FROM REFORM TO TRANSFORMATION
UNDP'S SUPPORT TO PUBLIC SECTOR REFORMS IN KENYA

LESSONS LEARNT FOR DEVOLUTION

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LIST OF ABBREVIATIONS

CoG	Council of Governors
CSOs	Civil Society Organizations
EMU	Efficiency Monitoring Unit
ERS	Economic Recovery Strategy for Wealth and Employment Creation
FBOs	Faith Based Organisations
GCG	Grand Coalition Government
GDP	Gross Domestic Product
GoK	Government of Kenya
HOD	Heads of Department
ICT	Information and Communication Technology
IEC	Information, Education and Communication
ISC	Inspectorate of State Corporations
KACC	Kenya Anti-Corruption Commission
KACSC	Kenya Anti-Corruption Steering Committee
KENAO	Kenya National Audit Office
KNBS	Kenya National Bureau of Statistics
MDAs	Ministries Departments Agencies
MDGs	Millennium Development Goals
MED	Monitoring and Evaluation Directorate
MOF	Ministry of Finance
MTEF	Medium Term Expenditure Framework
MTP	Medium Term Plan
NARA	National Accord and Reconciliation Agreement
NESC	National Economic and Social Council
NGOs	Non Governmental Organisations
ODM	Orange Democratic Movement
ODM-K	Orange Democratic Movement of Kenya

OPM	Office of the Prime Minister
PAS	Performance Appraisal System
PC	Performance Contracting
PCC	Public Complaints Commission
PCD	Performance Contracting Department
PESTLE	Political, Economic, Social, Technological Legal and Environmental
PIC	Public Investment Committee
PNU	Party of National Unity
PPOA	Public Procurement Oversight Authority
PRSP	Poverty Reduction Strategy Paper
PS	Permanent Secretary
PS OPM	Permanent Secretary Office of the Prime Minister
PSR&PC	Public Sector Reforms and Performance Contracting
PSRS	Public Service Reform Strategy
PSTD	Public Sector Transformation Department
PwC	Price Waterhouse Coopers
STI	Science, Technology and Innovation
USAID	United States Agency for International Development
UNDP	United Nations Development Programme

EXECUTIVE SUMMARY

Kenya has had a long history of civil and public service reform (PSR), ranging from the post-independence era of the commissions and committees trying to create a new African civil service, to the Economic Structural Adjustment Programmes (ESAP) reforms driven by fiscal imperatives as lending conditionalities, to the more comprehensive reforms of the 2000's. Each phase has had its own contextual drivers, and, until the 2000's, these reforms were not very successful in achieving their stated objectives – the civil service grew progressively inefficient, and as retrenchments were being implemented the numbers kept growing back up, and the economy threatened to grind to a halt.

It was not until the new National Rainbow Coalition (NARC) government launched the Economic Recovery Strategy for Wealth and Employment Creation (ERS), which postulated a relationship between the desired economic growth and democratic governance and, within that, public sector reform, as a sine qua non for sustainable development, that public sector reform could finally be demonstrated to show results in Kenya. The United Nations Development Programme (UNDP), through resource mobilisation, technical assistance and creation and management of a basket of funds from development partners, played an important role in support of the Results for Kenya Programme (RFK), which was the ERS based reforms programme, and the Public Sector Reforms Phase ll, the successor programme to RFK launched after the 2007/2008 political crisis, and within the context of the Grand Coalition Government (GCG).

Many important lessons were learnt by all stakeholders, including UNDP. These lessons, as well as those learnt globally in supporting both PSR and decentralisation, are applicable to the constitutionally mandated strategy of devolution. UNDP intends to ensure that its support to devolution is more effective by applying the lessons that it has learnt through its support to PSR, and through its global experience, to the challenges inherent in supporting devolution.

The figure below summarises some of the lessons learnt and to which of UNDP's priorities these could be applied.

UNDP Devolution Pillars and Lessons Learnt

Policy and Legal Framework

- Political, policy and strategic leadership commitment essential
- The need for a comprehensive reform plan that takes all strands of the public sector into account
- Reform requires a capable and engaged central authority that has both overall authority and the overall vision for reform
- Reforms have to be internally driven even if externally facilitated

Capacity Building for individuals and institutions supporting devolution

- Strategic managerial commitment and capacity
- A coordinated and long term funding strategy with both government and donors committing to it
- When development partners come together around reform it should be for knowledge sharing and strategic coordination in order to better support reform
- Reforms have to be internally driven even if externally facilitated

Strengthening Service Delivery Mechanisms and Peaceful Co-existence at County and Sub-County Levels

- Interventions to improve service delivery have been more effective when UNDP has simultaneously extended support for capacity building, improving accessibility of service users, raising awareness and promoting outreach
- service delivery has also been most effective when local governance reforms have had the backing of strong national governance legislative and policy frameworks as well as government resources
- UNDP Country Programme Documents, which include support to local governance reforms, are typically drawn up in partnership with national Governments

Citizen Empowerment in Local Development Planning and Financing

- In a post crisis environment, which is characterised by short term preoccupations, there is need to salvage successes from the pre-crisis period and make it post crisis quick wins.
- UNDP has been effective when it has nurtured effective partnerships with the Government, community-based organizations (CBOs) and communities

Piloting County Demonstration Projects

- The need for a comprehensive reform plan that takes all strands of the public sector into account, has a sequencing strategy which allows (and sometimes requires) key players to proceed at different paces in the context of a realistic time frame.
- The need for evidence based approaches

More Effective Support for Sustainable Devolution

1

INTRODUCTION

The objective of this paper is to help the United Nations Development Programme (UNDP) to identify the lessons it has learnt in supporting Public Sector Reforms in Kenya and apply them to its support to the country's devolution strategy. The paper presents a quick synopsis of the evolution of public sector reforms in Kenya and the lessons learnt therefrom. But in order to put these in context, the paper also reviews lessons learnt from public sector reforms in developing countries in general, as well as review lessons learnt by development partners and UNDP in support for decentralisation globally. Finally the paper concludes with UNDP's intended areas of support to devolution and shows which lessons might apply to each of them and how.

But first, this introductory section presents both the context of, and background to PSR in Kenya.

1.1 SOCIO-ECONOMIC CONTEXT

Public Sector Reform (PSR), as indeed any other reform, is both context driven and context impacting. Thus an understanding of the context is important to understand both the drivers of reform and explain its outcomes. This section reviews the socio-economic context prevailing at the time the most important phases of PSR were formulated and implemented by the Government of the National Rainbow Coalition (NARC) which came into power in 2002.

Kenya's first far reaching post-independence political economic development philosophy and strategy were defined in the land mark Sessional Paper Number 10 of 1965, which established the central role of the private sector as the main agent of economic activity in Kenya, and remained the presumed economic blue print for the country for the next 15 years. The first Economic Structural Adjustment Programme (ESAP) in Kenya was introduced 1980, and the country went through the entire gamut of ESAPS, which of course included the Civil Service Reform Programmes (CSRP). Kenya had ESAPs until the introduction of the Poverty Reduction Strategy Paper (PRSP) in 2001. By that time the economy had been on a steady downward spiral for over a decade.

After growing at an average of 4.5 percent between 1980 and 1989, it plummeted to average 2.1 percent between 1990 and 1999, dipping to 0.6 percent in 2000. Poverty and unemployment increased and the gains made soon after independence started eroding away (Government of Kenya, 2008). It was against this background that a seismic shift took place at the political level, with the ruling Kenya African National Union (KANU), which had ruled the country since independence, losing elections to an opposition coalition, transferring power from one party to another for the first time. After four decades of one party rule, this peaceful transfer of power ushered in a new socio-political era for Kenya. The NARC Government launched the Economic Recovery Strategy for Wealth and Employment Creation (ERS) in 2003 and buttressed it with an investment plan in 2004. The ERS's main focus was job creation through, among others, a strategy that consciously combined ensuring macro-economic stability, facilitating the private sector and ensuring democratic governance.

The growth objectives of ERS were balanced with equity and sustainable development objectives. It identified public sector reform as key to the achievement of its objectives.

The result was a robust reversal of the trends of the previous two decades – growing by an average 5.2 percent between 2003 and 2007. At the same time the fabric of the public sector was being transformed.

Vision 2030, which became the new, but longer term, development framework, was launched in 2007. Its aim was stated as creating "a globally competitive and prosperous country with a high quality of life by 2030". The Vision 2030 is constructed on three pillars - political, social and economic.

It was during the euphoria of growth, the launch of the vision 2030, and a battery of reforms being implemented that the elections of December 2007 were held and that the country was plunged into a crisis. With disagreements on the outcome of the elections came the conflict that left 1500 people dead, and, combined with the effect of the global financial crisis, saw the economy nose dive back to the levels of 2002.

Largely due to the compounding situation of internal crisis, Kenya's recovery at per cent between 2008 and 2012 was relatively low compared to the rest of Sub-Saharan Africa which bounced back to 5 percent for the same period. Tanzania, Rwanda and Uganda, attained a combined average growth rate of 6.8 percent during the same period. Although it is still lagging behind its neighbours, the economy has picked up pace and is projected to grow by 6.5 percent in 2015 more robust than its still impressive 5.7 percent and 5.3 percent in 2013 and 2014 (estimated) respectively (AfDB, 2015).

The political negotiations that resulted from the violence in 2008, which followed the December 2007 elections in Kenya, eventually led to the formation of a Grand Coalition Government (a government of national unity) and also the establishment of the Office of the Prime Minister (OPM). It was anticipated that the OPM would cease to exist following the first general elections which will eventually follow the promulgation of the 2010 constitution. These political developments formed an important part of the context of reforms in the Kenyan public sector in the fourth period of public sector reform and transformation covering the years 2008 to present. In 2008, the government released its Medium Term Plan (MTP) 2008-2012 (Government of Kenya, 2008). The MTP was the first of the successive medium-term plans being used to outline policies, reform measures, projects, and programs that the government is committed to implementing in support of the Kenya Vision 2030 (Government of Kenya, 2008). The Kenya Vision 2030 is the country's development blueprint, covering the period 2008 to 2030. The MTP 2008-2012, and its update to 2013, both recognize that an effective and efficient public sector is essential to achieving the Kenya Vision 2030 by creating an enabling environment for the private sector to be facilitated to play its part as the engine of growth for the country's economy. Transparency, accountability, participation and the rule of law are to constitute an integral part of the reform agenda.

With the establishment of the OPM by the National Accord and Reconciliation Act, 2008, the Prime Minister was mandated to coordinate and supervise the execution of the affairs and functions of the government including Ministries. Hence the OPM developed and lunched a Strategic Plan in 2009 covering the period 2009-12 (Government of Kenya, Office of the Prime Minister, 2009), whose focus was to, "give priority to improving service delivery by accelerating existing initiatives and extending them across all public services." (Government of Kenya, Office of the Prime Minister, 2009)

As the Prime Minister stated in the introduction to the plan:

The strategic objectives for the plan period are to: improve service delivery; build strong capacity for policy development and coordination; create a new culture of setting priorities; focus government on effective delivery of policies and priorities; and steer Public Service Reform as an enabler of good policy and delivery. This plan *is thus about working towards giving Kenyans the Kenya they want – a prosperous, democratic, equitable and modern nation (Government of Kenya, Office of the Prime Minister, 2009): vii).*

1.2 BACKGROUND TO REFORM

The 2010 Kenyan Constitution significantly restructured the State by ushering in a set of reforms across the legislative, executive, and judicial branches of the State, and creating and establishing counties as the most significant and empowered level of devolved government in the country. In addition to the restructuring, the Constitution adopted universal governance principles and by including provisions for these values including enshrining human rights, leadership and integrity, good conduct, equality and gender equity. Significantly the Constitution details the nature, values and standards of accountability of the public sector. It also commits to rapid economic development and embodies the aspirations of a country committed to become a middle income country in the near future.

Kenya is aware that adoption of the Constitution and bringing it into force, while it heralds a certain national consensus about values, aspirations and the nature of society Kenyans want, it represents the beginning of the hard choices needed to be made in the process of meeting the aspirations, the hard work required and the challenges that lie ahead. All this while meeting the day to day expectations of citizens, for continuity in the delivery of services, for better services from the new arrangements even before relevant institutions have been established.

Of all the structural reengineering that the Constitution has introduced, none is as ambitious, as far reaching, and consequently as complex as the devolution of governmental functions to the county level, which essentially constitutes the creation of fourty seven (47) fully fledged governments, with complex multi-dimensional relationships with national government, in a historical context in which little devolution has taken place before. Both the GoK and its development partners recognise both the enormity of the challenge of implementing devolution and how much the success of the new constitutional era rests on the success of that implementation.

A key determinant of that success will be how the public sector functions and institutions and resources are deployed at both national and devolved levels. Key stakeholders, including GoK and its development partners recognise the critical role of the public sector. UNDP is thus in the process of reconfiguring its role, approach, strategy and programmes in order to effectively support the successful implementation of devolution. Fortunately Kenya, in the last decade and half, has had a comparatively successful run at public sector reform, and UNDP support, to different degrees, has been an integral part of that success.

The purpose of this report is to analyse and recommend important lessons learnt from the support to PSR in order to apply these lessons to UNDP support to devolution. This will of course be done in the context of global experience in both PSR and devolution and will be enriched by the experiences of other development partners.

Discussions of PSR in Kenya and elsewhere does not often distinguish between civil service reform (CSR) and public service/sector reform (PSR). In the Kenya context, and indeed most African contexts, the distinction is important because the history of PSR is that of progression from the narrow focus on CSR in isolation, to eventually widening towards comprehensive approaches to reform, realising that CSR could not succeed in isolation. CSR is that reform that focuses on changing the core civil service –the institutions and people dedicated to the execution of central government and its ministries and departments - towards more efficiency, effectiveness and accountability. PSR concerns change for the entire public sector - that is all branches of the state, at central, regional and local levels and all agencies created by the state to implement its mandate. CSR is therefore subsumed in PSR.

PUBLIC SECTOR REFORM IN KENYA

2

This chapter discusses the evolution of public sector reforms in Kenya. Unlike most treatment of reforms which begin with the World Bank driven reforms of the 90's this discussion begins at the beginning, highlighting Kenya's largely self-motivated, but quite unsuccessful efforts at reform virtually since independence, and follows the evolution to the comparatively successful reforms of the last ten years. Throughout, UNDP's role within the context of key stakeholders, and the lessons learnt are highlighted.

2.1 SYNOPSIS OF REFORMS

PSR has a long history in Kenya, all the way from soon after independence. However, the Civil Service Reform Programme (CSRP) was the first formal programme to be launched in August 1993. It was not, however until the election of the National Rainbow Coalition (NARC) government based on a campaign of reform and anti-corruption, that new momentum for change was introduced. In an effort to ensure effective implementation of its Economic Recovery Strategy for Wealth and Employment Creation (ERS) the GoK adopted performance contracting as an important tool in its performance management strategy, and established the Performance Contracting Secretariat (PCS) in the Office of the President and Cabinet (OPC). The government introduced Results Based Management and, in 2004, Cabinet formally placed permanent secretaries and chief executives of state corporations on performance contracts. In 2005, the Government launched the Results for Kenyans (RFK) programme whose main objective was to improve service delivery and entrench Public Service values and ethics within the public service. In a parallel but related development the RFK introduced Rapid Results Initiatives (RRI). PC and RRI would become the cornerstones of the next decade of PSR.

In 2006, UNDP and other development partners (DFID, CIDA, SIDA, Denmark, Finland and World Bank) came together to provide donor support to these government efforts in public service reforms. The achievements and lessons learned from these initial programmes were the basis for the continuation of public service reforms in the Grand Coalition Government, which in April 2008 merged the PCS and the Public Service Reform and Development Secretariat (PSRDS) which ran the RFK, into the Public Sector Reform and Performance Contracting Department. Under the aegis of the Prime Minister's strategic plan which, among other things, shifted emphasis from reform to transformation in order to institutionalize change and raise the level of government performance, this department was split into two – Performance Contracting Department (PCD) and the Public Sector Transformation Department (PSTD). Within the strategic plan the PCD was mandated to continue the deepening, reach and quality of the performance contracting approach, and the PSTD to take the public sector reforms beyond reform to "transformation". To support this, a new programme, the Public Sector Reform Programme Phase II was agreed with support from international donors. The assumption is that this programme was designed not just as an extension of Phase 1, but according to the history of public sector reform in Kenya, as an instrument with which to respond to the socio-economic and political context within which it was developed.

2.2 PHASES OF REFORMS IN KENYA

Public Sector Reforms in Kenya, under various descriptions and titles, have been going on since independence, following familiar phases common to most of post-colonial Africa, and driven by particular conceptions during a given period, of the role of the public sector in development. The first two decades were generally self-driven, in the sense that they had not really been linked with any particular development strategy, and thus were not driven by any sort of donor strategy. That whole period is lumped together here as the first phase.

2.2.1 PHASE 1: 1965–1980 DECOLONISATION AND EXPANSION OF THE SERVICE

Kenya's defining development strategy of the 1960's Sessional Paper #10: African Socialism and its Application to Planning in Kenya, sees the major challenge for the public sector, if the strategy outlined therein was to be implemented, as finding qualified Kenyans to fill the positions being left vacant by former colonial bureaucrats, as well as expand the size of the sector to meet expanding needs. Basically that led to a vigorous effort to Africanise the service in the face of shortage of trained Africans. So massive training programmes were launched locally and abroad.

This strategy served the purpose of filling public sector jobs with trained Africans. The inherited civil service was staffed by whites at the top, Asians in the middle and Africans at the bottom. The higher one was, the more the salary was pegged on distorted colonial salaries. As africanisation, or "Kenyanisation" proceeded, the salary structures were not changed. Africans inherited the high salaries and the distorted structures. It did not address fundamental issues of whether the inherited structures, ethos or processes and procedures were suited for the post-colonial Kenya development agenda, as contained in Sessional Paper 10. It was not until 1971 that the first civil service reform effort was made by the appointment of the Commission of Inquiry (Public Service Structure and Remuneration Commission), 1970-71, commonly known as the Ndegwa Commission, which made its report to President Jomo Kenyatta in 1971. The Commission made far reaching recommendations touching on the structure, remuneration and principles governing the service. Two of the recommendations dominated the post report discourse – the salaries recommended for the senior level cadres (which did not take into account the need to incentivize the lower and middle level cadres or the then high demand for the technical and professional cadres) and the formalisation of an already widespread practice of public servants engaging in private business. There was widespread criticism, not just of the recommendations themselves, but of the haste with which they were implemented, without much national debate. In fact they were only presented to Parliament, members of which were not at all pleased,[1] by way of Sessional Paper Number 5 of 1974, four years later.

In any event the acceptance and implementation of the Ndegwa Commission recommendations are blamed for the subsequent breakdown of the discipline in the public sector and the intensification of corruption. Habel Nyamu noted that "Up to 1970 it was a necessary requirement that civil servants did not engage in trade or any other business. This requirement, which was inherited from the colonial government, seems to have been based on solid assumption such as that it was not possible for a civil servant to give of his very best if he was serving two masters, namely the public and his own material interests....

Since Ndegwa report broke this requirement and allowed civil servants to own any kind of property and take part in any kind of business, no one can stand up and argue that efficiency of individual civil servant (sic) who took uncontrolled advantage of this relaxation of tradition was not affected somewhat adversely."

1 Kenya National Assembly Official Record (Hansard) May 28 - Jul 4, 1974

[2]A committee set up to review the civil service four years later confirmed this, concluding "… there has been gross neglect of public duty and misuse of official positions and information in furtherance of civil servants' personal interests". [3]

It was against this background, of the failure of the Ndegwa Commission to reverse the decline in the civil service, that President Daniel Arap Moi, who had just taken over leadership after the death of the First President Jomo Kenyatta, set up the Waruhiu Committee for the Review of the Civil Service in 1979. The committee was the first to specifically analyse, and make recommendations based on the relationship between planned development objectives and the structures, organisation, competencies and remuneration of the civil service. It recommended what in later language became known as "functional reviews" of key ministries, reinforcing of institutions that supported district level planning, budgetary and implementation activities (the latter basis for Kenya's district focus decentralisation strategy), made recommendations for more effective personnel management and training system, and recommended a sliding scale for civil servants salary raises, with the lowest receiving the highest percentage raises. It also recommended a code of conduct for public servants as an antidote to the permissive Ndegwa recommendations allowing their participation in private business. An important recommendation was the strengthening of the Public Service Commission, and the creation of more specialised commissions under it – to cover the Civil Service, the Prisons Service, the Police Service, the Teaching Service and the Local Government Service.

Most of the Committee's recommendations were accepted by the Government. However, due at least in part, to Kenya being hit by both the 1980's global recession and a prolonged drought, most of the recommendations requiring budget sensitive restructuring were not carried out, including the then important recommendation that civil service salaries be reviewed every two years.[4] Thus morale and discipline in the civil service continued to deteriorate and service standards continued to slide, leading the President to appoint yet another committee, The Civil Service Salaries and Review Committee, in 1985, chaired by Mr Timothy C. J. Ramtu, and thus known as the Ramtu Committee.

The Committee's terms of reference addressed mainly salaries and "fringe benefits" for civil servants. The committee, for the first time identified the challenge of retaining professional, scientific and technical personnel in the civil service against private sector competition, at a time when civil servants' salaries were now consistently behind inflation, and had moved from being equal to or higher than the private sector to being well below.

Throughout this period, recommendations of the various committees notwithstanding, the public sector employment continued to grow, peaking at 50.3% of all formal employment in 1989[5]. While some of that expansion would have been due to the expansion of the government's programme, the bulk of it was certainly due to the government continuing to play the role of residual employer.

The result was "overstaffing, and declining (in) productivity, service levels, pay, morale, discipline and ethics"[6].

2 Quoted in Adhiambo Mbai African Journal of Political Science (2003), Vol 8 No.1
3 Waruhiu Civil Service Review Committee, 1979 – 80 http://www.worldcat.org/title/report-of-the-civil-service-review-committee-1979-1980/oclc/38801322
4 Kenya National Assembly Official Record (Hansard), October 8 - December 11, 1985 https://books.google.com/books?id=oPcCgsEH93AC&pg=RA3-PA663&lpg=RA3-PA663&dq=ramtu+commission&source=bl&ots=8FuHZk7PSt&sig=he-GaiYjfW5hSrvshv-UR3bdLmw&hl=en&sa=X&ei=rUZqVe-ILa3dsAS5voKwCA&ved=0CDEQ6AEwAg#v=onepage&q=ramtu%20commission&f=false
5 Damiano Kulundu Manda, Incentive Structure and Efficiency in the Kenyan Civil Service, 2001
6 The World Bank, 2001

The phase of public sector reforms in Kenya just reviewed can be divided into two parts. The first part focused on Kenyanisation while the second focused on structures, organisation and compensation. Both sets of reforms were focused on the civil service rather than the wider public sector, on efficiency, probity and fiduciary accountability not contribution to strategic objectives, performance or results. These reforms were largely internally driven, due to Government's perception of deteriorating performance, onset of corruption and all the symptoms mentioned above. We will call this Phase l of PSR in Kenya.

The next group of reforms would be progressively more robust, more ambitious, and comparatively more comprehensive; and more linked to donor support than previously experienced. These have been differently periodised by different reviews. Phase 1[7], covering the period 1993 – 1997, which focused on efficiency and cost cutting; Phases II (1997-2002), III (2003-2007) and IV (2008-2012) were about, respectively; performance improvement in the public service, re-organisation of government, and visioning Kenya towards a globally competitive middle income country[8]. This phasing has been merged with the first phase, so the next section continues with Phase ll.

2.2.2 PHASE 2 (1993–2002) EFFICIENCY, FISCAL BALANCE AND PERFORMANCE IMPROVEMENT

This phase began with the launch of the Civil Service Reform Program (CSRP) I in 1993 whose main focus was to improve the efficiency and productivity of the Civil Service, with the priority being size and cost of the civil service. It had the following objectives;

Staff rationalization in the Civil Service;

- Increase funds for operations and maintenance;
- In general, to strengthen the capacity, efficiency and productivity of the Civil Service;
- Provision of adequate tools, equipment and facilities in ministries/departments;
- Introduction of proper work ethics;
- Control of establishment levels.

It was supported by the World Bank and driven by the need to respond to the worsening fiscal situation (The World Bank, 2001). Implementation was driven through a Steering Committee at the national, provincial and district levels and in each Ministry with a national Secretariat as its operational arm.

This programme achieved some of its intended objectives, including;

- Implementation of the Voluntary Early Retirement Scheme (VERS) with the government attaining its target number of retirees
- Abolition of more than 26,000 posts in addition to the freezing of posts that fell vacant due to the VERS
- Development of an Integrated Payroll and Personnel Database (IPPD) system; (4) decompression of pay scales
- Development of a training policy
- Design and introduction of unique identification numbers for civil servants to assist in the improvement of establishment control and maintenance of payroll integrity including elimination of ghost workers.

However, the success of the programme was limited by the design – it was not designed as a comprehensive reform programme, given its undue focus on the size and cost, rather than the quality, of the service.

7 Some have four phases while others have three phases, each of which represented different priorities. The Government's own periodization starts in 1997. However, an important three part Civil Service Reform Programme was introduced 1993 with the support of the World Bank

8 Kenya Public Service Reforms: Selected Statements of Key Reform Drivers, 1993-2013 (Undated)

And because it was not couched in a systems context, even the budgetary gains in one area were easily offset by ballooning elsewhere. As the World Bank noted:

> *Although the initial civil service retrenchment exercise proceeded quickly, its cost containment objectives were rapidly contradicted and frustrated by the awarding of a huge pay rise to the Teachers' Service and the politically motivated hiring of a large number of additional teachers in the run-up to the 1997 elections. (Kempe, 2012)*

Nzioka (Nzioka, 1998) identified lessons learnt from CSRPI:

- The need for adequate planning before implementation of any reform to, among other things, prioritize activities and allocate adequate time and resources for implementation.
- Training and capacity development are of vital importance for the success of any reform initiative. If civil servants are not prepared, for example, to respond to the demands of a rapidly changing socio-economic environment, then the result can be a loss of momentum for reform activities.
- The need to adopt new technologies, especially information technologies, which are necessary for timely and accurate decision-making.
- The importance and need to build acceptance of reform initiatives particularly among top managers in the service.

These fed into the design of CSRP II, which focused on performance improvement, and had the following priorities:

- Rationalization of Ministerial Functions
- Staff Rationalization and Management of the Wage Bill
- Pay and Benefits Reforms
- Performance Improvement Initiatives
- Training and Capacity Building

The World Bank which supported both the CSRP I and II assessed both phases as unsatisfactory on the part of both the Bank and the Government. The reasons for this are given as:[9]

- There was little indication of government's commitment to consistent and steady reform processes and this was reflected in the slow rate of implementation of reform activities;
- The implementing agency, the Directorate of Personnel Management (DPM), under which the CSRP Secretariat fell, lacked the necessary clout and political backing to implement the reforms;
- Reform activities lacked proper sequencing and many were added, some at the behest of donors it must be noted, without proper planning;
- There was a lack of ownership[10].

It is interesting to note that this unsatisfactory performance was not just in Kenya. In its Independent Evaluation Group report the World Bank concludes, about this phase of reforms, that "This approach typically failed to improve public administration, as noted in a 1999 IEG evaluation" (IEG-World Bank, 2008). The report adds that "Since then, the Bank has advocated the same approach, with similar lack of success in some countries……"

An important contextual footnote to be borne in mind is that all the efforts at reforms outlined so far were efforts made under the government deriving from the same party that had been in power since independence in 1963.

9 The World Bank 2001
10 (World Bank, 2001; Oyugi, 2006)

As we have seen above, the momentum for change that came with the new post-colonial government was largely spent on africanisation.

Once that was completed, much of the reform efforts was no longer about change, but consolidation and thus self-serving. Indeed quite a bit of it was caught in the inertia of an entrenched system.

2.2.3 PHASE 3: 2003 -2010 RESULTS BASED MANAGEMENT

It would take a new government, under the National Rainbow Coalition (NARC), which took over in 2002, with a change mandate, agenda and the need to demonstrate the difference that it would make, to usher in qualitatively different types of reforms. The first major difference from the past was that public sector reform was not seen as an independent process from the rest of the development agenda, but its main instrument. This government had a theory of change that predicated sustainable development on good governance and placed public sector reform within the purview and at the centre of good governance. Thus when the new government launched its development strategy, entitled Economic Recovery Strategy for Wealth and Employment Creation (ERS) 2003-2007, public sector reform to implement the strategy was seen as a sine qua non for its success. Thus for the first time public service reform was embedded in the national development strategy, whose implementation was, in turn, predicated on successful public sector reform.

While the new reforms strategy incorporated the objective of reducing the size and cost of the civil service, emphasis shifted more to optimal rather than absolute size, given the imperative for better performance management and enhanced service delivery for the attainment of the objectives of the ERS, thereby significantly changing the rationale from the fiscal objectives towards a results orientation, however rudimentary at the time.

This meant that while on-going ministerial/departmental/agency (MDA) rationalization were to continue, their finalisation were now within the context of their strategic plans. Basing PSR on strategic plans meant that the inward focus of PSR would be reoriented to serve the ERS, requiring a focus on proper utilization of financial and staff resources on clearly identified core functions, goals, objectives and targets. To that end the Government introduced internal performance improvement processes - performance based management practices, job evaluations; public interface and accountability mechanisms - service delivery surveys and service charters; and management accountability instruments, the most radical of which were the performance contracts for senior officials.

In 2004, the government showed its level of commitment to effective PSR by requiring the introduction of results-based management (RBM) in the entire public sector. Results-based management is a management strategy which organises all actors, the organisation and resources to focus on achieving a set of identified and agreed results, by ensuring that inputs and activities contribute to the achievement of desired results, in a results chain where activities are geared towards clear outputs, a set of which result in outcomes and ultimately achievement of overall goals. It has organisational, procedural and behavioural implications – requires clearly defined accountability for results, monitoring and self-assessment of progress towards results and performance management.[11]

There was however, ongoing concern about the effectiveness of these changes, which appeared radical on paper but were not able to change the downward delivery slide. It has been suggested that at least part of the reason was that while they were introduced by a new government, the same department of Personnel

11 United Nations Development Group Results-Based Management Handbook, 2004

Management that had presided over previous reform efforts had continued to carry out the responsibility (Africa Development Professional Group, 2011).[12] Decision on radical reforms were met with institutional implementation inertia.

It is one thing to make decisions on, and to introduce new performance management systems, to have senior management sign performance contracts and even to have an array of incentives and disincentives related to performance. It is quite another to have delivery on the basis of that architecture. Unless people change behaviour, have the tools and the skills, delivery will not necessarily follow decisions.

Government realised this and, in November 2004, established the Public Service Reform and Development Secretariat (PSR&DS), in the President's Office, to spearhead the implementation of RBM in the Public Service and coordinate all public service reforms. This decision, in essence, ushered in a new phase of reform, which focused more substantially on the role of the public sector in achieving clearly defined national development objectives than being driven by fiscal pressure or perceived efficiency issues without a performance context.

This phase had the following objectives:

- Institutionalisation of the RBM approach in the public service;
- Creating an enabling environment for RBM to achieve ERS targets and national goals (now Vision 2030);
- Developing the capacity of leaders in the public service to champion change in the implementation of RBM and to mainstream the application of values and ethics in the public service;
- Developing an Information, Communication and Education (IEC) Strategy for disseminating Results to Kenyans; and
- Developing a longer-term public service reform strategy (2009-2014) including developing a national vision and "branding Kenya" towards the achievement of national priorities in the medium to long term

The PSR&DS understood its role as on the one hand, to operationalize the RBM strategy, and on the other, to develop a strategy for long term reform. Two key interventions became critical for the implementation of RBM – performance contracting (PC) and rapid results initiative (RRI). While the former was introduced earlier, it benefited from the latter. The RRI was introduced to cultivate a strong focus on results and was used to attempt to fast track improvements in service delivery and/or working conditions by several public sector institutions. While it was aimed at all MDA's, it became a handy tool for managers on performance contracts to fast track their own results. RRI was designed and refined to help results focus by:

- Accelerating implementation of strategic plans and priorities
- Building support for large-scale change efforts by overcoming inertia and resistance to change
- Helping leaders adapt and refine implementation strategies

With its 100 days turn around focus, RRI succeeded in delivering tangible results to citizens and helped consolidate support for reform. Taken together, the new approaches introduced under the RBM initiative - strategic planning, performance contracting, annual work plans, and service delivery charters – supplemented with RRI became a powerful raft of reform that constituted a solid foundation and some building blocks for institutionalizing and mainstreaming public sector reform in the national development strategies, making RBM the mainstay for the Results for Kenyans programme.[13] It became generally categorised under the Results for Kenyans Programme (RFK).

12 RFK End Evaluation Report
13 (OPM/PSTD, 2010).

This phase of PSR, under the institutional leadership of the PSR&DS, probably had the most significant impact on the Kenyan public sector than all previous reforms. The final evaluation of the RFK concludes in respect of management culture, that "In general there is consensus that there has been overall improvement in the way that the Government manages for results." It also commented on the outlook and behavioural orientation of public servants and concluded that, "……..there have been positive changes in the attitude and performance of civil servants over time and they appear to be more motivated." In terms of results for Kenyans the evaluation concluded that, "Kenyans are experiencing at least incremental improvements in public service delivery (e.g. at police stations, offices of chiefs and sub-chiefs, hospitals, etc) compared to what they received six years ago." (Africa Development Professional Group, 2011) Unfortunately it was while this phase was at peak performance that the Kenyan political crisis happened, interrupting it and, compounded by the global financial crisis, stopping economic growth in its tracks.

A number of things happened that changed the context of reform significantly. In 2007 the Vision 2030 was launched. It provided a long term development perspective for the country with the ambition to "create a globally competitive and prosperous nation with a high quality of life by 2030" (Government of Kenya, 2008). The vision incorporated some of the PSR tenets from RFK. Unfortunately by the end of 2007 the country was plunged into the crisis that spilled into 2008 and which has been described earlier. The global financial crisis happened and Kenya, already vulnerable, was no spared. Its recovery was much slower than that of the other African countries.

Clearly all national efforts became focused on the crises and reform was shelved, until the formation of the Grand Coalition Government. The RFK was extended, both as a government programme and the donor funding, to 2010. At the same time in April 2008 PSR&DS was merged with the PCS into the Public Sector Reform and Performance Contracting Department (PSR&PCD). The new department took into account the achievements and lessons learned from the RFK and not only continued the programme but used the opportunity to make a contribution to the constitution then being formulated.

2.2.4 PHASE 5: 2010 – 2013 PUBLIC SECTOR TRANSFORMATION

As the result of the GCG, the reforms were placed in the newly created Office of the Prime Minster, which soon developed a strategic plan for the operationalisation of the PM's mandate. The Prime Minister's strategic plan, among other things, shifted emphasis from reform to transformation in order to institutionalise change and raise the level of government performance. It also split the PSR&PCD into two – Performance Contracting Department (PCD) and the Public Sector Transformation Department (PSTD), both located within the then OPM and responsible for public sector reforms. The PSTD was given the responsibility for the development and implementation of the Public Sector Transformation Strategy, which had three main components (Government of Kenya, 2009).

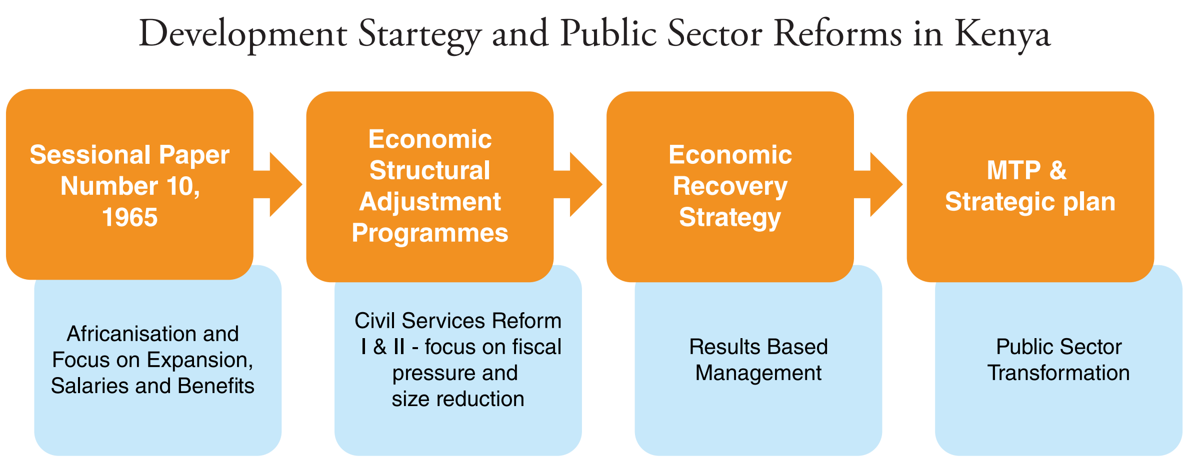
- Service and Openness: transforming delivery of Public Sector services and engagement with the citizens of Kenya. The outcome sought will be greater public trust in the Public Sector. Coordination and Cooperation: strengthening the capacity across the whole of government to coordinate and cooperate on policy development and program delivery. The outcome sought will be a Public Sector-wide capability to respond to the needs and expectations of Kenyans as one 'linked up' government.
- Effectiveness and Accountability: strengthening the internal workings, capabilities and accountability of individual Public Sector organizations……….. the focus of this component will be supporting and coordinating the many diverse and innovative organizations which toil below the surface on behalf of present and future generations of Kenyans. The outcome sought will be Public Sector organizations that are goal-driven in everything they do.

The PCD continued to be responsible for performance contracting with the objective of deepening the practice in the public sector as a whole including Parliament and the Judiciary.

Given the context in which it was developed and implemented, this phase of PSR had an opportunity to be historically significant or irrelevant, depending on the responsiveness with which it was designed and implemented. It could respond to the circumstances in which it existed or stoutly continue on some original reform trajectory regardless. Both the extended RFK and PSR ll were responsive to the changing environment and became historically significant. PSR contributed to the enshrining of public sector values and accountability in the constitution and for supporting the Task Force on Devolved Government to develop legislation for devolution.

The evaluation of the PSR ll found the programme to have been relevant, adaptable and responsive to the changing circumstances, effectively implemented and produced results that were sustainable due to both their relevance and long term ownership by Kenyans (PwC, 2013).

Figure 1: Phases of PSR



LESSONS LEARNT

3

This section will highlight the lessons learnt by UNDP and other stakeholders in supporting PSR in Kenya. However in order to contextualise the Kenyan experience in a global perspective, lessons learnt from supporting PSR in developing countries in general, including by UNDP, will also be reviewed.

3.1 FROM DEVELOPING COUNTRIES

Most reviews of PSR in Africa, or indeed developing countries in general conclude that these have not been as successful as had been hoped for (Repucci, 2014) (SIDA, 2013) (UNECA, 2010). The lessons therefore, are not learnt from success, but from failure. An underlying assumption is that if only these lessons had been learnt before, success would have been achieved. But against that assumption must be raised the fact that a lot of the same lessons have been recurring in evaluation reports and other reviews for at least the last two decades (Repucci, 2014). So either the wrong lessons have been being drawn, or the design of new programmes and projects routinely pay scant attention to the lessons. In any event the big lesson is, perhaps, that lessons have not been being learnt and that history has been repeating itself.

Key lessons that have been put forward as coming out of the experience with PSR include: the need for political economy analysis as the first essential step in PSR, the need for leadership (political will, political competency and management), the need for results orientation, the need for M&E (SIDA, 2013). Government ownership, time perspective and sustainability (Repucci, 2014).

3.1.1 Political economy analysis

The need to carry out political economic analysis has always been recognised. Indeed the whole field of political economy is about explaining phenomena from the political economic context, accepting that prevailing political and economic interests determine the nature and direction of change and try to stand in the way of change that is not in their interests. Development organisations have called this process various names to distance themselves from the perceived ideological pedigree of the term "political economy". Some, such as the World Bank, simply call it country context, and others, such as UNDP, call it institutional context analysis. Most governments prefer to call it national context. But all now agree that it is a critical prerequisite for design and implementation of PSR. They however differ on the scope and depth of the analysis, depending on whether their analysis is driven by the need to identify fiduciary risk, political risk, or other risks on one hand or drivers and/or endemic resistors of change on the other hand.

3.1.2 LEADERSHIP

Leadership is regarded key to the success of PSR. Many discussions separate political will from leadership. It would appear, however that discussion of political will outside the exercise of leadership is just token commitment, at best absence of political resistance. The discussion around lessons suggests that the leadership that has been found wanting is at three levels – the need for political will, the need for political competency to back up that political will, and management leadership. In this case political will is understood as commitment to invest political capital, whereas political competence is the cognitive grasp of what the actual nature of the political investment is and the relationship between that investment, the reform outcomes and national policy objectives. The managerial leadership manages the interface between political will and competence on the one hand and implementation policy and strategy on the other, and inspires the design and management of the change strategy.

3.1.3. RESULTS ORIENTATION

When reference is made to results orientation, there is sometimes conflation of the reform process programmed results (outputs and outcomes) achieved as a result of the reform process. Both reform project and are critical but analytically distinct. It is important to ensure that there is clarity as to what the reformed public sector will look like when success has been achieved – what behaviour change is expected, levels of productivity, change in systems etc. At the same time it is even more important to relate success of reform to results of a better functioning public service – economic growth realised, services improved, public satisfaction higher than before etc. Both these levels of results orientation are critical for driving the reform process.

3.1.4 MONITORING AND EVALUATION

This is a sine qua non for the results orientation. Monitoring the progress of reform through previously agreed indicators and periodically evaluating achievements against the original baseline keep reform on track and provides immediately usable lessons.

3.1.5 GOVERNMENT OWNERSHIP

Since most reforms, if not all, are either donor driven or, at the very least, donor funded the danger of them being a quid pro quo for resources is real. Unless governments feel and act like the reform is desired and driven by them, they will not succeed.

3.1.6 TIME PERSPECTIVE

Donors often have relatively short term perspectives dictated by programming cycles and back-home reporting time lines. Governments have unpredictable and usually short term perspectives because of political cycles especially in recent years with electoral cycles. Yes reforms require a long term perspective and take off, let alone progress and results, can be every slow. Part of the failure is the truncation of reforms into unrealistic timelines.

3.1.7 SEQUENCING

There is a misunderstanding that comprehensive reform means doing everything at the same time. It means, rather, having a comprehensive strategy and then implementing it logically means or "seeing the whole picture, its sub-components, determining the critical path activities, appropriately sequencing, mapping out both the horizontal and vertical coordination, and then implementing. That is, having a strategic overview, developing a strategic implementation plan, creating a framework within which all action planning for implementation can be more coherently done." (Mugore, 1996)

In every reform effort there are elements that either logically follow one from the other, whose prior implementation benefit the next element, or whose implementation motivates and inspires people for the reform process.

In some cases and ill-considered first step can prejudice the entire programme. For example most civil service downsizing exercises announced retrenchment first, numbers to be laid off, and incentives for voluntary retirement.

The best people were the first to leave, and the downsized and better incentivised system's core cadre had to be drawn from the mediocre who had neither the confidence to leave nor options to go to.

3.1.8 SUSTAINABILITY OF FUNDING

PSR can be costly in time and money and demand a great deal of tenacity. Realistic resource needs assessment has to be done at the beginning and commitment made. When externally funded a sustainability plan for continued funding by government should be in place. A lot of would have been successful reforms have floundered when donors have suddenly changed priorities or left the country for whatever reason.

3.2 UNDP SUPPORT TO REFORM IN KENYA

UNDP has consistently, albeit at varying levels, supported PSR in Kenya the Results for Kenyans programme. The support has generally been through three analytically distinct but interdependent entry points – direct funding from its own resources, technical assistance and knowledge sharing, and partnership building and management

Once the decision was made to refocus PSR on results accompanying the ERS, UNDP supported the PSR&DS the RFK in three ways. It created a basket fund to enable donor contribution to, and coordination in support of the PSR, provided technical assistance and knowledge sharing through the UNDP Regional Centre for Eastern and Africa and supported the monitoring evaluation throughout the life of the programme. UNDP support helped to design the most comprehensive PSR in Kenya, which "aimed to radically shift the public service towards a results orientation by introducing and facilitating the development and management of a holistic Results Based Management system" (Africa Development Professional Group, 2011).

To enable effective management and implementation, UNDP funded staff for RFK with the intention to effect skills and knowledge transfer to RFK's own staff. This as well as the authority the Head of the PSR&DS's expanded authority to recruit the best staff possible was responsible for the programme's quick take early achievement of results (Majeed, 2012).

There was unprecedented coordination and joint planning between the UNDP basket funded RFK and the World Bank funded Institutional Reform and Capacity Building Programme (IRCBP). The programme ran until 2010, when it was succeeded by the Public Sector Reform Programme Phase ll.

The RFK programme registered significant early successes which were recognised locally and internationally with the Head of PSR&DS receiving a national presidential honour and PSR in Kenya receiving a UN international award (Majeed, 2012). The evaluation of the programme was positive.

LESSONS FROM KENYA

4

While many lessons were learnt from the implementation and relative failures CSRP l & ll and even from the government's efforts with the various commissions and committees before CSRP l, only the lessons from the PSR programmes since 2000 will be reviewed here. This is because there is considerable consensus that the lessons from before that were well taken into account, and that in fact, the frustrations emanating from those failures contributed to a radically different approach that the new GoK introduced. From reading the projects annual reports, mid-term and final evaluations, and discussions, the PSR introduced by the NARC government generated many positive lessons and some negative ones too.

There were two major programmes during the period 2005 and 2013 - the Results for Kenya Programme and the Public Sector Reforms Programme Phase ll. In the outcome evaluation of the RFK (Fuat M Andic, 2006) clear lessons are derived, although in the final evaluations (Africa Development Professional Group, 2011) the lessons are implicit in the analysis and the recommendations. In the final evaluation of the PSR ll (PwC, 2013) these are articulated. Different lessons are important to different stakeholders – GoK, UNDP, World Bank, bi-lateral donors. These are summarised and discussed below.

4.1 SUMMARY OF LESSONS LEARNT IN IMPLEMENTING PSR IN KENYA

- Institutional Context Analysis essential to help situate reform in the national strategic framework. Although comparatively successful, both the RFK and PSR II did not carry out a comprehensive ICA as an integral part of their design. Certainly not the political and constitutional processes going on during the design of the RFK and the considerable ramifications of launching reform in the context of the grand coalition. Political economic analysis would have informed stakeholders about the nature of coalition governments and the problems to be anticipated. The programme might have strategized better for more effective programme implementation. One limitation of the ICA or political economy analysis is that it usually is an aloof intellectual exercise carried out by an individual or two and thrown into the document. It should be a shared participative process for at least all the key stakeholders, who need to understand and contribute to the understanding of the issues, challenges, risks and drivers around the change they are engaged in trying to bring. This of course did not happen, with the result that initiatives were at times operating at cross purposes (Africa Development Professional Group, 2011) (PwC, 2013)
- Political, policy and strategic leadership commitment essential. RFK and the processes leading to it had the highest level of political support at the level of the presidency, policy commitment in so far it was seen as part of the repertoire of strategies to achieve ERS. The political institutional framework that led the reform program included the Cabinet Standing Committee on Reforms and the National Steering Committee of Permanent Secretaries. What is not clear in the design is the strategic and organic link with the ERS goals and objectives. Similarly the PSR had the highest level support with the GCG, with the Prime Minister as the champion and his office being required not only to support but lead reform. There was also a more concerted effort to link the reform to the Vision 2030 as well as the MTP.

- The need for a comprehensive reform plan that takes all strands of the public sector into account, has a sequencing strategy, which allows (and sometimes requires) key players to proceed at different paces in the context of a realistic time frame. RFK was aware of this need and one of the key results areas in its three year strategic plan was the development of a long-term PSR strategic framework. This was eventually realised through the Public Sector Transformation Strategy. During the period under review it had not been clearly sequenced nor had it secured long-term funding. Neither the RFK nor the PSR ll ever reached the level of comprehensiveness necessary for a fully-fledged PSR ll.
- Strategic managerial commitment and capacity. Both the RFK and the PSR ll, and their various components had deliberately selected managers chosen for their knowledge and enjoined to exclusively commit.
- UNDP responsiveness with speed, relevance and appropriateness leads to institutional and programmatic success.
- A coordinated and long term funding strategy with both government and donors committing to it. Sustainability should be rooted in the Government's commitment to finance the core of the function and rely on development partners for supplementary activities. Kenya's commitment to fund important elements of the reform played an important part in their success.
- When development partners come together around reform, it should not be just for more convenient bureaucratic management of their funds, but for knowledge sharing and strategic coordination in order to better support reform. If UNDP is managing a basket, that should be a strategic, knowledge and fund basket.
- Reform requires a capable and engaged central authority that has both overall authority and the overall vision for reform. Regardless of where political and policy leadership is placed for reform, the upper level centre of government needs to be convinced, supportive and share in the vision of the reform. In Kenya at various stages either the President and his office or the Prime Minister and his office committed the state to the reforms and in all cases clearly desired the reforms to help achieve national objectives.
- Reforms have to be internally driven even if externally facilitated. External and internal in this case shifts interfaces. At one level it is international donor community as the external versus national government. At another level it is the centre of government versus rest of government; yet another it is the reform support unit versus reforming line units themselves, or central government versus devolved governments, and so it goes on. By the same token reforms should be embedded in (not taken out of) the relevant responsible units; reform secretariats should not

> Whenever needed UNDP should come with a quick response. UNDP Kenya, responded to the Presidential directive with agility and mobilized resources and technical assistance for putting in place the Public Service Reform and Development Secretariat, a project that is not only of vital importance for the country but also with important repercussions in terms of the attainment of the empowerment components of the CPAP. (Fuat M Andic, 2006)

insert themselves but support those whose function it is to implement to new systems. There is always the difficulty of deciding when a new system has been sufficiently developed to be allowed to go back to its natural habitat. This of course depends on whether the unit itself is not part of what is being changed. An example is reforming the personnel management system without the Departments of Personnel Management.

- *In a post crisis environment, which is characterised by short term preoccupations, there is need to salvage successes from the pre-crisis period and make it post crisis quick wins.* Of course while the Kenya 2007/8 crisis was intense, it was short and not as disruptive as other crises. However, it was the focus on the gains already flowing from PSR that helped both the constitution process and the GC Government to focus on transformation. Continuity of some of the personnel was helpful in this.
- There was congruency between the new government priorities and the reform focus and design, which was quickly identified and leveraged (PwC, 2013)

DEVOLUTION IN KENYA

5

The state and country of Kenya is posed to undergo radical transformation, much of which has already begun and all of which has been triggered by the new constitution promulgated in 2010. The constitution created new accountable and transparent institutions, inclusive approaches to government, and an unprecedented commitment and focus on equitable service delivery for all the people. The most potent force for realising these outcomes is the new system of county governments.

The Constitution established a two-level governance structure, comprising a national government and 47 county governments, with the objective of transferring responsibility for governance to the people of each county. The goal is deepened democratic governance at national and local levels throughout the country, which is expected to result in qualitative and quantitative improvement in the delivery of services. Kenya's devolution involves a radical transfer of political power, a minimum unconditional guaranteed percentage of national resources and administrative and fiscal authority to counties. It is a model where the national and county governments are autonomous and interdependent, with their relationship constitutionally and legally prescribed. It is an ambitious and complex undertaking which will take political maturity, a lot of legislative crafting, and imaginative, problem solving leadership, as it requires careful navigation, consultation and cooperation. Not surprisingly the institutional arrangements are necessarily complex.

For devolution to be implemented successfully, there needs to be at national level clear policies to guide the operationalisation of the constitutional provisions on devolution, a comprehensive legal framework to make sure as much of the provisions as possible are codified into law, and a strong capable national institutional framework to support implementation. Without this strong central clarity and capacity, devolution cannot be implemented successfully.

The GoK and Parliament have made an important and impressive start to the process, with the creation, by act of Parliament,[14] of the Transition Authority (TA) with an extensive mandate to lead and guide the implementation of devolution over an initial three year life span, from the day of the first election under the Constitution of Kenya 2010 (CK2010). In terms of National government, the leading institution is the Ministry of Devolution and Planning, which has both the coordination and capacity development mandates. Other institutions created around support to the devolution process include, the Council of Governors (CG), the Commission on Revenue Allocation (CRA), and the Intergovernmental Budget and Economic Council (IBEC). The Commission on Implementation of the Constitution (CIC)'s overseas the implementation of the whole constitution, including devolution.

Since the promulgation of CK2010, significant progress had been made. The Government has started to put in place the policy, legal and institutional framework for the implementation of devolution.

14 The Transition to Devolved Government Act, 2012

The Government launched the Second Medium Term Plan (2013-2017) entitled 'Transforming Kenya: Pathway to devolution, socio-economic development, equity and national unity', in which, at the policy level, the government commits to the full implementation of the Constitution and adopts a strategy that ensures the rapid set up of counties without the disruption of public service delivery.

Devolution holds the promise of bringing the democratised state closer to the people, within reach for participation and control of the people.

The capacity challenge is enormous. Neither national nor county governments have previous experience in such complex systems. It will be learning by doing for all the key players.

HOW LESSONS LEARNT FROM SUPPORT TO PSR COULD APPLY TO SUPPORT TO DEVOLUTION

6

While the scope and complexity of Kenya's constitutionally mandated devolution is of a magnitude not experienced in many developing countries, and certainly not in Kenya, where decentralisation has been primarily de-concentration of central government departments to districts and local communities for service delivery, there is, however, sufficient experience from elsewhere of support to devolution, which can be learnt from.

6.1.4 LESSONS FROM DEVELOPMENT PARTNERS' GLOBAL EXPERIENCE

As in PSR, political commitment is found to be critical for successful support to decentralisation and/or local governance. This, according to a number of evaluations, implies political support at both national and the decentralised levels, although the former is more important in terms of making it happen, while the latter is important in terms of making the system work as envisaged, once they start participating in the decentralised structures (Olsen BO, 2012) (Particip GmbH, 2012).

- Context analysis is critical, which should also include deeper understanding of the political economy of decentralisation.
- Several evaluations allude to the importance of the design of the support, which of course should benefit from all the above, but whose complexity is compounded by the challenge to organically situate support in the national context while ensuring that it does not become the vehicle for central re-establishment of control or reinforcement of any residual resistance (Olsen BO, 2012).
- The programmes have more chances of success when they support decentralisation in the context of attaining national development goals, such as MDG's, PRSP's and national visions (NORAD, 2008).
- It is only rarely that support to decentralisation is designed as an integral part of any national public sector reform that may be going on. However the experience for some development partners is that support to decentralisation and local governance has been more successful as part of a comprehensive public sector reform programme, to foster both policy coherence and alignment of systems being reformed (Particip GmbH, 2012) (NORAD, 2008) (UNDP, 2010). It is not unusual to find PSR at national level engaging in functional reviews of sectoral ministries while at the same time, unrelated to that exercise, decentralisation policy is concurrently proposing the decentralisation of the functions of ministries to local authorities (Mugore, 1996).

6.1.5 UNDP GLOBAL LESSONS FROM SUPPORT TO DECENTRALISATION

UNDP has been supporting decentralisation and local governance in many countries and with considerable success for well over 30 years. However, the support became more systematic since 2000, when decentralisation and local government outcomes were included as key in the 2000 -2003 funding framework (UNDP, 2010). Since then UNDP's decentralisation and local governance's project portfolio had by 2010 risen to 147 projects, making it the largest component, including by investment value, in the democratic governance portfolio (UNDP, 2010). This is because, promoting local governance enhances people's capabilities to participate in decision-making, which gives it intrinsic value, as well contribute to more efficient and effective delivery of qualitatively better services (UNDP, 2010).

UNDP has learnt many lessons across the globe from its support to decentralisation and local governance, which regarded as successful and acknowledged by other development partners as fairly advanced (Particip GmbH, 2012). The most recent global evaluation of UNDP support to local governance and decentralisation found that UNDP had responded positively to national Governments in extending support for local governance reforms and that support had been highly relevant, and it had effectively created entitlements through increased democratic representation and contributed to improved service delivery. The support had also promoted gender issues at local governance level and a lot of the local projects supported had been scaled up across the country. The evaluation concluded that UNDP had by and large good working relations with central Governments on issues of local governance, and cooperated well with other development partners.

A number of lessons can be directly lifted or gleaned from the evaluation discussion, findings and recommendations.

- *"Political stability, the dynamics of political parties, the presence and engagement of non-state actors, the degree of local ownership, the extent of trust between local institutions and the public, and people's access to local governments and other institutions have been among key context-specific factors that have directly affected local governance projects."*
- *Effectiveness has been boosted by strong support of the political leadership and the existence of the right incentives for central and provincial governments to decentralize and empower local governments.*
- *Interventions to improve service delivery have been more effective when UNDP has simultaneously extended support for capacity building, improving accessibility of service users, raising awareness and promoting outreach.*
- *Support to improvement of service delivery has also been most effective when local governance reforms have had the backing of strong national governance legislative and policy frameworks as well as government resources, both financial and human. This helps to ensure that delivery of services is subject to rule of law and is procedurally done, is above board and not personalised.*
- *In conflict situations, factors positively influencing outcomes have included the presence of a strong peace infrastructure made up of networks, communities, and highly trained human resources for peacebuilding, the strategic engagement by UNDP of various people's groups, government agencies and local government units, the existence of peace agreements and active civil society participation.*
- *Normative frameworks and political commitment to local governance reforms are critical for ensuring that UNDP interventions produce the desired outcomes*
- *UNDP Country Programme Documents, which include support to local governance reforms, are typically drawn up in partnership with national Governments.*
- *The correspondence with national priorities has been further ensured by the United Nations Development Assistance Framework process (in which UNDP plays an active and central role), which has provided a strategic framework for cooperation between the activities of all United Nations agencies.*
- *UNDP initiatives in local governance have been more sustainable when the organization has worked simultaneously on legislative frameworks for decentralization.*
- *UNDP has been effective when it has nurtured effective partnerships with the Government, community-based organizations (CBOs) and communities.*
- *Sustainability of local governance initiatives has been more difficult to achieve in conflict situations.*
- *The role of UNDP vis-à-vis other donors and development partners has varied from country to country. However it has tended to be most effective in situations where UNDP has provided both substantive and fund management leadership, not just the latter.*

6.1.6 PSR AND DEVOLUTION: ARE THE LESSONS THE SAME?

There is no known comparative analysis between the global lessons learnt in doing PSR and those learnt in supporting decentralisation and local governance. In the case of Kenya, anyway, that comparison would not have helped much because the pre-existing decentralised system was nowhere near what the Constitution now requires. While devolution now is comparable to that envisaged in the founding constitution, that was abandoned before full implementation in favour of the deconcentration model prescribed by Sessional Paper Number 10 of 1965 (Government of Kenya, 1965), in which, "Ministry representatives have established a presence at the lower levels of provinces, districts, divisions and locations" (Maina, 2004).

However, from the preceding analysis, it is fairly evident that the lessons are substantively similar, while they could differ in scale of application and emphasis. The scale is quantitatively higher or lower depending on which lesson is being analysed. For example the need for institutional context analysis implies 47 analyses because the very essence of devolution is that each devolved level (county in this case) manifests potentially unique circumstances, challenges and opportunities, even though the national context is the same. On the other hand the fact that the national constitutional, legislative and political context etc. are the same means that the ICA at national level is the same and only needs differential application from one county to another.

Another important point to be made is that while devolution has always been comprehensive in terms of referring to, and encompassing political, administrative and fiscal dimensions, PSR reform has moved from its narrow focus on CSR to a comprehensive approach similar to devolution. Thus lessons from PSR are applicable to the extent they are deriving from comprehensive PSR. Those from narrowly focused previous versions of reform are as inapplicable as those from the deconcentration models of decentralisation.

KEY LESSONS FOR UNDP SUPPORT TO DEVOLUTION IN KENYA

7

There are overarching lessons that clearly apply to any form of programming support to development, albeit with respective nuances. Two stand out, and which are particularly apt for application to devolution, their general applicability notwithstanding. However, applicability of most lessons is not in abstract. It depends on the intended areas of intervention.

7.1 INSTITUTIONAL CONTEXT ANALYSIS IS CRITICAL FOR SUCCESSFUL DESIGN, IMPLEMENTATION, MONITORING AND EVALUATION OF REFORMS

One of the criticism of PSR in Kenya is the absence of in ICA and how that could have helped reform to even more successful. However, institutionally UNDP has a great store of knowledge on this and long history of doing ICA at country level and in support of local governance and decentralisation.

7.2 LEADERSHIP

As already discussed, leadership in all its dimensions is critical for successful devolution. UNDP's experience at national level with PSR, arguably one of the best led reforms in the region, will be invaluable in its support for devolution. Devolution is a long term process whose implementation is driven from the national government and related institutions, but whose realisation is driven by the decentralised structures. UNDP will need to support the leadership capacity of national institutions to be able to effectively support the roll out of devolution without that capacity being leveraged to undermine devolution, support the leadership capacity of county authorities to interface with the centre and lead the counties, and support both levels to lead the rest of the system to learn and understand to formally relate based on the Constitution and the law.

UNDP PILLARS FOR SUPPORT TO DEVOLUTION

8

UNDP has organised its support to devolution around five pillars, which are derived from the United Nations Development Assistance Framework (UNDAF), which is the framework agreed to between the GoK and the UN system in Kenya.

- Policy and Legal Framework
- Capacity Building for Individuals and Institutions, Supporting Devolution
- Strengthening Service Delivery Mechanisms and Peaceful Co-existence at County and Sub-County Levels
- Citizen Empowerment in Local Development Planning and Financing
- Piloting County Demonstration Projects

Below is the discussion on how each of the pillars supported by UNDP could benefit from the lessons learnt in PSR in Kenya as well as elsewhere and decentralisation and local governance.

8.1 POLICY AND LEGAL FRAMEWORK

In providing support to this pillar, UNDP has the widest range of lessons to draw from. The constitution has made provision for devolution, the Transition Authority and Government have elaborated the road map, which includes further policy work. Many of the lessons learnt in PSR and decentralisation and local governance across the world in general and those learnt from PSR in Kenya in particular, will have a bearing on this pillar.

- Although there has been extensive context analysis with the launch of devolution, there has not been sufficient, if any, analyses at country level. Continued analysis of the national and county context to make sure the policy elaboration is taking into account the historical, aspirational and current socio-economic, cultural, political context of the country and the county and the interaction between these levels.
- Strengthening national and county leadership and their capacity to interact for the implementation of devolution
- Making sure the normative frameworks are clear and relevant to the Kenya situation
- Establishing at county levels the same type of trusted relationship that helped UNDP successfully lead development partners through basket funding and coordinative leadership for PSR
- Providing substantive leadership through knowledge sharing, leveraging its relationship with Government and cultivating the same with county governments

8.2 CAPACITY BUILDING FOR INDIVIDUALS AND INSTITUTIONS, SUPPORTING DEVOLUTION

There are three levels of capacity development for devolution to succeed. National government needs capacity to spear head and support devolution; county governments need capacity to implement devolution and run governments; and citizens need their capacity built to demand from and hold governments to account. Both at global and at the level of Kenya PSR, capacity development was identified as a key lesson for effectiveness, and which UNDP had consistently and successfully supported. UNDP has capacity assessment and development tools developed over the years and applied in various countries. A particular strength is its extensive capability in capacity development for engaged citizens and responsive institutions, thereby ensuring a mutually enhancing engagement between the county government and the country citizenry.

8.3 STRENGTHENING SERVICE DELIVERY MECHANISMS AND PEACEFUL CO-EXISTENCE AT COUNTY AND SUB-COUNTY LEVELS

Ultimately the success of devolution will be judged by how service delivery is enhanced at county level, hence UNDP's focus on this pillar. UNDP's lessons learnt from support to decentralisation and local governance globally suggest that some of the key requirements for UNDP for support to improved service delivery include making sure that it is accompanied by capacity development of the service delivery institutions, "improving accessibility of service users, raising awareness and promoting outreach."[15] It also requires that service delivery is subject to clear laws and impartial administrative guidelines, as well as adequate financing. Since UNDP Kenya has had a successful engagement with improved service delivery at the national level with their support to PSR including the service e delivery transformation that has been widely acknowledged in evaluations as well as international awards.

8.4 CITIZEN EMPOWERMENT IN LOCAL DEVELOPMENT PLANNING AND FINANCING

Devolution brings an opportunity for people to participate more directly in the running of their affairs. UNDP support has and should continue to have the requisite flexibility to support the continued opening of interactive space between the government and citizens. These lessons were already learnt in PSR with the citizen empowerment that resulted from opening up the public sector for feedback, control and participation by citizens and their groups, and by providing monitoring and feedback mechanisms such as service delivery charters, satisfaction surveys and other tools.

8.5 PILOTING COUNTY DEMONSTRATION PROJECTS

UNDP has an excellent repository of knowledge on how to package and share best practices. Piloting is only as good as the capacity to assess, package and replicate. The demonstration effect of successful pilots will have a multiplier effect that could enhance the counties' capacity to learn by doing. UNDP learnt a lot supporting PSR, especially under RFK where interventions were staggered and pilots informed the next phases of implementation

Figure2: UNDP Devolution Pillars and Lessons Learnt

15 See lessons in 7.2 above

Policy and Legal Framework

- Political, policy and strategic leadership commitment essential
- The need for a comprehensive reform plan that takes all strands of the public sector into account
- Reform requires a capable and engaged central authority that has both overall authority and the overall vision for reform
- Reforms have to be internally driven even if externally facilitated

Capacity Building for individuals and institutions supporting devolution

- Strategic managerial commitment and capacity
- A coordinated and long term funding strategy with both government and donors committing to it
- When development partners come together around reform it should be for knowledge sharing and strategic coordination in order to better support reform
- Reforms have to be internally driven even if externally facilitated

Strengthening Service Delivery Mechanisms and Peaceful Co-existence at County and Sub-County Levels

- Interventions to improve service delivery have been more effective when UNDP has simultaneously extended support for capacity building, improving accessibility of service users, raising awareness and promoting outreach
- service delivery has also been most effective when local governance reforms have had the backing of strong national governance legislative and policy frameworks as well as government resources
- UNDP Country Programme Documents, which include support to local governance reforms, are typically drawn up in partnership with national Governments

Citizen Empowerment in Local Development Planning and Financing

- In a post crisis environment, which is characterised by short term preoccupations, there is need to salvage successes from the pre-crisis period and make it post crisis quick wins.
- UNDP has been effective when it has nurtured effective partnerships with the Government, community-based organizations (CBOs) and communities

Piloting County Demonstration Projects

- The need for a comprehensive reform plan that takes all strands of the public sector into account, has a sequencing strategy which allows (and sometimes requires) key players to proceed at different paces in the context of a realistic time frame.
- The need for evidence based approaches

More Effective Support for Sustainable Devolution

REFERENCES

AfDB. (2015). *African Economic Outlook.* Abidjan: African Development Bank.

Africa Development Professional Group. (2011). *End Phase Evaluation of the Results for Kenya Programme.* Nairobi: Unpublished.

Fuat M Andic, J. D. (2006). *Evaluation of the Country Programme Action Plan Outcomes 2004 - 2006.* Nairobi: UNDP.

Government of Kenya. (1965). *Sessional Paper No.10: African Socialisln and its Application to Planning In Kenya.* Nairobi: Republic of Kenya.

Government of Kenya. (2008). *Medium Term Expenditure Framework 2008 - 2012.* Nairobi: Government of Kenya.

Government of Kenya. (2008). *Vision 2030.* Nairobi: Government of Kenya.

Government of Kenya. (2009). *Prime Minister's Strategic Plan.* Nairobi: Government of Kenya.

Government of Kenya, Office of the Prime Minister. (2009). *Prime Minister's Strategic PLan.* Nairobi: Government of Kenya.

IEG-World Bank. (2008). *Public Sector Reform: What Works and What Doesn't?* Washington DC: The World Bank.

Independent Evaluation Group. (2008). *Public Sector Reforms: What works and Why.* Washington DC: The World Bank.

Kempe, R. H. (2012). Managing the Public Sector in Kenya: Reform and Transformation for Improved Performance. *Journal of Public Administration and Governance, Vol.2 No. 4*, 128 - 143.

Maina, B. (2004). *Monitoring and Evaluation of Supportto Decentralisation and Local Governance, Kenya Case Study, Discussion Paper No.61* . Maastricht: European Centre for Development Policy Management/ Centre européen de gestion des politiques de développement.

Majeed, R. (2012). *BUILDING A CULTURE OF RESULTS: INSTITUTIONALIZING RAPID RESULTS INITIATIVES IN KENYA, 2005 – 2009* . Princeton: Princeton University, Innovations for Successful Societies .

Mugore, J. L. (1996). *Public Sector Reform in Malawi.* Lilongwe: UNDP.

NORAD. (2008). *Lessons Learned From Norway's Support for Decentralisation and Local Government Reform In Developing Countries, By Berit Aasen, NIBR.* Oslo: NORAD.

Nzioka. (1998). Kenya. In K. Kiragu, *Civil Service Reform in Southern & Eastern Africa: Lessons of Experience.* Nairobi: http://www.utumishi.go.tz/index2.php?option=com_docman&task=doc_view&gid=59&Itemid=57.

Olsen BO, N. P. (2012). *Evaluation Finnish Support to Development of Local Governance, Evaluation Report*

2012:5. Kopijyvä Oy: Ministry for Foreign Affairs of Finland.

Particip GmbH. (2012). *Thematic global evaluation of the EC support to decentralisation processes; Final Report Volume I. Brussels:* European Commission.

PwC. (2013). *End of Programme Evaluation: Public Sector Reforms Programme, Phase II .* Nairobi: Unpublished.

Repucci, S. (2014). Designing Effective Civil Service Reform: Lessons from the past. *Public Administration and Development, Issue No*. 34, 207 - 218.

The World Bank. (2001). *PROJECT APPRAISAL DOCUMENT.* Washington DC: The World Bank.

UNDP. *(2010). BUILDING BRIDGES BETWEEN THE STATE & THE PEOPLE: AN OVERVIEW OF TRENDS AND DEVELOPMENTS IN PUBLIC ADMINISTRATION AND LOCAL GOVERNANCE .* New York: UNDP.

UNDP. (2010). *EVALUATION OF UNDP CONTRIBUTION TO STRENGThENING LOCAL GOVERNANCE.* New York: UNDP.

UNECA. (2010). *Innovations and Best Practices in Public Sector Reforms: The Case of Civil Service in Ghana, Kenya, Nigeria and South Africa. Addis Ababa:* Economic Commission for Africa.

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