located there are supposed to provide the resources needed and be answerable to them. The civil servants located at the community level such as those of Agriculture and Health have a different understanding and have not agreed to let the local councils be their de facto managers. Tensions have developed as a result of these misunderstandings and fight over resources and power.

DCSs and CCs face a major problem when it comes to access to office space. In most cases the space available is hardly adequate for the councilors to meet let alone accommodate office furniture. In some cases the councils have rented space from private individuals at very exorbitant rates. In other cases DCSs have bought Park homes at a cost close to what is would cost to build some of their own offices. A major concern is that apart from the four Southern Districts (Qacha’s Nek, Quthing, Mohale’s Hoek and Mafeteng) there does not seem to be a solid plan as to how the problem of access to office space for the councils is being addressed.

It has to be realized that the cost being incurred by DSCs and CCs through the plans that they have made to address their problems will far outweigh the cost of building their own offices. Thus it is necessary for the MOLGC to make a full assessment of the situation and seek a SMART solution to the problems. It is recommended that the MOLGC should consider a PPP programme with the private sector. This would allow it to adequately and speedily address the infrastructure problems being experienced by the local government structures.

**Maseru Municipal Council**

The issues around Maseru Municipal Council (MMC) are complex to say the least and have been subject to various studies and reports. The major issue raised in discussions with MMC staff is that the Local Government Act treats MMC like any other council despite the fact that it has been in existence for many more years and has accumulated extensive experience over the years. It is noted that MMC has capacity that is higher than that of any other council, it has established regulations, it has by-laws, it has an operational budget and it has office space and all other
requirements of a functional entity. It was noted that MMC has had other responsibilities removed from it under the Local Government Act. For example the recruitment of staff has been removed from MMC and the Local Government Service Commission is now responsible for that function.

The issue of roles is a major point of contention in as far as MMC is concerned. The challenges that MCC faces are very different from those of other councils, but the Local Government Act does not make any provisions for a city council as opposed to a village council. As a result, some of the rules and regulations imposed on MMC are regressive and are a hindrance to its operations. For example MMC has had well tried financial and accounting systems, disciplinary regulations, etc. In addition, the MMC has other functions that are unique to it as a city council but the Local Government Act does not make provision for these. The end result is that MMC will not be resourced appropriately. For example, the MMC needs city police like any other functional city council.

MMC already had operational rules and regulations and some of the provisions of the new regulations cause conflicts because the development of the new regulations was not done in consultations with MMC staff and no effort was made to harmonize the new Local Government provisions with other legal provisions. For example the MMC already had regulations on the conduct of meetings which worked well but these have been replaced by regulations which are less precise and do not address issues adequately.

In discussion with MMC staff, it was observed that it was not clear where the MMC staff belong based on the new structure/dispensation. It was also noted that the MOLGC has not provided a clear indication of what the relationship between MMC and MOLGC is. In addition, there has not been active engagement between MMC and the MOLGC through either the Department of Decentralization or any other authority in MOLGC.

Assessment of MMC shows that the Council’s functions and responsibilities are not matched with the requisite levels of financial and human resources, leading to inadequate facilities and inability to perform essential functions. For example the MMC has many kilometers of roads (gravel and tarred) to look after and also needs police to address issues such as accidents, parking, etc. While urban areas are in the best position to generate their own revenue, a major concern of MMC is the failure of GoL to pay rates for the property that it owns in Maseru. Instead of paying the rates, GoL through the MOLGC provides MMC with grants “in lieu of rates”. This is inconsistent with the position of GoL that it does not pay rates. It would be better to follow the recommendation of the fiscal decentralization chapter and ensure that the MMC is able to raise its own revenues.

The time available for the current study was too limited to adequately address MMC issues. It is necessary for the MOLGC to make a proper analysis of the issues relating to MMC and use the experience and lessons learnt to start formulating how the other town councils will have to work in the future. It is important to note that an assessment of MCC in 1996\(^7\) showed that it had most of the challenges that are noted for the new councils now. These include:
- a weak and ambiguous Act with structures that are not clearly defined
- council’s functions and responsibilities are not matched with the requisite levels of financial and human resources

\(^7\) Summary of Problems Confronting the Maseru City Council according to the IDM Consultants (1996) Management Audit of the Maseru City Council (Draft Final Report), p. 5.
an apparent or perceived lack of political commitment on the part of the Central Government and an unwillingness to intervene timely and effectively in resolving management problems
virtual absence of management systems in key departments, namely finance, personnel, purchasing and personnel
services and enforcement of regulations are hampered by the inadequate transfer of authority and legal powers from the Central Government to the Council
due to inadequate resources and personnel, overall performance of the City Council and the level of services provided are very poor and inadequate
top management is weak and ineffective.
top management positions are largely housekeeping positions and there is lack of effective leadership, etc.

There is little doubt that Maseru Municipal Council should have provided the new dispensation with lots of lessons which would have been helpful to the implementation of the Local Government Act. It is not too late for the MOLGC to examine the situation and see what lessons can be learnt from the MMC and use those to address some of the challenges that are being experienced in the implementation of the Local Government Act.

Line Ministries

In the literature and discussions with MOLGC staff, reference is made to nine line ministries but district level staff from most line ministries are assigned or report to either the DA or the DCS with the exception of the police, NSS, Immigration, etc. This means that more than nine ministries are actively involved in the process of Decentralization. Other offices that were said to be decentralized which are not from the nine line ministries include: Education, Lesotho Fund for Community Development (LFCD), Disaster Management Authority (DMA), Meteorology, Traffic, etc.

Line ministries have reacted differently to Decentralization and have been influenced by at least three factors. First, some ministries had already been involved in some form of Decentralization. Examples here are the Ministry of Agriculture and Food Security, Ministry of Forestry and Land Reclamation, Department of Rural Roads of the Ministry of Works and Roads, Ministry of Health and Social Welfare, etc. Some of the ministries which had already been involved in some form of Decentralization have had a better understanding of the process and already had some form of working relationship with district authorities. It also true that because these ministries already were decentralized they have had some passive resistance because they already had developed habits and cultures of working with local authorities. These line ministries have also had resources that they controlled. They also already had some form of autonomy and authority which they were afraid was being threatened by the new system.

Second, the size of the ministries has influenced their reaction to Decentralization. In the case of ministries with many staff members at the district level, the system broke the teams up by assigning the heads to the DAs and the rest of the staff to the DCSs. This has had a major impact on the relationships of the members of the staff who should ideally work as a team and have one line of command. In the case of ministries with smaller numbers of staff, the impact of staff assignments has been limited.

Operationally this three legged line of command is the most problematic aspect when it comes to roles and responsibilities. Typically, a member of staff in the district is administratively
answerable to the DA or DCS, technically answerable to the head of the department in the district and answerable both administratively and technically to someone at Head Quarters in Maseru. This is making it difficult for everyone to manage staff at district level. Some staff members are using this confused line of command effectively to do very little and always put the blame for non-performance on many heads in the unconnected chain. The end result is poor performance and poor service delivery.

Third, parent ministries still play a major role in the day to day operations of the people who have been “assigned” to local authorities. They still provide resources and pay the salaries of the assigned staff. The saying that “he who pays the piper calls the tune” applies here. The district staff listen and tend to interact much better with their parent ministries than with the district authorities. The major challenge for the process of Decentralization is to move resources from parent ministries to district level and ensure that the locus of authority is moved from Maseru to the districts. This is going to be a major undertaking and very careful planning is needed before it is implemented.

A major issue that has to be addressed is that of career development for the people assigned to the district structures as against those who remain at central level. This is one of the areas that are very emotional for the people assigned to local authorities. It has to be very clear what the implications of the assignment are for the future of these civil servants as it will dictate their morale and performance. Another issue is whether there should be incentives for those civil servants who chose to, or are working under Local Authorities in rural areas.

Line ministries have had staff and resources at district level and their work programmes depended on their own plans. The advent of the local government reorganization has brought about a huge increase in demand for services as the local authorities start to work and demand services from the civil servants. For the first time capacity has now become a major issue at the operational level both for manpower and most critically for transport. The latter is especially critical in that it is still centralized at district level. It is only in the case of Agriculture and Health where there is a certain level of Decentralization at the district level through clinics and resource centers. The situation is that the majority of district staff still have to travel to the council areas from district headquarters to work. As a result there are always tensions based on the allocation of transport to the staff by the DAs. At the DCS level and local council level the problem is compounded many times because this is where resources are most scarce.

A major headache for line ministries when it comes to dealing with Decentralization is the poorly defined roles of the councils based on the two schedules of the Act. Line ministries at the central level are supposed to remain with certain functions while on the other hand they have to support the local authorities too through their staff that has been assigned to them. This brings about conflicts between those people who work on the ground with the council because there is constant friction based on what the councils can and cannot do. For example in the case of water supply, the schedule “implies” that the councils will only deal with maintenance but on the ground the people and councils feel that it’s their role to develop new systems and not only deal with maintenance of existing systems. Therefore, it is thus most important that the MOLGC should urgently address the problems that are brought about by the poor definition of roles and responsibilities between the different levels. It should be noted that such an exercise has to be done with full cooperation of line ministries. Experiences gained over the past two and have years have to be brought in to inform the process of defining the roles.
4.5 Status of decentralization in specific line ministries

(a) The Ministry of Agriculture and Food Security has been decentralized since the late 80s and has a functional district level structure with the District Agricultural Officers (DAOs) as the chief accounting officers. It has a number of resource centers in the rural areas. Staff of the Ministry has been assigned to the DAs and DCSs.

The Ministry has devolved fiscal authority to the DAOs who produce their own annual budgets and work plans. Some of the operational challenges that staff of the ministry have experienced include: vehicles are a major source of conflict since they can be commandeered at anytime by the DA for unspecified lengths of time. This negatively impacts the performance of the Ministry; DAOs are sometimes asked to pay for activities that have nothing to do with programmes and plans of the Ministry; in some case members of staff of the Ministry are asked to work in other offices or do duties that are not related to their Ministry without asking the DAOs; in some districts the DA and DCS do not work hand in hand and this becomes problematic for MOASF staff assigned to local government; the MOASF Resource Centre boundaries straddle council boundaries. Different councils demand access to offices and resources from the officers placed at Resource Centers. It is important to note that MOAFS resource centers have been identified as offices for councils by MOLGC. Details of how the councilors and MOAFS staff would relate were not provided; in some cases there is tension because the local councilors demand that the MOAFS staff to work on their plans and not those developed and budgeted for by the DAOs.

(b) Ministry of Health and Social Welfare has had a devolved system with District Medical Officer as heads and accounting officers at district level. The MOHSW has developed a strategy and action plan for Decentralization of health services; the District Health Management Teams (DHMTs). This is accompanied by the Essential Services Package for districts. The MOHSW has an operational plan with Terms of Reference, discipline regulations, roles and responsibilities. The operationalisation of the DHMTs started in 2005/6. There are many challenges that still have to be addressed but the process has begun. Two issues which are most relevant to decentralization are the Health Service Areas whose boundaries go over those of councils and district and health service centers that do not belong to GoL. In addition, MOHSW staff at health service level are placed on temporary assignments and this has implications for long terms relationships with local authorities.

(c) Department Of Rural Water Supply has decentralized and their staffs at the district level have been assigned to the DAs and DCSs. The people on the ground are knowledgeable and are able to assist the councils to plan and implement projects. The DRWS has made efforts to meet with MOLGC to arrange how best to offer skills transfer to local councils but this has not happened. The DRWS wants to develop a mechanism for handing over to community-based activities. The aim of the DRWS is to engage the local authorities and define roles and responsibilities. Meetings with MOLGC have not happened so far as requested by DRWS. The fact that the District engineer reports to the DA while the rest of the staff report to the DCS has broken the line of command and have left an administrative void which is being exploited by some of the staff members. Community council are doing construction of water system but they have no technical knowledge. There are policy and operational issues that have to be addressed urgently to ensure that local authorities are fully conversant with water supply issues.

(d) Ministry of Tourism, Environment and Culture has assigned Assistant Environmental Officers (AEOs) to districts. The AEOs have problems because they are seen as a hindrance to development when they require assessment of impacts to the environment before projects are
implemented. The Local Government Act is not clear on issues that are relevant to the MTEC. It is not clear which Act between the Local Government Act and the Environment Act takes precedence in the operations of local authorities where environmental issues are concerned. There has not been any interaction between the MTEC and MOLGC despite the fact that the work of local authorities has the potential to increase environmental challenges exponentially. Since the Local Government Act is not harmonized with other laws, it should make reference to the other laws which are sector specific instead to developing new laws and regulations. The Local Government Act should not attempt to cover all areas but should use existing sectoral laws. Clarity on roles is necessary to allow the people in the districts to be given the appropriate training which will be useful to the districts.

(e) Department Of Rural Roads Staff from the Department of Rural Roads have been assigned to district structures. The DRR does not have a problem with the Decentralization; the problem is implementation. The challenge is that there are not enough engineers to cover the work that needs to be done. The DRR works on regions that overlap districts. The mode of operation has not changed in general. The DRR had expected that it would assist with the implementation of a coordinated programme but each council wants its own project. The DRR expects that it would assist with the implementation of a coordinated programme but each council wants its own project. The DRR needs to be given an opportunity to educate the councils on issues related to their mandate. Due to lack of engineers, the regional approach will have to continue to be used. DRR staff will have to continue to supervise a number of projects but will need to be resourced adequately to be able to serve many projects. A successful roads programme under local government will require gradual and progressive capacity building and not a huge jump.

(f) Department of Gender, Ministry of Sports, Youth Affairs and Gender Department of Gender has only recently had staff deployed to districts. They are assigned to the DA but may not have received letters to that effect like the others who were already at the district level when the implementation of the act started. The Department of Gender has created one position at district level and has suggested that the most ideal scenario will be for MOLGC to create two more positions. Gender issues seem to be low on the priority list of district authorities and access to resources for staff from Department of Gender is a challenge in some cases. Staff member from Department of Gender at district level have problems attending meetings at community level due to poor access to transport. The Department of Gender works extensively with NGOs in its programmes. At present efforts are being made to develop relationships with district level civil society entities and to identify focal points.
5. Community and District Perceptions of Decentralization

The Basotho Society has its intrinsic social systems and behavioral responses which are not fully understood by the development partners. Not only does the lack of understanding affect individual services and development interventions, but also the rollout and effectiveness of the newly established decentralized institutions, and of the communities operating within the new institutional framework. Taking a purely technical approach to services, development interventions and institutional reform has not led to the hoped for results in the past. If understanding is not improved, the same could happen to future programs and institutional and political reforms. Therefore there was an urgent need to secure the impacts and sustainability of forthcoming developmental programs, institutional and political reforms through a better understanding of the underlying factors and causes. An in-depth profiling study has, therefore, been conducted.

The focus of the profiling study was on participatory, qualitative research leading also to quantitative results in an indirect manner. Furthermore to offer insights into underlying causes, including those overlooked and not taken into account so far in-depth ethnological interviews were conducted. The profiling study of selected communities, CCs, and DCs characterize service delivery, community and CC involvement in service delivery, constraints to such delivery, social capital, and accountability mechanisms already in place or needed. It also probed the impact of class differences, gender and age differences, role models, ethnic dynamics, accepted leadership patterns (traditional as well as modern more democratic ones perception of good leadership and their contribution to an enhanced developmental role. The study provides insights into group and political dynamics at the various levels.

The present chapter reports on the perceptions of the system of decentralization, and the strengths and issues arising within it, while the next chapter summarizes the findings on service priorities, access, and delivery and quality changes. The study was carried out by a team of researchers and assistants consisting of seven Basotho and one external researcher. The team based itself in rural areas in order to work intensively with the local communities.

5.1 Methodology

The methodology combines a large number of group and individual interviews with in-depth interviews of individuals who take up the open invitation for such interviews. The group and individual interviews are structured using pre-prepared checklists. Within that framework they use an open ended approach allowing the interviewees substantial control over the interview. The in-depth interviews allowed to reach matters of concern and conflict in the manner the interviewee wanted to address them.

Each evening all information gathered was shared by the team and subject to cross checks and analysis which led to a plan for follow ups the next day. The interviewees were also given a change do follow ups in their own right since the research team fully engaged and participated in ‘village live’ staying there for several days allowing each group or individual to come back the researcher with a topic they might want to deepen or only raise eventually after a good rapport had been established.
Through these interviews the research team elicited factual information on activities, services, resources and constraint as well as the perceptions about the quality of all of these issues. Factual information, findings and result were only considered valid if they have been found using two different methods (i.e. FGD and In-depth or one-to one interviews) or two different sources.

So far the research team has conducted its work in Thaba-Tseka District. It worked for about a week at the level of the district headquarters i.e. in the town of Thaba Tseka interviewing a wide range of stakeholders from the DCs, district council meetings, Chief, DA, Councilors (both at District Council and Community Councils levels), and their respective staffs, sector staff, prison services, chiefs, headmen, private sector traders, cattle farmers, educational services, street vendors, District Disaster Management Team (DDMT), District Planning Unit, prisoners, patients, community support groups. At the CC and village levels the team collected views from the following focus groups which are generally present in rural communities: Women; Youth and children; Councilors; Chiefs; Farmers, Traders, Prisoners, Health Workers, and Community support groups; NGOs, CBOs and Church Organizations; Private sector groups; Public servants and service providers. The methods of interviewing them are discussed in Annex ….

Within each of these CCs it conducted interviews in several communities or villages, defined here as the electoral districts of a council member, normally grouping three to seven settlements. In each of these CC areas it spent several days. Four CCs and 19 villages were visited that fall into the following classification:

- Urban: 3
- Semi-urban: 2
- Villages reachable by car: 2
- Villages reachable by 4x4: 7
- Village reachable by horse or on foot: 5

The methodology clearly generated the anticipated broad based quantitative and qualitative data as well as in-depth insights. The in-depth interviews in particular uncovered deeply hidden issues, and made them amenable to follow up via other interviewees. To give but one striking example was the information provided by one woman that her daughter had been raped by a son of the traditional area chief. Cross checking revealed that the case was well known by the CC and fitted a pattern of criminal behavior of all sons of the traditional chief, three of whom are currently in jail for murder, cattle theft and house break in respectively. It is the same chief who had previously been described as obstructionist to the work of the CC, even though he was a member of the CC himself. It turned out that he had also threatened two of the CC members with killing them. This information was not revealed in the more structured group and individual interviews for two days. It put an entirely new light on the obstructive behavior of the chief and the prevalence of fear among community members that had been picked up in a number of previous interviews. In view of the great value of the in-depth interviews it was decided to double the number of in depth interviews by making two researchers available to self selected in-depth interviewees.

### 5.2 Thaba Tseka District and the CCs and villages visited

Thaba-Tseka district is the last of the 10 districts of Lesotho to be created, having been established in 1986. All the then existing 9 districts gave up part of their mountain regions to be consolidated into the tenth district, to the effect that nine Principal Chiefs ruling from a distance making live very complicated for their subjects. In terms of natural resources it is possibly the most endowed of all the 10 districts. For example the district shares in the Lesotho Highlands
Water Project which sells water to South Africa, yet receives no share of the income emanating from this natural resource. The district is prone to snow and other adverse effects of the harsh Lesotho weather, including ice and snow on roads during winter, and in summer flooded rivers that have no appropriate bridges, or none at all.

Livelihoods of the people in the district of Thaba-Tseka are primarily based on crop farming, livestock rearing and migrant labor remittance, enforced by the labor reserve economy for South Africa mines and industry. Crop farming is basically a food security support strategy since purchasing of grains is either expensive or only available, far away from where most people live. Livestock farming has since the late 1800s, through British policies, discouraged indigenous sheep and goats. Colonial masters introduced Merino and Angora goats that produce wool and mohair respectively for export. These products were and are still produced and exported raw and sold at international markets only to come back as the final product – the famous Basotho blanket. While there is a lot of appreciation for this kind of livelihood strategy, stock theft has become a problem that livestock owners have had no visible solution to until the recent wire-less connection of mobile phones arrived, enabling them to call for help immediately. Hence demand for signal transmitting towers was highest amongst the so called ‘herd-boys’ who are young men rather than boys.

Young men were found in less numbers than young women in rural communities of this district the difference in numbers was not as drastic as expected. Men are out of the area either working or looking for work in bigger numbers than women, although the number of female migrant workers is increasing. Local paid work for men was available in cattle posts looking after livestock of their employers, while at the other end it meant that they were either in urban areas in Lesotho or in South Africa.

While the research team met with incredible good will from Thaba-Tseka communities it also met with serious difficulties, most of them transport, weather and geography related. Non-tarred roads, where they existed, are generally poor to very bad. A distance of around 40 km from Thaba-Tseka to Pitseng took around 3 hours; the trip from Pitseng to Lesobeng took 8 hours on a 4x4 wrecking road at an average speed of 8km/h. Many villages can only be reached on horseback or on foot.

5.2 General Findings

At all levels and among most actors, goodwill in support of local government and general knowledge about it is most astonishing. Councilors have taken up their jobs with great enthusiasm and energy. Planning processes from the wards to the district level are in place and generally able to reflect the preferences of communities. Councils have gotten deeply involved in natural resource management, allocation of land, range management, collection of grazing fees and fines, development of infrastructure (where they have resources), and HIV/AIDS related issues.

The more detailed findings below suggest, however, that the system of local government initiated two years ago by the Government of Lesotho is falling far short of its objectives in terms of delivery of services, local investments and accountability to the population. These shortcomings are acutely felt by the population, the councils, the staffs of the councils, the staffs in the sectors, and the chiefs, who often feel abandoned and betrayed by the Center. While prioritization and planning of activities was done fairly well, little was able to be executed, primarily because of lack of funds. There is therefore general disappointment in the population about local government, although it has not yet reached the stage of cynicism.
The primary reasons for the shortfall are the incompleteness of the decentralization in terms of fiscal and administrative decentralization. Councils are by and large unable to deliver on the priorities of communities because of a crippling lack of resources. These shortcomings are a serious threat to the credibility of the new local governance system, and in particular the Councils. However there remains a reservoir of good will for the new institutions that has not yet been dissipated.

Further problems which are acutely felt, are the duality of authority that still characterizes the decentralized system at the district level, the lack of clarity of division roles and duties, of councils, the office of the DA and staff under his supervision, the traditional authorities, and the parliamentarians.

On the motivational and cultural side, perceptions of individual, group, and community identities were much more homogeneous than expected. The team has not found well defined and organized factions or ethnic divisions (at CC level and below. The general statement is: ‘We are all Basotho’. General findings show a lot of loyalties to the chieftainship system. Traditional norms of land allocation and use, burial sites, pasture management, interaction are frequently in conflict with the system of local government or specific rules that are to be implemented – for example human rights (let alone children’s rights) being a most controversial issue on all levels.

Traditional authoritarian roles are prevalent and therefore also still finding their ways into working relationships. They are particularly evident at the DA level and some chiefs’ level. On the other hand there are many instances of growing openness and courage to experiment and invent new ways. Communities do not yet have a culture of demanding services from duty bearers, or hold them accountable. In fact the opposite often pertains, that people that exercise their right to demand services are considered as trouble-makers of the officialdom. They are not aware of the fact that it is the right as a citizen of Lesotho, to be given access to services.

5.3 Relationships and perceptions at the District Level

DC and DC staff, work well together. However, some boundaries of competencies are still poorly understood, and have not been the subject of detailed assessments, negotiations, and mutual understanding. There are also instances where actors such as the DA or traditional chiefs resist and undermine the operation of the local government system in active and passive ways.

All government offices pointed out that they have an absentee District Administrator. His absence impedes not only local government progress but all progress in the district. For example, the District Disaster Management Team (DDMT) reported that disaster preparedness plans are impeded by his constant absence since he is the chairperson of the DDMT and without him it becomes difficult to hold a mere meeting, let alone approve them and hence get the necessary equipment so staff have to bring their own shovels to clear the road of snow! Department of Lands, Surveys and Physical Planning (LSPP) functionality is undermined by his absence since he does not work through the paperwork as needed, i.e. signs it. There are complaints that he even boycotts the necessary transfer of files to the capital. All this informed a working environment that employees found so stressful that they were asking for stress and anger management courses - literally.

Councilors seeking services and administrative support from district level staff felt treated in a patronizing and belittling way let alone helped in their courses or on land allocation issues. The councilors feel belittled. The issue of seniority between DA and DCS has sparked a huge debate.
as to how come employees (central public servants) become senior to locally elected authorities’ staff both in Maseru and in districts. This opinion was vocalized in various ways and degrees in all visited CCs.

Hence, there is an all round perception that the advent of local government has led to multiple level conflicts: between the centre and district and sub-district levels; between the District Administrator and District Council Secretary; between lower level chiefs (gazetted ones, headmen/head women) and councilors etc. This perception of conflict arising out of establishment of local government gets complicated by the role of Members of Parliament that have been seen for example as active in employment of community council personnel while councils were themselves sidelined.

The plight of local government structures is manifested by the eviction of District Council office from existing central government accommodation under the management of the District Administrator. The current ‘new’ office space of District Council office reinforces the feeling of plight and desperation of these structures. The office accommodation is no bigger than the proverbial “match box” houses build for blacks in South Africa – but without windows in our case.

Some district officials exhibited complete ignorance of the pillars of local government (Local Government Act, 1977 as amended in 2004, Chieftainship Act, 1968). At Thaba-Tseka the police -to give but one example of many to follow - did not even have a copy of the Local Government Act, or they did not know that they have it in their inventory. They were very interested to get one though.

The perception of the employees of central government are, that they are superior to members of local government a) in status because, they are civil servants and b) in attitude. Indirectly this creates a perception that local government is a window dressing which should be content with playing second fiddle to central government and central government staff. No wonder people at community level accuse local government authorities and its staff as severely lacking of confidence. Community translation of the so called lack of confidence is that local government staff is less qualified (regarding formal education) and therefore less respectable than central government staff i.e. arrogance of the formally educated to the skilled and wise people from the villages.

DC staff, on the other hand, is at times seen as intimidating ‘chic representatives from trendy Maseru,’ who do not listen to modestly dressed women or men from the communities.

5.4 Relationships and perceptions at the CC level and below
Within CCs and with CC staff the relationships range from excellent to poor. Communities work well in identification of priorities, are constructively involved in CC projects, and by and large are able to manage internal conflicts, although exceptions do occur. They have collaborated exceptionally well with the research team.

As already observed at the district level, boundaries of competencies with actors outside the CC structure are still poorly understood, and have not been the subject of detailed assessments, negotiations, and mutual understanding.

Councils and councilors are, however, not satisfied with the staff they have been provided through the Ministry of Local Government and Chieftainship and Chieftainship – since June,
2006. In all the 4 Community Councils visited, councilors felt it was wrong, that they were excluded from recruitment of the staff which is supposedly intended to serve them. They all tell stories of how recruitment was done through Members of Parliament (MP) and of how when the council staff arrived. Council Secretaries told councilors, that they have no word in the management and performance assessment of such staff. Of the four councils visited two especially reported seeking clarification at District Council meetings and they were unambiguously told they have neither role nor power over council staff as these are central government employees! However it could be clearly observed in some cases that the power bestowed on the staff is subject of being abused for lack of control, and lack of grievance procedures in place.

In some cases CC secretaries do not fulfill their role and treat councilors in an arrogant patronizing way. Councilors are not given the respect they deserve and the loyalty they need. This often undercuts their sense of self-esteem and authority which they normally should have and exercise. Similarly, some CC secretaries seem to misuse their power and are perceived in some cases ‘as arrogant town people’ ‘who think they know everything about village live better, only because they have a university degree’ and who can deal with/have to deal with - the ‘required’ English correspondence. It is translated at will - or not - the councilor has still to sign, whether she/he understood what was written or not.

Budget limitations are used as an excuse to abuse junior council staff. All government employees in Maseru and at district level are supplied with basics such as travel, accommodation and meals when on duty. Despite the fact that council staff are also government employees the messengers are expected to do their work -walking very long distances - to uphold communication - without meals and accommodation support. While transport costs for messengers are not catered for, some traditional authority arrives from Maseru in a government vehicle in which he takes back the penalty of 6 sheep which he demanded. Despite the use of the government vehicle, one sheep still served to cover for transport costs as we could observe at the ‘kghotla’ (local court) hearing.

Councils were generally happy with the training they had received and found it good and necessary on the whole. Many felt though, that it was too much of a top-down endeavor, telling them what to do, leaving too little space to use it as a means to address and communicate with Central Government in regards to their views and necessities. Hence huge appreciation for the research team was felt in that they had found a forum to be thoroughly and indiscriminately listened to and given time to reflect. During training not enough room was left to discuss their real on the ground issues, needs, uncertainties and difficulties let alone time to find solutions together and/or make suggestions to the legislator.

In addition, councilors chiefs and communities said that chiefs in particular but also communities need more training as to fully comprehend the new responsibilities and rights of all involved as well as the definitions of the new structures.

Communities and chiefs feel some envy for the privilege the councilors have, to receive so much training i.e. ‘free adult education’ which is hardly accessible in particular, in remote areas. There is also awareness of the notion that ‘knowledge is power’. So the need for more in-depth, interactive training is genuinely felt and truly needed by the communities, in their own view and in the view of all others interviewed. Training is needed on how to interpret and apply the new structures and laws and hence how to re-organize peaceful prosperous village life. The research team’s assessment can only second that.
Communities are generally disappointed and dissatisfied with the performance of local government as a whole. They are able to voice these concerns openly, although we have found some instances of fear of retribution. Communities have time after time told the research team that council services are marred by the overwhelming power of the centre. There is a general belief that unless the centre trusts the councils the system will not succeed. This belief we can exemplify most variably. Councilors support this by the fact that they have exhibited a continuous feeling of being short-changed by the centre. The centre according to them shows a serious lack of trust in them but the center couches this in mystical concepts such as “lack of capacity” and “inexperience”, which the councils find offending – given their enormous capacity of fulfilling this difficult role with lack of resources and in most difficult of living conditions. Their enormous, personal skills and ‘live-skills’, might not entail - but do entail at times- the so overrated formal training yet it is certainly matched by admirable management and social skills or so called ‘social capital’. One interesting observation which came from all these deliberations was that communities argued that millions of Maloti have been in discretionaly spent in Maseru by the officialdom which by implication is being said to have the above demanded capacity already.

As a consequence, CCs feel trapped between the demands of the communities, the indifference and/or hostility of the ‘old’ system (chieftainship, DA office and sectors), and slow responses and lack of financial and other resources at DC level.

There are some indications that female councilors face more resistance challenges than their male counterparts do, both in acceptance and in support systems. Impounding of livestock seems to provide a good example in many areas where the councilors are expected to personally impound transgressing livestock looked after by young, belligerent male herders. In contrast where chiefs are still considered duty bearers each village appoints at least three men as “rangers” and they are given due respect when they decide to impound livestock.

Involvement of women, men, youth and the very poor in the activities at community, CC and DC level:

a. As discussed in earlier chapters, women on average have higher levels of literacy in Lesotho than men. Thanks to the reservation of at least a third of the CC seats to them, and their ability to compete for open seats, they hold over sixty percent of CC seats. A number of women are also chiefs. As a consequence of the long absence of many men from villages for prolonged periods of time as herders or migrant workers, women have for a long time played the major role in agriculture and livestock production, as well as in the management of other local affairs.
b. Within the new decentralized system, women feel that they are involved at the stage of execution but not as much at stage of planning and let alone decision making. Their lists of priorities overlap substantially with that of men. Sometimes they are intimidated by CC council staff and discouraged from complaining to higher levels. Poor women and widows mostly feel left out.
c. Men and “Herd boys” (not boys but young men, some with significant business interests and skills), tend to identify more with the chieftainship system as a powerful male institution. They also resent at times the intrusion of councils into grazing land allocation, and the authority which goes with it. However, there is also growing awareness and acceptance of CC roles.
d. Information among young women about local government vary from excellent to relatively poor, while attitudes range from hostile, skepticism to indifference.
5.5 Accountability systems

Without strong accountability systems at the local level, the faith in a demand-driven model of rural development and service delivery would be misplaced. The framers of the decentralization process in Lesotho clearly have recognized this and therefore made a number of provisions to ensure it. Upwards, horizontal and downwards accountability systems at DC, CC, and Community level are generally in place. The main downward accountability mechanism is the pistos, the assemblies normally held in the group of villages constituting an electoral division. These were used to develop the list of priorities that were then taken by the elected councilors to the CCs, generally using a participatory approach including voting on the priorities. In many villages there are complaints that the councilors do not report back very well, and that the frequency of pistos has declined. At the same time there is fatigue of pistos that results from a feeling that councils have been unable to respond to the priorities of the populations.

The research team pistos were very well attended. In a few rural settings, suspicion was felt or tiredness of having to attend to yet another research team. Yet most of the rural areas (particularly in the very rural areas where hardly ever someone visits to seek their view) and rural CCs were glad to be heard, and CCs, Chiefs and communities often felt that the presence and interest of the team ‘made local government’ somewhat more real to all. It was often perceived as support from the Ministries of Local Government and donors for their cause of trying to make Local Government work in remote places.

Communities do not have a culture of demanding services from duty bearers, or hold them accountable. In fact the opposite often pertains, that people that exercise their right to demand services are considered as trouble-makers of the officialdom. Mechanisms of monitoring and evaluation at community level are very poor, and no grievance procedures are in place. Indeed communities were frequently emphasizing the need for formal and well understood grievance procedures where they can take issues to a higher level or to an ombudsman or the like. In practice they were sometimes intimidated not to go to the DC level, with the above mentioned argument that the sophisticated staff from Maseru would not listen to modestly dressed and behaving women and men form the villages anyway. Even in cases where officials pretend to listen, procedures that people are asked to follow prohibit any further pursuit. The case of one councilor is a good example. She stopped the DA on the road passing near her village and related her tribulations. Rather than promise to follow up using the resources at his disposal, the DA told her to follow the proper channels and procedures – which do not exist.

Similarly the communication duties, demands and links of the institutions and sectors of central government are not established. They need to be clarified and implemented urgently to enable councillors to negotiate their rights in regards to needs and demands.

5.6 Relationship with chiefs

The relationship between chiefs and the councilors was the most complicated issue encountered by the team. The findings indicate that the relationships between local government at all levels and traditional authorities span a wide range, from excellent to very poor, and even criminally obstructive. Even though the traditional authorities are enshrined in the new system, their relationships with it are the most complex topic encountered, and surrounded by the greatest emotions and uncertainties.

The English term “chiefs” (morena) in Sesotho is one that entails confusion in that it is used widely and covers numerous levels of chieftainship system positions, principal chiefs, gazetted chiefs, headmen and caretakers of all these categories. All are addressed as ‘Morena’ in Sesotho.
always translated into ‘Chief’. The meaning of it may be described as ‘the one in charge’ or ‘the above’ or ‘the leader’. Some are called chiefs because they are born into the chieftainship family while others are appointed by villagers (especially at the lower end i.e. the headmen), when a vacancy comes up. In the hereditary system one will find that all the so called “tribes” and “clans” are represented. At times even significant numbers of women become “headman” or chiefs the latter only as custodian of their son’s post.

Current councilors took over from Interim Community Councils (ICC) in which chiefs had played a large role in community governance in earlier dispensations, mainly as automatic chairpersons of Village Development Committees (VDC) and subsequently as automatic members of ICC’s. This according to data gathered in this study set a ground for chiefs’ feeling of disempowerment.

An added difficulty arises, since, unlike in the other districts, all the Principal Chiefs reside outside their districts’ of ‘governance, such as Teyateyaneng, Tsikoane, Peka le Kolbere, Qacha’s Nek, Thaba Bosiu, and others. Therefore the LMPS (Lesotho Mounted Police Service) finds it difficult to get their often required support since they are either not accessible and/or do not identify with the area as much.

Men tend to identify more with the structure of chieftainship. They indeed feel an impending loss of a male power domain. Although much more pronounced in the male domain it can be found in the female one, for fear of loss of identity on one hand perhaps, and ‘identifying with the aggressor’ on the other hand – wanting the strong seen as ‘god given’ i.e. the inherited male domain of chieftainship. Very little awareness exists regarding the fact that the way, how the feudal chieftainship structure stands today was implemented by British colonial rule.

Awareness of egalitarian citizenship is low and the fact of being a subject of someone seems not a problem to many. Yet at the same time there were many debates about human and children’s rights in FGD of all levels - parents to kids chiefs to councilors. Community members are too aware how dependant they still are on the chief for administrative issues as well as law and order maintenance – such as registering cattle seeking permission to sell it, or get a certificate of ‘belonging’ to the village or having been born there’ which is needed to get a passport for example or as a reference to find employment.

Chiefs feel left out on training hence their complaint that ‘Councilors are always gone’ to be trained. The chiefs are then loaded with two jobs theirs and the councilors. Even though one senses an element of envy, for the sake of the integrity of communities, chiefs must be more involved in negotiating new roles and boundaries to guarantee ‘harmony’ in the communities. In all 4 CCs, 18 villages and hamlets visited councilors and also community members feel that chiefs are not provided with training to enable them to either understand their new roles, after establishment of local government, or training to perform their roles according to the new laws. Some suggest joint training with the councilors where jointly they can work out how they could cooperate better.

Greatest ‘confusion’ (literally) was felt from chiefs and councilors alike as to their clear division of responsibilities, labor, roles, and status. As stated, but not clearly defined in nearly all interviews, the common perception is that the role of chiefs in the new dispensation is peace-keeping, law enforcement and administration, while councilors’ role is management of natural resources, and ‘development’. However, a lot of confusion exists at all levels as to specifics and boundaries between these two perceived roles. For example in some areas chiefs are still expected to play a role in supporting impounding of transgressing livestock in reserved pastures while in
others councilors are given the space to choose “rangers” to do the impounding. Court cases and minor disputes are taken to the kgotla, then to the police and then brought back to chiefs if police can’t solve them. Chiefs on one hand are complaining that police let rapist free whereas they can’t treat them in the old way anymore. In other cases Chief’s sons rape in the whole area and court cases are not taken further and councilors are threatened if they interfere supporting the victim.

In one instance, however, where the division of roles and duties and confusion even included the police level, all involved decided to sit down together in a meeting and study the Local Government Act to find solutions to the controversy. They found an interpretation which was accepted and adhered to, by all involved. This suggests that guidance and participatory workout and negotiations are required down to at least the CC level.

All the councils visited had chieftainship services which were ranked from extremely obstructive to local government (Ha Mohau in the Lesobeng Community Council and Ha ‘Nyane in the Mphe-Lebeko Community Council) to mildly obstructive/ cooperative (Pitseng in Makheka, Ha Leronti in Mphe-Lebeko), to extremely cooperative (Pitsaneng Makheka CC, Ha Mahlong and Ha Thabo, in Mphe-Lebeko CC; Ha Mahao and Tšieng in Lesobeng CC). Both in Lesobeng and in Mphe-Lebeko it is becoming clear that there is a consistent threat to local government structures emanating from some chiefs. Elsewhere, e.g. in Ha Leronti, some chiefs are reflecting an extra-ordinarily and unrealistically rosy picture to everyone from outside whilst in practice they act very resistant to councils.

The natural resource management role of the councils has become a source of conflict for all councils (4) and villages (18). Councilors feel they have been saddled with a role that has no support system. For example when chiefs used to be the custodians of natural resources they had legal, political and practical authority to instruct men in their villages to impound animals that infringed on reserved pasture. These village “rangers” were compensated with 70% of the proceeds of such a seizure i.e. livestock, yet with councils all mention a M2.00 fee as compensation for each animal impounded, which they claim is too little for the risk they take as some transgressors most of the time are willing to cause bodily harm to rangers. Besides it is now under debate whether this fee must be transferred to central government. The end result is that men refuse to go and impound transgressing livestock and of course women are at a more disadvantaged position. Yet in many cases when the impounding procedure works and penalty is collected – the lack of spending authority of councils of that money undermines their status as ‘in charge do development’ and there is a great risk seen by all that they are in danger of becoming ‘mere’ tax collectors for central government.

The management of natural resources role of councils is perceived as being further complicated by the role of Principal Chiefs with their agents, such as gazetted chiefs on schedule A and B pastures, which are generally high in the mountains where cattle posts are sited.

When police especially in countering stock theft need support from Principal Chiefs they in turn want their costs for any such trip to be paid by the police who have no line item to do it. In the end the result is that Principal Chiefs end up refusing to offer such support since they also have no budget for such duty travel; while if that support is requested in their districts of residence, they attend because there are no inherent costs. Yet they are the only ones who are entitled and truly respected by the communities to deal with this issue.

There are some instances of corruption among chiefs, and perhaps some council members to a very mild extent (to be further assessed). The way the two traditional chiefs that sit on the CCs
and the DC are selected, contributes to the poor attitudes of the chiefs and their feeling to be left out of the loop: Only chiefs who were gazetted in 1964 were eligible to sit on the councils, meaning that often there was no election of their representative by the chiefs as only two eligible chiefs were available. All CCs therefore have very old chiefs as members and a serious generation gap between the councilors and the chiefs is present. In the case of the area chief mentioned in the methodology section, he has long been known to be authoritarian and arbitrary, is not interested in the CC role, participates only partly in CC meetings and trainings, and provides no feedback to the other chiefs in the CC area. He would never have been sent to the CC if the chiefs had been able to choose and designate their representative.

Local government initiative of scoping the orphan situation, although seemingly largely successful, has at some areas being frustrated by lack of support from chiefs. This example takes on a serious significance that can indicate that local government structures have difficulties in assessing of the most distress group in Lesotho rural society today.

An overall conclusion that can be drawn from this section is as follows: Apart from formal clarification of roles of chiefs within the new system of local authorities via the law, regulations and training, mediation and guidance is required involving both councilors and chief/headmen and communities as to clarify their roles down to the nitty-gritty of the community level. In addition it is clear that the selection criteria and process for chiefs needs to become far more open.

5.7 Overall Perceptions of the Central Government and Local Authorities

People in the District of Thaba-Tseka, starting with the town itself, feel abandoned by the centre. This view comes from both public servants and communities that we visited. In all of the 4 visited councils there was overwhelming sense of abandonment by the centre. People often said that their councilors have failed to deliver on promises they made because when they come back from training either at district of central level, they bring projects that were never in the people’s priority. These they then invariable implement, which makes people wonder whether councilors are their representatives or representatives of the central government. In terms of the vision of local authorities articulated in chapter 1, the new structures conform more to the old vision, rather than a new vision of an autonomous and participatory local government system.

People perceive that lack of trust of central government in local government councils is helping in undermining long-term sustainability of the system. Central government has continued to make decisions at local level in various ways such as employing its staff and having a say about managing the small envelopes of money raised by the councils or inherited from Interim Community Councils (ICC) which they succeeded.

There is also a consistent perception that central government whilst advocating for deepening democracy through decentralization their pronouncements are mismatched to actual deeds. There is a lot of sympathy from communities and many chiefs to councils who see the failure of delivery by councils as being underscored by central government’s lack of full commitment. For example, delay in the Ministry to decide on the preferred and promised bank accounts for the councils, decision-making power being de-concentrated from central but being concentrated at either district level or remaining in Maseru.

Of his sons three are in jail, one was just released, and one has been accused of raping the visiting daughter of a relative, a case that is proceeding in the courts. Allegedly the chief has threatened two councilors with murder. Needless to say that the CC is intimidated and an atmosphere of fear is present in the chief’s area.
There is a lot of sympathy from communities and many chiefs to councils who see the failure of delivery by councils as being underscored by central government’s lack of full commitment.

Finally, on account of their collection of grazing fees and fines, which are not resulting in visible expenditures, the perception that local councils are becoming tax-collectors of central government is increasing among the communities and is even filtering through to some of the councilors.
6. Priorities, Access and Quality of Services

Services in Thaba Tseka are delivered by a wide variety of providers: the central government agencies (such as the Lesotho Mounted Police Service, the Judiciary, and many roads), Local Authorities, Sector Agencies (only some of which fall under the purview of Local Governments), Churches (especially in health and education), the private sector (especially in input supply and marketing), and some NGOs. The services available in different villages and the service providers are shown in Table 6.1.

Table 6.1: List of Services and Service Providers in the 19 Villages

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>SERVICE PROVIDER</th>
<th>AVAILABLE IN NO. OF VILLAGES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Health</td>
<td>Christian Health of Lesotho</td>
<td>3</td>
</tr>
<tr>
<td>2. Correctional Services</td>
<td>Ministry of Justice and Human Rights</td>
<td>1</td>
</tr>
<tr>
<td>3. Chieftainship services</td>
<td>Chiefs</td>
<td>19</td>
</tr>
<tr>
<td>4. Rangelands</td>
<td>Community Councils</td>
<td>19</td>
</tr>
<tr>
<td>5. Graveyards</td>
<td>Community Councils</td>
<td>19</td>
</tr>
<tr>
<td>6. Residential sites</td>
<td>Community Councils</td>
<td>19</td>
</tr>
<tr>
<td>7. Safety and security</td>
<td>LMPS</td>
<td>2</td>
</tr>
<tr>
<td>9. Roads</td>
<td>Lesotho Fund for Community Development</td>
<td>1</td>
</tr>
<tr>
<td>10. Agriculture extensions</td>
<td>Ministry of Agriculture and Food Security</td>
<td>5</td>
</tr>
<tr>
<td>11. Schools</td>
<td>Ministry of Education and Training + Churches</td>
<td>15</td>
</tr>
<tr>
<td>12. Old age pension payout</td>
<td>Ministry of Finance</td>
<td>1</td>
</tr>
<tr>
<td>13. Support groups</td>
<td>Volunteers</td>
<td>19</td>
</tr>
<tr>
<td>14. Water supply</td>
<td>Village water supply, Water and Sewage Authority</td>
<td>14</td>
</tr>
<tr>
<td>15. Markets</td>
<td>Community Councils</td>
<td>0</td>
</tr>
<tr>
<td>17. Shearing shed</td>
<td>Ministry of Agriculture and Food Security</td>
<td>3</td>
</tr>
<tr>
<td>18. Dip tank</td>
<td>Ministry of Agriculture and Food Security</td>
<td>3</td>
</tr>
<tr>
<td>19. Public Transport</td>
<td>Lesotho Bus and Freight (parastatal) and private Sector providers</td>
<td>10</td>
</tr>
<tr>
<td>20. Family latrines</td>
<td>Community Council</td>
<td></td>
</tr>
<tr>
<td>21. Public latrines</td>
<td>Community Council</td>
<td>1</td>
</tr>
<tr>
<td>22. Post office</td>
<td>Ministry of Communications, Science and Technology</td>
<td>2</td>
</tr>
<tr>
<td>23. Church</td>
<td>Matekane Construction</td>
<td>1</td>
</tr>
<tr>
<td>24. Electricity</td>
<td>Lesotho Electricity Corporation</td>
<td>8</td>
</tr>
</tbody>
</table>

As shown in Chapter 4, the transfer of competencies, staff, assets, and financial resources to the local authorities is yet very incomplete even in the areas under their purview. As a consequence there is widespread confusion about whether some services are indeed responsibilities of the Local Authorities. In particular, because all health posts in the district are managed by religious groups rather than the Ministry of Health, albeit with partial government finance, means that the population and even many councilors feel that the councils should not have anything to do with them. Alternatively people fell they are not entitled to demand quality services from private providers as a result communities turn to demanding similar government services even though
this may cause duplication. The situation in education, while not as extreme, is similar. As a consequence health and education matters are not as well represented in community and council priorities than the deeper probing revealed.

Within these constraints, priorities were generally well elicted at the level of the electoral divisions, and CC priorities reflected these priorities quite well. However, partly as a consequence of the overwhelming scarcity of funds, projects which were eventually approved tended to favor road construction, water supply and sanitation, which could be scaled to fall within the budgets actually allocated to the Councils. It does seem that from district down to councils, councilors were encouraged ‘to sell’ water and sanitation because of affordability. This seems to have led to a reframing of priorities. It was noteworthy that stereotypical these demands were first raised in all groups irrespective of their road access status, as if an indoctrinated ‘wish list’ was to appear. Health and schooling issues, even if dire, only emerged when interviews were allowed to flow in other directions then ‘strictly speaking Local Government’. It has to be concluded there is hardly a vision, let alone knowledge, that this should be – although future - local government issues.

The highly fragmented villages and difficult terrain, poor agricultural potential, limited literacy, and de-motivated population used to relying on remittances and skeptical of returns to agriculture, poor salaries, low morale and limited supervision and accountability of public servants (especially to client communities) and the limited access to transport and suitable training and technologies, have all combined to contribute to the lack of services and consequent extreme poverty and limited engagement of rural people, especially those in remote mountain districts.

Beneficiary opinions of service delivery in the district of Thaba-Tseka will be discussed in the last section of this chapter. They are wide-ranging yet at the same time homogenous. Health, education and agricultural services were said to be between middling to very poor, and also suffered from lack of funds, staff, mobility, and some obstruction by the DA’s office. Many service providers would like to be more responsive, but lack finance, staff capacity, inputs and especially mobility. Accountability of service providers to beneficiaries has not yet developed. District and Community Councilors, their staff, and others in charge of coordination or delivery of services are conscious of the inadequacy of what they have been able to do, as well as their constraints.

As mentioned before, communities do not have a culture of demanding services from duty bearers, or hold them accountable. In fact the opposite often pertains, that people that exercise their right to demand services are considered as trouble-makers of the officialdom. Mechanisms of monitoring and evaluation at community level are very poor, and no grievance procedures are in place.

Figure 6.1 drawn from the data presented in Annex 5 gives a broad overview of the priority for services across villages with different access to roads, and compares them to their access. By adding the priority and access scores across the five classes of villages discussed in chapter 5, total scores range between 0 and 25, with 25 reflecting the highest priority or level of access, while 0 reflects the lowest priority and level of access. These data need to be interpreted carefully, and each of the services is discussed after an overview of the results.

By far the highest priority among all communities, both urban and rural, with scores between 20 and 25 are improved range management and access to employment, key ingredients to enhancing incomes. The next group, with scores between 15 and 20 are chieftainship services, police services, land allocation, road improvement and Justice. This shows the enormous priority of safety and law and order concerns among the population. It suggests that improving all aspects of
security and decentralized delivery of justice deserve a high priority, such as the devolution of many cases from magistrate courts to local courts recommended in the legal section. In the middle group with scores between 10 and 15 are cell phone towers (revealed in the interviews as very important to prevent stock theft and other crimes), health, HIV/AIDS groups, primary education, markets, birth certificates, and agricultural extension. The lowest score of around 8 is for water supply and sanitation.

It is instructive to compare these scores to access in the villages. Note that these are not quantitative statements about gaps and surpluses. A good way of looking at them is the gap between access and priority, which gives an indication of the intensity of unfulfilled needs. Note that it does not provide information on the quality of the services, just on the gap between access and need. Since the underlying data is scores, rather than continuous quantitative numbers, a positive score does not indicate that a service is not undersupplied, as clearly seen in the dissatisfaction with agricultural services seen in the discussion of the individual services. However, the scores provide a measure of the relative intensity of the gap in services, whether the numbers are positive or negative. Again it is in the area of employment that the need is most intensely felt, with a gap of nearly -18 points. Land allocation and Range management have gaps around -12 points. Gaps between –5 points and zero are observed in roads, markets, cell phone towers, health, justice, birth certificates, police, and chieftainship services. The lowest gaps, as seen by the positive numbers are seen in agricultural extension, HIV/AIDS groups, and water and sanitation.

**Figure 6.1**

*Service Delivery in Thaba Tseka: Access vs Priority*
In figure 6.2 the data is disaggregated between those communities with relatively good road access (urban, semi-urban communities, and villages accessible by car) on the one hand and remote communities that can only be accessed by 4x4 or on foot and horse. In the easy access communities, the gaps in employment and land allocation are felt more intensely than in the remote communities, perhaps reflecting the fact that in remote communities self employment in agriculture and livestock activities predominates, and land is more easily accessible. The difference in the gap between remote communities and easy access communities is most striking in the areas of roads, where it is exceeds 7 points, showing the enormous disadvantage of remote communities in terms of road access. Large differences are also observed in HIV and AIDS, cell phone towers, police, justice, health (but not primary education), birth certificates, agricultural extension, and range management.

Figure 6.2
Service Delivery in Thaba Tsekaa - Gap Between Accessible and Remote Areas

In Figure 6.3 information is provided on whether services have improved or deteriorated since the introduction of decentralization. The percentage numbers refer to the percentage of the 19 villages that have seen no change, improvement or deterioration. The main impression is one of no change in most of the villages, which is not surprising given that councillors have had only a little more than a year since they could make a difference after their induction and training, and given the low allocation of fiscal resources to local authorities. A number of services have improved in a few villages without deteriorating in others. Among these the most improved
service is conservation, the planting of trees, which reflects the strong commitment of the MFLR has made to working with CCs. This is followed by some improvements in electricity (over 20 percent, or 4 of the 19 communities), post office, family latrines and public transport in over 15 percent of communities, (3 of 19), and health, agricultural extension, schools in 2 of 19 villages and church, public latrines, old age pension, and correctional services in one of the villages. The most deteriorated service is rangeland management, consistent with the picture of conflict that was painted in the last two chapters. Support groups, site allocation and chief services have deteriorated in five or six of the 19 villages, with no or little compensating improvement in any of the other villages. Road services have deteriorated in six villages while they have improved in four villages. Finally court services are perceived to have deteriorated in four villages. No data is available on police services.

Figure 6.3
Status of Services in Thaba Tseka (over past 12 months)

The data presented in the graphs above requires interpretation from the in depth interviews, that is provided in the following sub-sections which are in the order of the overall priority they have in the villages visited:

Management of Rangelands
Throughout the district there was a very high priority set on management of rangelands because majority of people have their livelihoods strategies based on livestock and some crop farming. This is where most grievances came up either targeted at councils’ management or at the
Principal Chiefs’ management of schedule A and B pasture, especially with regard to management of fines. All the 4 councils and their villages are greatly dissatisfied with current arrangements of rangelands management. Various groups and individuals that were interviewed strongly point out that since inception of local government councils there has been a clear deterioration of rangelands resources, especially grass. All councils visited reported that they had planted trees to improve the natural resources base for councils. At Mphe-Lebeko the council staff reported that 2,500 trees were purchased for growing. Survival rate is unknown but is estimated as very low – somewhere between 10 and 15%.

Employment opportunities
It is clear that most people want paid labor opportunities as the overall score (24.8) shows. The data also shows that access to wage labor (at 11.4) is far below popular demand in this district. This sometimes translates itself in a community seeking a road which they believe will bring employment and cash flow in to the community. There are seemingly three main drivers for demand for wage employment:

(a) A labor reserve culture has developed, where the majority of people (including bureaucrats and intellectuals) have been socialized into unquestioning belief in being employed. In this culture being employed provides more social respect and recognition than being an employer. In simple terms a shop manager is more respected that the owner of the shop he/she runs.

(b) Lack of entrepreneurial income generation. The whole process of Lesotho’s integration into the world system has ensured and continues to ensure that as a producer of raw materials (wool, mohair, water) and Lesotho’s education (formal and informal) recreates a culture of severe adversity to taking risks which is a mark of a true entrepreneur.

(c) More need for consumer goods or necessities as cell-phones for example. This was clearly illustrated to the research team at Ha Lephoi Clinic where a young mother who had sat down on the grass breastfeeding her baby suddenly went into some of her windbreaker pockets and took out a mobile phone, made a call and prepared to return home. Again here people charge their phone batteries using solar chargers. This service together with air time retail has provided opportunities for wage employment for some people.

In view of the high demand for employment, GOL should consider a system of provision of employment or employment guarantees as practiced successfully in other countries. Local authorities should be in charge of implementing such a system, as they usually already have a long list of local priorities that could be implemented with labor intensive methods by them or the communities. Moreover they have a significant advantage in determining those most in need for employment and therefore are in a better position to target the program. The development of such a system would also sharply reduce the need for ad hoc food for work programs. The corresponding resources could be channeled to the new program. In designing such a system the GOL should rely on the international literature and successful programs in the area.

Chieftainship services
Chieftainship services include peacemaking, justice and enforcement activities at the local level. These services are in high demand as suggested by the high ranging of security and justice related issues among the priorities of the population. In addition chiefs are conveners, and fulfill a number of ceremonial functions. They are part of the
new local authority systems. The issues arising in this new context have already been discussed in chapter 5.

**Police Services**

Policing in rural areas is one of the basic community needs. According to communities it is just not sufficient. On the other hand LMPS at district level, while it claims to have looked forward to introduction of local government because it felt some of their responsibility overload would be lifted, finds itself having to always be involved in conflicts that arise from the implementation and design of local government. Many villages visited, although concerned about livestock theft, reported that police law enforcement services were available on request or when needed, although there was concern that LMPS often arrive late. Most significant was that LMPS at district level did not even have the Local Government Act gazette. Research team allowed them to photo-copy their document so that they can at least have a reference in cases of doubt. This, of course, is not enough. Relevant training should be given to the law enforcers. The police were very emphatic that since Thaba-Tseka is now a district like any other government should consider appointing Principal Chief (s) whose jurisdiction will fall only within the district and cut extension to all Principal Chiefs located outside the district.

**Justice Services**

Justice services at the community level are already decentralized to the chiefs, and at a somewhat higher level to local courts. Nevertheless, the presence of justice services somehow does not match its effectiveness because both in urban and rural areas of Thaba-Tseka district people complain not of its accessibility but of its ineffectiveness. Communities around Thaba-Tseka town complain specifically of the magistrate’s consistent absence. This causes lodged cases to pile up without legal resolution. In rural areas people complain of court presidents’ biased judgments. Chiefs apparently continue to play a significant role. In the Telle Community Council an alleged stock thief from one of the villages was taken to the area chief for stealing and slaughtering a neighbor’s sheep. The owner of the sheep felt justice was going to be served if the chief used restorative justice principles as opposed to taking the thief to Semongkong police where the case would take ages to be heard by the court. Chiefs described major confusion on who is responsible for which cases let alone who can solve them best.

In the Mphe-Lebeko Community Council the local court staff which is expected to adjudicate on cases arising from the roll out the local government do not have the government gazette and actually accused the research team of not bringing it. ‘this stuff” they were wanting them to talk about. They mentioned that there are a number of cases which have been languishing in their files because there is no expertise to deal with them. In Thaba-Tseka town (Thaban’a Mahlanya Community Council) people complained that the “young” magistrate was hardly ever available to listen to cases. The other two councils did not freely voice anything to do with justice services because most of their cases are still settled by chiefs at community level. The above notwithstanding there is a case that challenged this state of affairs and the citizen won in a court of law (see Volume 2, Annex 4.2 for the story of Mr. Potso). Yet the court case of rape perpetuated on a young woman visiting her home village by the chief’s son is not pursued further and the mother of the victim asked the team for help to make her case public and then hopefully heard.

**Land Allocation**

Councils are now known throughout the district for land allocation functions i.e. residential and business sites, grave yards and agricultural sites (fields and gardens). 100% of the councils
visited reported a lot of confusion. Many people argued that councilors are cutting down residential sites sizes to 30x30 meter uniform size. While follow up in many interviews did not support this, the poor perception of councils’ behavior persists.

There is a quiet (in some places not so quiet) transition of land tenure from free hold land rights to documented title deed or alternative document based system. No matter on what side of the divide over the councils’ authority on land allocation, the majority of people report that the service is accessible to them.

Roads
Roads are understandably among the most demanded services throughout the district, at least in community councils visited by the team. For most of the rural councils communities to either get to Thaba-Tseka or Mantsonyane (the second urban centre), they have to travel 3 to 5 hours for a distance of 30 – 50 kms! It, therefore, was no surprise when in all the villages roads were in demand. Where such projects were being carried out (2 out of 4 councils) there was a deep dissatisfaction with the way wage employment on the roads was carried on. In both of the cases the local people felt they were being discriminated against even when they had required skills and competencies.

Road access in urban and semi-urban is high because at the time of the research there road works for the Likalaneng – Thaba Tseka road which is being tarred was in progress. People, are therefore, decreasing their prioritization of the roads. It is true that this road is a central government road, but the majority of people see it as a great change in their lives and hope it will ease feeder roads construction in their communities. An example of this is the communities of Ha Leronti and Ha Ntsoakoane in the Mphe-Lebeko Community Council that reported that this road will inevitably improve their access to road transport which is already not too bad. Buses and taxis pass through these two villages and they believe that motor transport commonly known as 4 plus 1 (sedan cars) will definitely be available in the next few months.

In the Thaban’a Mahlanya Council and Lesobeng where roads were being constructed there was an outcry on the employment policies/practices of out-sourced private construction companies. Locals felt they were being taken for a ride because before the start of such public works they were told employment opportunities were available for them, but that has not turned out to be the case in practice. Construction companies bring their workforce from wherever they come from and, despite locals having requisite skills, they do not get employed.

Cell-phone transmission/ relay towers
Livelihoods of the mountain people in the district of Thaba-Tseka are primarily based on crop farming and livestock rearing. Crop farming is basically a food security support strategy since possibilities of purchasing or selling of grains is either expensive or too far away from where most people live. Livestock farming has since the late 1800 hundred through British policies of labor reserve economy for South African mines and industry discouraged indigenous sheep and goats. Colonial masters introduced Merino and Angora goats that produce wool and mohair respectively. These products were and are still produced and exported raw and sold at international market. While there is a lot of appreciation for this kind of livelihood strategy stock theft has become a problem that livestock owners have had no visible solution until the recent wire-less telephony of mobile phones arrived.

Currently the most prevalent service provider is Eco-net, but the signal is at best appalling and unreliable. Nonetheless, people have seen that this can work and are now demanding more cell-phone relay towers so that they can easily pass out messages to trace their livestock when it is
stolen. It is not often that people voiced out more service in terms of competition although it would potentially improve access and a quantity as well as quality of service.

**Health**

In 3 councils, Thaban’a Mahlanya, Lesobeng and Mphe-Lebeko, there are Christian Health Association of Lesotho (CHAL) centers but people generally feel these are too expensive both for consultation and medication. As a result people in these two councils felt central government should bring health services closer to them. For both these council areas the nearest government health centre is Maseru, which means a day or two of travel for most people. The demand for health services is based on the belief that government health centers will be much cheaper than privately owned services.

As for the Makheka council area people felt that the health centers at Linakeng is too far (3 hours one way by horse) and they would like to see a closer service provision point. Generally people do not feel they can demand quality or affordable services and their option is duplicating these with government provided services.

**HIV-AIDS**

There are Support Groups in almost all villages visited. However, there seems to be a lot of mistrust of these services, although they are present and working on the ground. There are stories of some people choosing to test and access medication at the health centers rather than use village based services. Men in particular young men, claim “we don’t know anything about it” HIV/Aids that is. They refer to the female population ‘ask the women’ they say ‘they will know’ and women indeed do. Complying with their traditional role of caring for the sick, they are very well informed and active in dealing with the impact of the pandemic in all its facets. Even children are knowledgeable to the extend that were told ‘you need gloves’ when you have Aids and ‘you can die of it’. The collective denial of men in FGDs was not confirmed in one to one interviews, where we learned that councilors even resorted to talking to men one by one ‘because men are stubborn’. They also had held many Pitos addressing the issue.

Data collected in this district show that very few people appreciate or understand the role of councilors in fighting HIV/AIDS. Many community member groups (10 of 18 villages) report that while they have heard councilors talk about HIV/AIDS they feel it is non-of-their business. Their business according to them is natural resource management and nothing else since the peace keeping role remains with chiefs. According to these people, HIV/AIDS should be left to health centers and Support Groups. In at least 2 Community Councils (Lesobeng and Mphe-Lebeko), private health centers were concerned that support groups that have been established by the Office of the First Lady have just confused the fight against HIV and AIDS. They claim that these groups were pampered at establishment, but have one by one gone bust or nearly. They no longer even have the basics like gloves, and are ill-trained to administer anti-retroviral medication and support compliance. The staff of the church run clinic remarked that some groups demand their ‘medical kits’ received from ‘the first lady’ to be replenished by them yet they cannot take the responsibility to do so, since medication is demanded that should only be administered by, or under the supervision of health professionals.

**Primary education**

Most areas visited had a number of primary schools within a five kilometer radius. This resulted in primary education not being considered a high priority (score 13.5 as opposed to access at score of 23.3). This is the case both in rural areas as well as urban. Thaba-Tseka town besides having a number of secondary schools has two tertiary level schools (Thaba-Tseka Technical
School and a decentralized satellite campus of Lesotho College of Education (LCE). This has made communities in the district to reprioritize primary education in their demands.

**Birth certificates**
Although councils are perceived largely on their function in NRM, they are also tasked with other services such as registration of births and deaths. This is very little known by communities and is subsequently less prioritized and accessed by communities.

**Markets**
Throughout the district of Thaba-Tseka there was relatively low demand and consequently priority on markets because much of the production is for subsistence and local market. Producers sell livestock to meet the meat demand at local level, because this does not have logistical costs such as transport and storage. Yet some female cattle traders do trade their cattle to the capital. A clear exception is the production of wool and mohair, which is definitely for the export market. Even with wool and mohair producers there is low priority for markets, because they feel that the South African market which links them to international buyers pays the best prices. When producers talk of market bottlenecks, it refers to transport of their product. At Lesobeng Community Council there was a large outcry about their wool and mohair that stays too long in the government shearing shed. As a result they argued that their produce reaches market when demand has slowed down and the prices have dropped.

**Agricultural Services**
In an effort to make extension more accessible and relevant to farmers, the Unified Extension Service (UES) was established with most extension agents provided with a more holistic set of skills and given access to commodity specialists at Resource Centres in the Districts for specialised needs. In addition, community-based farmer extension facilitators (FEFs) are being trained to provide services to the farmers in their village. However, many challenges remain and poor roads, very limited access to any form of transport and poor security makes traveling to service centers difficult. Many of the extension agents are demotivated and insecure.

In all the villages except one (Ha Lephoi) communities reported that agriculture extension agents do not visit farmers – which proves that the above as informed by stereotypes and patronizing attitudes. The only show up of the agric extension was with advising councils on planting of trees –another cliché. At Ha Lephoi the research team saw the tree seedlings of eucalyptus and pine. These are trees that are said to be water thirsty and in extremely marginal soils of the mountains it is doubtful whether these are investment not environmental liabilities that the councils are being advised to plant.

In this Community Council, the existing shearing shed is situated at Ha Lephoi but people complained that service provision is extremely poor. One example that the men Focus Group gave was that last year they sheared wool in September at the beginning of the wool marketing season, intending to get their wool to the auction in Port Elizabeth when buyers are eager to replenish their stocks and pay good prices. The wool stayed in the shed until January when the wool season was winding down and buyers were turning their attention and their wallets to mohair. Other visited areas did not have a shearing shed but their poor performance it clearly is a big disincentive to producers whose livelihoods depend on small stock.

At the same time there are wide variances where some communities demand shearing services, although there is an existing private shed (Lesobeng) just about an hour’s walk from the village. This is because in Ha-Lepoi the public shed is operating highly inefficiently. The inefficiency is
somehow associated with the specific shed, not a systemic constraints and shortcomings of
government run paper based service.

Because livestock plays such a big part of rural livelihood strategies in Thaba-Tseka district,
focus groups tended to argue by analogy to justify livestock subsidies. They said that lowlands
people get subsidies for fertilizer and seeds, yet they get no government subsidies on livestock
input costs. Let alone transport costs to the market place where stock is sold.

**Water and Sanitation**

While water and sanitation is a relatively high priority, there is evidence that subsidized water and
sanitation projects have been supported by both government an donors, especially in rural
communities. The seemingly higher priority placed by urban and semi-urban communities lies in
the fact that the demand is more for sanitation (sewage services) rather than access to water. Also
urban and semi-urban communities demand more water for commercial purposes such as car
wash business. The other reason for the relatively low priority for water and sanitation is that,
since establishment of local government, councils have been pushing water and sanitation
projects. Councils argue that this was inevitable because their capita projects allocations came
with strings from Central Government that whatever projects they undertake should be completed
within a one year time frame. This meant that medium to longer term projects were clearly
unaffordable for them, there also seems to have been some encouragement from the Center for
water and sanitation projects, although it is not clear for what purpose.
7. Harmonization of the legal framework

The current chapter makes suggestions on how the various statutes and regulations in effect in Lesotho could be harmonised with the objective of making the local government system effective in discharging its mandates. It highlights areas that may give rise to conflicts due to the application of different laws or where a specific function is supposed to be performed by local authorities, but there is a law providing that a functionary from the central government must perform such a function. Tentative recommendations are made. The study on which this chapter is based also attempts to make a presentation on how the laws should be reformed in order to accommodate the harmonised regime. A tentative amendment Act is attached to this report as Annex [3] for further deliberations and suggestions.

The current constitutional dispensation establishes the local government system (section 106 (1) of the Constitution of Lesotho of 1993). The Constitution makes it clear that the functions of local authorities may be prescribed in the legislative enactment. It was for this purpose that parliament passed the Local Government Act of 1997 (hereinafter the Act, unless the context indicates otherwise). The Act was amended by the Local Government (Amendment) Act in 2004. Creation of local authorities via legislation is a common practice across the world, including, for example the United Kingdom and New Zealand (Shaw, 2006). The Act establishes various councils that may consist of Community Council, District Council, Urban Council and Municipal Council. The Act also sets out the composition of these various councils. These councils are known as the local authority in terms of the Act. The review will adopt this terminology.

The local authorities commenced their operations as from the 27th May 2005 following the Local Government elections held on the 30th April 2005. A number of issues have surfaced since then. First, the current legal framework identifies the functions of the local authorities, but does not define the relationship of local authorities and the Central Government in as far as the execution of those functions is concerned. Second, the issue of the role of the line ministries in the support of the Decentralization process is not clearly defined. Third, the legal relationship between the Central Government and local authorities is not readily clear. Fourth, the existing legal framework does not clearly define the legal relationship between the local authorities, the Chieftainship, Members of Parliament and District Administrators. Finally, the stipulated functions are broad and a policy decision should be taken either to retain them as they have been stipulated in the Act or to define them with some restrictions where this is desirable. The Local Government (Amendment) Act of 2004 repealed section 95, which stipulated that the provisions of the Act would prevail over the inconsistent provisions in any other Act. The repeal of section 95 contributed to some of these issues.

7.1 Existing Legal Framework on Local Authorities

The functions of local authorities have been set out in the first and second schedules to the Act. These functions are broad and have not been clearly defined. Section 5 (2) provides that the functions specified in the second schedule are supposed to be performed by the Community Councils. However, the concept “Community Council” has not been defined. It is only “Council” and “Local Authority” that have been defined.

The Act constitutes all various Councils as legal persons with all powers and obligations accorded bodies corporate in law, which include amongst others, the right to acquire, hold or sell property
and to sue and be sued in their own name (section 31(1)). These provisions are likely, if they have not yet, to give rise to practical operational problems in the sense that it may be difficult to make Councils accountable. The provisions seem to defy mutual co-operation between the Central Government and the local authorities. It is suggested that a “vertical integration” approach should be adopted. This approach recognises the autonomy of local authorities but leaves the monitoring power to the Central Government. The Central Government should not be seen in the context of interventionist approach, but should be seen in the context of synergised symmetry with powers to monitor and supervise the local government system where this may become necessary. In other words, local authorities should retain their independence whilst at the same time they should be obliged to take into account the overall government policy as may be determined from time to time.

The Act provides that the Minister responsible for Local Government is obliged, in consultation with the Prime Minister, to appoint a District Administrator for each Administrative District (section 39(1)). The District Administrator is an office that is responsible for representing the interests of the Central Government at district level. S/he is responsible for co-ordinating the duties and functions of all public officers in the district other than those employed by local authorities. In fact all public officers, except those employed by local authorities, execute their functions under his or her direct supervision. There is confusion on the ground relating to the role of this office in the local government system.

The Act is silent on the role of the office of the District Administrators in the local government system, except to state that the office of District Administrator only serves as the secretariat to the District Development Co-ordinating Committee. This is the Committee whose constituents include officers from the Central Government’s departments. It is desirable that the role of this office in the local government system should be clarified. One of the options would be to make the District Administrator a co-ordinating agent between the Central Government and Local Authorities.

One matter that transpired during our consultations with different ministries was the relationship between the office of District Administrator and that of District Council Secretary is not clear. Incidents of refusal of either office to attend meetings convened by the other office are common and in most cases the two offices jostle for power on the supervision and control of staff based at the district level notwithstanding that such staff may be local government staff or public officers. This state of affairs leads to administrative problems. Staff members often take advantage of this situation. Issues relating to abdication of responsibility on the part of staff are very common because of this administrative confusion. Again it is not clear which staff members fall under the local government service and those that fall under the public service. It is essential to better define the role of these two offices in the local government system and clarify their legal powers.

Under the act the Minister has the power to dissolve or suspend a Council, presumably as a last resort. The provisions of section 65 should clarify the reasons which should prompt the minister to take such an action.

These provisions also permit the Minister to appoint an officer either from the Local Government Service or from the public service to be the Local Government Administrator during the dissolution or suspension of a Council. These provisions require to be modified. It is very unlikely that the communities will be happy to work with the Local Government Administrator “imposed” on them by the Minister. The only visible possibility is that the Local Government Administrator is likely to meet resistance from the communities whose Council has been suspended or dissolved. The provisions of this section do not take into account the fact that
people in their areas elect Councillors and that any imposition of an individual from outside may literally cause problems particularly when such communities may be unhappy with the dissolution or suspension of the Council. This is the reason why we recommend that in the event that it is not feasible to appoint Interim Council, the best option would be to appoint the Council’s Secretary to take over.

In the premises, in order to make the process leading to the final dissolution or suspension of the particular Council and in the interests of checks and balances it is proposed that the Minister must be obliged by the law to make recommendations to parliament for the dissolution or suspension of any Council. Parliament should make a decision either to suspend or dissolve the Council or to reject the Minister’s recommendations. If parliament decides to suspend or dissolve the Council the Minister should then be empowered to appoint Interim Council. Given the political sensitivity of this matter it is important that the Ministry of Local Government and Chieftainship and other stakeholders should take a policy decision on the issues raised with regard to the provisions of section 65 of the Local Government Act. This explains why we will not attempt to incorporate our proposals in Annexure “3”.

The relationship between local authorities and members of parliament seems to create a lot of problems. Although members of parliament do not have a role to play in the local government system in terms of the current legislation, the legal consultations as well as the profiling studies showed that they do want to perform certain developmental functions that are within the jurisdiction of local authorities. Therefore there are often conflicts with the local authorities in the execution of some of their functions.

Councils are empowered to make by-laws and section 44 prescribes the procedure that must be followed to make these by-laws valid. The Minister must approve the by-laws and notification of such approval must be published in the Gazette. Every by-law that has followed this procedure becomes valid and its violation carries a penalty. It is important to observe that the Interpretation (Amendment) Act of 1993 stipulates a different procedure for validating by-laws. Section 27 of this Act stipulates that by-laws must be laid before parliament within 15 sitting days after the date of publication of such by-laws in the Gazette. In this regard the provisions of section 46 of the Local Government Act and those of section 27 of the Interpretation require harmonization by way of reconciliation. The wide-ranging provisions of the repealed section 95 addressed the problem. The result of this repeal has been the resuscitation of the conflict/inconsistency between the provisions of these two statutes. It is suggested that this conflict should not be left to the rules of statutory interpretation. It is proposed that the provisions of section 95 should be resuscitated with a clear proviso that the proposed provision will prevail over any other law in event of any inconsistency except the Constitution because our consultations revealed that section 95 was repealed because it was thought it was unconstitutional.

**Recommendations**

A policy decision has to be taken regarding the relationship between a District Administrator and Councils. One option is that the chairmanship of the District Development Coordinating Committee could be transferred to the District Council Secretary. In the circumstances, it is clear that the government will need to take a policy decision regarding the role of the office of District Administrator in the local government system. Its future also is an issue that needs serious debate with the relevant stakeholders. One option would be for DA to attend the District Council meetings on quarterly basis to get an insight of councils operations for continued support. This
would help integrate the operations of the local government and those of the central government system. It would also redress the possible attitude from local authorities that the Central Government’s role must be restricted to interventions by the Minister. If such a decision were taken, the role and composition of the District Development Coordination Committee should also be reconsidered, as well as its chairmanship.

Our findings point to the fact that there is confusion on the ground relating to the role of the office of the District Council Secretary relative to that of the District Administrator. It is suggested that under the current system the functions of District Council Secretary should be limited to the local government. It should be mandatory for this office to work jointly with the office of District Administrator on common issues affecting both local authorities and the Central Government. The same obligation should be imposed on the District Administrator.

The full-scale autonomy granted to local authorities should not be used as bar for the government to monitor and support the activities of local authorities. In this regard it is important that local authorities should retain their autonomy in discharging their functions whilst at the same time they should always be obliged to take into account the overall government policy form time to time. An autonomous local government system is always regarded as the cornerstone of the decentralisation process in most jurisdictions. However, it has come to be acknowledged that this autonomy should be defined within certain limits. In some cases it may be necessary for the Central Government to exercise supervisory and monitoring control over the local authorities with the aim of reducing the negative consequences of full-scale autonomy. The recommendation is based on the assumption that both the Central Government and local authorities should work together and have a continuing mutual co-operation so that developmental activities are well co-ordinated. In the premises it is recommended that the provisions of section 31 of the Act be reviewed with the objective of ensuring that local authorities become mindful of the overall Government policy as embodied in legislation from time to time and general policy directions.

A decision has to be taken to reconcile the procedure for making by-laws contemplated under the provisions of the interpretation Act and the Local Government Act. A provision along the lines of the repealed section 95 would take care of this problem. This is the section that stipulated that the Local Government Act would prevail over any other law to the extent that there is an inconsistency between the two statutes.

The Local Government Act does not mention the role of members of parliament in the local government system. However, the profiling studies and our consultations have made findings that they involve themselves in the local developmental activities. The relationship between local authorities and members of parliament must be clearly defined. It is important that the local authorities enjoy wide powers on matters relating to their communities. Proposals were made on how members of parliament could play a role in the local government. One suggestion was that they could become ex officio members of the District Development Co-ordinating Committee or the District Council. Another option suggested was that they should work with local authorities. It is our considered view that the best option is that members of parliament must consult local authorities on issues that affect the electors. The role of members of parliament should be limited to parliamentary affairs and other national issues.

It is therefore recommended as follows:

(a) **It is recommended** that Councils should perform their functions taking into account the overall government priorities and policies as embodied in legislation from time to time;
(b) **It is recommended**, that during suspension or dissolution of a Community Council by the Minister, the Council’s Secretary should take over and perform the functions of the Council during its suspension or dissolution. But it should be mandatory to refer a matter requiring a resolution to the District Council to make such resolution.

(c) **It is recommended** that chiefs, who are part and parcel of the local authorities, should not play an independent role in the execution of the functions reserved to local authorities. Instead their specific roles within the local authority structures should be clarified. This recommendation is based on the fact that the chiefs are now part of the local government structures, and efforts should continue to integrate them into local government so that they feel less marginalised.

(d) **It is recommended** that the procedure for making by-laws must be reconciled with the procedure prescribed in the Interpretation (Amendment) Act of 1993;

(e) **It is recommended** that the Local Government Act be amended to make it mandatory for members of parliament to consult local authorities on issues that affect communities in their areas of jurisdiction. Alternatively, since there was no consensus on this issue it is suggested that the government should take a decision regarding the role of members of parliament in the local government;

(f) **It is recommended** that the Local Government Act be amended to define the roles of the District Administrator and the District Council Secretary by making it compulsory for these offices to work together jointly and mutually on issues that affect both local authorities and the Central Government. Alternatively, the government should decide on what the role of the office of District Administrator should be in the local government given that there are divergent vie

7.2 Responsibilities and functions of Local Authorities

It became clear during our presentation to representatives of local authorities that the functions set out in the schedules to the Local Government Act have to be reshuffled. Certain functions can best be performed by a specific Council not the other Councils. On the basis of this proposition a suggestion was made that we should consider making one schedule stipulating the functions to be performed by all local authorities. The suggestion is that we should retain some form of flexibility regarding which function each Council is to perform. This would allow Councils to perform any function at any given point in time. However, in the interests of certainty it was further suggested that the regulations could divide the Council’s functions according to different types of Councils. The rationale is that regulations can always be amended quickly and without any difficulty as opposed to an Act of parliament. The other factor is the understanding that the District Council should be concerned with the developmental plans of the district and the other Councils’ main function should be to implement such plans. It therefore suggested that there should be one schedule in the Act stipulating the functions of all the Councils without being specific as to which functions are performed by which Council. This will be dealt with in the regulations to be published by the Minister. For instance, in the regulations the Minister can divide the functions according to the four different Councils and make four schedules to achieve this, with each schedule specifying the Council and its specific functions.
7.3 Legal Relationship of the Local Authorities with the Central Government

The Minister of Local Government is responsible for the implementation of the provisions of the Act. S/he is responsible for ensuring proper and timely compliance by the local authorities with the provisions of the Act. The discussion will focus on those statutes and regulations that stand to impede the operational efficacy of the local authorities if they are not changed to reflect the existence of these institutions.

Land Use and Grazing Control

Lesotho’s customary laws and provisions relating to land enshrine the principle that access to land is a birthright of all Basotho. Each household is in principle entitled to free household and cropping plots and to common access to grazing, water and forest resources as allocated by traditional leaders. Land allocation and management is in the process of moving from traditional authorities to local and district community councils but in some areas, despite legislation, the chiefs still retain significant power. The Land Act of 1979 requires that those who hold land in the urban areas should obtain a 90-year lease. The high transaction costs and lack of information means title is only effectively being claimed in urban areas, with higher value land. There is increasing pressure for crop and household land to be more widely registered and Lesotho has made commitments to establish policies that transform the rangelands and watersheds from open access to managed common property systems under leaseholds.

Under the Local Government Act of 1997 and Local Government (Amendment) 2004, responsibilities of land/site allocation, environmental protection, control of natural resources and grazing have been transferred to Community Councils (CCs) (with at least two chiefs to be represented on each CC). The new Land Bill (not yet enacted) increases formal recognition of homestead and cultivated land, makes provision for title, and gives control of access to grazing outside the cattle post areas to CCs and in cattle post areas it is anticipated that this will be regulated by the District Councils (DCs), although the position is unclear.

The fact that land use has always been supervised by the traditional leadership in accordance with customary law has made it difficult for the government of Lesotho to effect statutory changes aimed at ensuring proper regulation of land tenure system. Despite clear statutory provisions that specify the role of local authorities in the allocation of land, and that are already embodied in the Land Act of 1979 (as amended), chiefs continue to unilaterally allocate land for use particularly for residential purposes.

It is significant to note that chiefs often allocate land because they regard themselves as the custodians of the land for the benefit of their subjects. In addition, the Laws of Lerotholi gave the chiefs a lot of powers as far as the allocation of agricultural and residential land is concerned. The provisions of the Laws of Lerotholi that gave chiefs these powers have been repealed. However, notwithstanding such changes many chiefs continue to allocate land and in some cases their allocations may adversely affect physical planning (see Attorney-General and Minister of Local Government v Moletsane and 42 other C of A (CIV) 25/04) or developments contemplated under the provisions of the Land Act. Sections 11, 28, 31 and 32 that appeared in Part II of the Laws of Lerotholi have been repealed by the Land Husbandry Act of 1969. These provisions gave chiefs powers to deal with issues of leboella (land reserved for growing grass or trees), pulling of sledges on public roads, forestry and burning of grass respectively.
The Local Government Act makes Councils responsible for controlling grazing of animals and agricultural improvements. The Land Husbandry Act of 1969 and the Range Management and Grazing Control Regulations of 1980 govern issues relating to grazing control and agricultural development. In particular the Regulations give Chiefs wide ranging powers to control and regulate grazing. In terms of Regulation 4 Chiefs are entitled to set aside certain grazing areas as leboella (defined in the Regulations as an area set aside for the propagation of grass, thatch grass, reed beds, tree planting or rotational grazing). Chiefs are responsible for impounding animals that trespass on leboella and to impose fines on the owners (Regulation 6). Supervision of grazing is done under the direction of the Agricultural Officer whilst the administration of grazing is the responsibility of Chiefs. Regulation 9 bestows upon each chief the power to declare certain specified areas for purposes of agricultural development. In other words, these regulations give Chiefs enormous powers as far as grazing and agricultural development is concerned. These functions have to be performed by the local authorities in terms of the Local Government Act. Many field studies and our consultations reveal that most chiefs still perform these functions notwithstanding the fact that they are now reserved for local authorities in terms of the Local Government Act.

The legal relationship between the local authorities and chiefs must be clearly determined to avoid potential conflicts and overlapping of functions. A radical approach would be to amend the relevant laws and make it clear that chiefs do not have powers regarding grazing control. The new provisions should substitute chiefs with local authorities on issues affecting grazing control and agricultural development because chiefs are now part and parcel of the local government system. Chiefs will still execute some of the functions which they have traditionally performed that are not the province of the local authorities. It means the functions of chiefs and local authorities have to be refined in order to avert possible conflicts and jostling for power. The laws regulating grazing control and land use will be affected and in this regard it means they will have to be amended with the objective of harmonising them with the law governing the local government system.

After submitting the inception report we discovered that the Ministry of Agriculture and Food Security made draft regulations in 2005 to take care of the suggested changes. We have examined these draft regulations and they address almost all the concerns we raise above. It is therefore important that these regulations should be published as soon as possible. In this regard it means our recommendation will change. We initially recommended amendment of the Range Management and Grazing Control Regulations. Our recommendation is that the proposed regulations should be published urgently to enable local authorities to discharge their functions.

However, there are certain issues that have not been addressed in the proposed regulations. First, the issue of who should control the pound where trespassing animals are to be impounded has not been provided for. During our presentation of the initial findings it became clear that most chiefs still wield a lot of power over their subjects. In fact we discovered that communities are still loyal to their chiefs to the extent that they can defy local authorities. The suggestion from the participants was that chiefs should be responsible for controlling the pound. The rationale behind the suggestion is to attempt to make local authorities and chiefs work together. Second, the regulations do not deal with the issue of who should keep the official stamp. Again the suggestion has been that chiefs should be responsible for its safekeeping because they have always been enjoined to do so in the past. Finally, the proposed regulations do not deal with the subject of compensating rangers. We have discovered that currently rangers get 70% of the total revenue collected from the fines imposed on trespassers of leboella. It is proposed that the ratio of sharing the revenue from trespass fines should be 50:50. In simple words, local authorities should be
allowed to keep 50% of the total revenue collected and give rangers another 50%. The proposal is based on the premises that rangers will still regard their share as an incentive for them to impound any trespassing animals whilst at same time the revenue base of local authorities will increase.

The Stock Diseases Regulations of 1910 deal with matters relating to various diseases that may infect livestock. In terms of these regulations it is only the Central Government that plays a key role in the prevention and control of stock diseases. It is desirable that the local authorities should participate in all measures intended to prevent or control the spread of stock diseases such as dipping of animals or receiving and acting upon notices of infections of stock in their area of jurisdiction. It means that all the notices to be served upon a chief or all the measures chiefs are empowered and required to take such as the refusal of entry into their areas of jurisdiction animals that are infected with any stock disease must now be the responsibility of the local authorities.

Public Health

Public Health is regulated by the provisions of Public Health Order of 1970. The Local Government Act of 1997 stipulates that one of the functions of local authorities includes the responsibility over public health particularly on issues of food inspection, refuse collection and disposal. At the same time the Ministry of Health is responsible for the administration of the provisions of the Public Health Order. The Local Government Act is not clear if the local authorities will replace the Ministry of Health on the administration of the Public Health Order, or if they will be responsible for performing specified functions within the framework of the Order.

A closer examination of the Public Health Order shows that local authorities can effectively administer the provisions of the Order relating to sanitation and housing under Part VII. The local authorities could substitute health officers in dealing with issues of nuisance and occupation of unhealthy dwellings or premises that may be injurious or dangerous to public health. The local authorities are based at community or village level and they are best suited to know when nuisances or other acts that may constitute a threat to public health have arisen. The proximity of local authorities to communities places them in the best position to effectively deal with issues relating to service of notices requiring the owners of property to remove nuisance and taking the prescribed legal action if it becomes necessary. A further change that must be introduced in the Public Health Order is that in the event the owner fails to comply with the notice to remove nuisance the local authority concerned must cause a complaint to be made before a Local Court instead of a magistrate court.

Another area that should be controlled and administered by local authorities under the Public Health Order is the protection of foodstuffs, which appears under Part VIII of the Order. The Local authorities could be made responsible for enforcing the provisions of section 65 (which regulates buildings used for storage of foodstuffs) and section 66, which regulates buildings in which foodstuffs are stored or prepared.

Local authorities are responsible for the maintenance of water supply in villages. The duties imposed on health officers under the provisions of section 67 could be imposed on the local authorities. This section simply obliges health officers to take all reasonable practicably necessary and lawful measures to ensure the purity of any supply of water which the public uses for drinking and other domestic purposes. The section empowers such officers to take all necessary measures against any person polluting the water or streams in such a manner that such water becomes or is likely to be a nuisance or danger to health. Since local authorities have been
charged with the responsibility to manage water resources they could discharge the functions relating to water envisaged under the Public Health Order.

In the same manner local authorities should be entitled to seize and dispose of any contaminated foodstuffs and generally perform the functions and duties stipulated under the provisions of sections 68 (prohibition of sale of tainted food and disposal of contaminated food) and 69 (seizure and disposal of contaminated food) of the Order. In the same vein local authorities should handle issues relating to burial grounds and the provisions of the Order on cemeteries need to be repealed. It is suggested that the function of allocating land for burial grounds should be reserved to local authorities. Most District Council’s legal officers made it clear that the provisions of the Order on the issue of cemeteries present a lot of problems. One typical example is that the Minister of Health is responsible for identifying certain areas as authorised cemeteries. In practice this is not the case. Chiefs have always played this role particularly with regard to burial grounds in the rural areas. It means the provisions of the Order on cemeteries have to be reviewed and changed to accommodate the role of local authorities.

During the consultations it became clear that the Ministry of Health should be responsible for the overall national policy on health related issues. The implementation of some of the provisions of the Public Health Order could be left to the local authorities. Public health issues are highly technical and it means that the local authorities will need to have appropriately skilled manpower in their bureaucratic structures to enable them to discharge their functions effectively. In this respect the role of the Ministry of Health in training heath officers should be left untouched. The trained personnel should be assimilated in the bureaucratic structures of the local authorities.

It is also suggested that changes should be made in the Public Health Order on issues of enforcement regarding public health matters. The contemplated changes will affect provisions that require referral of such matters arising from the Public Health Order to the magistrate courts. It is understood that courts that are best suited to deal with such issues are Local Courts because most of these courts are situated in the proximity of the areas where local authorities are based as opposed to the magistrate courts, which are based at the headquarters of each administrative district. The other factor that has induced the proposed change is the assumption that most Councillors are familiar and comfortable with the procedure of these courts. Consequently enforcement of the provisions of the Public Health Order will not pose any problem in practice.

**Forestry**

The Local Government Act charges local authorities with the responsibility of ensuring that they preserve, improve and control designated forests in their areas of jurisdiction. Forestry issues are governed by the provisions of the Forestry Act of 1998. In terms of the provisions of this Act the functions that have now been bestowed on local authorities constitute part of the functions bestowed upon the Chief Forestry Officer in the Ministry of Land Reclamation and Forestry. The Chief Forestry Officer is also responsible for forest management including the power to advise owners of forests to adopt “scientifically sound management practices.” The Forestry Act establishes the Forestry Fund. This fund is administered by the Principal Secretary.

It is proposed that a number of changes be introduced. The amendments should be introduced that will allow the local government system to have a role in the administration of the provisions of the Forestry Act. The funds that are generated by the forests should now be collected and put into the Community Fund instead of the Forestry Fund. The proposed amendments will affect sections 5, 8, 11, 16, 20, 23, 24, 25 and 34 of the Forestry Act.
Recommendations

The current legal framework has to be revamped with the objective of defining the relationship between the local authorities and chiefs on issues of land use and grazing control. The fact that the Land Husbandry Act and its regulations still recognise the role of chiefs in the control of grazing areas makes it necessary that a clear policy decision should be taken. It is recommended that the local authorities should play a leading role in the implementation of these laws. The Local Government Act makes chiefs part and parcel of the local government dispensation so that they will participate in the decision making process regarding grazing control and agricultural improvement in general. Their replacement will not be perceived as a move to “snatch away” their powers, which they have enjoyed for decades both under the Laws of Lerotholi and now under the Land Husbandry Act and its regulations. Equally important is the issue relating to the role to be played by the Agricultural Officers. The Range Management Regulations obliged chiefs to consult with and act on the advice of the Agricultural Officer regarding the control of grazing areas under their jurisdiction. They also supervised grazing of animals while the aspect of the administration of grazing was the sole responsibility of chiefs which was taken over by Village Development Councils after 1992 (as a result of the Range Management and Grazing Control (Amendment) Regulations of 1992). In fact the 1980 regulations criminalised any conduct of any chief that resulted in failure to comply with the advice given agricultural officers. It is suggested that local authorities should replace chiefs as far grazing control and agricultural development is concerned. It is proposed that the law should be changed to allow local authorities to have a final word regarding grazing control rights. The role of agricultural officers should simply be limited to advising the local authorities. These officers can form part of the bureaucratic structures of the local government. It is therefore essential that the proposed Range Management and Grazing Control (Amendment) Regulations of 2005 be published to give effect to the recommendations.

The Forestry Act should be amended to cater for the role of the local authorities in the preservation, improvement and control of designated forests. The proposed amendments should also abolish the Forestry Fund and replace it with the Community Fund contemplated under the provisions of the Local Government Act. The Chief Forestry Officer’s role will be limited to dealing with issues relating to the national policy on forestry. This office has other functions to play in terms of the Forestry Act.

Local authorities should be responsible for administering the provisions of Stock Diseases Regulations to the extent necessary. That means the local authorities will replace chiefs as far as the prevention and control of stock diseases is concerned.

The provisions of the Public Health Orders should be amended to acknowledge and recognise the role of local authorities on issues of public health.

It is therefore recommended as follows:

(a) It is recommended that a new provision be incorporated in the Local Government Act providing in clear terms that chiefs have no role to play in the allocation of sites/land use. However, chiefs should be integrated into the system local government;

(b) It is recommended that harsh penalties be introduced in the event that any chief will violate the envisaged provision. However, chiefs must be made aware of these provisions. It is therefore recommended that the Ministry of Local Government and
Chieftainship in conjunction with the Ministry of Home Affairs or other related Ministries should hold education programmes that are intended to advise chiefs of the consequences of violating the new provisions.

(c) It is recommended that a new provision be incorporated in the Local Government Act providing in clear terms that chiefs have no role to play either on the basis of the repealed provisions of the Laws of Lerotholi or under the Land Husbandry Act or the Range Management Regulations. A harsh penalty should be imposed but chiefs should be informed of this in the manner contemplated under recommendation (b) above;

(d) It is recommended that the Range Management and Grazing Control (Amendment) Regulations of 2005 should be promulgated to accommodate the role of local authorities in grazing control and agricultural development;

(e) It is recommended that local authorities should play a leading role in the administration of the provisions of the Stock Diseases Regulations. The necessary amendments should be made to effect this recommendation;

(f) It is recommended that local authorities should play a meaningful role in the administration of the provisions of the Public Health Order. The relevant and appropriate amendments should be made to this statute. The rationale behind this recommendation is that the Ministry of Health will retain its mandate of training health officers and these health officers will be absorbed in the bureaucratic structures of the local authorities. Some of the functions that require the full-fledged involvement of the Ministry of Health have been retained;

(g) It is recommended that the Local Courts should replace Magistrate Courts as far as enforcement of the provisions of the Order is concerned;

(h) It is recommended that the Forestry Act should be amended with a view to ensuring that local authorities play a meaningful role in the preservation, improvement and control of designated forests within their areas of jurisdiction.

(i) It is recommended that the Forestry Fund be abolished because local authorities have their own Council Fund into which they can deposit revenue from forests. To achieve this it is necessary that the provisions of section 7 of the Forestry Act should be repealed.
8. Improving Fiscal Decentralization

8.1 Introduction

The GOL clearly recognizes that decentralization of functions and resources to fulfill them must go hand in hand, and is pursuing a gradual approach to do so. At the present time decentralization of public service responsibilities is very limited. However, Government intends to decentralize health, water and sanitation and other services in 2008, and transfer the necessary resources along with the responsibilities. In this way, the establishment of a matrix structure between local governments and line ministries will be avoided. This approach will also avoid accountability conflicts when functions are decentralized.

To promote strengthen local governance and accountability, the establishment of an effective and adequately funded system of local government is paramount to the process of Decentralization. Taking into account poverty, population, geographical and economic factors, there will be limitations on the amount of revenue that can be generated locally, especially for rural councils. Supplementing locally generated revenue through fiscal transfers from the Central Government will be necessary, and will assist in the establishment of an effective local government system. Nevertheless, locally elected political office bearers need to take responsibility for generating revenue at a local level that will be used to provide services required by citizens and which are the mandate of local government. In view of the likely importance of fiscal transfers from the centre, this chapter discusses both the grant systems and revenue raising, recognizing full well that grants will play the major role in the near future while revenue raising capacities are gradually increased. The analysis of this chapter is based on the functions already decentralized and does not analyze the grants that will need to accompany the transfer of major services such as health to the local authorities.

The analysis findings and recommendations in this chapter were based on field work undertaken in four of the ten districts: Leribe, Maseru, Qacha’s Nek and Butha Buthe. It also involved extensive discussions and review of the work of the FDTT and key departments of MFDP as well as other ministries (Ministry of Health and Department of Rural Roads – Ministry of Public Works. More details on background, methodology, and information collected can be found in the full draft report: “Government of Lesotho: Study of Grants and Revenue Raising Capacities of Local Government;” this report will be referred to as the “Fiscal Decentralization Report” throughout.

8.2 Grants

The existing government grant has two elements. Firstly there is an operating grant that is transferred to District Councils. This grant is intended to finance the operating expenses of the District Council and the Community Councils although there is a small element that is used for acquiring minor items of capital (such as office furniture and equipment). The District Council plays a key role in determining how this grant is distributed between itself and the Community Councils in its area of jurisdiction. It is difficult to assess the effectiveness and equity of the horizontal allocation between the District Councils and the Community Councils. However, based on the visits undertaken, the process of allocation is still evolving.

The second grant relates to the capital grant of M15 million, which is allocated to Community Councils on a weighting of registered voters (75%) and area of the Community Council (25%). The purpose of this grant is to finance development in the Community Council that impacts directly on citizens. A summary of the capital grant across the 128 CCs is given in Annexure E of the “Fiscal Decentralization Report.” In total, the average grant allocation for the 2007/07 financial year is M117,187 (about $16,000) per Community Council, which is not a significant amount taking into account the significant developmental backlogs that exist.

The guidelines that were issued for the 2006/07 capital grant allocation stated the following, amongst others:

- The capital budget is targeted at meeting the priority needs of communities and not for the purpose of investment by the Council for the purposes of generating revenue for themselves. The rationale for this guideline is that financial management processes of Community Councils are not fully developed;
- The capital budget can only be used for those matters set out in Schedule 2 of the Act (functions that are the exclusive responsibility of Community Councils). The majority of communities in the Council area must benefit from the projects funded from the capital grant;
- Projects must not duplicate other programmes already being implemented by another mandated agency; and
- Specific guidelines on some of the functions set out in Schedule 2 of the Act.

Initially Community Councils had to only identify projects that could be funded from the amount allocated to them but in the 2007/08 financial year, applications could be made for projects that are greater than the amount allocated on the basis of the fact that the project can be funded from future year’s allocations and can be completed over a period longer than one year.

The capital grant finances the major developments that occur in Community Council areas. The grant has mainly been used for the construction and maintenance of roads as well as the provision of water and sanitation.

The advantage of the current basis of allocation of the grant is that all Community Councils are allocated funding to undertake development in their Community Council areas. The shortcomings of the current basis of allocation are as follows:

- **There is no cognizance of relative development.** For example, some Community Councils may be relatively more developed than others as they are urban in nature. The District Council or the DA’s office may also be undertaking service delivery in such areas. The capital grant does not recognise these circumstances.

- **There is no linkage between Community Council projects and the District Development Plan.** Whilst the Act places significant emphasis on planning at the District Council level, there are not funds available to implement such plans at the District Council level. Instead, financing is given directly to Community Councils who may undertake projects that are not in accordance with the District Development Plan.

In addition to the two grants discussed above, local authorities may apply to the Minister in writing for grants to assist implement its development plan recommended by the DDCC. The Minister shall evaluate the application and forward it to the Minister of Finance subject to such evaluation process. All grants subsequently received from the Ministry of Finance must be
credited to the Fund of the Council (which appears to be a revenue fund). It does not appear that many Community Councils have established revenue funds.

8.3 Overview of Revenue Currently Raised by Local Government

Existing Revenue Sources
The status of record keeping at the Community Councils visited was poor (documentation on the revenue collected was not available during field visits), even though such information was always requested\(^\text{10}\). As a result, the information provided in this Chapter is incomplete. However, the lack of information does not compromise the findings regarding revenue generation. In all instances it was stated that the revenue raised was insignificant. Few interviewees were able to provide estimates of the revenue raised but some did provide some information that confirms the insignificance of the revenue raised (see Figure 8.1 below).

In considering existing revenue sources, there is a need to distinguish between revenue raised at a Community Council level and revenue raised at a sub-accountancy level. The sub-accountancy revenue will include all the revenue raised in each district council and be a more accurate indicator of the revenue raised at a local level. As stated earlier in this report, there is a risk that certain revenues collected are not paid over to the sub-accountancies or to the District Councils. There is a risk that revenue is used by the Community Councils for their own off-budget projects rather than being paid over to the sub-accountancies\(^\text{11}\).

Revenue Collected by Community Councils
Figure 8.1 below sets out estimates of revenue collected from those Community Councils visited where officials were prepared to make estimates. Figure 8.2 shows the typical revenue sources that are collected per category of Community Council based on the visits undertaken. The financial quantum of the revenue sources could not be obtained as explained above.

Figure 8.1: Estimates of annual revenue collected by a selection of Community Councils

<table>
<thead>
<tr>
<th>Community Council</th>
<th>Grazing</th>
<th>Hall</th>
<th>Rental</th>
<th>Public Toilets</th>
<th>Natural Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phutsong (peri-urban)</td>
<td>4 000</td>
<td>600</td>
<td>1200</td>
<td>500</td>
<td>2 000</td>
</tr>
<tr>
<td>Fenyane (rural)</td>
<td>6 000</td>
<td></td>
<td></td>
<td></td>
<td>2 400</td>
</tr>
<tr>
<td>Ntelle (rural)</td>
<td>2 400</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Linakeng (rural)</td>
<td>4 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Figure 8.2: Illustration of revenue sources

\(^{10}\) Due to limited photocopying and printing facilities, financial reports could not be obtained. In most instances, the accounts clerk was not present at the Community Council during the time of our visit. This prevented the collection of financial information.

\(^{11}\) The information in this Chapter is therefore incomplete and is only indicative of what existing revenue sources are at a Community Council level.
Urban Community Councils | Peri-urban Community Councils | Rural Community Councils
---|---|---
Community Council has used its own resources to construct | Grazing control (revenue resources) | Grazing control (revenue resources)
Refuse removal (limited) | Sale of natural resources | Sale of natural resources
Building permits | Sale of stray animals | Sale of spring water
Billboards – annual rental | Rentals (hall and other) | |
Sale of stray animals | | |

The limited revenue sources are not surprising, as Community Councils are not providing significant services to communities nor are the development projects that are being financed from capital grants being used in revenue-generating infrastructure (see 8.2 above).

An important matter noted is that the legal processes for the generation of revenue have not been undertaken. In terms of the Act, the Minister must set the maximum amount that can be levied for taxes, levies and service charges. The Minister has not yet set out these limits. In some of the Community Councils visited, the CCS indicated that certain users of natural resources refused to pay for these charges as the Community Council concerned could not provide the legal basis for the charges levied. Another difficulty encountered was that revenue charges differed from one village to the next within the Community Council area. This also undermines the revenue collection process.

**Revenue collected by the sub-accountancies**

Most revenues collected by Community Councils are paid over to the sub-accountancy office that is situated in each district council area and which is part of the DA’s office. In order to obtain an indication of the extent of revenue collected by Community Councils in each district, information was requested from the Leribe District Sub-accountancy. The local government generated revenue credited to the sub-accountancy was obtained from the Leribe DA’s Office (Leribe District has 18 Community Councils) and is summarised in Figure 8.3 below:

**Figure 8.3: Locally generated revenue collected by the Leribe District sub-accountancy**

<table>
<thead>
<tr>
<th>Source of Revenue</th>
<th>Budget (April 2006 to 31 March 2007)</th>
<th>Month of January 2007</th>
<th>Cumulative from April to Dec 2006</th>
<th>Monthly Average from April to Dec 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pounds and grazing</td>
<td>800</td>
<td>740</td>
<td>82</td>
<td></td>
</tr>
<tr>
<td>Unspecified</td>
<td>700</td>
<td>740</td>
<td>82</td>
<td></td>
</tr>
<tr>
<td>Market fees</td>
<td>15,000</td>
<td>1,718</td>
<td>9,049</td>
<td>1,005</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>1,500</td>
<td>1,497</td>
<td>6,978</td>
<td>775</td>
</tr>
<tr>
<td>Sale of stray stock</td>
<td>60,000</td>
<td>24,146</td>
<td>2,683</td>
<td></td>
</tr>
<tr>
<td>Building plans</td>
<td>270,000</td>
<td>42,013</td>
<td>4,668</td>
<td></td>
</tr>
<tr>
<td>Public toilets</td>
<td>30,000</td>
<td>20,315</td>
<td>2,257</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>378,000</strong></td>
<td><strong>6,654</strong></td>
<td><strong>103,263</strong></td>
<td><strong>11,474</strong></td>
</tr>
</tbody>
</table>

The revenue collected by the LSPP in the DA’s office relating to land related revenue is set out in Figure 8.4 below. The importance of Figures 8.3 and 8.4 is that there is not a significant amount
being collected at the Community Council level or from land, particularly taking into account that the monthly average accounts for all 18 Community Councils in the District. The reasons for the variances against the budget were not established.

**Figure 8.4: Land related revenue collected by the Leribe District sub-accountancy**

<table>
<thead>
<tr>
<th>Source of Revenue</th>
<th>Month of January 2007</th>
<th>Cumulative from April to Dec 2006</th>
<th>Monthly Average from April to December 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Survey fees</td>
<td>1,399</td>
<td>155</td>
<td></td>
</tr>
<tr>
<td>Advert stamp duties</td>
<td>188</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>Valuation</td>
<td>90</td>
<td>1,029</td>
<td>114</td>
</tr>
<tr>
<td>Lease preparation</td>
<td>115</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td>Registration fees</td>
<td>78</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>Ground rent</td>
<td>1,017</td>
<td>8,932</td>
<td>992</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,107</strong></td>
<td><strong>11,741</strong></td>
<td><strong>1,305</strong></td>
</tr>
</tbody>
</table>

**Maseru Municipal Council**

Financial information was obtained from the Maseru Municipal Council to ascertain what services the MMC provides and to better understand the revenue that the MMC raises. The reasons for this assessment is to assist quantify what the revenue potential is for other urban Community Councils in Lesotho. The information was based on an interview with the City Treasurer and a review of the budget. The MCC is structured as set out in Figure 8.5 below:

**Figure 8.5. Main functions of the MCC**

<table>
<thead>
<tr>
<th>Line Departments</th>
<th>Support Departments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health and environment (18% of budgeted expenditure)</td>
<td>Administration (41% of budgeted expenditure)</td>
</tr>
<tr>
<td>Parks and recreation (6% of budgeted expenditure)</td>
<td>Finance (16% of budgeted expenditure)</td>
</tr>
<tr>
<td>Works (16% of budgeted expenditure)</td>
<td>Planning (4% of budgeted expenditure)</td>
</tr>
</tbody>
</table>

The health and environment function is the biggest line department. The MCC runs clinics which account for the biggest share of the health and environment department. The parks and recreation department is responsible for maintaining the MCC parks and memorial gardens. Works undertakes roads and refuse collection. Remuneration accounts for 52% of total budgeted expenditure which is not too high compared to local governments in South Africa.

The major revenues generated by the MCC are summarised in Figure 8.6 below:
Figure 8.6: Main revenue sources of the MCC

<table>
<thead>
<tr>
<th>Revenue</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property rates</td>
<td>This is an annual tax levied on properties in the Central Business District,</td>
<td>16,500,000</td>
</tr>
<tr>
<td></td>
<td>industries and residential areas.</td>
<td></td>
</tr>
<tr>
<td>Government grant in</td>
<td>This is an amount paid as a grant in lieu of paying property rates.</td>
<td>19,500,000</td>
</tr>
<tr>
<td>lieu of rates</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Refuse</td>
<td>Refuse is collected within an approximate radius of 4 kilometres from the</td>
<td>900,000</td>
</tr>
<tr>
<td></td>
<td>CBD. An amount of M30 per month is levied.</td>
<td></td>
</tr>
<tr>
<td>Sale of refuse bins</td>
<td>Self-explanatory</td>
<td>15,000</td>
</tr>
<tr>
<td>Building permits</td>
<td>This is a permit to construct buildings on land allocated.</td>
<td>250,000</td>
</tr>
<tr>
<td>Land transfers</td>
<td>Self-explanatory</td>
<td>25,000</td>
</tr>
<tr>
<td>Rentals</td>
<td>This revenue is derived from renting out chairs and tents, buildings,</td>
<td>215,000</td>
</tr>
<tr>
<td></td>
<td>community centres and utensils.</td>
<td></td>
</tr>
<tr>
<td>Market fee</td>
<td>This is a monthly fee levied against street vendors.</td>
<td>220,000</td>
</tr>
<tr>
<td>Public conveniences</td>
<td>This is a usage charge for the use of public toilets.</td>
<td>450,000</td>
</tr>
<tr>
<td>Outdoor advertising</td>
<td>A percentage of the amount collected from outsourced entities that erect</td>
<td>350,000</td>
</tr>
<tr>
<td></td>
<td>billboards and banners.</td>
<td></td>
</tr>
<tr>
<td>Property sales</td>
<td>The MCC speculates in land and generates revenue from the sale of land.</td>
<td>300,000</td>
</tr>
<tr>
<td>Parking fees</td>
<td>This is generated from truck stops located in the MCC that are operated on</td>
<td>162,000</td>
</tr>
<tr>
<td></td>
<td>an outsourced basis. There is an intention to identify further sites.</td>
<td></td>
</tr>
<tr>
<td>Clinic charges</td>
<td>This is charges from patients using the MCC’s clinics.</td>
<td>500,000</td>
</tr>
<tr>
<td>Ambulance fees</td>
<td>These are fees that are charged depending on the perceived ability to pay</td>
<td>30,000</td>
</tr>
<tr>
<td></td>
<td>by the user.</td>
<td></td>
</tr>
<tr>
<td>Interest on investments</td>
<td>This is interest received on surplus unutilised cash invested in financial</td>
<td>270,000</td>
</tr>
<tr>
<td></td>
<td>institutions.</td>
<td></td>
</tr>
<tr>
<td>Entrance fees</td>
<td>This is an entrance fee payable for access to the Moshoeshoe Park.</td>
<td>20,000</td>
</tr>
<tr>
<td>Cemeteries</td>
<td>A token amount is paid for burial sites.</td>
<td>34,000</td>
</tr>
<tr>
<td>Sale of wood</td>
<td>Self-explanatory</td>
<td>4,000</td>
</tr>
<tr>
<td>Sundry</td>
<td>Various sources of sundry revenue</td>
<td>100,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>39,858,000</strong></td>
</tr>
</tbody>
</table>

Property rates are recognised on the cash receipt basis of accounting and thus the amounts reflected above are only those amounts that have been budgeted to be collected from ratepayers. The average collection rate is relatively low and revenue from this source could therefore be increased quite substantially if appropriate collection procedures are put in place. One of the major challenges regarding property rates is that the valuation roll on which property rates are based is out-of-date and theoretically cannot be used to levy rates. The MCC have requested the Minister to extend the validity of the current valuation roll pending the preparation of a new valuation roll at a cost of M1.5 million which is being financed by the MoLGC and MoFDP.

12 Based on a review of the budget and an interview with the Treasurer: MCC
To illustrate the low collection rates, Figure 8.7 below shows the trend in property rates budgeted over the last three years:

**Figure 8.7. Trends in budgeted property rates: MCC**

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Amount Budgeted (M)</th>
<th>Actual</th>
<th>Percentage of Budget Collected (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005/06</td>
<td>20,000,000</td>
<td>9,680,738</td>
<td>48</td>
</tr>
<tr>
<td>2006/07</td>
<td>27,000,000</td>
<td>10,153,670</td>
<td>38</td>
</tr>
<tr>
<td>2007/08</td>
<td>16,500,000</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Refuse collection is a further revenue source that requires consideration. In order to improve collections, the MCC has requested central government ministries to submit listing of all civil servants that reside in the MCC’s area of jurisdiction. Those that receive a refuse service will have the monthly charge deducted from their salaries. This mechanism is currently in the process of being implemented. This is a novel mechanism to improve the raising and collection of revenue from this source. However, it is acknowledged that the level of the refuse collection service needs to be improved and there is now an obligation on the MCC to provide a reliable and effective service otherwise the line ministries are unlikely to assist in the recovery of this service charge.

There does not appear to be a basis of the grant in lieu of property rates. It appears that this amount is determined based on affordability. The grant has increased substantially in the 2007/08 financial year to M19.5 million from M14 million in 2006/07. Ideally, the central government should be paying an amount equivalent to its rates burden to sustain the revenue base of the MCC and to strengthen the independence of the MCC. The substantial annual increase in the grant-in-lieu of property rates, if continually increased in future years, should reduce the shortfall between the grants and the property rates that would be payable by government.

The MCC has an intention to borrow M6 million to finance capital projects. At the time of the visit, the facility had been negotiated with the lender and the Minister’s approval has been obtained in accordance with the Act. The proceeds of the loan will be used to acquire technical equipment. A detailed feasibility study was performed as part of the MCC in-house approval process to ensure that the loan can be repaid. This does again indicate that if there are predictable revenue streams, regardless of how limited such streams may be, then opportunities to borrow will arise.

The MCC set out in their budget a number of projects or development priorities as a request for financing from the MoLGC. These include such matters as the development of a fire station, construction of landfill sites for solid waste collected, roads and vehicles and equipment. The projects are costed but there does not appear to be any form of financing that is made available by the MOLGC. In the 2007/08 financial year, the requests totalled M72 million (the total operating revenue budget was M39.5 million). This gives an indication of the need for significant capital expenditure financing required by the MCC to provide a relatively basic level of service.

There can be no doubt that the MCC can increase its levels of financing and accelerate service delivery and development. The amount that can be generated from rates in particular, once the new valuation roll is completed, can be increased substantially. The importance of this analysis
on the MCC is that it can be used as a benchmark for the revenue raising potential of urban Community Councils that have similar characteristics as the MCC.

Overview of nationally raised revenues

There is a centralised tax collection system in place. The major tax sources are income tax and VAT, which are collected nationally. Income tax amounts to approximately M1 billion and VAT to M0.8 billion. No reliance is placed on sub-accountancies or local governments to collect these taxes. As a result, there are no tax sharing formulas in place and no incentive at a district or local level to assist collect national tax revenues.

The amount of nationally raised revenue does confirm the poverty levels in the country, even though the relatively low tax receipts may be partly due to under-collection or non-declaration by individuals and businesses. However, the under-collections or non-declarations are not considered material by the Commissioner of Inland revenue, although projects and other related initiatives are being put in place to improve collections.

Realistically, there will not be the systems in place or the personnel to assist in the collection of nationally raised taxes. In fact the converse, being the use of the Inland Revenue to assist local governments to collect locally generated taxes that may be levied, would be more effective. It should be noted that such proposals are not included in this report.

The major source of national revenues, excluding borrowings and donor support, is that received from the South African Customs Union, which amounts to R3.8 billion. This revenue is perceived to be favourably biased towards Lesotho but due to changes in international free trade treaties, it is unlikely that there will be significant increases in this revenue source in future years.

The implications for local government are that unless there is an increase in the national tax base through economic development or significant budget support from donors, the amount of nationally raised revenues that can be allocated to local government is unlikely to increase substantially in future years.

Confirmation was obtained that there is no nationally raised land tax (there is a capital gains tax on property sales). Natural persons are also exempt from paying income tax on rental income received. This increases the opportunities to exploit land as a revenue raising source from a local government perspective and this has been explored in Chapter Four of this report.

The Inland Revenue’s Office is in the process of computerising the tax collection process which will in future assist in providing an indication of the extent of economic activities in each District Council area (such data will never be an accurate indication due to multi-located businesses – it would not be possible to disaggregate the taxation payable into District Council areas).

It is unlikely that taxation related revenue collections can be decentralised as part of the overall fiscal decentralisation process for the reasons stated in the paragraphs above. No recommendations have therefore been made in this regard in this report. However, besides taxation and customs union revenues, there are also revenues that are paid into the sub-accountancy accounts in each District that are generated by local governments. These are insignificant in relation to taxation and customs union revenue and it is recommended that these revenue sources be retained by the local authorities that collect such revenue.
Road Fund

There is a Road Fund that is apparently financed from a levy on the sale of fuel. The Road Fund is geared at the development and maintenance of roads in urban centres. A number of projects were noted in the MCC area during the course of this study. It was not possible to get additional information on the Road Fund but the comment was made that the Road Fund has been spending the amounts collected and paid into the Fund. This is therefore unlikely to be a revenue source that will be available for use by local governments outside the urban areas.

8.4 The Revenue Raising Potential of Local Government

A. Importance and Principles of Locally Governed Revenue

Local governments require revenue in order to undertake development and meet the service delivery needs of their communities. Revenue provides the financing that is needed by local governments to implement development plans, strategies, and other local, regional and national development objectives. The quantum of revenue that can be generated limits the amount of development than can be undertaken and the services that can be provided.

Expressed in a different way, those local governments that are able to generate significant amounts of revenue will be able to undertake more development. This is the cornerstone of local political accountability in that local government councillors have to make difficult decisions between generating revenue from local communities and spending the revenue raised on development. Where there is a reluctance to generate revenue, there is unlikely to be significant development.

Government grants supplement locally generated revenue where there are high levels of poverty and significant backlogs that realistically could never be funded from locally generated revenue. Government grants, and donations from other external sources such as donors, ensure that development takes place where there are socio-economic constraints to raising revenue from local services.

The key socio-economic constraints facing the majority of local governments in Lesotho is the high levels of poverty and the significant backlogs in development. It is unlikely that local governments will be able to raise significant revenues from citizens, particularly where there are not business activities taking place and there are scattered settlements in which communities reside. A further constraint facing local governments is the correlation between service delivery and development, and the ability to generate revenue. If there is not service delivery, it is unlikely that local governments will be able to collect significant amounts of revenue. There will be resistance from citizens to pay revenue levied against them, whether in the form of a tax or a service charge, if there is a perception that there are no benefits derived from the revenue collected from them. Finally, the mix of various revenue sources that can be generated will differ from one local government to another. Those local governments that are endowed with natural resources in their area of jurisdiction may be able to generate significant sources of revenue from such natural resources, thereby negating the need to generate revenue from citizens. In other local governments, where there are densified residential housing and a concentration of business activities, the opportunity to generate revenue from house owners and business will be greater. There may as a result be no need to rely on other revenue sources.
There is no benchmark or best practice guidelines that can be used. Local governments will need to respond to their individual circumstances and generate revenue that is appropriate and which maximises the full potential of revenue that can be derived from whatever sources are possible. Government grants should act as an “equalising mechanism” to ensure that those local governments that face constraints in raising revenue are not prejudiced from a financing of development perspective. The recommendations in this Part and Part B have been developed taking these factors into account.

**Classification of revenue sources of local authorities**

Prior to assessing possible revenue streams, attention must be given to certain revenue classifications taking into account the unique circumstances facing Lesotho local governments. Figure 8.8 illustrates these classifications in a diagrammatic form. A distinction can be made between municipal taxes, grants, commercial activities (where the intention should be to maximise an economic return), service charges and levies. Grants in Lesotho are not done on an application basis but are distributed to all local authorities on an allocation basis and are therefore excluded from this Chapter (Government Grants are considered below).

**Figure 8.8: General classifications of revenue**

<table>
<thead>
<tr>
<th>Classification</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raise revenue for rendering of public good services and financing local government structures</td>
<td>Typically in the form of Local Government taxes. May also be financed from other revenue sources. Use government grants to implement objectives.</td>
</tr>
<tr>
<td>Raise revenue to fully or partially recover the cost of rendering user specific services</td>
<td>The user of the service pays for the service consumed (there may be a cross-subsidisation element)</td>
</tr>
<tr>
<td>Raise Revenue from levies</td>
<td>Administrative tasks done by the Council. Fines/penalties for breaching by-laws</td>
</tr>
<tr>
<td>Revenue from commercial activities</td>
<td></td>
</tr>
<tr>
<td>Generation of profits – little or no cost outlay</td>
<td></td>
</tr>
</tbody>
</table>

These classifications have been considered in defining potential revenue sources, aside from such matters as affordability, cost of collection and equity.

**B. Assessment of Existing Sources of Revenue**

The existing revenue sources of local authorities, excluding Maseru Municipal Council, were assessed against the principles to determine which revenue sources to retain and which revenue
source may need to be discontinued. The revenue sources used for this assessment are those that are set out above.

(a) **Grazing fines.** It is very difficult, if not impossible, to control this source of revenue. The reason is that to institute some form of internal control to measure and safeguard this source of revenue will more than likely exceed the benefit from this revenue source. There are possible mechanisms to address the lack of control but these could be expensive. An example would be the publication of the revenue collected for general distribution to the communities from whom this revenue was collected. An alternative would be to appoint a revenue collector. Ideally, this revenue source should be discontinued or a different basis of revenue introduced (annual fee for livestock owned that is levied against the owner). However, devising an alternative revenue source that can be implemented and collected cost effectively cannot be easily done.

(b) **Sale of natural resources (such as sandstone and spring water).** The sale of natural resources such as sandstone and spring water should be retained provided that some form of mechanism is put in place to preserve these resources and control the revenue raised. The management of the revenue can be outsourced or alternatively, adequate system of internal control measures can be implemented to safeguard this revenue source, if managed internally, that will not be too costly. This revenue source should be retained.

(c) **Sale of natural resources (such as sand and fuel wood).** The sale of natural resources such as sand and fuel wood are very difficult to control. The cost of safeguarding this source of revenue could exceed the revenue that is generated. If there are opportunities to scale up these activities, it would be possible to introduce adequate controls or outsource the management of revenue to a third party. Ideally, this revenue source should be discontinued unless it can be adequately managed. Again, it is not easy to devise an alternative mechanism to improve the collection of this revenue source.

(d) **Refuse collection.** Refuse collection can be a reliable revenue source that can be measured and safeguarded. There will need to be an investment made in landfill sites and possibly the acquisition of vehicles unless the collection of refuse is outsourced. This revenue source should be retained.

(e) **Market fees.** Market fees can also be a reliable source of revenue and can be adequately controlled from a revenue management and completion perspective. A revenue collector will need to be appointed to collect this revenue so there will be a cost associated with this revenue. In addition, there may also need to be an investment in developing market stalls and formalising market locations. However, the revenue generated should be sufficient to earn a commercial return on any investment made, provided that markets are developed in appropriate locations and over-trading scenarios are avoided.

(f) **Public toilets.** Public toilets appear to be a significant revenue source. Unless access to public toilets is mechanised, revenue from public toilets is difficult to manage and control. At present a revenue collector is used to collect revenue from users. Although the ability to implement adequate system of internal controls is limited, monitoring operational costs in relation to revenue generated is possible. This revenue source should be retained.

(g) **Building permits.** Building permit revenue is not that significant but if linked to the land allocation process, the revenue can be maximised. The revenue source will need to be supported by the development of by-laws that regulate the process to make improvements to land allocated. This revenue source should be retained.
(h) Advertising. The placement of advertising billboards and other advertising can also be a sustainable revenue source for Community Councils, albeit that it will not be substantial and will likely only be a revenue source in urban or peri-urban Community Councils. It is likely that this revenue can be generated through an outsourced contracting basis where entities that construct billboards and other signage pay a commission or set fee for the right to erect such structures. If this is done, there is unlikely to be substantial costs that will be incurred. It should also be noted that this is an existing revenue source at some Community Councils and should be retained.

(i) Hire of local government owned amenities. This is the rental of assets such as the hire of halls, facilities and equipment. This is unlikely to be a substantial source of revenue but for those Community Councils that have such facilities, marginal revenue can be raised. It is also a relatively inexpensive revenue source to collect and the existing staff at Community Councils should have the capacity to undertake this function. It should also be noted that this is an existing revenue source at some Community Councils and should be retained.

(j) Building plan approvals/building permits. The approval of building plans and developments is a revenue source that should generate revenue at a local level. The approval of building plans has a number of advantages in that it will assist Community Councils develop detailed land registers of the development that is taking place in their areas of jurisdiction, and where a property rating system has been implemented, assist in the preparation of valuation rolls. It will also enable Community Councils to influence the development that occurs in their Council areas. The Community Council may be able to influence the positioning of residences or businesses that will fit into its own development plans or which meet certain town planning requirements, once such plans are developed. Technical skills will be needed to undertake these approvals. This could be overcome if the actual approval was done at a District Council level where there are planners. It should also be noted that this is an existing revenue source at some Community Councils and should be retained.

(k) Pounds. Revenue from pounds can usually be adequately controlled due to the involvement of external stakeholders if the pounds are administered by the Police. However, at the village level, responsibility to feed stray animals is given to individual villagers who will be compensated from the revenue recovered from the owner of the stray cattle. This revenue source should be retained if an external stakeholder can be used to strengthen systems of internal control.

(l) Sale of stray animals. The sale of stray animals is not a substantial revenue source. The same challenges that apply to pounds also apply to the sale of stray animals. This revenue source should be retained if an external stakeholder can be used to strengthen systems of internal control.

(m) Other land revenues. Other land revenues could be substantial if linked to the land allocation process. If registers of land allocations are maintained, then assurance on the completeness of this revenue source can be obtained. These revenue sources should be retained. As indicated above, grazing fee revenue, sale of natural resources (sand, fuel wood and grass for thatching) and possibly revenue from stray animals are difficult to control and measure and theoretically should be discontinued as possible revenue sources. The auditability of these revenue sources will not be possible. However, it would not be appropriate to make such a recommendation as these revenue sources have been in place for a significant period of time. Instead, it is recommended that these revenue sources be retained as a local revenue source that is available for use by the Community Councils in which such revenue is collected. In a way this will partly mitigate the risks associated with the collection and measurement of this revenue source as they will be an incentive to maximise this revenue by councillors and officials who
reside in the Community Council areas. An alternative mechanism, to address the control weaknesses mentioned above, has therefore been recommended in the design of a government grant.

In conclusion, it is recommended that the existing sources of revenue be retained but a mechanism to address the lack of systems of internal control be devised. This mechanism is in the form of a government grant and is explained in more detail later in this report.

There is no record or database of locally generated revenue. Part of the reason is that the appropriate financial management systems are still being implemented; the other reason is that local authorities do not retain the revenue that is generated locally (it is paid into the sub-accountancies as described earlier in this section). There is a need to obtain this information from a policy and fiscal decentralisation perspective, and one of the recommendations to achieve this objective is to include a revenue incentive component in the grant designed for local governments that is explained later in this section.

**Borrowings**

Borrowings are a potential source of financing and can be used to make the investment that is sometimes required to generate revenue. There is currently limited opportunity to borrow as local authorities do not have predictable or constant revenue sources. Unless there is some form of guarantee or other instrument to mitigate the risk to lenders, it is doubtful whether any private sector financial institution will lend to either District Councils or Community Councils

However, if the larger urban Community Councils are in a position to implement a property rating system, the possibility to borrow for the purposes of financing development and revenue generating projects will increase.

The question as to whether the flow of funds that should emanate from the decentralisation process will improve the capacity of local authorities to borrow monies needs to be considered. Initially, the decentralised financing flows will be used to provide services in accordance with pre-determined service standards. It is unlikely that that there will be surplus finances available to leverage for borrowings and the repayment of borrowings unless there are significant economies of scale arising from decentralisation. This is likely to take some time to occur. Borrowings have not therefore been considered as a source of financing for development.

**C. The Classification of Community Councils**

In order to consider the revenue potential of local governments, excluding existing revenue sources referred to in Part C above, there is a need to consider the classification of Community Councils. The three classifications that have been used in this report are urban, peri-urban and rural. It should be noted that these classifications are not based on any literature reviews or official policy documents but have been devised for the purposes of this report. Figure 8.9 below illustrates the differences in Community Councils in a diagrammatic format.

Urban Community Councils are characterised by densely populated townships and a business district where there are a number of commercial and industrial entities. There is typically a high demand for public good services such as roads, recreational facilities and spatial planning. Due to the high population densities, environment health services such as solid waste disposal and sanitation are essential for the general well-being of citizens. Economically advantaged
individuals usually reside in Urban Community Council areas and are able to afford the public good and public health services that are needed.

Peri-urban Community Councils are usually located on the periphery of Urban Community Councils and have relatively high densely populated areas. The major difference between a Peri-urban Community Council and an Urban Community Council is that there are not significant commercial or industrial activities in a Peri-urban Community Council area.

Rural Community Councils typically have scattered and low density settlement areas through the Community Council area. Such areas do not usually have access to the services provided by the national water and electricity utilities (WASA and LEC respectively). The needs of such communities are usually more quality of life matters and accessibility to clean and safe drinking water, public health facilities, public transport, land as well as subsistence agricultural support are usually required. Lastly, poverty levels in rural areas are generally higher than in urban areas.

Figure 8.9: Classification of Community Councils

<table>
<thead>
<tr>
<th>Urban Community Councils</th>
<th>Peri-Urban Community Councils</th>
<th>Rural Community Councils</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diversified citizen base - business and high density townships</td>
<td>Mainly residential citizens - densified townships</td>
<td>Scattered low density settlements (in the form of villages)</td>
</tr>
<tr>
<td>High demand and need for public good services (environmental health, safety, accessibility, settlement planning, etc)</td>
<td>High demand and need for public good services (public health, accessibility needs, settlement planning, etc)</td>
<td>More quality of life needs (safe water, public transport, public health, sanitation, land, agricultural support, etc)</td>
</tr>
</tbody>
</table>

The reason for these classifications is not to suggest a bias towards urban or rural or to suggest a perpetuation of development differences but rather to recognise that the generation of revenue differs from each classification of Community Council.

D. Recommendations on Potential Revenue Generation

Figure 8.10 below provides an overview of the recommendations contained in this Part. The recommendations recognise that Urban Community Councils are in a position to maximise revenue generation and should be encouraged to do so through the levying of property rates and service charges, in addition to undertaking commercial activities. As these Community Councils
will be substantially self-financing, their allocation of grants should be minimal for undertaking basic local government functions.

Peri-urban Community Councils also have the opportunity to generate limited property rates income and service charges but due to the absence of a commercial and industrial tax base, these Community Councils will always likely only be partially funded. There will probably need to be a higher proportion of government grant funding in relation to Urban Community Councils to finance basic local government functions.

Rural Community Councils are only likely to raise a minimal amount of revenue from local sources. The revenue that is raised will likely be generated from commercial activities, specifically the sale of natural resources, more traditional forms of revenue generation, particularly grazing fines. Little, if any revenue, will be generated from user charges. The majority of financing will need to be derived from government grants.

**Figure 8.10: Overview of recommendations on potential revenue generation**

It must be noted that the references made to self-financing relate to basic local government services, such as minor roads, refuse collection and burial sites. Once functions are decentralised from line ministries, particularly health, financing in the form of grants will be required. These decentralised functions and the financing thereof are outside the scope of this assignment.

**Potential revenue based on visits undertaken**

The difficulty and limits placed on revenue generation arise from the limited functions that local authorities undertake. In developing the recommendations that are set out below, cognizance has to be taken of the current functions that are being undertaken by local authorities. Where possible, a linkage has been made with the services provided, capital projects undertaken and the revenue that can be raised. The only other alternative is to use land as a revenue generating
source and as a result, some of the recommendations focus on exploiting land issues as a potential revenue source.

A further factor to consider is that in certain instances, local government services have been undertaken by line ministries (an example is refuse collection undertaken by the DA’s office) and these have effectively been funded from central government revenues (which include an element of income tax and VAT) and therefore the risk of double taxation arises. Whilst there is some justification in this argument, the level of service provided is not always comprehensive.

Certain of these potential revenue sources could be raised by District Councils or Community Councils. Peri-urban and rural Community Councils may not be able to make the necessary investments to generate the potential revenue or have the capacity to measure and collect the revenue and therefore it may be more appropriate for the District Council to effectively undertake the function that will give rise to revenue.

(a) Property rates: This is recommended for urban councils as there are sufficient highly densified population settlements where there is a concentration of businesses. There is already urban infrastructure that needs to be maintained and additional infrastructure to finance both economic and residential development. Property rates are an appropriate mechanism to use in this regard.

Property rates usually require a valuation roll to be prepared on a regular basis, which is a relatively expensive exercise to undertake. For example, the preparation of a valuation roll for Maseru Municipal Council, which is in the process of being prepared, will cost M1.5 million. This is a relatively high cost which most urban local authorities will not be able to afford. The preparation of a valuation roll is also a time consuming exercise due to the lack of land register information. It is therefore proposed that a rating system be introduced on an incremental basis. The urban centres should initially be valued on a site and improvements basis (the use of depreciated replacement cost may be the easiest way to value improvements). Once a sustainable revenue inflow is created, the valuation of surrounding properties can be valued for rating purposes. Structures that exceed a pre-determined size or which are above a certain pre-determined basis will need to be valued for rating purposes to ensure that a rates burden is not imposed on the poor.

The basis of property rates is that it is a proportional tax that takes into account the value of the property on which rates is payable. The higher the value of the property, the higher the rates will be that are payable by the owner of the property. However, consideration will also have to be given to poor households and thus an exemption should be determined for site and improvements below a certain size or value. There will need to be consideration as to what the benefit will be to those citizens that pay rates to a Community Council. For example, citizens will need to perceive some benefit for the rates paid otherwise the collectability of the revenue will be a significant challenge. The Community Council that levies property rates will need to invest in the delivery of services. These may include the maintenance and development of urban roads, street lighting and the development of recreational facilities, amongst others. The services to be provided should be based on a community consultation process or emanate from the planning processes that are currently being instituted.

(b) Rural Road Transport Levy: This is recommended for rural councils. The major users of rural roads are public transport operators. Again, the majority of the capital investments made in the last 2 financial years are in road development and maintenance. A nominal charge could be levied on bus companies and private taxis.
The basis of this revenue source is that public transport operators pay a “toll fee” for using rural road networks that have been developed and maintained by the Community Council. The revenue could be raised by issuing permits on a monthly or annual basis to allow public transport operators to operate in Community Council areas. The permit would be required where use is made of Community Council roads. This is a controversial revenue source and could be criticised for double taxation (transport operators will pay motor vehicle licence fees and bus operators will likely pay taxation). However, there is a need to recover the investments that rural Community Councils in particular are making in the development and maintenance of rural roads. It is in effect a road “toll fee” without the need to establish collection points on the road itself.

The practicality of this revenue source needs some consideration as will the collectability of it. However, it does introduce a ‘user pay” principle and as the development of rural roads benefits the operators of public transport as well as communities who use public transport, there is an element of equity in this proposal. It would be easier to implement this revenue source if omnibus terminals were developed as the revenue could be recovered at each omnibus terminal. However, it does not appear that such terminals exist in the rural Community Council areas and thus it may not be practical to implement this revenue source.

(c) Rural Water Supply: This is recommended for rural Community Councils. The reason is that rural water supply is a key local government function undertaken and one for which substantial capital expenditures is made by mainly rural community councils. It would be appropriate to recover a part of the cost incurred where boreholes or water tanks are installed.

(d) Land allocations: This is recommended for all Community Councils. Community Councils meet often to consider land allocations. There should be a nominal charge made for land applications that are considered by Community Councils.

The reason is that all Community Councils consider land allocation matters and should recover some form of nominal revenue for the time spent undertaking this matter. The revenue is unlikely to be substantial and should not be set in such a manner that it ends up being a barrier to access to land. The collection of this revenue will be relatively easy and the process will contribute to the preparation of a land register and enable controls to be implemented over other related land revenue such as building permits or lease fees.

(e) Cemeteries: A charge could be levied on the use of burial sites in formalised cemeteries by all Community Councils. The reason is that the placement and management of cemeteries is an important environmental health function, particularly in urban and peri-urban areas. The establishment and management of cemeteries is typically a responsibility of all local authorities and revenue should be recovered for undertaking this responsibility. Land will also need to be allocated for use as cemeteries. The collection of this revenue source will be relatively easy and controllable. It is acknowledged that certain exemptions will be required to cater for the destitute and paupers.

(f) Parking fees/truck stops: This is recommended for urban Community Councils. It is quite a substantial revenue source for the MMC and could be developed in other urban areas. The MMC truck stops are privately managed and a commission is paid to the Municipal Council. There must be similar opportunities in the other larger urban areas where truck stops are developed with basic amenities and operated on a managed contract basis. The only investment by the Community Council that considers this revenue source is the availability of land that can be used for this purpose.
By using an outsourced model, risk to the Community Council is mitigated as ownership or control over the land can vest in the Community Council, whilst the service is provided by the private operator. Assistance will be required from legal professionals in drafting the necessary contracts. There are also opportunities for the levying of parking fees but there will be significant costs that will be incurred to generate this revenue source. There will also need to be an enforcement of parking and whether the Police will have the capacity to perform this function is not known.

E. Summary of Recommendations

The recommendations regarding revenue generation are summarised below. Unfortunately, it is not possible to quantify the potential revenue streams as there is insufficient data available.

Figure 8.11: Summary of recommendations

F. Key Processes to be Undertaken to Support Revenue Generation

Classification criteria between Community, Urban and Municipal Councils

The Act should be amended to develop the criteria that will distinguish a Community Council from an Urban Council and a Municipal Council. Typically the larger urban Community Councils could qualify as Municipal Councils due to there being a town settlement with established businesses. Smaller urban Community Councils could be classified as Urban Councils, which could also have property rates and other revenue sources associated with the definition of an urban council. The criteria could take into account the number of businesses, the extent of government offices, the number of banks, the number of streets and the density of residential housing. Alternatively, the Minister could be given the authority to make such declarations. Appropriate criteria will need to be developed to support the determinations made.
Section 3 of the Act does set out the process for classifications but it is not clear as to what power the Minister has in this regard.

It will be more difficult to distinguish between peri-urban and urban local governments and more research will be required to determine appropriate criteria. The visits undertaken as part of this assignment where insufficient to understand the extent to which there are secondary towns in the country and the extent of the diversification of business outside the main urban centres.

Coupled with this classification is the need to redefine functions between the various categories of local governments. Firstly, the role of District Councils needs to be considered as their current role is more of an administrative nature (including support given to Community Councils) rather than a service delivery role. This role does not emanate from the Act, which is silent on the relationships between District Councils and other local government structures. It is assumed that this will continue into the future, particularly when the proposed system of decentralisation is implemented.

The responsibilities of municipal and urban local governments can also then be determined. This will also assist in defining revenue generating opportunities in the longer-term. Ideally, the Act should have separate schedules of functions and responsibilities for each category of local government to provide certainty and direction. This will also provide a framework that will guide councillors in undertaking their responsibilities and in engaging with local communities. Once more certainty has been obtained on the decentralisation process, it is likely that the functions defined in the Act will need to be further revised. This is a high priority task that needs to be attended to as a matter of urgency.

**Minister’s determination on revenue**

The Minister may make a determination regarding whether a local authority can levy property rates. The Minister must also set the parameters of taxes, levies or service charges and set out the maximum amount that may be levied for each tax, levy or service charge. The need for such determinations is questioned as it removes responsibility for raising revenue from local governments. However, it is acknowledged that there are certain safeguards in such provisions and such safeguards should be retained.

The MOLGC should obtain information on existing revenue sources and determine the charges that are being levied. It should be noted that this will be a difficult exercise as certain charges are determined at village level and are not uniform across the Community Council. Once information is received from a selection of Community Councils, the Minister can be requested to make the necessary determinations, thereby legalising the current revenue raising process. This is a high priority task that needs to be attended to as a matter of urgency.

**By-law development**

The development of by-laws is also important to enforce certain revenue raising opportunities recommended earlier in this Section. The reason is that by-laws will support the generation of revenue (also see Chapter Three of “Fiscal Decentralization Report”).

It is recommended that a common suite of by-laws be developed at a national level. These by-laws could then be distributed to Community Councils who could amend the by-laws to take into
account their own policy objectives. The legal officer at the District Council level could provide the technical support to Community Councils in making any amendments that are necessary. This is a medium priority task. Consideration should be given to undertaking this task in the short-to-medium term.

Retention of locally generated revenue

The practice of transferring locally generated revenues to the sub-accountancy in the DA’s office should be discontinued. Instead, local governments should be permitted to retain the revenue collected for their own use provided that it is recorded in their accounting records and the spending of such amounts is done through the budget process. At a national level this is unlikely to be material and the revenue foregone will not be significant. However, at a local level the revenue will be quite significant and will be an incentive to local governments to maximise such revenues. There will be a greater emphasis on the collection of such revenues if they can be retained. This is a high priority task that needs to be attended to as a matter of urgency.

Improved accountability

There are currently poor internal controls regarding revenue collections at a local level. There also appears to be shortcomings in the Act regarding accounting controls and procedures in particular as no reference is made to current accounting procedures. The FDTT has recently commissioned a study into financial management practices at a District and Community Council level and based on the findings, have also undertaken training throughout the country. With the new information technology systems being introduced at a Central Government level, together with the multi-year budgeting processes, it is important that continued focus around harmonising financial management systems between local governments and the Central Government continue.

8.5 Recommended Government Grant Mechanism

There are a number of factors to take into account in developing a grant for local governments in Lesotho. There is no doubt that government grant financing will be key to the development of a local government system for some time to come and thus a longer-term view will need to be taken to achieve the objectives of a viable and relevant local government system.

However, a major difficulty is the lack of certainty regarding the decentralisation process and the flow of funds that will emanate from the decentralisation process. The decentralisation process is still evolving and not all Central Government line ministries have finalised their own plans regarding decentralisation. Processes to identify staff have occurred and recently the identification of fixed operating costs (excluding staff) has also been undertaken. It appears that District Councils may be responsible for the disbursement of these costs when budgets are finally allocated to District Councils.

For the purposes of this study, it has been assumed that the decentralisation process will be self-financing in that local governments will receive grants necessary to undertake functions that are decentralised. The extent to which local governments will have discretion to reallocate budgets for decentralised functions or supplement “decentralised” budgets from their own revenue sources is not known. No cognizance has therefore been taken of the flow of grants that will emanate from the decentralisation process in devising the recommendations set out in this report.
Principles adopted in developing recommendations

In recommending a grant system, there are a number of general principles that have to be taken into account. Firstly, there has to be sufficient data available on the beneficiaries of the grant and other developmental indices so that the grant can be used to achieve local and national objectives and have the maximum benefit to the greatest number of citizens. Secondly, the grant system devised must have clear objectives and must provide certainty to the beneficiary District and Community Councils to enable them to plan their activities knowing what their grant financing will be in the short to medium term. It is noted that this is not a critical principle at present as the Lesotho local government system is still evolving.

A third principle is that there should also be transparency over how the grant is determined so that beneficiaries can respond to the behaviours that the grant encourages. For example, these behaviours can be the encouragement of efficiency savings or the maximisation of revenue. If this information is known to beneficiaries, beneficiaries can respond accordingly.

A fourth principle is simplicity and ease of implementation. Complex grant formulas require significant capacity to manage and populate and significant data collection and modelling. Where such data and modelling tools are not available, the grant formulas need to be simplified to ensure that the objective of the grant is not compromised.

These principles have been considered in developing the recommendations set out in this Section. However, there is generally a lack of data on District and Community Councils and a relatively new local government system. These realities have also been taken into account in developing the recommendations set out below.

Overview of the recommended grant

Figure 8.12 below sets out the components of the grant that has been recommended in this Section. Each component is explained in more detail below.
Figure 8.12: Overview of the recommended grant

The formula for the recommended grant is as follows: -

$$P = I + R + D$$

Where

$P$ is the pool of grant funding;

$I$ is the cost of maintaining the current institutional cost of the District and Community Councils;

$R = (P \times a \%)$, where $a$ is the percentage of the pool allocated to this grant; and

$D$ is the balancing amount. $D = P - I - R$

(a) The institutional component

Standardised organograms have been devised for each District and Community Council. These organograms set out the administrative support structures that are deemed necessary for District and Community Councils to function. In all the Community Councils visited, these posts were filled and no vacancies were noted. At the Community Council level in particular, there is surplus administrative capacity and there is the possibility that the structures are inappropriate given the functions that are currently undertaken by Community Councils.

When the decentralisation process is finalised and implemented, there is a possibility that the surplus administrative capacity will be absorbed as the administrative support processes required to support a decentralised system may change. It is not appropriate to recommend changes to the existing administrative structures until there is finality on the decentralisation process.

A component of the government grant must therefore be to finance the standardised institutional staff levels that have been established for both District and Community Councils. Whilst this is not ideal in the longer-term, taking into account the limited revenue sources together with the lack of service delivery, it will not be realistic to expect Community and District Councils to fund the cost of their institutional arrangements. However, as this component will only finance standard institutional structures, should a Community or District Council expand its staff structure, these will need to be financed from own revenues generated.
It is recommended that the government grant finance the full standardised organogram. It is also recommended that the payment of councillors’ allowances should also be included in the institutional component to ensure that the political structures are able to function as intended.

The majority of District and Community Councils visited appeared to have adequate office equipment and furniture but there was always not suitable office accommodation so there does not appear to be a need for substantial investments in furnishing or equipping Council offices. Most of the Community Councils visited rented their offices, which tended to be one roomed offices. This is not ideal but it is unlikely that the financing of the construction of office accommodation will be affordable in the short-to-medium term. Furthermore, as decentralisation is implemented, there may be an opportunity to use office space within existing government owned office accommodation. However, an allowance will need to be made for operating costs associated with running a relatively small office.

In summary, the institutional component will therefore finance the following costs: (i) The standardised organograms of District and Community Councils; (ii) the payment of Councillors’ Allowances; (iii) the costs associated with operating the limited office accommodation (rental and other operating costs such as communication, electricity or alternatively generators, computer consumables and transport, amongst others); and (iii) the institutional component will result in horizontal balance between District Councils and between Community Councils.

This component is currently needed, regardless of its relative advantages and disadvantages, otherwise the ongoing continuity of District and Community Councils will be undermined.

(b) Revenue incentive component
There is no doubt that the current revenue raised by Community Councils is minimal. There is also a risk that due to the inability to effectively institute systems of internal control over the current main revenue sources of Community Councils that current revenue is not being recorded and off-budget expenditure is being incurred by Community Councils. It should be noted that there was no evidence that this was occurring based on the visits undertaken.

In some of the interviews conducted, officials stated that more revenue from existing sources could be collected. No reasons were provided to support these assertions. One of the reasons is that there is currently no incentive to record and deposit revenue as it is deposited in the sub-accountancy account at the DA’s office. Whilst it appears that in certain instances, the monies collected by the Community Councils are held in suspense at the sub-accountancies and are available for use by the Community Council, the lack of direct access to such funds and the oversight role that the District Council will play (the District Council will be responsible for the procurement and disbursement of such suspense account funds) does not create an incentive.

In order to provide an incentive to Community Councils, it is recommended that a component of the grant be based on actual revenue collected. It is suggested that no more than 10% of the grant funding available for all local governments be allocated to this component. The reason is that cognizance must be taken of the diverse nature of local governments and the fact that certain Community Councils are endowed with natural resources from which it is easier to generate revenues. There is also a risk of creating a horizontal imbalance between Community Councils if a larger portion of the available government grant funding is allocated to this component.

In the longer-term, this component should only be available to rural and possibly peri-urban Community Councils as urban Community Councils have a greater opportunity to raise a substantial part of their own revenues. At present, and at least until some of the recommendations
made in Section 8.4 of this chapter have been considered, it will not be appropriate to exclude urban Community Councils from this component of the grant.

This component of the grant is unlikely to be substantial. However, it does enable Community Councils to have some discretion as to how this grant component will be spent and does create an awareness of the importance of revenue generation. It should therefore be unconditional in nature and be at the discretion of the Community Council as to how it is spent, provided that it is budgeted.

In order to obtain the information necessary to calculate this component of the grant, listings of all receipts issued that are supported by bank deposit slips certified by the CCS would be required. This should be relatively easy to compile by the Community Councils and can be easily verified.

The advantages of this recommendation are that it partly overcomes the control weaknesses around certain existing revenue sources. There is a greater incentive for Community Councils to maximise the revenue that is collected and to ensure that all revenue collected is recorded. This component will be unconditional or subject to limited conditionalities (prohibiting the payment of salaries and councillor allowances would be an example of such a limited conditionality). If the expenditure is required to be spent on-budget, there are sufficient safeguards in the Act and proposed regulations to ensure that there is accountability over the spending of such grant. Importantly, it will be an incentive to collect and record revenue. Information on revenue collection will be available. It provides Community Councils with discretion and provides financing to support local service delivery objectives. It empowers Councillors and Officials to consider key financial management processes and becomes a prelude to decentralisation where good financial management practices will need to be exercised once the funding associated with decentralisation is also decentralised.

The disadvantages of this recommendation are that:-

There may be instances where there are barriers to collecting revenue due to geographical or other socio-economic limitations. However, it is not believed that there will be significant imbalance. If the recommendation that urban Community Councils are reclassified as Urban or Municipal Councils is implemented, these Councils can be excluded from this component. It is recognised that firstly, revenue sources will have to be developed for urban Community Councils, before such classifications can be effected. There will be cost implications in gathering the data necessary to implement this grant component. The reason is that it will be important to verify the information submitted by Community Councils. Furthermore, there could also be time delays in finalising this component of the grant. The value of the information collected through this process will be invaluable from an oversight perspective by the MOLGC and the MoFDp.

The determination of the financial quantum of this component may be difficult to determine. It has been stated that no more than 10% of the grant pool should be allocated to this component. A smaller percentage, for example 5%, may be more appropriate. Finding balance is therefore important, because if the grant is not significant to Community Councils, it will not achieve its objectives of being an incentive. Unfortunately, there is insufficient financial data available to undertake financial modelling to determine an appropriate allocation of this component. Information will have to be obtained to undertake the necessary modelling prior to considering the implementation of this grant component. The disadvantages set out above can be mitigated and do not undermine the recommendation made.
(c) Development Component

The extent to which the District Development Plans inform the capital budgets of line ministries is not known. During the visits to the District Councils undertaken as part of this assignment, comments were made that the representatives of line ministries that participated in the DDCC were not empowered to make decisions or bind their respective line ministry. It was not possible to confirm the validity of these comments during the course of this assignment. However, the concept of planning is relatively new and processes to improve planning co-ordination with line ministries should evolve from the process of decentralisation that will occur in future. However, what is apparent is that there is no linkage between the development plans of Community Councils and the capital grant of M15 million that is currently allocated to Community Councils. The reason is that the capital grant is based on the number of registered voters and area of the Community Council, which has no bearing necessarily on the development challenges that exist. The Community Councils are therefore preparing development plans where no cognizance is taken of monetary limits.

There is also a risk that at present, the annual capital budget allocation to every Community Council is insufficient to have an effect on development. The result is that small projects, mainly focussing on road development and water supply are being undertaken. Whilst the importance of allocating development grants annually to all Community Councils is understood, there is a risk that the current grant is being diluted and not having a significant impact on development backlogs. A greater impact may be achieved if the grant was allocated at the District level and informed by the District Development Plan. In this way, the development that is currently being financed by line ministries can also be taken into account when allocating or determining projects.

Ideally, the District Council will co-ordinate, together with the Community Councils in its area of jurisdiction, the identification of projects that will assist in the implementation of the District Development Plan. The District Council, together with the Community Councils, will also need to ensure that there is equity between Community Councils from a developmental perspective. A key advantage of this recommendation is that there should be sufficient funds to undertake relatively costly projects that will encourage development. It should be noted that situations could occur where more than one Community Council benefits from a project.

A further key advantage to this recommendation is that it will assist further entrench the legislated planning processes and encourage the participation of Community Councils in the development of their District Council area. In the longer-term, it is envisaged that capital investments through the decentralisation process will primarily be done at the District Council level and the allocation of the Development Grant component at this level will complement the development financed from the decentralisation process. The disadvantage of this recommendation is that Community Councils will no longer be automatically allocated a capital grant to undertake development in their area on an annual basis.

The basis of allocation of the grant can be an equal allocation amongst the District Councils or it can be allocated between the District Councils based on the number of Community Councils in each district relative to the total number of District Councils. District Councils, together with the Community Councils in their area of jurisdiction, will need to consider a number of important factors, such as investing in areas where economic development is likely to occur, the identification of revenue generating projects that can be used to provide additional services in the future and “quality of life” indicators in allocating the capital grant within the District.
(d) Other approaches considered

There were three other possible recommendations that were considered. The first recommendation was based on an application for development funds that get assessed in terms of pre-determined criteria and which get assessed for feasibility by the MoLG or MoFDP. Whilst this is a common basis of allocating grants and ensuring the achievement of national objectives, such grants tend to be supply driven rather than demand driven. Furthermore, local authorities apply for such grants because they are accessible rather than because they are key to the development of their area of jurisdiction. Such approaches also develop a “grant hunting approach” by local authorities. Those local authorities that have more capacity or funds to develop the required applications tend to obtain a higher percentage of the grant funds available than those local authorities that have limited capacity or resources.

Significant capacity is needed at a national level to process and prioritise applications and allocate funding. It is difficult to develop assessment criteria with the result that the allocation process contains a personal judgement element from those officials that are involved in the allocation of the grant. It is also unlikely that officials that make allocation decisions will have a good understanding of local conditions and the rationale of the applicant local authority in applying for some grants. It is for these reasons that this recommendation has not been pursued.

The second recommendation considered was to consider the use of population profiles (poverty indexes and demographic information) and development indexes (which quantify development backlogs) and use these indices as a basis of distributing the grant between Community Councils and District Councils. In order for this recommendation to be considered, there is a need for extensive data at the Community Council and District Council level. It does not appear that such data exists (the results of the 2006 Census has not yet been released).

The third recommendation considered is the use of service delivery standards that determine the allocation of the grant. Pre-determined costs are determined for each service that local authorities should provide and the number of citizens that should receive such services and these are converted into a grant and paid to each local authority. There is an incentive to the local authority to provide the services at the cost included in the grant or at a lower cost to maximise the grant available. It is also strengthens accountability of local governments to citizens as there will be a valid expectation of what services can be demanded of local governments.

This recommendation was not considered as there is unlikely to be the costing information available, there are differences in geographical circumstances which will impact on the cost of delivering services, and there is still not a full understanding of what services should be provided by local authorities. The system of local government in Lesotho has not been established long enough to consider this recommendation.

(e) Endorsement of recommendations

During the workshop held in Maseru on 13 and 14 June 2007, the recommendations contained in this report were discussed by participants. In general, there was agreement with the principles recommended except that there was the view that actual population figures should be used as an additional factor in allocating grants (refer Annex X). The use of population figures does not address development or backlog matters and therefore this view has not been supported.
Once the roles and functions of local governments have been clarified, more consideration can be given to looking at deficiencies in development that inhibit local governments undertaking their roles and responsibilities.

Whilst the recommendations have been endorsed, there is recognition that the recommended grant will need to be continually reviewed and refined as the roles and functions become clearer and as the decentralisation of functions currently undertaken by central government ministries are transferred to local governments.

Grant for the Maseru Municipal Council
The MMC receives a grant-in-lieu of rates from the Central Government. It has also received a grant for the preparation of a new valuation roll. It is recommended that the grant-in-lieu of rates continue provided that it is updated on an annual basis in line with general property rate increases. This will provide the MMC with an incentive to increase its efforts in collecting this revenue source. The MMC has the opportunity to increase its own revenue sources through the extension of services that it currently provides. It should be in a position to invest in additional capacity, through borrowings, to finance development in the city where such development is revenue generating.

The MMC is seeking additional investment by government in landfill sites, specialist vehicles and the provision of a fire service. There are also requests for the financing of urban roads and equipment from the Central Government in the 2007/08 budget. The ability of the central government to finance these capital expenditure requests is doubtful. There is no basis to develop a grant for the Maseru Municipal Council as this will be at the expense of the District and Community Councils, who do not have a comparable revenue base. Horizontal equalisation at the local authority level will not be achieved if additional grants are given to the MMC.

Focus must therefore be on the development of sustainable financing and development in Maseru. The Municipal Council should be able to consider the investment required for its further development and confirm the affordability of recovering the cost of development from its property rates base or appropriate service charges. Where there is not the cash flow to finance the development required, consideration should then be given to the use of borrowings to finance such development.

Using the landfill site as an example, the refuse collection levies should include the recovery of developing a landfill site over a period of say 10 years. Provided that sufficient cash is generated from refuse collection levies, then a portion of the levies should be allocated to pay for the cost of developing the landfill site. Instead of financing the development of a landfill site from its own resources, use can be made of borrowings. In the case of a fire station, the key consideration is the ongoing operating costs that will be quite substantial in relation to the cost of constructing a fire station. The provision of a fire service usually does not generate revenue and therefore is normally financed from property rates. There will firstly need to be assurance that the ongoing operating costs can be accommodated in the existing revenue budget before consideration can be given to developing a fire station.

The importance of raising these matters is that financially unsustainable development can occur. The nature of the challenges faced by the MMC is very different to that of other local authorities in Lesotho, where the risk of financial sustainability is not that high. It is therefore recommended that the grants to MMC not include a capital expenditure component but rather that applications for ad-hoc projects continue to be submitted, provided that the ad-hoc projects are supported by feasibility studies and are more “public good” in nature rather than revenue generating. Should the development objectives of Central Government be similar to those of the MMC, then funding
requests can be considered subject to funding and other fiscal constraints. Other than the grant-in-lieu of rates, which is already substantial in relation to the revenue generated by the MMC, no further grants are recommended for this local authority.
9. Promising Agricultural and Natural Resource Practices

From among all the possible sectors, agriculture and natural resources were selected for closer examination because (1) the local authorities have a mandate for Promotion of Economic Development and the management of natural resources; (2) improvements in these areas are necessary for economic development, poverty reduction, and for improving the tax base and revenue generation capacity; (3) improvements require collaboration between local authorities, communities, sector institutions, and the private sector, a collaboration in which the Local Authorities sit at the center of the network of co-producers.

This chapter aims to support the decentralization program by recommending the scaling up of those initiatives that might improve economic opportunities for rural communities and by contributing to more sustainable and equitable use of resources. The chapter proposes measures that would be essential for scaling up, but does not include a detailed review of requirements. It summarizes the findings of an independent FAO report that will be published separately, and that contains much more details than can be covered here.

In the PRSP the Government states that food security is a multidimensional concept that includes production and its equitable distribution, as well as household access to food. It expects improvements in food security will come primarily from expanding formal and informal work opportunities, and through boosting the purchasing power of those with employment. “For those with land, every effort will be made to ensure that they use it as productively as possible either for consumption or income generating purposes, both of which improve food security.” (PRSP, p. xiv). Because of this statement, and because agriculture and natural resources fall directly under the competencies of local government agriculture and natural resource practices are therefore given special attention under this sector work. The selection of this priority also took into account that improvements in these sectors are critical both for improving the welfare of the poorest segment of Lesotho’s society (largely comprised of de jure female-headed households), as well as improving the potential tax base for local authorities. In addition, the PRS includes the following strategies for natural resource management (p xix): Promote environmental conservation for improved productivity by targeting committed families to be taught to harness water resources, increase ground cover and incorporate conservation and agro-forestry techniques into production; Address range management issues by establishing and/or revitalising grazing associations in collaboration with new local government authorities.

9.1 Resource Endowment and Agriculture

Under the existing situation, conditions in Lesotho for agricultural productivity are challenging. The climate, although temperate, is precarious with recurrent cycles of drought, erratic rainfall patterns, heavy and destructive thunderstorms and loss from hail. The physical environment over much of the country is very fragile characterized by steep slopes and weak soil formations with some 40 million tons of soil lost through erosion every year. This is seen in the deep gullies in the lowlands and exposed rock in the mountains. Accessibility to agricultural land is increasingly scarce and land tenure is relatively insecure. Labor supply is unstable, and increasingly family labor is under severe pressure due to HIV/AIDS. Water resources for agriculture, albeit abundant, are poorly developed, distributed, and unreliable, provision of agricultural goods and services in general are limited in accessibility and scope, and marketing and credit facilities are inadequate. Relevant agricultural technology is poorly developed and inaccessible, and lack of agricultural inputs makes most of the available technologies irrelevant. Producer-based organizations and
cooperatives are largely undeveloped, and private sector partnerships with public agencies, civil society and local communities in particular are limited.

Landlessness has increased dramatically from 13 percent in the 1970s to 41 percent in 1999 (quoted in Turner 2003). There is already a serious shortage of arable land with the average area cultivated per farmer at 1.3 hectares. Sharecropping is common in Lesotho because of the limited access to land, labor and cash inputs. Only 11 percent of farmers cultivate more than 3 hectares\textsuperscript{13}. Non-availability of land is therefore a major constraint to agricultural production. Poor households derive only 20 percent of their food energy from own production (Lesotho Vulnerability Assessment Report, 2003b) and rely predominantly on WFP, state subsidies and food for work, and social support networks. The most food insecure groups (concentrated in the mountain areas) include: asset poor households, households with chronically ill members, households of orphaned and vulnerable children and those with pregnant and lactating mothers.

Only 10.7\% of Lesotho's land area is classified arable, but less than 1\% has high potential. Most cultivated land is in the western lowlands. Crop production in Lesotho is a high-risk, low-yield activity due to topography, poor soil quality and the harsh climate. Average rainfall is between 600-1000 mm per year across the country but is highly variable across seasons. Crop production is predominantly rain fed with maize dominating (60\% of cropped area). Other widely grown field crops are sorghum, wheat, beans, peas and potatoes. Maize, sorghum and beans are mostly grown using the summer rains, whilst wheat and peas are winter crops using late rains or residual moisture. Crop production in winter is dependent on good end-of-summer rainfall. Despite common assumptions that production in Lesotho is declining, the Ministry of Agriculture and Food Security’s Agricultural Sector Strategy (ASS) (2003) reports that total output of the agricultural sector has been steadily rising, and that in general, output and yields among main staple crops, including maize, have been rising (per capita production has been slightly falling however due to rates of population increase). The ASS concludes that low productivity levels in Lesotho compared to other countries suggests that there is considerable potential for improvements and for promoting food security, and that growth policies are needed that target the poor (improved subsistence practices such as home gardens) while also promoting modernized production with comparative advantage as well as improved rangeland management.

Most households have one or more peach trees and plant a small home garden area, especially those who have access to water. Livestock farmers also grow crops. The most common animals kept include cattle, sheep, goats, horses, donkeys, pigs and poultry. They play an important role in the farm system in the provision of draft power, transport, soil fertility and energy in addition to meat, wool, mohair, hides, milk and the animals have a role as a store of wealth and for social purposes including traditional ceremonies and prestige.

Only a few commercial farmers use hybrid seed and most farmers use little, if any chemical fertilizers. The decline in soil organic matter and nutrient levels is partly due to the use of manure for energy and the feeding of crop residues to livestock. Given the poor returns to high-input dryland agriculture\textsuperscript{14} it is important to promote alternative systems, especially for resource poor households.

\textsuperscript{13} It is estimated that over 54\% farm less than 0.5 hectare of land, while 29\% farm between 0.5 and 1 hectare of land and some 70\% of the land is under an informal sharecropping agreement.

\textsuperscript{14} At expected yields of 1.35 mt/ha it was calculated that the cost of producing maize in Lesotho was some 30\% higher than the cost of importing maize from South Africa. Returns per labour day were close to the opportunity costs of labour (M4/man day in 1991) for yields of 500 kg/acre when including the value of
An Overview of Agricultural Systems in Lesotho

Despite the enormous agricultural heterogeneity associated with the mountains, it is possible to classify the agricultural areas of Lesotho into four or five relevant systems that will be referred to in the rest of this chapter. It is important to recognize that both technical and institutional solutions, as well as investment programs have to be adapted to the characteristics of these systems, and that there are no one-size-fits-all solutions that can be scaled up across the entire country. The characteristics of the major systems are given in table 9.1 below.

Table 9.1: Overview of farming systems in Lesotho

<table>
<thead>
<tr>
<th>Characteristic of the Zone</th>
<th>Mountain 51%</th>
<th>Middle Zone 13%</th>
<th>Foothills 18%</th>
<th>Lowlands 18%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Topography</td>
<td>Gentle rolling high mountains</td>
<td>Flat to gentle rolling at foot of high mountains</td>
<td>Steeply sloping mostly along the major drainage courses</td>
<td>Gentle slopes and part of the escarpment dominated by sandstone outcrops</td>
</tr>
<tr>
<td>Soils</td>
<td>Fragile, thin horizon of rich dark loam derived from basalt</td>
<td>Coarse textured red and brown</td>
<td>Good alluvial soils along valleys</td>
<td>Predominantly highly readable duplex soils and alluvial soils along the river courses</td>
</tr>
<tr>
<td>Climate</td>
<td>Cold snow falls most years. 600-1400mm rainfall</td>
<td>Relatively mild compared to the mountains</td>
<td>Relatively moist and in some cases sheltered</td>
<td>Moist, mostly in the valleys 800-950 mm/year</td>
</tr>
<tr>
<td>Risks</td>
<td>Early and late frost, snow, high chill factor. Short growing season</td>
<td>Strong winds and hot sun. Hail.</td>
<td>Frost and snow at times, moles</td>
<td>Drought and hail.</td>
</tr>
<tr>
<td>Main crops</td>
<td>Lentils, maize (poor), summer wheat, peas, potatoes, oats, poor stone fruit production</td>
<td>Reasonable fruit production, maize, wheat, sorghum, peas, beans and vegetables</td>
<td>Summer wheat, maize, good fruit production, sorghum, beans, potatoes, peas</td>
<td>Maize, beans, peas, sorghum, good fruit production, winter wheat in some locations</td>
</tr>
<tr>
<td>Vegetation and level of degradation</td>
<td>Relatively good range, moderate degradation, some wetlands (mekhoabo) still intact</td>
<td>Denuded rangelands, moderate soil erosion</td>
<td>Willow and poplar trees, limited soil erosion. Good alternative grazing area</td>
<td>Moderately denuded rangelands, poplars in the water courses and a number of village woodlots</td>
</tr>
<tr>
<td>Summer Grazing</td>
<td>Access to cattle posts in the high areas such as Angelok’s Nek</td>
<td>Above village and in some cases have access to cattle posts</td>
<td>Within, below and above village</td>
<td>Access to cattle posts by some villages but predominantly use village grazing</td>
</tr>
</tbody>
</table>

crop residues. Using the input package in the project, the actual average yield in Berea district in 1991/ was 520 kg/acre (calculations based on data in FAO, 1992).
Other Livestock theft Rampant, especially in Quthing Livestock kept home to avoid theft in cattle posts Good potential for gravity fed irrigation The area is rapidly being settled with fields being converted to house sites

Source: adapted from FAO 2000

The Policy Environment

Government has been heavily involved in marketing for most of the past century with very limited competition in the private sector and a general expectation that the provision of marketing, inputs, credit, animal health and other rural services are both the responsibility and preserve of government. As highlighted in the profiling studies in the last chapters and the case studies in this chapter, these services seldom reached the majority of farmers. In recognition of the greater comparative advantage of the private sector and civil society in providing many of these services, official policy is now directed towards encouraging privatization and co-production with user associations, NGOs and communities (GoL Agricultural Sector Strategy (ASS) 2003a, Poverty Reduction Strategy 2005a and Food Security Policy and Strategic Guidelines 2005b). However, the transition is slow and there are still examples of government retaining control even when this is in conflict with explicit policy (e.g. the transfer of the woolsheds). There are also capacity constraints in providing an environment conducive to efficient private sector involvement in service delivery.

Official agricultural policy emphasizes encouraging field crops agronomically suited to the areas in which they are grown and is promoting block farming and the commercialization of agriculture through improved technologies. However, most rural households are both producers and consumers of their products and are influenced by both demand and supply signals and risk and will often find it rational to grow commodities (e.g. maize) and use technologies (e.g. intercropping) that may be considered less suitable by agronomists. The Poverty Reduction Strategy and ASS specifically recognize the need for more relevant and appropriate technologies for vulnerable households specifically addressing the constraints faced by the poor, but also encourage the development of higher value commodities to provide them with some access to cash.

Agricultural Services

The highly fragmented villages and difficult terrain, poor agricultural potential, limited literacy, an unmotivated population used to relying on remittances and skeptical of returns to agriculture, poor salaries, low morale and limited supervision and accountability of public servants (especially to client communities) and the limited access to transport and suitable training and technologies, have all combined to contribute to the lack of services and consequent extreme poverty and limited engagement of rural people, especially those in remote mountain districts.

In an effort to make extension more accessible and relevant to farmers, the Unified Extension Service (UES) was established with most extension agents provided with a more holistic set of skills and given access to commodity specialists at Resource Centres in the Districts for specialised needs. In addition, community-based farmer extension facilitators (FEFs) are being trained to provide services to the farmers in their village. However, many challenges remain and poor roads, very limited access to any form of transport and poor security makes traveling to service centers difficult. Many of the extension agents are de-motivated and insecure. The unclear lines of accountability and responsibility under the decentralization are taking their toll,
with field agents (and some central ministry staff) being skeptical and uncertain as to how they will report to Community Councils. The extension staff is concerned with the educational levels and capacities of Community Councils and uncertainty as to the role of extension officers in a decentralized system.

In its Agricultural Sector Strategy, the GoL has committed to invest in research to identify appropriate crops and technologies and to undertake studies to identify sustainable marketing opportunities. Agricultural research has been very limited and where it has existed, has tended to concentrate on commercial production. The government aims to promote a more concerted effort to scale-up indigenous systems that emphasize integrated sustainable farming such as the Machobane system and home garden schemes and needs to support this with research. The same applies to improved management of pastures, natural resources, and watershed management. While this chapter shows that scalable technologies and interventions exist for some of these areas, research is still needed to broaden the range of technical options, and in particular to evaluate the financial viability and economic returns to their application.

In the main, the private sector does not currently have a strong role in the rural areas. Until recently the government did not encourage private provision of rural services, and some of its actions hindered it, including controlling prices, limiting licenses and providing subsidized competition. In some instances the private sector bridged the gap but the risk of the subsidized services being revitalized and/or lack of legitimacy, reduced incentives for investment and increased prices. With the implementation of decentralization in progress, the private sector is now encouraged to provide services wherever possible, and the “for profit” and “not for profit” private sectors should gain importance as co-producers catalyzing local and community development. However, the common perception that it is government’s duty to provide these services and that the private sector is privileged also to be allowed to operate, are likely to negatively impact the transition.

Improving market linkages, especially for isolated rural communities, is one area where private traders and transporters could have a significant comparative advantage. The GoL policy documents highlight the need to facilitate provisioning of market infrastructure, market information and standards for local and international market access, and also specifically suggest support for "pilot rotating markets linked to provision of essential services” (GoL Poverty Reduction Strategy 2005a).

**9.2 Study Approach**

The main question guiding this study was: What are the most promising experiences in promoting effective and responsive rural service delivery outcomes that have potential for wide-scale replication within the framework of decentralization. As discussed in chapter 1, “Scaling up potential” for purposes of this study is based on a “co-production model” in which local governments, sectoral line ministries, communities, and the private for profit and not for profit sectors all are potentially involved in the development activity. At the same time the improvement of accountability to end users by shortening the routes to accountability will be central to the enquiry.

The study has been carried out using a “modified” case-study approach. It reviews the literature on selected sub-sectors or focal areas in Lesotho and highlights initiatives that have been successful in improving smallholder livelihoods, many of which have experienced spontaneous adoption already. The focal area cases are “representative” of specific production/natural resource management systems that have demonstrated (on a small scale) promising sustainable outcomes.
The selection of case studies was based on the following considerations: (i) if scaled up, the particular approach would make a major contribution to the food security, income livelihood, and/or employment of the poorest and vulnerable households, especially those that are labor and resource constrained through illness; (ii) and to the preservation and enhancement of nationally significant natural resources on which the poor populations depend; (iii) the approaches had already been tested successfully at a significant scale, but not yet been extended district- or nation-wide; (iv) key stakeholders, including government, NGOs and donors were interested in scaling up of the approaches; and (v) the scaling up could potentially be done by closely involving communities, local government, sector-specific expertise and/or producer associations, and the private sector. Based on the above criteria, four case study focal areas were identified for in-depth review. These include: commercial wool and mohair production; rangeland management; homestead gardening/horticulture production; and watershed management. The study on watershed management is not detailed in this report as it did not find promising initiatives ready for scaling up, although there are interesting developments involving MFLR and various social groups and in the LHWP on establishing catchment management associations. These need to be closely monitored and supported so that the relevant aspects can be scaled up in due course.

Each case study has been carried out carefully reviewing the existing literature, interviews with government agencies, farmers, NGOs and donor organizations working in Lesotho, and selected field visits. Each one is presented in its historical context so that a better understanding of the underlying features of the sector and of its constraints and potential can be more fully understood. The production and marketing processes and the institutions affecting the sector are fully described. The issues that need to be addressed to improve the situation in the focal areas are then highlighted. Thereafter interventions that have recently been, or are currently being implemented in Lesotho to address the issues, are described in detail, with attention to those with rapid up-take and/or spreading spontaneously through demand-driven processes. There are a number of agencies doing similar work in slightly different ways and it was difficult to determine any one particular promising approach to scale up. Instead it was felt that elements of most of these interventions should form part of our recommendations for improving service delivery and livelihoods in Lesotho's agricultural sector.

A limitation in developing these case studies was the lack of economic analysis and the very limited financial and economic data or farm-level records kept by the various projects and interventions. For this study, data have been taken from a range of sources and estimates made to give an indication of the viability of some of the interventions. A recommendation of this report includes the need for integrating field data collection and analysis as part of all projects involved in scaling up. Gross and net margins need to be calculated and, where appropriate, returns to labor, land and/or capital. Full economic cost-benefit analysis of the activities need to be carried out, especially on the watershed and rangeland interventions, which will require substantial government and/or donor investment. These analyses should attempt to quantify the financial benefits to individual households and the broader economic, social and environmental returns to communities, districts and the nation.

9.3 Summary of Case Studies

In this summary an overview of the promising initiatives, constraints, challenges and opportunities are presented. The issues that need to be addressed when implementing these initiatives across districts, regions or the nation have been highlighted and are then used in the
following section to formulate recommendations for scaling up promising interventions, which also includes mention of common risks that may limit success.

Rangeland Management

The rangelands are degrading and the literature indicates that this is primarily the result of overgrazing. The overgrazing is in turn caused both by a rise in human and animal populations and also by a reduction in grazing areas as the shortage of land results in people expanding cultivation into areas that are marginal for crop production and that were traditionally held for grazing. Many grazing resources are effectively open access despite some control over access by chiefs and CCs and it is in the individual interests of farmers to maximize their use with no investment in maintaining the range. Lack of clarity of rights and access to rangelands has been a cause of much of the degradation of the ranges, conflicts, and the failure of past initiatives that have promoted user-group management approaches. In addition crop residues which have traditionally been common property are becoming increasingly privatized as farmers collect and store them to provide winter feed for their animals. In some villages the range is under even greater pressure where animals are no longer being taken to the cattle-posts because of stock theft. All these pressures are leading to an increase in intra and inter village conflict over grazing.

Official estimates of gross output at producer prices from livestock is around 6% of GDP and accounted for less than half of that from crops in the five years between 2000-2004. In drought years the contribution of livestock to GDP increases as people sell animals to meet urgent household needs. However, the role of livestock in the economy cannot be judged only by the sale of its products since it plays an important role in providing traction, energy, contributes to soil fertility and is a store of value for remote farmers with few options for holding savings.

It is estimated that range livestock (hoofed animals) in Lesotho represents over M3 billion in assets held by farmers in the rural areas. Annual output (including the services provided by draught power and returns on investment but excluding the value of transport, manure and milk) is estimated at over M365 million per year (derived from Value Chain analysis, Rangeland case study). Livestock productivity in Lesotho is poor with low birth rates, high mortality rates and poor growth because of the low quality and quantity of feed from the range, lack of supplementary feed and poor animal health. In some years reports indicate that more animals have died from disease than were slaughtered for meat. This indicates the potential for interventions to improve productivity.

The traditional system involved farmers maintaining their stock throughout winter in the foothills and the middle zone, and then sending them up to the cattle-posts in the mountain zone in the summer. This involves the use of young herders who have their basic food and clothing costs covered and are paid at the end of the year with livestock, thus assisting them to accumulate assets. But this is being discouraged since the herders get little access to schooling and have to lead very hard lives. The reduced productivity of the range, conflicts over access, government policy to reduce open access practices, and the high incidence of stock theft has resulted in a decline in transhumance. The confusion over the allocation of rights in response both to increasing demand and to changing institutions has added to degradation of rangelands.

In an effort to reverse the decline in the range, Resource Management Associations/Areas (RMAs) managed by Grazing Associations (GAs), were registered under the 1966 Societies Act. These are organized groups of range users, resident within the area, operating with the advice of agricultural extension officers to try and re-impose rotational grazing, reduce livestock numbers and improve the range. However they did not have legal rights to exclude non-members which
reduced their efficacy and over the years most of these associations have been discontinued with only 3 still functioning in 2007. Denial of grazing rights to traditional non-resident herders also resulted in hostility, trespassing, burning and vandalism. The concept of managed grazing areas is, however, widely accepted as an option for improving the range and as a mechanism for linking costs and benefits and converting the open-access resource to a controlled common property resource.

Rangeland resource management now falls under MFLR but MAFS is still involved through their interaction with farmers on livestock. Both agencies have staff stationed at the district level and at the field level. Under decentralization these technical officers should be reporting at District level and be accountable to the CCs. However, the evidence from all the chapters in this report is that they are still funded by, accountable to and controlled from the line ministry head offices in Maseru. There is confusion over how they will function within the decentralized system. Clear role definition, accountability and incentives are needed, notably to stimulate de-motivated field staff.

The key range management issues that need to be addressed include overgrazing of the range, indiscriminate use of indigenous vegetation and burning of the range, the spread of weeds and bush encroachment, failure to enforce the resting of the range and to impose fees for the use of range, disputes between villages, and trespassing of livestock on farmers’ fields. Other issues that need to be addressed include stock theft, animal health, transport and the role of young herders.

Both private and public investments into the range have been extremely limited. In some areas significant improvement could be obtained by allowing recuperation of the range by reinstating maboella (rotational grazing and resource use), by addressing bush encroachment through early weeding (especially of sehalahala) and by reseeding pastures. The greatest asset in most communities is the availability of labor that can be used in public works programmes, and one of the most clearly articulated needs in the profiling studies was the demand for more employment. The use of community members to reclaim the range could be organized by the user associations and funded by the State (or in time by grazing fees). Since returns to these investments cannot be appropriated by individuals, and costs are high, a strong case for their financing as public good in the short run, or club goods in the long run (via the grazing fees) is the appropriate modality for financing them. The fiscal needs of the CCs needs to take account of these necessary expenditures.

Of course it essential that these investments are made in full collaboration with the users, and that they are integrated with CCs and user associations. There needs to be widespread social acceptance of the restrictions, even if legislated, or the costs of enforcement will be too high. And only if the users are actually managing the resources and the investments themselves and can observe their payoffs, can willingness to pay via grazing fees eventually emerge.

There also needs to be more up-front public investment in establishing the institutions to manage the range and to co-ordinate the technical assistance reaching them. These institutions, including user groups, need to be linked to the local authorities who have been given the right to allocate and manage these resources.
Promising Initiatives

Most of the initiatives\(^{15}\) that are directed at converting the range from an open access to a common property regime that can exercise access control are not yet at a stage where they can be scaled up. However, given the importance of improving the range, elements in these initiatives are described below with the recommendation that they should be encouraged to continue and be closely monitored with a view to developing scaleable models for implementation across the country.

As seen in chapter three, local authorities are overwhelmed by the demands of rangeland management. Their difficulties have been exacerbated by conflicting legal provisions discussed in chapter two and by the lack of clarity over the respective roles of the local authorities and the chiefs, and the conflicts between them caused by these two factors. Clearly, within such an environment it will be difficult to foster the formation of rangeland user associations. It is imperative that the issues discussed in the earlier chapters be resolved speedily. In addition other institutional mechanisms and roles need to be clarified with respect to the cattle post areas and to the roles of DCs, CCs, Chiefs, Associations and technicians. Clarification of property rights, including land use, control, rights of access/ passage (including seasonal access) through demarcation of range leaseholds for example, should facilitate a conducive environment that provides greater incentives for community members’ adoption and investment in managing and maintaining rangelands. Clear and enforced property rights would also reduce conflicts, while also control for stock theft.

User Associations

User Associations for pastures and mountain ranges are being promoted in the various initiatives that will be linked to the decentralized local government system but retain full management authority over resource use and management decisions within the framework of the policies and by-laws set by the Community and/or District Councils. While pastures in the lowlands, foothills, and middle zone typically fall within the boundaries of a single Council, Cattle Post areas in the Mountains go beyond the boundaries of individual CCs. Therefore relationships between the associations (in particular boundary disputes) and monitoring of the associations would have to occur at District Level, while direct supervision would be done at the CC level. The establishment of these user associations is being undertaken by project staff in different initiatives, together with MOLGC and other relevant ministries including MFLR and MAFS. If they are to avoid the conflicts faced by Grazing Associations in the past, these user groups need to take account of traditional non-resident users that in the past were usually excluded.

In most of the initiatives, memorandums of understanding (MoUs) are envisaged, which will define roles and responsibilities for planning and supervision of the ranges, as well local byelaws, which will delineate agreed upon management practices and regulations (e.g. rotational grazing, setting tradable quotas or grazing fees and other options) . Clarification of tenure rights through the establishment of user-group leaseholds are proposed in the pending Land Bill, which would underpin user group legitimacy in managing the ranges under CCs. These need to be formulated by the users within the overall framework of the CCs and DCs and involve all stakeholders in the process – farmers, local government, MAFS and MFLR and the NGOs servicing the sector. Once the user associations have been established, a key role for any intervention is to develop a widespread understanding of the options available, their implicit and

\(^{15}\) MDTP, ICM-LHWP, SMARDT, SADPMA, SANReMP.
explicit costs and their benefits. After the communities have decided on how they will manage the range, they will require assistance from MAFS and MFLR to implement their management systems, and they, in turn, need the capacity to provide this technical assistance. The user associations will require continued assistance with monitoring the range, enforcing agreed upon decisions, and adapting their management plans. They will also need to be trained in assessing the range and establishing quotas for animals, grazing fees and/or rotation schedules.

The initiatives to establish user associations are also involved in undertaking baseline studies of the state of the range and of estimating realistic carrying capacities, relevant to the producer objectives\textsuperscript{16}. These studies need to be embedded into MFLR activities so that they can continue to provide this service to range users.

Stock theft, equipment, capacity building and other initiatives

Government has identified stock theft and addressing issues relating to livestock security as priority and the Lesotho Food Security Policy (2005b) has highlighted the importance of MAFS working together with FAO and other agencies to address stock theft. The case study has highlighted the significant losses households are facing from stock theft. It has indicated that the national government may need to work through the decentralized system in providing local authorities with the resources and power to effectively co-ordinate livestock security measures. Anti-theft measures, including branding, record keeping and prosecution of perpetrators are only inconsistently applied. Any anti-stock theft intervention would require “political will” from key stakeholders (CCs/ DCs, Chiefs, WMGAs, national security forces ministry staff and communities), and clear definition of roles and responsibilities for branding, record keeping, reporting (losses, suspicious activities), community policing and watch groups.

There are a number of projects, detailed in both the rangeland and wool and mohair case studies, that would help increase returns from the range by providing better access to animal health and breeding as well as access to information on markets and production systems and providing user associations with opportunities to better service their members. The latter are primarily related to improving access to services through the provision of equipment (e.g. computers) and capacity building (negotiation, conflict resolution, business management and technical skills). Clearly, some of these will also contribute to the reduction in stock theft by assisting in tracking animals and mobilizing security forces and other enforcement systems. Computer centers could be privately contracted in the future, with the association paying for access rather than undertaking to maintain service and replace their own computers. Capacity building initiatives are mostly directed at members of the project or associations created by NGOs involved in the project (e.g. Serumula, SMARDT) but it is also often directed at members of a user association (e.g. Wool and Mohair Grower Associations (WMGAs). In all cases it is important than when scaling up, systems are found that either incorporate or somehow reach non-members, or which would encourage non-members to join the relevant groups.

A range of initiatives have been directed at raising the productivity of the herds by addressing the animal health and improved breeding issues. These are primarily aimed at sheep and goats and are described in the Wool and Mohair case study. The training of community-based animal health workers is relevant to all livestock and its success in pilot schemes makes it an important intervention for scaling up. Similarly the interventions which assist farmers and farmer groups’ access to stud services and improved breeding stock have been successful, being adopted rapidly by farmers, and are appropriate for implementing on a broader scale. This would involve

\textsuperscript{16} The optimum carrying capacity varies depending on producer goals.
assisting farmers to purchase good quality breeding stock and encouraging them to establish fee-based stud services and/or passing on progeny in a community sharing scheme.

There are currently no interventions that are directly addressing the lack of access to services and markets by neither the most remote farmers, nor the education and welfare of young herders.

Wool and Mohair

The wool and mohair sector has historically benefited from a variety of government interventions to promote the marketing of wool and mohair as well as from the creation of a significant producer organization, WMGA under the Lesotho National Wool and Mohair Growers Association (LNWMGA). The sector accounted for half Lesotho's total exports in the 1930s. However the sector dramatically declined in the last half of the 20th Century, accounting for only some 5% of national exports in 2000 and it is only recently that systematic efforts to upgrade it have resumed. Lesotho accounts for 0.3% of world wool market and 10% of the world mohair market. There are an estimated 25000 sheep and goat farmers with some 1.4 million sheep and 900,000 goats, worth approximately M100 million. This represents a significant asset base for these farmers. However their productivity has declined sharply and both the quantity and quality of wool and mohair has declined, as has reproduction. South African goats produce four times as much mohair, and sheep twice as much wool as those in Lesotho, indicating a large potential for improvement. Historically sheep in Lesotho were more productive than in South Africa. In 1987, returns to farmers’ investment in sheep were estimated at 7% and from goats at 10%.

The institutional history is quite chequered, with very little private sector competition, heavy government intervention and too little reliance on the WMGA. Currently government, WMGAs and the private sector are all active. With respect to animal health, animal husbandry and breeding, the sector has relied entirely on government and these services have not been able to reach the majority of the producers.

There are 95 government established woolsheds, originally fully operated by the Livestock Product Marketing Service (LPMS). Some are now operated by its associated WMGA. The privatization process has stalled and LNWMGA is still waiting for a response from government on their bid to purchase the entire infrastructure from government. The LNWMGA has 18000 members and they all paid R150 towards the purchase of the woolsheds. These funds are held in trust while they wait for a response. In addition there are about 35 privately owned woolsheds paying farmers much less for the wool and mohair but making immediate payment and taking the risks. The difference in the marketing margin is some 3 fold, and so WMGAs will be well placed to compete, especially if they are able to improve the efficiency of the payment process which currently takes from 2-6 months. Lesotho pays an additional sorting fee at the auctions because of the inconsistency of the classing and this, together with improved shearing and farmer attention to quality of the wool could increase revenue. Improvements to the range could assist in reducing burrs and other damage to the wool.

The farmers produce a mix of sheep including purebred merino for wool, dual purpose sheep (Dohne merino) and SA mutton merino (Letelle). There is much cross-breeding on the open range resulting in poor wool quality and lower prices. The mohair goats are Angora with some cross-breeding with Boer goats. Improving the genetic quality of the livestock will also contribute to improving returns to sheep and goat farming.

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17 With the exception of the largest stock owners who can access expensive private veterinarians and have the means to import breeding stock from South Africa

18 Estimated at 46% and 22% of total wool and mohair passed through the sheds respectively. FAO 2005b
Improving the reproduction rates, the survival rates and the quality of the wool can only be achieved by improved animal husbandry and in particular from improved animal health care. Significant returns have been in evidence a result of the three year animal health intervention in the Teba project, with an estimated increase of an average gross income increase of M12,000 per farmer.

In summary to improve returns to wool and mohair, Lesotho needs to improve animal health and husbandry practices, reduce stock theft, improve shearing and handling, increase access to transport for feed and wool, improve market information, increase competition and find ways to shorten the payment cycle. In addition, building capacity of WMGAs in technical and organizational skills, as well as service delivery would be a vital factor toward strengthening their empowerment in the wool and mohair production chain. The WMGAs have been amongst the most successful and long established of all Lesotho farmers associations. These associations service the needs of the larger farmers and have assumed a number of responsibilities; it is important not to undermine their success. However, even if not eligible for membership, some of the WMGA services could be offered to the poorer farmers, particularly training in improved husbandry and business and organizational planning. The recent initiatives by a range of NGOs has shown the potential for improving returns to farmers through improvements to animal health and genetics, while also strengthening their business management performance, and it would appear that support to NGOs to work with Community Councils and potentially with WMGAs as service providers to upscale these initiatives shows real promise.

Promising Initiatives for Scaling Up

Village Veterinary Workers

Improving access to animal health care is sine qua non for improving the wool and mohair industry. The government system cannot meet the demands which have resulted in the current policies directed at privatization. However, there are very few private veterinarians and their services are too expensive for almost all farmers. Village Veterinary Workers (VVWs), based on a system of identifying and training community-based individuals to provide these services at a fee seems to provide a viable option. In these programmes, the individuals concerned can either earn their income from providing animal health care services full-time, or they can engage in the practice part-time. The pilot projects in Lesotho have been particularly successful. There are many examples from throughout Africa to use in developing a system to scale up these pilot projects (see Annex Three of the case study). The various initiatives noted some concern about being able to source the health-care inputs to best advantage and more importantly to ensure consistent supplies. There is also concern about access to identification and training of VVWs. KHANYA is currently working on a broad programme for using community-based agents to deliver various services in Lesotho and their findings could inform any implementation process.

All the projects showed that there is a strong demand from farmers for these services. In the SMARDT project 2000 farmers were treated within three months at one cluster alone using 40 vet-farmers who were given training and kits but who bought the medicines used. Using Teba data (Paterson 2006) it is estimated that a VVW could realistically earn about M2500 per month.

19 These are drawn from the various current initiatives to address the issues facing the wool and mohair sector by Teba, Serumula, SMARDT, SADPMA and others.
(with local wages at around M600 a month, this provides leeway for a learning period at lower returns). Access to better animal health care, calculated on reduced mortality and improved reproduction, has increased the value of the stock by an average of M12000 to each individual farmer in the Teba project. The government could assist with this initiative by using the VVWs to provide the services for their compulsory oral vaccine programmes. The government could provide the medication for free and the VVW would charge the R1 that government normally charges to administer it.

**Producer Groups and Institutions**

The Serumula project has shown that capacity building and some basic support to user groups can assist them to become more engaged in active promotion of the industry and to provide services to their members. These include taking over the activities formerly undertaken by Government at the woolsheds, organizing transport for the wool/mohair to Maseru, and improving access to inputs (feed and animal health products). Training facilitates the emergence of leaders and champions, cross-fertilization of ideas, and as in Semonkong, the emergence of Sehlopha, a coordinating body for the user groups. Throughout the country WMGAs have shown themselves to be capable of running the woolsheds and it would seem that a much more proactive approach to formalizing localized management and ownership needs to be taken. If government is reluctant to directly privatize the infrastructure, they could give it to CCs on the proviso that they in turn draw up MoUs with WMGAs to run them with CC oversight. The funds raised by members to buy the infrastructure could then go to upgrade it.

**Breeding**

Most of the projects are involved in improving the genetics of the herds. Farmers are given assistance in accessing good breeding stock but in most cases are required to pay in full for the animals (Teba) and are encouraged to establish private stud services. In other cases certain individuals within the WGMA are selected by the group to obtain breeding stock (either free or else by paying half the costs) and they are then expected to return this to the group, either by passing on a defined number of ewes and rams to other members (*neheletse*), or alternatively by providing stud services to group/project members (Serumula, SMARDT).

**Woolsheds, processing, market information and reducing stock theft**

A number of pilot initiatives are in place to try and improve woolshed operations, wool processing and marketing at both the private woolsheds (Teba) and at the LPMS woolsheds (SADPMA, SANReMP and SMARDT). These initiatives have evidenced rapid uptake, showing the need to improve woolshed efficiency and the potential for further improving shearing and classing. They have also highlighted the importance of stricter scheduling to reduce the high opportunity costs faced by farmers who bring their sheep to the woolsheds and then have to wait several days before being serviced. Improved market information and simply posting prices or using radios can assist farmers to make informed decisions and reduce suspicions of unfair trading practices (private woolsheds) or corruption (LPMS). In an effort to reduce stock theft SADPMA and SANReMP are also involved in assisting government with encouraging branding and improving the registration system. The use of the computers by the WMGA in Semonkong could be used to assist with this process.
Homestead Gardening and Horticulture Case Study

Horticulture refers to vegetable and fruit production relevant to rural households, small family farms and homestead gardens. The emphasis is on production technologies that are relevant to resource-constrained households. The use of high yielding crop varieties, chemical fertilizers and pesticides are not likely to be viable for small farmers in Lesotho (Pantanali, 1996). Thus it is important to find alternative production options to increase household and farming incomes in Lesotho's rural areas. Homestead gardens and horticulture are particularly important for the poor and almost 90% of the rural households have, or have had, gardens. Homestead gardens are a primary source of household nutrition, food security and incomes and, through sharing, help to build social capital and provide safety nets for the most vulnerable and poor households.

The Poverty Reduction Strategy (GoL 2005a) emphasizes homestead gardening as an important strategy for both food security and generating cash income and gives priority to developing relevant production technologies, improved market opportunities as well as food preservation and storage. The major types of vegetables grown in Lesotho include cabbage, spinach, tomatoes, leafy greens (mustard, rape, collard), carrots, onions, beetroot, potatoes, and pumpkins. Almost every rural household has one or more peach tree, some self-sown. Some households also have orchards or a few planted trees including apples, plums, apricots, grape vines, mulberries and prickly pears. Lesotho's climate and elevation are suited to many temperate fruits and nuts and the cold winters reduce pests and increase the opportunity for organic production. Marketing is noted as a key constraint even by the poorest and most vulnerable households. They are often able to access food through various social security networks but accessing cash for essential needs is more difficult, and part of the attraction of investing limited land, capital and labor resources in gardening and in horticulture is the opportunity to generate some cash.

Promising Initiatives for Scaling Up

Homestead Gardens

In order to address the constraints faced in production by vulnerable households, a number of new technologies have been developed which reduce daily labor requirements and conserve water. These include key-hole gardens, trenches and double digging and peace gardens. While these may require increased labor, this can be done with community input and then once established, the most vulnerable households with little labor, including HIV/AIDS affected households can maintain them. There have also been a number of water harvesting (roof tanks, drip irrigation, household dams and grey water) technologies introduced, together with simple methods to reduce the labor involved in watering. A number of relatively low-cost interventions have also been developed to reduce hail and frost damage. These homestead gardens use low-input technologies including crop rotation, homemade repellents from locally available plants, planting flowers to attract beneficial insects and other plants to repel insects. Encouraging strong plant growth is also important in reducing predation and disease e.g. mulching to increase moisture retention and soil enrichment using paper, stones, organic materials (kraal manure, wheat straw, residues from beans/peas/lentils etc).

20 These approaches are drawn from interventions supported by Care Lesotho (LRAP, C-Safe), IFAD (SADPMA, SANReMP) DFID (PSP), FAO, all working closely with a wide range of Lesotho NGOs.
Garden Forms:

i. Traditional gardens look neat but have low productivity.

ii. Keyhole gardens: average of 32 m², sloping from 1 meter to 80 cm, alternating layers of soil, ash, stones, and organic materials. The garden looks like a keyhole from above and is ideal for the elderly poor and the sick because it reduces maintenance labor, bending and conserves moisture.

iii. Trenches using double diggings are more productive and retain moisture better than traditional gardens and also reduce maintenance labor.

iv. Peace Gardens are small but use the space along the length of the house making them very accessible.

Stock-Aid have estimated that with one keyhole garden and three double-dug trenches M395.00 can be generated in one harvest cycle using farm-gate selling prices. All these interventions have been very successfully extended to households in a number of pilot projects, predominantly in the South eastern regions of the country (CARE-LRAP and Stock-aid) and in the south-west (SADPMA) where uptake was widespread and 155% of the project goals on establishing homestead gardens were met, whereas most of the other interventions performed well below target. Farmer perceptions (as reported by Ndabe and Turner, 2006 on the LRAP project) are strongly favorable, with examples country-wide of farmers adopting keyhole gardens and other techniques who have not been part of a project and numerous success stories from some who have multiplied them and become commercial. Spontaneous expansion of project interventions were evident with participants sharing techniques, others “copying” technologies from neighbors and villagers self-organizing in groups for training and collective purchases of seeds and/or fertilizer. Home-gardening commodity groups in Semonkong (supported by Serumula) have also initiated spin-off initiatives, including establishment of youth gardening associations and formation of cooperative purchases of seedlings.

Establishing the specialized gardens may be too difficult for labor challenged households and a number of associations (existing and newly formed) have been used to share the labor in establishing the gardens, sharing experiences, providing advice and in accessing seed and selling surpluses.

Machobane Farming System

The Machobane farming system is included here because it is relevant to land, water and cash constrained households and it includes horticultural crops. Also, it has been noted as a key sub-sector in the GoL Agricultural Sector Strategy (2003) to promote subsistence and indigenous farming systems. It is a dryland system practiced on 0.4ha maximum involves relay planting so that there is activity throughout the year, intercropping to reduce risk and increase variety and provides poor households with a cash income. It uses manure and ash for soil fertility and relies on crop rotation and natural pest control. It is, however, very labor intensive and as traditionally practiced, uses only hand tools. Most farmers produce maize, potatoes, beans and pumpkins with some variations including sorghum and wheat. It is a system that has been most successful in uptake in development interventions (SWaCAP, SADPMA) and one of the reasons given for strong uptake is that it generates a small cash income for poor farmers. In the early 1990s, Moa was against the introduction of this system and insisted that inorganic fertilizers, hybrid seeds and chemical pesticides be included in the Machobane packages being offered (SWaCAP). However MAFS is now actively supporting promotion of Machobane farming, and scaling up the spread of
this technology is feasible through the UES, supported by NGOs, provided that adequate training is given to the extension service and FEFs. The rapid uptake of Machobane, particularly by land limited households and women indicates its’ potential. The uptake in all the programmes that have supported it has been remarkable and it has also spread on its own and through the MADF, which has 900 paid-up members.

The Machobane farming system has been in operation since the 1950s although uptake has only been widespread once it became accepted by MAFS. It is an approach that requires no inputs or subsidies, only advice and organizational support. It may not relevant to all households however, since it is very labor intensive and requires intense commitment by farmers since it is a year round production system using no capital inputs. A modified version of the Machobane system is being promoted through the UES but requires more support in adapting it to a broader range of farmer needs and in dissemination.

Organic farming, processing and marketing

Lesotho probably has a comparative advantage in organic farming given its cold winters that reduce pests, lower labor costs, the natural low input systems already employed by most households, and the owner-operated farms that suit quality production. It is something that could be practiced by poor rural farmers if they received adequate support to upgrade skills. Organic farming needs investment in capacity building so that the farmers understand and can respond to production and market requirements. The success of Basotho Canners in obtaining EU recognized certification indicates that it is possible to meet rigid reporting requirements through the centralized agency without requiring the farmers to undertake this role. Much more research is required into the relevant commodities for Lesotho, potential markets and locally adapted technologies to support organic production.

Basotho Canners have organic certification for their asparagus and peach producers and in addition to purchasing organic products for canning they would like to provide fresh organic produce to the South African market. They do not anticipate problems in obtaining certification for this, but are concerned about the bulking and consistency of supplies. The returns to their solid-pack peach canning are high with a gross margin of M55 per can or M12.2 per kg and the market remains unsatisfied, indicating significant opportunities for expansion. Solid-pack organic commodities require much less rigorous consistency in size and color and where other commodities could be identified would provide good opportunities for both the Cannery and the small farmers.

Individual households are involved in taking their produce to urban markets when the local market is oversubscribed but this is not feasible for all households. Vegetables do not store well without processing and there is some home-processing of fruits and vegetables. Various NGOs are involved in building capacity and experimenting with solar drying and bottling for the local market and in due course these could supply regional or international Fair Trade and organic markets. Sun-dried peaches sold on the street markets in Lesotho are priced three times higher

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21 It is estimated that the system produced the equivalent of M11400 per ha whereas conventional dryland maize (with improved seed) was generating M1600 per ha (SAPDMA). Using the system, it is reported that 0.4 ha can feed a family of 5, send children to school, and provide some cash, which is particularly important for poor households with no other access to cash for essential purchases (Pantanali, 1996).
22 In 1991 there were 22 farmers practicing MFS and by 1997 there were 2000 (IFAD, SWaCAP evaluation).
23 Wages for unskilled labour in Lesotho are quarter less than 25% of wages in South Africa.
than the equivalent value for local fresh peaches sold on the street markets. These households, and especially the more remote communities, need to be more effectively linked into a marketing system to access advice, seeds and seedlings and to sell surpluses, including processed products. This option has good potential for rapid household uptake, generating potential off-farm income revenues particularly for land-constrained households, the seasonally unemployed, and youth.

**Coordinated Participatory Planning**

A number of the interventions to promote homestead gardening have worked closely with MAFS, and have been integral to participatory plans of the Community Action Plans (CAPs). The UES is being increasingly entrenched at local levels, promoting farmer-to-farmer extension techniques through Farm Extension Facilitators, and facilitating the formulation of CAPs. These plans need to be streamlined with CC development plans and boundaries between Agricultural Resource Centers and CCs also need to be aligned. CAPs need much closer links with the CCs and with the budgetary process so that community priorities and action plans can be implemented. Quick and Smart participatory planning techniques promoted by MOLGC are currently being integrated into the CAPs, but these actions are still localized and need to be scaled up across the country to provide better co-ordinated services to communities and build links between MAFS and CCs. Mechanisms also need to be explored for how best to incorporate emerging associations such as Sehlopha in Semonkong and other spontaneously emerging commodity and producer organizations into the UES decentralized extension activities and local government activities so that the associations are able to not only capture benefits and opportunities, but function as meaningful partners in community development whilst servicing their members.

**Marketing**

A number of studies have shown the importance of generating cash incomes in poor households and homestead gardening and fruit trees provide these opportunities. However, accessing markets is a key constraint. Where there is unfulfilled local demand, sales at the farm gate are lucrative. However once local markets are saturated, the costs of accessing markets are high or even prohibitive, especially in the middle zone and the mountains. However, Lesotho imports 90% of the vegetables and fruits sold through retail stores, and market demand is therefore not the key constraint. A key constraint to these small farmers accessing this market is the lack of consistency in quantity and quality. There is also very limited arbitrage between rural and urban areas with individual farmers rather than traders transporting and selling the products. Market information is poor and both intra and inter-village exchange is limited.

Access to inputs, services and technical assistance are restricted and there is some concern over the dispersal of services over time and place, reducing the time available for productive activities. A regular rotating periodic service delivery and marketing system (PSDM) would assist in improving access to services, information, inputs and markets. These could be linked to the seed fairs which are currently being successfully piloted in some areas. Community-based agents providing technical services, individual private traders and input trade fairs (ITFs) have proven to be successful in bringing together multiple actors and players to exchange commodities and information, which could all be very effectively combined into a PSDM (Box 8.1). A related successfully demonstrated intervention in southern African and including Lesotho are Input Trade Fairs (ITF), which are mechanisms for increasing access to seeds and inputs. These could use the PSDM market days and their current experiences in Lesotho could inform the development of the PSDMs.
Box 8.1: Periodic Service Delivery and Markets

This entire report highlights the critical importance of obtaining more co-ordinated, regular and better access to services, inputs and markets by poor rural households, especially those in the remote mountain regions. Periodic Service Delivery and Markets (PSDM) are a rotating, mobile, periodic service delivery/market/input supply system that could be developed as a co-production of the CC with a government department and with the public agents decentralized and in the CCs and the communities. The initial purchase of vehicles would need to be funded but the recurrent and replacement costs would be funded through the normal operational budget for those services. The days which the CC mobile service delivery team visits particular villages or groups of villages would then be known as market days and other service providers, the private sector and NGOs, civil society and other government agencies would be encouraged to participate and take advantage of these gatherings. Periodic markets are very successful in West and North Africa and India where they have been used for centuries to overcome dispersed populations and create economies of scale.

PSDM will generate economies of scale, lower unit costs for providing services and trading, increase cash circulation and the diversity of goods and services, expand income generating and employment opportunities for local labour and lead to more efficient employment of skills and available resources. Individual farmers benefit because they are able to access all their services at the same time and place at predictable intervals and, most often, within closer reach than currently. The CCs benefit because they are able to more easily monitor and ensure that services are being delivered. Government service agencies, in particular MAFS, MFLR, and the MOH benefit because they are able to service their clients more regularly and are able to overcome some of their transport constraints. Other government agencies could take advantage of these market days by co-ordinating the delivery of their services and/or by appointing local agents to provide postal, pensions and other services on market days (see Green, 2003 for some suggestions). The private sector would benefit because it will make it easier to sell to, and buy from, gatherings of households and farmers. Civil society including churches, political parties, security and educational bodies and NGOs can take advantage of the market days for dissemination of their messages.

To provide incentives for PSDM to be established, the CC could provide or coordinate transport to those decentralised service agents that now fall under the CCs. Where the areas to be serviced have no road access the hire of local farmer horses and/or providing individual agents with horses could be considered. By travelling together security risks are diminished. It is suggested that as producer organizations and key apex bodies emerge, they could
In parallel, supporting the emergence of commodity-based producer associations and apex bodies could help to establish greater consistency in supply and better access to markets through bulking and arranging the transport of produce. Producer organizations, for example those supported by Serumula in Semonkong, have a comparative advantage as they are already providing services and functions for their members, including capacity building, technical, organizational, informational and market-oriented support. With an already established apex network of associations, Sehlopha, demonstrate potential for upscaling and eventually functioning as partners with CCs in service provision.

9.4 Recommendations on agriculture and natural resources

The highlight of this chapter is that, thanks to a long history of efforts, there are indeed a range of promising approaches and technologies that can be scaled up via collaboration, or co-production between local governments, government services, community groups, and the private sector (producer associations, entrepreneurs, and NGOs). Local Authorities can provide the network services among all these actors; establish institutions such as periodic service delivery and markets; provide infrastructure such as periodic markets, roads and other services; financially support the emergence of community groups and producer associations.

In the past, it would have been difficult to advocate for scaling up because of concerns about capacity at the local level. The presence of elected governments provides a latent capacity to foster these sectors that previously did not exist. Implementing the recommendations in the previous chapter is essential to translate this latent capacity into an effective implementation capacity. A sequence of steps, including through trainings, sharing platforms, mentoring etc., properly phased and monitored should be put in place to ensure their successful and long-term performance.

Scaling up of all innovations studied in this report is dependent on improving economic incentives for the populations to take them up. This is the reason why the specific recommendations put a lot of emphasis on measures that would improve their profitability, such as reducing stock theft, improving veterinary systems, and access to markets.

Promising initiatives from rangeland management include the setting up of legal mandates to enable establishment of user-groups (such as Managed Resource Associations/Areas (MRAs). These would be linked with CCs, DCs and technical assistance and would assume responsibility for management and use over range resources within policies set by the CCs and DCs, including enforcing range use agreements, managing relationships between associations over boundaries, etc. This will require clarification of land tenure rights, roles and responsibilities including access, control and security.

In wool and mohair, promising initiatives highlighted include the promotion of Village Veterinary Workers (VVWs), who are community-based individuals providing veterinarian services at a fee; support to improved genetics and marketing; and support to the Wool and Mohair Grower Associations (WMGAs), who are well positioned to promote services in the

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24 There are tools and approaches to build smallholder capacity in the skills of participatory market analysis, enterprise/business development planning and implementation with demonstrated success, and these should be shared and promoted by development partners with those NGOs and services (MAFS) working with commodity associations (FAO 2004a, 2007).
industry by assuming management over pending privatized government woolsheds (linked with CCs), and by promoting access to services, transport, and trade, among other activities.

Promising initiatives identified among homestead gardening and horticulture experiences include several labor and water-saving technologies that could contribute to year-round improved household nutrition, food security and incomes, particularly vital for poor and vulnerable households (including HIV/AIDS-affected). Already fairly successful innovations include key-hole gardens, drip irrigation, soil-fertility practices, improved market strategies and processing, and Machobane farming system. CCs and DCs can play a major role in fostering and running periodic service delivery and market systems that have been successful elsewhere in Africa. These can be linked to input trade fairs, and overcome constraints of inaccessible inputs, services and markets, with active involvement of commodity groups and extension staff. Streamlining of extension and CCs planning processes, imperative to coordinated planning and interventions, shows progress in some cases and holds promise for scaling up.

Initiatives regarding watershed management and donga reclamation are only recently underway but show promising results. Pilot projects, namely the government’s national water catchment initiative in Thaba Bosiu soon to be upscaled nationally, are promoting innovative approaches to watershed management based on decentralized structures and co-production models, coordinated through local community councils and providing income to local communities. These cases need to be monitored continuously and supported to ensure both technical and local user and management sustainability. The study found that there is an urgent demand for more research on understanding the causes of the degradation - both geological and human. Research is also needed on technical options for reclaiming and protecting watersheds and on the institutional and economic options for ensuring sustainable use.

Many of the interventions noted above are already scaling up on their own but could be more effective and widely spread if provided with greater opportunities for capacity building (notably for CCs and DCs), information dissemination, adaptive research and management systems, and broadened participation. There is still insufficient data and analysis concerning economic costs and benefits of proposed interventions, and prior to scaling up, it will be important to further analyze these factors, including the promising pilot interventions in progress. In addition, potential risks that will have to be addressed include lack of clarity in land tenure arrangements and authority over rangelands; incomplete implementation of the decentralization programme (including administrative, financial and capacity); limited markets; poorly adapted or inaccessible technologies; and limited partnerships and coordination among local authorities, private sector actors, producer organizations, Chiefs, decentralized ministry staff, etc.
10. Conclusions and Recommendations

Introduction

The results of the in-depth review and analysis of the status of decentralization and service delivery in Lesotho, summarized in the present report, reveal a mixed picture of progress and shortcomings. The findings provide a solid basis for the Government of Lesotho, with support from the World Bank, GTZ and other development partners, to strengthen both the policy framework and the implementation support mechanisms that would enable decentralization to deliver on its political, economic, and social promises. While the report’s focus is on identification of issues, constraints and challenges, as well as solutions going forward, it is important to also emphasize that significant progress has been achieved since the advent of the local government elections in 2004.

While Lesotho’s program of decentralization is overall fairly consistent with the modern approaches to local governance, its implementation focused initially on the political process of setting up democratically elected institutions (in the form of 128 community councils, and 10 district councils) while implementation support, capacity development, empowerment of citizens/communities, and fiscal decentralization lagged behind. As the first elected councils approach the end of their term (in 2009), implementation support needs to be speeded up in order for decentralization to begin to deliver tangible results, to avoid the risk of discrediting the entire process.

The study’s findings and insights re-confirm that the main problems faced by decentralization implementation in Lesotho are not new, and many have been experienced in other countries while also known—albeit in fragmented and incomplete manner—by Lesotho decision makers. The robustness of the findings comes from the fact the core issues and problems were identified from a number of different angles by different research teams, including separate reviews and assessments of the legal and regulatory framework, the institutional framework (both at the national and local level), the status of fiscal decentralization, and the impacts and perceptions at community level. This has allowed the identification a set of specific and detailed recommendations, and a clear map on the way forward.

Summary of Key issues

The detailed diagnostic and analysis provided in the various chapters of this report have identified a number of issues and challenges with the current status of decentralization in Lesotho. Of these, six stand out as the most fundamental:

1. Relationship between central and local government, including the level of autonomy afforded to local authorities, clarification of institutional roles and responsibilities, the role and relation with the District Administrator.
2. Role of traditional authorities (Chiefs). The advent of local councils with new functions and prerogatives was not accompanied by commensurate enforceable adjustment in the role of traditional authorities, particularly in the areas of land allocation, range management, stock impoundment, and security and justice.
3. Role of the sectors (line ministries). While nine ministries have been targeted for decentralization, and most have started devolving selected functions and resources, the
role of sector ministries in service delivery and their relationship with local authorities remains unclear at best, leading to confusion and slow progress on implementation even in areas where specific functions have been devolved.

4. Fiscal decentralization. Local governments continue to be a fiscal appendix of MoLGC. Despite the introduction of a capital grant system (for funding community council priority development projects), and the payment of the recurrent budget of community and district councils, very little has happened in terms of building the fiduciary and financial management capacity of local authorities, and their ability to identify and collect revenues, as well as the inclusion of district councils into the MTEF budget process.

5. Communities, particularly in remote areas, continue to be marginalized, are not very clear on the respective roles of the CCs and the Chiefs, and lack capacity and mechanisms for holding CCs and service providers accountable. Fully empower CCs to more effectively integrate service delivery to households is essential for the success of decentralization.

6. While formal local accountability systems are improving, downward accountability of Councils and service providers to their communities are in their infancy and will need to be strengthened if the dream of demand-driven rural development and service delivery is to be realized.

**Recommendations and Next steps**

The recommendations of the study have been organized into four main categories, and are provided in detail in Matrix 1 below.

(a) Acceleration of the implementation of the Local Government Act.
(b) Harmonization of the Legal Framework of decentralization.
(c) Acceleration of Fiscal Decentralization
(d) Development of accountability mechanisms for service delivery to local communities
(e) Support local development through improved agriculture and natural resource management practices

**Proposed Program of World Bank Support**

The recommendations in Matrix 1 provide a road map for GoL to put in place a comprehensive program to complete and deepen the process of decentralization. The findings indicate that most of the immediate important measures needed are of an “implementation support” nature, including strengthening the Department of Decentralization, clarifying in practice (and in law, as needed) the roles and responsibilities of key institutional players, rolling out extensive awareness and training programs, and setting up fiduciary mechanisms in order to accelerating the flow of funds to local governments and communities.

In addition to the above implementation support measures, a few important issues require policy decisions. The most important ones relate to: (i) the level of autonomy to be provided to local governments; this would have particular implications in terms of capacity to generate and use revenue locally, flexibility in using grants from central government and raising funds through borrowing, personnel and asset management, and accountability for results; (ii) the relationship between the District Administrator’s office and the District Council; (iii) clarification and enforcement of the role of the Chiefs as implied by the provisions of the Local Government Act (and its future revisions); and (iv) finalize the design and mechanisms of the inter-governmental fiscal system to enhance availability of resources at the local authority and community levels, and fiduciary accountabilities.
All of these components will need to be supported by a program of M&E, and a program of impact evaluation yet to be designed. Not only is such a program required for MoLGC, but also for each of DCs and CCs and the sectors reporting to them. Finally, the process of M&E will be particularly important at the CC level. To support such a program of implementation and policy reform, the following program can be supported by development partners; in particular the following World Bank support is proposed:

<table>
<thead>
<tr>
<th>Program Elements</th>
<th>Implementing Instruments</th>
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<tbody>
<tr>
<td>Supporting Policy Decision and Reforms:</td>
<td>PRSC</td>
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<tr>
<td>1) Clarification of the respective roles of the DA, the DCs, the Chiefs, and the sector ministries</td>
<td>IDF for M&amp; E</td>
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<td>2) Revisions of the Local Gvt Act, and harmonization with other laws and regulations</td>
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<td>3) Complete the design of and implement a restructured Grant mechanism as a fundamental building block of the Inter-Governmental Fiscal Architecture</td>
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<td>Implementation Support</td>
<td>Broad-based local government development program, including a World Ban-TA loan</td>
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<tr>
<td>1) Strength the capacity of Department of Decentralization (MoLGC)</td>
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<td>2) Clarify in practice (and in law, as needed) the roles and responsibilities of key institutional players</td>
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<tr>
<td>3) Design and roll out extensive awareness and training programs</td>
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<tr>
<td>4) Setting up fiduciary mechanisms in order to accelerating the flow of funds to local governments and communities.</td>
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Matrix 1. Recommendations to Support Decentralization Implementation

<table>
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<tr>
<th>Objectives</th>
<th>Key Issues</th>
<th>Short-Term Recommendations</th>
<th>Medium-Term Recommendations</th>
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</table>
| 1. **Clarify roles and responsibilities of local governance institutions** | Most people involved in decentralization are not clear about roles as provided by the brief descriptions contained in schedules 1 and 2 of the “Act”  
Conflicts are being experienced at many levels as a result of poor understanding of roles, responsibilities and level of authority  
The locus of authority at the community level is not clear  
The locus of authority for assigned staff is not clear | Gazette a detail description of functions as provided by schedules 1 and 2  
Develop and issue a detailed description of roles, relationships and responsibilities of the various local government entities  
Engage in a vigorous re-education and reinforcement of understanding of roles and responsibilities of all entities involved  
Provide a detailed description of the role that central government should play in terms of supporting staff assigned to local authorities  
Clearly define the roles and relationships of the District Administrator (DA) and the District Council Secretary (DCS). Ensure that neither is overstepping their mandates or abusing their authority  
Develop a detailed description of the roles, responsibilities of chiefs and local councils | Develop a strategy and programme for moving administrative responsibility of assigned staff to district level  
Develop a sensitization and information dissemination strategy whose aim is to keep decentralization on the political agenda and to foster on going debate on the implications of implementation of the Local Government Act (and its recommended amendments) |
### Part A. Accelerate the Implementation of the Local Government “Act” (as amended)

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<tr>
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</table>
| **2. Develop strategies to engage line ministries** | • There is little or no interaction between the MOLGC and line ministries  
• District level activities are not properly coordinated  
• Assigned staff are not clear on their roles and those of councilors  
• At director level in line ministries, there is poor understanding of the process of decentralization  
• There is confusion in the relationship between devolved resources and CCs | • Resuscitate the inter-ministerial committee at PS level and make it functional  
• Institute a committee of directors from line ministries that works on decentralization issues (with accountability for results)  
• Empower the Department of Decentralization to play a leading role in MOLGC and to be a gateway for coordination with line ministries (staffing, capacity, authority, accountability, etc.)  
• Develop guidelines which clarify roles and responsibilities between devolved staff and CCs and the resources to fund activities | • Develop a strategy that addresses how line ministries will ultimately fully decentralize, and monitor its implementation |
| **3. Institute a process of continuous learning and feedback** | • There is little evidence-based knowledge of the challenges and experiences of decentralization on the ground (this report is the first such attempt)  
• Experiences and positive resolution of challenges are not fed into the process.  
• There is no prioritization of activities to deal with most pressing issues.  
• The MOLGC is mostly reactive and not proactive in dealing with issues that arise | • Urgently operationalize compliance and performance inspection  
• Ensure that feedback is provided to the PS and Director’s inter-ministerial sub-committees on the process of decentralization on an ongoing basis  
• Capacitate the Department of Decentralization (MLGC) to analyze and report on the findings of compliance and performance inspection in a systematic and organized manner | • Use results of compliance and performance inspection to develop a monitoring and evaluation strategy that also has relevance to other processes such as PRSP. |
**Part A. Accelerate the Implementation of the Local Government “Act” (as amended)**

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| 4. Develop a mechanism for gradual and progressive implementation of the Act. | • There are too many challenges that are being brought about by the implementation of the Local Government Act  
• There is little capacity at MOLGC and line ministries to deal with challenges  
• Community demands have increased the pressure on the service providers | • Evaluate the need for a gradual process of decentralization  
• Review the “uniform approach” towards all councils, and decide on the appropriateness of differential treatment and resourcing (see fiscal decentralization recommendations below)  
• Prioritize aspects of decentralization and resource those that will help entrench the process and reduce people’s skepticism regarding the success of the process | • Constitute a high powered committee that will assess the need for piloting the process. |
| 5. Significantly involve NGOs, CBOs, and civil society in the implementation of the Act. | • Lack of clear mechanisms allowing communities to demand accountability from councils  
• Capacity, experience and technical know-how of NGOs, CBOs and civil society organizations are not being harnessed  
• Communities are not organized into interest groups that will work with local authorities to as co-producers of local development | • Develop strategies and guidelines on how local authorities should interact with NGOs, CBOs and other civil society organizations.  
• Train NGOs, CBOs and other civil society organization on the provisions of the Local Government Act and together develop mechanisms for joint action.  
• Provide NGOs, CBOs and civil society organizations with training to demand accountability and to play an advocacy role, and participate in service delivery | • Develop a collaboration framework (e.g., through a memorandum of understanding) between local government and NGOs/CBOs aimed at strengthening the relationship between the various institutions. |
### Part A. Accelerate the Implementation of the Local Government “Act” (as amended)

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| 6. Improve access to resources and infrastructure for local authorities | • Most councils do not have access to adequate office facilities  
• Most councils have very limited access to resources for operational purposes  
• Access to both the capital fund and the recurrent expenditure previously assigned to cover operations of devolved line ministry staff, needs to be made available to CCs and DCs  
• Public goods (e.g. range improvement) need support | • Develop Public Private Partnership projects whose aim is to urgently address the office space needs of council while at the same time reduces GoL expenditure on rented space.  
• Develop a (market-based) strategy to support small business and employment generating enterprises, aimed at increasing economic activity and incomes at the council level, thus providing an opportunity for increasing the collection of levies and use the funds for operational purposes (see also part C below)  
• Establish mechanisms for allocation of operation budgets to move with decentralized staff (*part C below does not include this*)  
• Develop mechanisms for state funding of public goods managed by CCs | • Ensure that the PPP projects do not only address office space requirements but also that infrastructure developed can be used to generate funds for local authorities  
• Develop systems, where possible, for converting state funded public goods into user funded club goods. |
### B. Harmonize the Legal Framework

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| **7. Harmonize legal framework on local and central governance institutions** | • Several areas of conflicts of laws on functions and responsibilities of central and local government  
• Conflicts in relationship between the District Administrator (DA) and the District Council (DC) and the District Council Secretary (DCS)  
• Conflicts arising from the role of members of parliament | • Clarify (in law) the role of monitoring power by the central government  
• Consider amending the “Act” to:  
  ➢ make the office of the DA a member of the DC (the DC Secretary will continue to serve in the same capacity)  
  ➢ clearly define the relationship and working arrangement between the DA and the DCS  
  ➢ clarify role of members of parliament and their relation to local authorities on issues of local jurisdiction | • Harmonize the procedure for making by-laws  
• Monitor effectiveness of proposed arrangements |
| **8. Make provisions of the “Act” supersede other laws** | • Without section 95, conflicts of law may lead to gridlock may require special legal amendments to resolve | • Amend Local Government Act 1997 to resuscitate provisions of section 95 to deal with unforeseen conflicts of laws | • Monitor the impact of reintroduction of section 95 |
| **9. Clarify (in law) the roles of traditional new local authorities** | • Lack of clarity between traditional role of Chiefs and evolving role & powers of local government leading to conflict on the ground | • Use Local Government Act to amend identified statutes where conflict and/or emerging new LG role exist (grazing control, land use/site allocation, agricultural development, stock disease, forest management) | • Develop public awareness and education programs on the respective roles of the Chiefs and Local Authorities  
• Monitor implementation |
### B. Harmonize the Legal Framework

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<td>10. Amend sector legislation to reflect harmonization with roles and mandates of local authorities</td>
<td>• Sector legislation out of step with provision of the “Act” and other proposed amendments</td>
<td>• Introduce appropriate amendments in the Range Management and Stock disease regulations, and the Forest management Act and the Land Husbandry Act to accommodate the role of local authorities in grazing control, land use, stock disease, and designated forest areas</td>
<td>• Monitor implementation of amended legal framework to address any other harmonization issues</td>
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<td>• Amend Forest Act to abolish Forestry Fund (resources to go to local councils’ funds)</td>
<td>• Local Courts should replace Magistrate Courts in enforcement of the provisions of the Public Health Order, and other orders under the jurisdiction of local authorities (e.g., cemeteries, foodstuffs, and water supply)</td>
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<td>• Amend the Public Health Order Statute to define a meaningful role for local authorities, in relation to the role the Ministry of Health.</td>
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<td>11. Unpack functions of local authorities in the “Act”</td>
<td>• Currently Schedules 1 and 2 of the “Act” are too general and do not cover all types of local authorities</td>
<td>• Amend “Act” to include additional schedules in order for local authority to perform all functions in one schedule</td>
<td>• Make regulations specifying which Council performs specific functions</td>
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<td>• Retain flexibility by not specifying which functions belong to which local authority</td>
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## C. Accelerate Fiscal Decentralization

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| 1. **Adopt a classification of Community Councils conducive to increasing revenue-generation** | • There is a need to classify Community Councils into urban, peri-urban and rural to support the revenue generation of each of these different classifications. | • Develop criteria to classify Community Councils.  
• Minister LGC to make the necessary enactments as set out in the Act. | • Assign revenue raising powers to each category of Community Council. |
| 2. **Undertake necessary legal processes to support existing and potential sources of revenue** | • The necessary legal processes to support current and potential revenue generation have not been undertaken. | • The Minister LGC to make the necessary revenue determinations as required by the Act. | • Processes to be put in place to ensure that the determinations are revised on an annual basis by the Minister LGC. |
| 3. **Local governments to retain locally collected revenues** | • Local governments to retain locally generated revenues rather than pay over such amounts to the sub-accountancies | • The necessary changes to financial management laws/regulations enacted.  
• Community Councils given permission to open bank accounts.  
• Financial management regulations to ensure proper accountability over locally generated revenue to be developed. | • Systems of audits to be implemented to ensure compliance with financial management regulations. |
| 4. **Extend rating powers to urban and peri-urban Community councils** | • The Minister LGC must make certain determinations (elaborate) regarding the application of the relevant rating legislation | • The Minister LGC to extend the provisions of the property rating legislation to all urban and peri-urban councils on a phased basis | |
## C. Accelerate Fiscal Decentralization

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| **5. Restructure the current grant system to District and Community Councils** | • The existing system of grants to be revised to incorporate three components to supplement locally generated revenues | • Implement the grant based on the:  
  ➢ Institutional grant component  
  ➢ Revenue incentive component  
  ➢ Development financing component | • Monitor the performance of the restructure Grant system to make optimizing adjustments over time, as needed. |
| **6. Facilitate the promulgation of by-laws to support revenue generation** | • There is a need for Councils to promulgate by-laws to support revenue generation processes (for example revenue, environmental health, use of natural resources, business trading, and settlement planning) | • Develop standard by-laws  
• Provide support to District Councils to assist Community Councils to develop specific by-laws | |
| **7. Implement financial management practices** | There is a need to ensure that systems and procedures that complement central government financial management and accounting procedures implemented | • Develop financial management practices to be applied by all Community Councils | • Include Districts as autonomous budget entities in METF, starting FY2009/10 |
## D. Empower Communities and Make Service Providers Accountable to them

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<tr>
<td><strong>Ensure that community priorities are reflected in local authorities programs</strong></td>
<td>Small budgets result in project selections which do not correspond to community priorities</td>
<td>- Increase investment budgets of community and district councils&lt;br&gt;- Ensure that planning at district level is truly reflective of district priorities&lt;br&gt;- Ensure that during plan execution community priorities are not overridden by higher level authorities</td>
<td>- Develop community-driven development approaches in which responsibility and funding for small projects is devolved to communities&lt;br&gt;- Monitor the conformity of implemented programs with community priorities</td>
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<td>Communities are only involved as workers in community projects rather than principal</td>
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<td>Communities do not get direct funding for community-driven development projects</td>
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<td><strong>Enhance accountability of service providers to citizens</strong></td>
<td>Communities do not feel that they are entitled to services, and can hold service providers accountable</td>
<td>- Design and implement broad sensitization programs, including the rights of citizens and councils to hold service providers accountable&lt;br&gt;- Introduce local authorities compacts and performance contracts for services paid by them&lt;br&gt;- Ensure holding of regular <em>pitsos</em> in which CCs are expected to report back to communities and build awareness and capacity for communities to expect delivery and hold CCs accountable</td>
<td>- Introduce a range of accountability mechanisms, such as “oversight boards,” “citizen report cards.”</td>
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<td>Councils do not feel that private service providers are accountable to them or to citizens even where the government partially finances the services&lt;br&gt;- There are no grievance procedures for citizens complaints against councils or service providers</td>
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| Assist communities in their capacity development | Communities lack formal planning, fiduciary financial management, and conflict resolution skills. Communities need improve technical skills for project design and implementation | • With each community project cycle, associate mandatory training in planning, fiduciary management, and conflict resolution  
• Provide technical information and training from the respective sectors and/or NGOs  
• Post more technical agencies in the CC areas, and enhance their mobility. | • Introduce systems of community-based workers for a number of services, such as village veterinary workers |
|---|---|---|---|
| Provide for an employment generation program managed by the local Authorities | Employment generation is the second highest priority of communities  
A well targeted program would significantly reduce poverty  
Local authorities have comparative advantage in targeting and managing such a program | • Develop a program based on review of international best practice and adaptation to local context  
• Test it on a pilot basis | If pilots are successful, scale it up |
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<td>Empower community and producer groups to manage their own resources and their own production systems, input supply and marketing</td>
<td>Weak or non-existent groups to manage rangelands, watersheds, service provision and marketing of outputs</td>
<td>Establish or strengthen legal commodity associations and community groups linked to local authorities. Support rangeland leaseholds</td>
<td>Review and eliminate legal constraints Devolve woolsheds to the local WMGA chapters or privatize them Promote MRA-type user-group entities for rangelands</td>
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<td>Ensure that resource pasture and watershed management and productive activities include all relevant stakeholders</td>
<td>Planning and management of resources and productive activities does not always include all resource users or participants in commodity chains</td>
<td>Use CCs (and in some cases DCs) coordinate and UES to facilitate participatory planning involving all resource users and/or producers in resource management or commodity chains</td>
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<td>Ensure that incomes from range management, livestock, watershed, and horticulture, and other enterprises increases</td>
<td>Access to resources, markets, inputs and services by resource managers and producers is inadequate. Coordination weak to harness private sector potential.</td>
<td>Encourage rotating, periodic and combined service delivery and markets (PSDM), combined with input trade fairs (ITF). Support village veterinary worker (VVW) service delivery approaches</td>
<td>Strengthen market research for organic produce, and other relevant agricultural and natural resource products</td>
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<td>Ensure economic, technical and institutional viability and sustainability of proposed scaling up initiatives</td>
<td>Economic analysis of different productive and management options is weak, technology is insufficiently adapted to local conditions</td>
<td>Evaluate costs and benefits for specific recommended practices and systems quickly before scaling up</td>
<td>Strengthen farmer-linked research system including economic, technical, market and institutional.</td>
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<td>Assist the development of significant technical and management capacities in local populations and associations</td>
<td>Technical and management capacities of producers and resource managers are limited. CC and DC capacities require strengthening.</td>
<td>Provide opportunities for learning-by-doing using CDD approaches. Provide training in management skills. Provide training in technical skills on demand. Promote farmer-to-farmer exchanges.</td>
<td>Strengthen capacity of UES and other providers to provide economic, management, and marketing training. Post them closer to or in the CCs. Provide them with the required mobility.</td>
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</table>
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