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# Africa ICT Policy Monitor Project: Kenya

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## Acronyms

CBOs	Community Based Organisations
CCK	Communications Commission of Kenya
ccTLD	Country code Top Level Domain
CSO	Civil Society Organisation
ICTs	Information and communications Technologies
IP	Intellectual Property
ISPs	Internet Service Providers
KCA 98	Kenya Communications Act 1998
KIXPs	Kenya Internet Exchange Point
KP&TC	Kenya Posts and Telecommunications Corporation
Ksh	Kenya Shilling (US\$ = Ksh 78)
LEOs	Low Earth Orbiting Satellites
NCS	National Communications Secretariat
NGOs	Non Governmental Organisations
RTOs	Regional Telecom Operators
VOIP	Voice over Internet Protocol
VSATs	Very Small Aperture terminals

## Selected CSOs active in ICTs and cited in the report

ABANTU	ABANTU for Development	<a href="mailto:abantu@africaonline.co.ke/">abantu@africaonline.co.ke/</a> <a href="http://www.abantu.org">www.abantu.org</a>
ALIN	Arid Lands Information Network	<a href="mailto:baobab@iconnect.co.ke">baobab@iconnect.co.ke</a> / <a href="http://www.alin.or.ke">www.alin.or.ke</a>
ARCC	African Regional Computing Centre	<a href="mailto:info@arcc.or.ke">info@arcc.or.ke/</a> <a href="http://www.arcc.or.ke">www.arcc.or.ke</a>
CGD	Centre of Governance and Development	<a href="mailto:cgd@form-net.com">cgd@form-net.com</a>
CSK	Computer Society of Kenya	<a href="mailto:csk@nbi.ispkenya.com">csk@nbi.ispkenya.com</a>
EAIA	East African Internet Association	Mailing list <a href="mailto:eaia@list.eaia.org">eaia@list.eaia.org</a> / <a href="http://www.eaia.org">www.eaia.org</a>
ECON EWS	EcoNews Africa	<a href="mailto:info@econewsafria.org">info@econewsafria.org.</a> <a href="http://www.econcewsafrica.org">www.econcewsafrica.org</a>
ELCI	Environment Liaison Centre International	<a href="mailto:info@elci.org">info@elci.org</a> / <a href="http://www.elci.org">www.elci.org</a>
FASI	Family Support Institute	<a href="mailto:fasia@africaonline.co.ke">fasia@africaonline.co.ke</a>
FEMNET	FEMNET (African Women's Development and Communications Network)	Exec Dr; Lynne Muthoni Wanyeki <a href="mailto:wanyeki@iconnect.co.ke">wanyeki@iconnect.co.ke</a>
Healthnet	Satellite Healthnet Kenya	C/o <a href="mailto:fbukachi@ken.healthnet.org">fbukachi@ken.healthnet.org</a>
IEA	Institute of Economic Affairs	<a href="mailto:admin@ieakenya.or.ke">admin@ieakenya.or.ke</a> / <a href="http://www.iea.or.ke">www.iea.or.ke</a>
KCOMNET	Kenya Communications Network	Coordinator: Grace Githaiga <a href="mailto:ggitthaiga@econewsafria.org">ggitthaiga@econewsafria.org</a>
KIS	Kenya information Society	<a href="mailto:kis@britishcouncil.or.ke">kis@britishcouncil.or.ke</a> / <a href="http://www.kis.or.ke">www.kis.or.ke</a>
MAF	Mission Aviation Fellowship	<a href="mailto:info@maf.org">info@maf.org</a>
NTFECOM	National Task Force on E-commerce	Sec: Mugure Kabugua Mugo <a href="mailto:mugurekm@yahoo.com">mugurekm@yahoo.com</a>
TESPOK	Telecommunications Service provides of Kenya	<a href="mailto:tespok@tespok.co.ke">tespok@tespok.co.ke</a>
UMSG	Urban Ministry Support Group	Not active
YWCA	Young Women Christian Association	<a href="mailto:ywca@iconnect.co.ke">ywca@iconnect.co.ke</a>

## Abstract

This study documents the role of civil society in the development of ICTs in Kenya. More importantly, the paper seeks to capture the applications and exploitation of ICTs by the civil society to achieve its development mission and the challenge it faces. Inputs from extensive desk and Internet research as well as personal interviews in the month of June/July 2002 and firsthand knowledge of the author over the period 1992-2002 provides a basis for analysis of the paper.

Results indicate that civil society have played a significant role in the development of ICTs by creating awareness and training by introduction of services in early 1990's. Apart from the supply of email services, civil society lobbied for improved policy and regulatory framework.

Today, the civil society has shifted focus to higher values of Internet rights as a means to guarantee access to information that underlies basic freedoms of human rights. Additionally, the civil society is exploiting Internet for development and empowerment. Challenges remain – low penetration, lack of content, economic barriers. This is the new frontier.

## Executive summary

This study investigates and documents the role of civil society organisation (CSO) in the development of ICTs in Kenya. More importantly, the paper seeks to capture the applications and exploitation of ICTs by the civil society to achieve its development mission and the challenge it faces. Inputs from extensive desk and Internet research as well as personal interviews in the month of June/July 2002 and firsthand, knowledge of the author over the period 1992-2002 provides a basis for analysis of the paper.

Results indicate that civil society have played a significant role in the development of ICTs by creating awareness and training by introduction of services in early 1990's.

The civil society has played a very important role in the development of Internet and ICT in general in Kenya. A clear evolution path of ICTs is discernable and a significant contribution in each phase by CSOs. Before 1992, Internet and email was unknown. CSOs played a critical role to introduce and popularise it in the country. This is despite a very hostile operating environment from the monopoly telecom operator. During this period, only email services were available. In Oct 1995, African Regional Computing Centre, an NGO introduced full Internet using a leased line and pioneering the fast growth of Internet in the country. Once the Internet was accepted in the market, private sector operators entered the service provision market and have seen the role of the CSOs diminish ever since

Apart from the supply of email services, civil society lobbied for improved ICT policy and regulatory framework. This is evident in the legislative process for Kenya Communications Act 1998, Broadcasting Policy in 2001 and the upcoming policy reform – draft National ICT Policy and Information Technology 2002. The main concern by the CSOs is the recognition of ICT as tool to impact or access information to citizens. This information empowers the society in the quest for development and to improve quality of life. Indeed access to information is a fundamental human right.

With the private sector now dominating in the supplier of ICTs, the civil society has shifted focus to higher values of Internet rights as a means to guarantee access to information that underlies basic freedoms of human rights. Additionally, the civil society is exploiting Internet for development and empowerment.

Challenges remain – low penetration of ICTs, lack of content, economic barriers for the poor and in the rural areas. This is the new frontier for the CSOs. It requires new skills and increasing more resources. This paper recommends that CSOs establish a forum preferably under the NGO Council to efficiently and synergistically use their resources to overcome the challenges. This is departure of the present situation where each CSO operates singly on matters of ICTs

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## Background and Context

### The Civil Society space and contribution to national development

Kenya has nurtured a vibrant Civil Society Organisation (CSO) sector operating in almost all areas of socio-economic activities. The major areas of operation include: rehabilitation, medical/health, education, human rights, gender and women affairs, conservation and environment, conflict prevention, management and resolution. In principle, the CSO takes over the social development role in areas that government has yet to reach out due to financial limitations and where the private sector cannot be able to service based on its stated commercial mission. Many Kenyans see CSO sector as the *third force* after the government and private sector. This *third force* has taken up a social role where government has not reached with particular emphasis on the low income and those in the rural areas.

The CSO in Kenya can broadly be defined as those groups outside government and private sector business involved in development. Kadzo Kogo a researcher on social networks classifies CSOs in broad terms as Non Governmental Organisations (NGOs), welfare societies, nyama choma clubs<sup>1</sup>, Community Based Organisations, Religious groups, Youth groups and Merry-go-round, (Kogo 2001)

Among the groups, NGO is the most significant and organised sub sector for social development work. The governing framework for NGOs is the NGO Coordination Act 1990 (Act 19 of 1990) under which NGOs are registered. The Act also provides for the establishment of the National Council of NGO for '*coordinating, regulating and facilitating the NGOs*'. In a bid to improve sector integration with the rest the economy, the government launched a stakeholder consultation process to formulate an NGO policy framework in the period May –July 2002 (OVP 2002).

The growth of the NGO sub sector is rapid. According to Mr Oduor Ongwen the Chair of the National Council of NGO Coordination Board, there were 1634 NGOs registered in 2000 (Ongwen 2000). Data from the National Council of NGO indicate that the number increased to 2257 by end of 2001 *with* operations in all parts of the country.

NGOs contribute heavily to the national economy. An indication of the role of the NGOs can be surmised by the following information. According to a Ministerial presentation by Mr Wycliffe Osundwa, Asst Minister Home Affairs to parliament in June 2002, donors gave Ksh 109.9 Billion<sup>2</sup> in two years. The funds were applied in relief (Ksh 21.9 Billion) administration (Ksh 19.7 Billion) health (Ksh 12.6 Billion) population and related activities (Ksh 11.4Billion) (Ksh 9.3 Billion) and welfare Ksh 9.5B. Majority of the funding went to 281 NGOs (Odhiambo and Muriuki 2000).

In general, NGOs contribute over US\$1B annually through projects, procurements and services to the economy. The total contribution by or through NGOs is significant and is the almost a third of the national budget. Among the largest donors to the NGOs are USAID, GTZ, DANIDA, DFID, SIDA, the Netherlands Government and UNDP (PMS 2000)

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<sup>1</sup> Nyama Choma – is Swahili for roast meat – a delicacy for Kenyans

<sup>2</sup> 1US\$= Ksh 78

A further role by the CSOs is noted by the religious organisations, over 30 000 CBOs with over 1 million members and numerous welfare and youth groups. CSO is therefore a major development force in the country (Kogo 2000). CBOs operates at the grassroots level in under NGOs

For the purpose of this paper, CSOs also include all organisations established with a development mission and wholly and expressly not for commercial operations. This may also those bodies established by commercial entities to lobby for better operating environment.

## CSOs and ICTs - The rationale for involvement

Due to the focus on the poor and those citizens in the rural areas, CSOs are the first point of entry or last point of the new technologies to the target population. The benefits of ICTs and Internet in particular can have a significant impact on the operations of CSOs and their ability to serve those clients

A study among 104 CSOs in Central America carried out in July – Nov 2001 by Kemly Camacho for Fundación Acceso of Costa Rica demonstrated this. When interviewed, the CSOs indicated the following significant benefits arising from the use of Internet in order of importance,

- ❑ That staff are more prepared to face the challenges affecting the target population
- ❑ Noted an improvement in improved training, access to more knowledge
- ❑ Improved communications both within and outside the country

It is noteworthy that a significant number of CSOs (40%) did not know how Internet contributed to the effectiveness of their output. Access to online publications and e-commerce on the other hand is insignificant (Camacho 2001)

Based on the study, Camacho argues that the Internet connectivity alone is not the most important to the CSOs but the new 'ways of thinking, changes in relationships, new work dynamics, and other dimensions that are yet to be discovered'

Accordingly Camacho concludes that '

'The Internet has the potential to offer multiple advantages to those organizations that incorporate it into their day-to-day work. These groups can bring important benefits to the groups with whom they work, which is the ultimate goal. However, as we can deduce from the discussion presented here, undertaking to use this tool efficiently and effectively implies many new challenges. Organizations must be willing to realize necessary, pertinent and urgent changes, if they are to use the tool to construct a more just and equitable society. Influencing the Internet in itself is also an important challenge to take up. CSOs must ensure the existence of resources and ways of using the Internet that agree with the world perspectives, needs, virtues and difficulties of our populations. (Camacho 2001<sup>3</sup>)

This paper takes off from the findings in the study cited above. ICTs can positively influence the success of CSOs in delivery of the services to the target population in Kenya. This justifies the active involvement of CSOs to lobby for policies that enhance availability of internet to areas of operation – in the this case the whole of the country including to the rural and the poor.

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<sup>3</sup> Citation with permission from the author and acknowledged with thanks.

## Benchmarking Internet rights against APC Internet Charter

### Access

Telecommunications and Postal Sector Policy Guidelines gazetted in Dec 2001 recognise the special needs for access to all the un-served or underserved areas at affordable rates. The telephone, which is the first step to ICTs, is incorporated in the telecom policy guidelines and is expressed in terms of universal service obligation to operators as set out below

- Telkom Kenya has an obligation to deliver services to all parts of the country,
- Kencell a cellular operator has a universal service obligation expressed in terms of coin phones. The company has already installed 300 coin phones
- Regional Telecom Operators (RTOs) were to provide two payphones to every sub location in five years. RTOs have not taken off<sup>4</sup>.

The fast growth in cellular has increased signal coverage to over 10% of the surface area of the country bringing increased benefits to the rural population. Fixed line expansion has not increased over the last two years and therefore access to Internet is still limited to the major towns.

*Rights to access:* With a less than 1% penetration of Internet, the rights of access are not an issue of concern for now. Additionally, it is not feasible to rollout Internet across the country in the short term. Parliament through the Kenya Communications Act has expressed itself and requires that all people be served where '*practically possible*'. The principle to extend access to all is enshrined in the statute, which at the same time recognise the practical difficulties to provide access. The regulator Communications Commission of Kenya is in the process of launching a rural telecommunication development fund to extend services to areas deemed unviable by the private sector.

A restrictive policy defines a market structure that provides for monopolies in certain market segments that affect access to services. A case in point is the monopoly for international services (voice and data) to July 2004 for Telkom Kenya. Consequently, the regulator limits the use of VSATs to access Internet bandwidth. Distribution of Internet is restricted to one backbone provider – Jambonet a unit of Telkom Kenya. Lack of competition fosters inefficient monopolistic tendencies of high prices and limited expansion. Voice over Internet Protocol telephony (VOIP) is not allowed and the country is not able to take advantage of cheaper access calling costs. A draft National ICT Policy<sup>5</sup> published in May 2002 seeks to address the restricted market structure, Internet backbone and VOIP. The policy proposes to encourage ISPs to build an Internet node in every district by 2005. If this is achieved can bring services nearer the operational areas for CSOs

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<sup>4</sup> For more details see-. Mureithi M, 2001 Rural [Plank Of Kenya's Telecoms Liberalisation Falls Apart](http://www.balancingact-africa.com/news/back/balancing-act_76.html#headline), Balancing Act London, 2001, Issue no 76 cited at [http://www.balancingact-africa.com/news/back/balancing-act\\_76.html#headline](http://www.balancingact-africa.com/news/back/balancing-act_76.html#headline)

<sup>5</sup> See pp 14 for details on the draft policy

## Affordability

The government seeks to use market competition to drive the prices of both telecomm and Internet down and make the services cheaper. Government has further reduced taxes to make the ICTs generally affordable. Typical cases include reduction of duty of computer hardware and software to 5%, reduction and eventual removal of duty of cellular terminals. Unfortunately the elimination of duty on terminals announced during the 2002 Government Budget presentation was accompanied with an introduction of consumption tax of 5% on the cellular airtime. Cellular operators responded with a corresponding increase in airtime. According to Kencell, the consumption tax amounts to 40 bases stations in the rural areas that now have to go to the government in new tax. This reduces expansion and therefore access.

Government strategy to use competition to reduce cost has resulted in reduction of tariffs. Access to the Internet in cyber cafes has fallen to Ksh 1 and online account for Ksh 1000 per month.

Consequently, even where access is feasible, affordability poses an economic barrier to the Internet.

## Content

Kenya has no policy framework or strategy in place to build content on the Internet. The contribution of content by CSOs is limited by the to cost of maintaining the websites, lack of skills and often awareness of the value of a website relating to their specific operations.

### Quantity of content

A useful measure of relevant content could be the volume of information placed on websites by Kenyans, on Kenya by non-Kenyans and/or of interest to Kenyans. A measurable indicator is not available. An indirect indicator is the number of websites and the number of registered domain names.

The number of *.ke* ccTLD<sup>6</sup> names has increased from 292 by the end of 1998 rising to 1200 in 2000 and to 3000 in mid 2002. This is an expression of interest assuming that those who registered domain names intended to build websites to host content on their site. Majority of these domains are commercial (*.co.ke*) followed by non-profits (*.or.ke*), academic (*.ac.ke*) and lastly government (*.go.ke*). At issue would be to investigate how many of these domain names have translated into web sites and just how much information is in the site.

A study commissioned by BMI Techknowledge Group in 2000 to explore the volume of e-commerce indicated that Kenya had 300 websites developed and maintained by local ISPs. There were between 2500-3500 websites with information on Kenya mostly registered under generic top-level domain. These figures have increased significantly. The challenges of registering domain names and awareness drove many potential registrants to register under the generic top-level domain e.g. *.com*, *.org*, and *.net*. By the end of 2000, the estimated number of generic top-level domains was 5000. (Hook & de Kock 2001)

Another indirect indicator of content is the number of hosts. The number of hosts has increased in the last five years from 17 hosts in Jan 1996, 1344 in Jan 1999 and to 2206 by Jan 2002. This of course is low. South Africa had 238,462 hosts by Jan 2002<sup>7</sup>.

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<sup>6</sup> Top Level Domain

<sup>7</sup> Source: Internet Software Consortium (<http://www.isc.org/>)

## Quality of content and relevance

There is no study available on the quality and the relevance of the content. Based on the e-commerce report (Hook & de Kock 2001) majority of the content available emanates from commercial organizations and relates to e-commerce. This is explained by the cost/benefits of maintaining a website. With inadequate resources, information contribution by the CSOs is limited and hardly updated. Indeed, extremely few CSOs have Internet websites. Data from National Council NGO indicated only 0.5% had websites (see table 1)

Government has limited content with only three ministries with websites. Within government, the other major players are quasi government institutions with regulatory oversight that send out information specific to areas of operation. Communications Commission of Kenya ([www.cck.go.ke](http://www.cck.go.ke)) maintains an active websites posting current information on the ICTs sector.

A growing source of content is cultural forums managed by Kenyans in the Diaspora. Sites like Kikuyu.com ([www.kikuyu.com](http://www.kikuyu.com)), Kenya Yetu ([www.kenyayetu.com](http://www.kenyayetu.com)), Jaluo ([www.jaluo.com](http://www.jaluo.com)) Kelele ([www.kelele.com](http://www.kelele.com)) and Mashada ([www.mashada.com](http://www.mashada.com)) increasingly play an important role to create content through active discussions forums. By July 16<sup>th</sup>, 2002, Kikuyu.com registered 563 topics with 3893 postings. A discussion thread on the origin of the Kikuyu revealed very serious discussions and indeed a source of vital information

A new source of content is political parties. With over 40 political parties registered and an upcoming election in 2002, more activity is expected. The most developed sites are KANU ([www.kanu-kenya.org](http://www.kanu-kenya.org)) and DP ([www.dp-kenya.org](http://www.dp-kenya.org)) of the ruling party and the official opposition respectively. Constitution of Kenya Review Commission (<http://www.kenyaconstitution.org>) is putting out information on regular basis relating to the review of the constitution in both Swahili and English. No data was available on the number of visitors.

Content is the new frontier that needs attention for Internet to be truly meaningful as a source of information to Kenyans. Indeed the value of the Internet will increasingly rely on the content available. Presently there is no policy on content and as expected insignificant content.

## Intellectual Property (IP)

There is no legal infrastructure to guard content published on the web. The Copyright Act, 2001 that came into force in 31<sup>st</sup> Dec 2001 does not expressly or indirectly refers to Internet. Instead, Sec 22(3) (b) excludes '*...work that has not been written down, recorded or otherwise reduced to material form.*' to be eligible for copyright. Kenyans have no recourse to the copyright law to safeguard their interest in artistic, music and literary work published in the Internet. This raises concern on the impact of use of the Internet and development of content

From this perspective, there are no guidelines on Intellectual Property, privacy and security on the Internet. This is changing. The government has established Kenya Industrial Property Institute with a mandate to oversee and administer Intellectual Property matters. The Institute is at an early stage of exploring and understanding IP in the context of ICTs and is now relying on international arbitration processes and how to domesticate the same to Kenyan environment.

In a paper by Mr Ben Sihanya an IP law lecturer at the University of Nairobi prepared for IEA, Sihanya argues that IP is a constitutional matter. The independence constitution

recognised the value of land as paramount and indeed was the main justification for the bloody fight for independence entrenched land in the constitution. Forty years after independence, IP is now a significant factor of production and should be treated in the same way as land. IEA has submitted this forceful argument to the Constitution of Kenya Review Commission for consideration

## Language and the Internet

Language is primarily English and will continue to be so in the short to medium term. In general, Kenyans able to manipulate and access the Internet use English. Conversely, those who do not know English would mostly be lower in society strata both in terms of education and income. This group does not form a critical mass to build information resources in Swahili. Attempts are being made to create a Swahili language dictionary as well as information based in Swahili. Presently, sensitivity to profitability makes Swahili proposition difficult. Swahili content when available on the Internet will widen readership of content.

Forums mentioned in the last section have developed a substantial content in local languages. This is a useful starting point to populate websites with local languages.

## Current ICT policy – how it undermines the CSOs

Current ICT policy framework undermine the CSOs in a number of ways defined below

- ❑ The licensing process of services provider does not distinguish between commercial and non-commercial use of ICTs. Consequently, licensing requirements including fees are the same for all operators. A strong case is being pursued by NGOs to redefine licensing principles in broadcasting. Kenya Community Network (KCOMNET), Femnet and Econews Africa have argued forcefully for a review of the broadcasting policy to recognize the role of community radio as an empowering tool to the community. From this perspective, the licensing fees should reflect this position (Githaiga 2000)
- ❑ Lack of affirmative ICT policies to address societal disparities. ABANTU for development, Family Support Institute (FASI), Arid Lands Information Network (ALIN), YMCA, among other CSOs argue that the ICT is an empowering tool to address societal disparities that have developed over the past. Commercial initiatives will not be able to address these disparities. The disparities at various levels of society have been identified at gender (Abantu, Femnet), the family level (FASI), communities in sparsely populated arid lands (ALIN) and the SMEs sector (YWCA) and the youth. The CSOs call for affirmative processes in the design of the telecom and ICT policy to address societal disparities
- ❑ The lack of competition in certain parts of the Internet infrastructure, affects the pricing of Internet to the consumer. The high cost impacts the ability of CSOs to access Internet, as indeed are other consumers.
- ❑ Actions on ICTs to address gender disparity tend to focus on the delivery of services and are not policy level related. Policy level should be the long-term objective to target the resource allocation process to direct resources to the rural woman now disconnected from ICTs. This is critical as argued by FASI and reported by Prof Shanyisa Khasiani. In a study in rural districts of Kenya – Makueni and Kakamega, access to ICTs for women is very limited. While 62% of the women responding reported that they listened to the radio and 10% watched television, only 54.5% had heard of the computer, 0.1% had ever used the computer, 0.5% knows about email. Among the respondents, only 47% knew if there was a telephone in the locality. While this trend would also be true for men in the locality, Khasiani states that ‘.. men in the households own the radios, and few women listened to them’. (Khasiani 2000) The essence is a reflection of the cultural status of women in the society which limits access to ICTs and

therefore to information. Commercially based policies to develop ICTs are therefore inadequate to address gender disparity to access ICTs.

- Khasiani makes a strong case of the need to target the rural woman and integrate her with modern ICT. Often she is the head of the household after men have left for the cities in search of employment. She needs ICTs to manage the rural enterprise for income and finally as the repository of indigenous information critical for family and community welfare. (Khasiani 2000)

## e-rights – Internet as a tool for democratisation and social justice

Kenya aspires to be democratic country underpinned by fundamental basic rights and freedoms. In turn, democratic governance hinges on an informed citizenry that is able to promote human rights, freely participate in national policy and decision-making processes. It follows that the freedom of expression and right to access information and to communicate must underlie all regulatory and policy processes for ICTs.

For the freedom of speech to be effective, the citizens should to be able to access diverse sources of information without restraint, develop own proposals based on the information they have accessed and finally be able to articulate their views freely through diverse media. Policy frameworks in ICT have to be aligned to affirm this reality to Kenyans. The practice in the past has been the opposite

The Kenya constitution is now under review and CSOs are demanding this fundamental right to be enshrined in the new constitution. International Commission of Jurists (Kenya section) - ICJ for example demands that the new constitution to recognise and defend 'Freedom of thought and expression'. *'This right includes freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, written, print, art form or any other media of one's choice.'*

National Council of NGO, Commonwealth Journalists Association-Kenya Chapter among other CSOs has pursued these same principles to be incorporated in the new constitution through memoranda to the Constitution of Kenya Review Commission.

To what extent is an ICT policy affecting democratisation?

Over the last ten years, the radio and TV has gradually been liberalised and today as the government struggles to develop a policy on broadcasting, the radio spectrum is largely open with numerous stations operating. Coverage is however limited to Nairobi and the surrounding regions. An immediate result is an increased level of debate in viewer/listener phone-in programmes. It has also expanded the democratic space in the areas where radios are liberalised. The ease of using a phone to call and make a point is one of the most significant advantages

An act of parliament enacted in May 2002, is likely to negatively affect the expansion of operating space for the media. The Act requires print media to deposit the copies of their publication with the Attorney General before distribution else face stiff penalties. The government has yet to implement but brings out moral questions on the freedom of the media by the ease of the government to curtail distribution of the publications.

Internet on the other hand, by its capability to access and disseminate information to a wide audience can play an even larger role. Indeed, Internet gives more advantages to access vast amount information from many sources and use the information to develop proposals and to disseminate widely. One might wonder if this is the case and whether it is able to make a difference for the following reasons

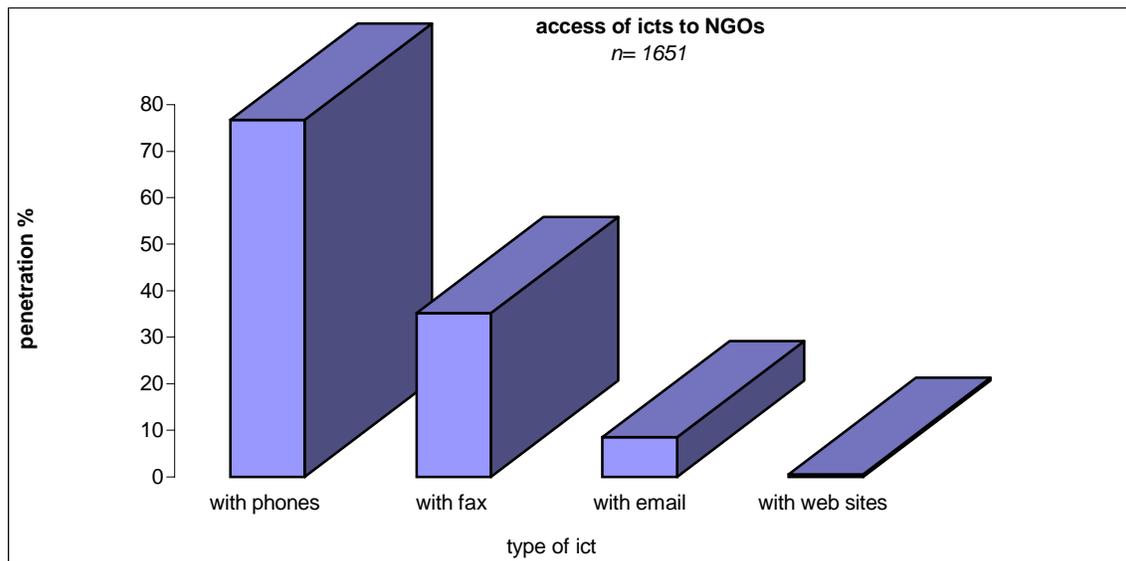
- The number of the Internet users is roughly equal to the number of daily newspaper circulation. This would suggest that Internet has yet to reach out past the print media and is therefore reinforcing the old disparities. Where Internet has been introduced through cyber cafes in the rural areas with no newspaper distribution, the greatest use of the Internet is to access the news media.
- The content in the Kenyan Internet space is dominated by the traditional news media organisations. Traditional news media also dominate the best and most up-to-date content on internet

Can Internet be used as a tool of state control and cultural dominance?

- Kenyan Internet content is insignificant in the cyberspace. This forces a Kenyan to search information from other websites and repackage it for use. An entry to the cyberspace exposes Kenyans to inevitable cultural domination from other societies who have content on the Internet. This information forms the foundation on any subsequent use of the information
- Can the state use the Internet for domination? No case is documented yet.

## Exploitation of ICTs and the role players

A survey using data held by National Council of NGOs based on the periodical reports by NGO's indicates extremely low use of the ICTs (see table).



According to the data, 92.5% of the NGOs did not have email and almost 99% did not have a website. This is unexpected considering the role NGOs have played in the introduction of email services in the country. Nevertheless, the results point out a need to carry out more research to understand the difficulties NGOs face to access ICTs. Interviews with a number of NGO's reported that key challenges include; lack of awareness, skills to use Internet and most importantly the lack of the Internet and phone services in some of the areas they operate from.

Despite the limited data available, it is clear that access is a great challenge for many NGOs before issues of utility of the Internet can be addressed. The same can be argued of the rest of CSOs. CBOs for example being in the rural areas are worse off.

## The changing role of CSOs in ICTs

### Evolution of ICTs

The evolution of ICTs has been very fast impacting on the all stakeholders - users, operators and the government. The evolution of ICTs In Kenya and the role of CSOs, the following phases can be discerned

- ❑ *Phase 1* - Before 1994, electronic communications – exclusively email was hardly known. Users were largely international NGOs for international communications. Email service providers relied an upstream ISPs based abroad to poll its servers once or twice a day to collect and deposit mail. The upstream ISPs distributed the mail globally. Due to the high cost of leased lines, calls were reversed. Association of Progressive Communications (APC) and Permanet were some of the major upstream distribution support for local email service providers.
- ❑ *Phase 2* - increased awareness of Internet and email launched. Workshop organised by Telecommunications Foundation of Africa in July 1995 attracted 10 email service providers. Attendance was high reflecting a growing interest to understand this new technology. Immediately after the workshop, Kenya Posts and Telecommunications Corporation declared internet services an illegal use of leased lines
- ❑ *Phase 3* – 1994 - 1995 - ARCC launches full Internet with British Government – Overseas Development Agency (ODA) financial support to pay for an international leased line. With increased awareness clear business opportunities were emerging to attract private sector business to launch commercial Internet services. Regulatory and operational bottlenecks affected access to bandwidth and therefore very high costs of access for the consumer. The role of CSOs dramatically reduced as suppliers of Internet services due to competition from commercial operators. Funding of Internet development also changed from donor funding to commercial funding from entrepreneurs
- ❑ *Phase 4* – 2000 with the entry of CCK, the government legally recognised Internet and a proactive relationship was established with CCK as a partner in development. Entry barriers in licensing and fess came down. The government also accepted ICTs as a tool for development. Indeed ICT is now included in the development plan as well as the Poverty Reduction Strategy Paper. Challenges however remain – monopoly of telecom, access to the rural areas, affordability, and high cost of equipment, lack of content.

It is clear that the evolution has been fast with fundamental changes affecting every stakeholder in every two years.

At *institutional* level, this evolution has seen the reduction of the influence of East African Internet Association (EAIA) that advocated and catalysed the growth of Internet to Telecommunications Service Providers of Kenya (TESPOK) to address the current operational problems of Internet. EAIA is a non-profit association founded in 1995.

At *operational* level, the dominance of the CSOs before 1994 has given way to private sector to drive Internet. Fast growth has seen the licensing of 80 ISPs though less than 20 ISPs are operational (CCK 2002). The retail level has grown just as fast. The number of Cyber cafes has increased dramatically with oversupply driving tariffs down. The evolution has also impacted on the operators who are now consolidating. Of all the operators, 9 operators carry 90% of the traffic with one operator stating that it has more bandwidth than the rest combined. Efficiency of distribution of local mail has also been addressed with the launch KIXPs. Nine ISPs are connected to KIXP and by peering traffic

the net profit will be save US\$200 000 every year by freeing the international backbone. (Chepkong'a, 2002)

At the *technology* level, store and foreword based on FIDO technology was dominant in 1994. Due to high cost of international calls, operators reversed traffic to upstream ISPs on periodic basis. Transmission was through Kenya Posts and Telecommunications Corporation (KP&TC), Low Earth Orbiting Satellites (LEOS), and HF radio to the rural areas.

The technology has since changed to online connectivity after introduction of Internet in 1995. To cater for increasing demand, leased international lines have given way to Jambonet, and to further reduce costs of bandwidth one-way VSAT to drop traffic.

Due to hostile terrain in the arid and semi-arid areas CSOs operating in such areas still use HF radio for voice and rarely for data communications. Commercial data services are also available though expensive. One operator - Bushnet offers email over HF at US\$1.80

### Programme areas on ICTs

This evolution cited in the last section has seen the role of CSOs move from supply of services in 1992-1995, to the demand side. Today, the CSOs' concern is of higher goals of equity of access in terms affordability to the rural, poor, and its application in governance. Private sector drives the supply side on commercial basis.

Focus areas and ICTs programmes	
<i>Programme areas</i>	<i>Select CSOs with ICT programmes</i>
Gender and the family, empowerment issues	Femnet, Family Support Institute (FASI), ABANTU for Development
Rural networking, environment	Kenya Communications Network (KCOMNET), Econews Africa, Magarette Woman's Group, Environment Liaison Centre International (ELCI), Arid Lands Information Network (ALIN)
SMEs and entrepreneurship among the poor	Pride Africa, Young Women Christian Association (YWCA), National Task Force on E-commerce (NTF e-com)
Information fundamental to human rights	Media Institute, Centre of Governance and Development (CGD)
Growth of ICTs	East African Internet Association, Telecommunications Service providers of Kenya (TESPOK) Kenya information Society (KIS)
National economic development	Institute of Economic Affairs (IEA),

### A tool for expression of fundamental human rights

CSOs with such programmes see ICTs as medium to express, nurture and sustain human rights and freedoms. These CSOs recognise access to ICTs as a fundamental human right to guarantee communication and access to information and therefore basic to

advance growth of democracy. These CSOs include Centre of Governance and Democracy, Media Institute among others.

### Empowerment tool

ICT is a tool to empower and address gender and the family. Family Support Institute (FASI) is active and have ICTs programme to further this objective.

The draft National ICT Policy recognises that continued marginalisation of women (the policy equates gender with women) would limit national competitiveness. To address the disparity the draft policy recommends special promotional programmes to address;

- Gender digital divide
- Computer illiteracy among women especially in the rural areas
- Gender equity in the distribution of IT resources and empower women to effectively participate in, secure access to and own ICT resources and investment
- Support women groups in the rural areas to access the internet and relevant information
- Telecommunicating to professionally qualified women in IT in case of family constraints that would not allow them to be in work place. Special loans/financial grants will be offered by companies to buy computers and connect to the internet
- Special training programmes to help educated women enter the field of IT enabled services (RoK 2002 a)

The draft policy is now under circulation for public comments.

### Development tool

Many other CSOs use and recognise ICT as a tool to achieve their vision and mission but recognise that other agencies have responsibility to build the infrastructure. Such CSOs nevertheless recognise that the ICTs policy affect their long-term goals are concerned about growth of the economy and the impact on poverty; the specific issues of the rural and the poor and therefore the access to ICTs to efficiently deliver services. Among the CSOs in this category include Institute of Economic Affairs (IEA), Kenya information Society (KIS) Kenya Community Network (KCOMNET)

Other CSOs have built their own network to service their specific needs e.g. Mission Aviation Fellowship (MAF)

### Supply of cost-effective services

At a time when there was no Internet before 1994, CSOs were the most active in delivery of email services. This was to create awareness and train potential users. African Regional Computing Centre (ARCC) was among the pioneers of email using fido technology and indeed was the first to introduce full Internet in the country in October 1995. Other NGOs that offered email include, Mission Aviation Fellowship (MAF) Environment Liaison Centre International (ELCI), Satelife Healthnet Kenya, Urban Ministry Support Group, ARSO, (Goddard 1994), (Mureithi, 1998). These CSOs were in the forefront of introducing email and Internet in the country.

Thorn Tree, Datamail, Karisi Online (precursor to Africa Online) also provided commercial email services based on fido technology.

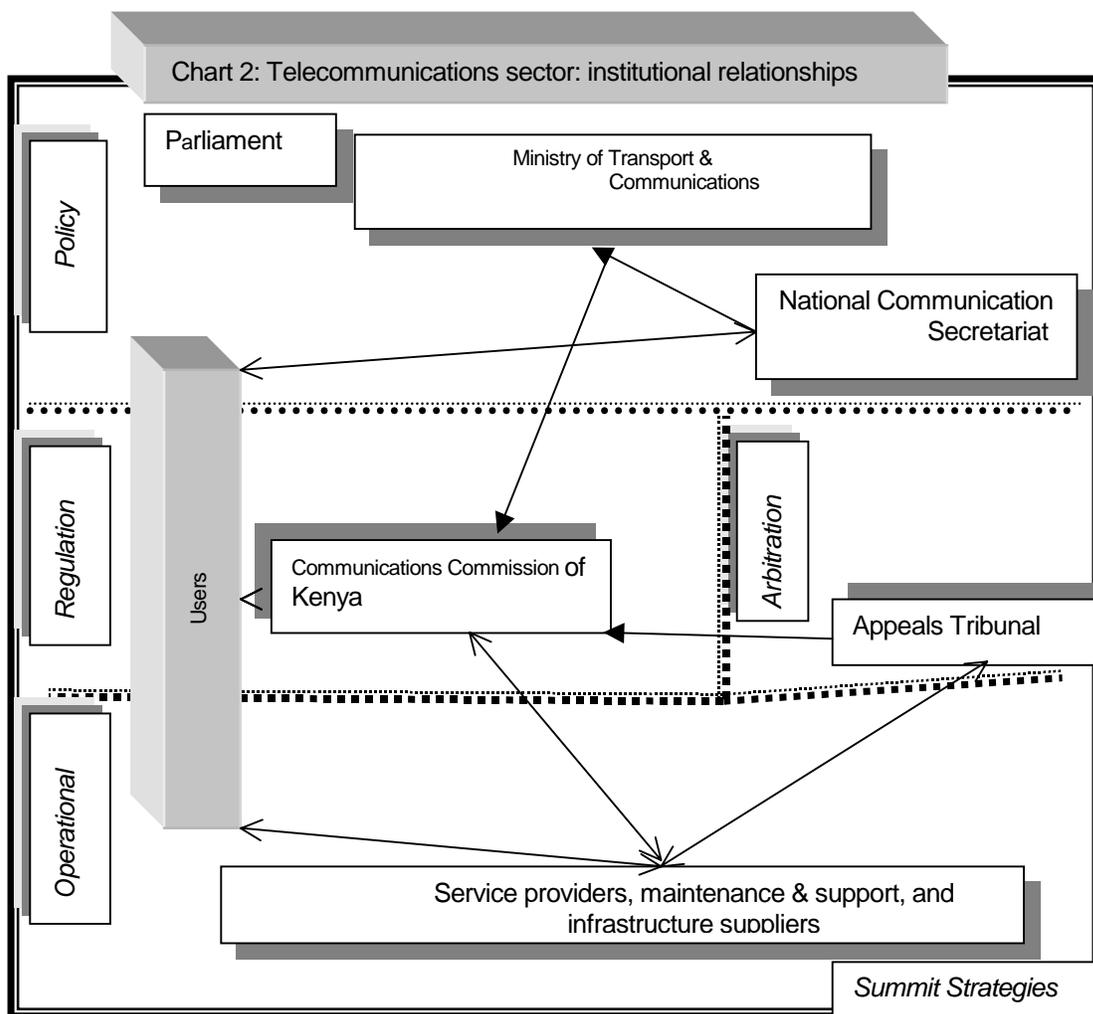
## Way forward

### Institutional framework for ICT development

The government initiated ICT sector reform in 1999 and an evolution pattern emerged around three pillars;

- ❑ Sector reform through a policy framework to guide the reform process
- ❑ Private sector to supplement government resources to expand infrastructure
- ❑ A market referee in a multi-operator environment - Communications Commission of Kenya (CCK)

With the enactment of Kenya Communications Act of 1998, the country has a highly centralised process of telecommunication policy making which is the primary responsibility of the Minister responsible for telecommunications. To assist the Minister design telecommunication policy, the Kenya Communications Act has provided for the establishment of National Communications Secretariat (NCS) (see Chart 2)



Other institutions that can influence telecommunications policy and regulation include

- Parliamentary oversight through the Parliamentary Committee on Energy, Communications and Public Works.
- Kenya Communications Act 98 establishes sector specific dispute resolution mechanism in the implementation of the Act. Any dispute in the application of the Act by CCK is referred to the Appeals Tribunal that has the powers of the High Court. The jurisdiction of the Appeals Tribunal is limited to the interpretation of the spirit of the Kenya Communications Act.

## ICT Policy formulation Process; entry point for CSOs

CSOs have played a significant role in the evolution of telecommunications and ICT policy. Before 1995, CSOs were the only independent organisations with skills and knowledge of ICTs outside the telecommunications operators. The CSOs used this information to raise awareness for a new policy dispensation to move away from a monopoly service provider. This role is continuing. The key players include IEA, ECONNEWS, ABANTU, CGD, EAIA, TESPOK, KIS, NTFECOM, CSK, and KCOMNET<sup>8</sup>

Key concerns were fundamental issues of access and removal of monopoly in telecommunications services provision as well as integration of telecommunications into national economic development programming. Institute of Economic Affairs (IEA) for example has organised biannual workshops since 1996 to lobby for telecommunication development. IEA has also lobbied to government and parliament on a regular basis.

The key outcomes of active lobbying by CSOs are noticeable in the formulation of the Kenya Communications Act of 1998. The Act incorporates initiatives from the civil society.

National communications Secretariat (NCS) has recently adopted a standard practice to include the public including the CSOs in the formulation process of any new policy. This has been demonstrated in the policy formulation for broadcasting, information technology, and Vsat. In particular, the government organised national workshop to discuss broadcasting policy in 2001. Civil Society was invited and presented a number of issues on the following areas

- ❑ The case for market segmentation that recognise a role for national broadcaster and community broadcaster in development
- ❑ Simplification of registration procedures and access to the broadcast spectrum
- ❑ A national consensus of the role of languages in broadcasting

The recommendations arising from the workshop have yet to be implemented by the time of the research of this paper in 2002.

In May 2002, the government published a draft National ICT Policy and Information Technology Bill 2002 and invited comments from all sectors including the CSOs. Indeed the government invited CSOs to give inputs for consideration in the preparation of the first draft. A national workshop planned for September 2002 will discuss the National ICT Policy and the Information Technology Bill 2002.

The draft ICT policy seeks to build from the current policy<sup>9</sup> and recognises ICTs as '... important agents for the transformation of every facet of human life'. the draft policy seeks to be a catalyst for responsive and growth enhancing ICT sector. Key areas of emphasis are increased investment to expand ICT infrastructure, development of a human resource, research and development. The policy sets out 17 policy objectives, with one major policy objective being to fit Kenya seamlessly into the global information infrastructure (RoK 2002 a)

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<sup>8</sup> see list of acronyms for the full titles at pp I

<sup>9</sup> Telecommunications and Postal Sector Policy Guidelines gazetted in Dec 2001

On the other hand the Information Technology Bill 2002 seeks to recognise and legally define

- ❑ e-commerce transactions,
- ❑ Electronic delivery of government services
- ❑ Computer based crimes,
- ❑ Protection of consumers of ICT services
- ❑ Management of .ke country code top level domain

The bill proposes the establishment of an E-commerce Commission (Rok 2002 b)

Experiences in the recent past have been very frustrating with the government not implementing decisions agreed at national workshops. Indeed, the government is access of using such workshops as opportunities to buy time and diffuse tension. The issue at stake is therefore the quality of the relationship and to what extent this can commit government in its legislative programme. Nevertheless, the national dialogue promoted by the government through NCS provides the first entry point for CSOs to influence ICT policy. NCS is however, a government-controlled organ and therefore if it fails take into account the concerns of CSOs, the CSOs have a second option to lobby the Parliamentary Committee on Energy, Works and Communication or ultimately lobby parliament itself. This process worked well for the Kenya Communications Act 1998.

## Recommendation

It is important that CSOs establish a forum to be a clearinghouse on ICT issues. This will also be a contact point on ICT issues able to marshal resources within and outside the CSO sector, to defines response strategies. Not many CSOs are aware of the draft National ICT Policy and Information Technology Bill 2002 and when they do some may not have the capacity to respond.

## Conclusion

CSOs have played a significant role in the development of ICTs in this country. They pioneered email and Internet services in 1992-1995 overcoming immense political hostility. The success of the pioneering role opened up commercial opportunities with entrepreneurs taking over the supply of Internet services. CSOs have shifted focus to the higher goals of applications of ICTs and Internet as a tool of governance and empowerment to redress societal disparities. Challenges remain. Low penetration of ICTs in the rural areas and among the poor that is the target population for most CSOs, the high cost of services, awareness and lack of content present a major barrier to make ICTs provide a viable medium for empowerment. Undeterred, CSOs are lobbying for recognition of ICTs as tools to guarantee human right freedoms in the supreme law of the land – the constitution. They have a duty as part of their development mission and they have taken it with vigour.

## Bibliography

- Camacho, K, 2001, The Internet, A Great Challenge for Civil Society Organizations in Central America, Fundación Acceso, San José, Costa Rica, [http://www.acceso.or.cr/publica/challenges.shtml#\\_ftn1](http://www.acceso.or.cr/publica/challenges.shtml#_ftn1), Cited on July 5, 2002
- Chepkong'a S, 2002, Keynote address, At World Telecom Day Celebration, May 17<sup>th</sup>, 2002, KICC Nairobi, Pp6
- Droiulh, S, East African Internet Association, Nairobi Kenya, July 2002, Personal interview
- Githaiga G, 2000, Rural community broadcasting and role of national networks , At a Conference for the Advancement of Community Broadcasting in Namibia, November 6 to 8, 2000, Windhoek Namibia, Media Institute of Southern Africa, Windhoek, Pp 8
- Goddard P, 1994, Africa and Science; the availability of Computer Communications, *In* Kiplagat B A, Werner M C M, Telecommunications and Development in Africa, IOS Press, Amsterdam, Chapter x
- Hook F, de Kock H, 2001, E-commerce in East Africa; Forecasts and prospects (2000-2004), BMI Techknowledge Group, Johannesburg South Africa, Pp 75
- ICJ (International Commission of Jurists (Kenya Section), 2002, Constitution Memorandum submitted to the Constitution of Kenya Review Commission, International Commission Of Jurists (Kenya Section), Nairobi Kenya, <http://www.kenyaconstitution.org/docs/11d117.htm>, Cited on July 5, 2002
- ITU, 1999, Challenges to the Network: Internet for development, ITU, Geneva, Pp136
- Juma, M N, 2000, Women's Access to ICTs for distance/open learning, At Commonwealth of learning workshop, March 13-17<sup>th</sup>, 2000, Zanzibar, Commonwealth Organisation, London,
- Khasiani S A, 2000, Enhancing women's participation in Governance; the case of Kakamega and Makueni Districts, *In* Rathgeber E M and Adera E O, Gender and the information revolution in Africa, IDRC, Ottawa Canada, Chap 8
- Kihu M, 2002, Entrenching Press Freedom In The Constitution, Commonwealth Journalists Association- Kenya Chapter, Nairobi Kenya, <http://www.kenyaconstitution.org/docs/11d088.htm>, Cited on July 5, 2002
- Kogo, K, 2000, Implementing ALPID in Kenya: stakeholders and coordination, *In* Ogbu O and Mihyo P. Ed., African Youth in the information highway – Participation and leadership in community development, International Development Research Centre, Ottawa Canada, Pp 55-73
- Mureithi M, 2000, Wolisso Multipurpose Community telecentre, Ethiopia; Learning points for Kenya Information Society, Kenya Information Society, Pp 4
- Mureithi M, 1998, Status of the existing Kenya telecommunications networks: Briefing notes to Oxfam, Summit Strategies, Nairobi Kenya, Pp 11
- Odhiambo O and Muriuki M, 2002, Donors gave Ksh 109 Billion to NGOs in two years, The Daily Nation, Nairobi Kenya, June 26<sup>th</sup> 2002, Pp
- Ongwen, O, 2000, Foreword, Parchment Media Services, NGOs Kenya 2000, Parchment Media Services, Nairobi Kenya, Pp iii
- (OVP) Office of the Vice president and ministry of home affairs, heritage and sports, 2002, Formulation of the an NGO sector national policy, The Daily Nation, Nairobi Kenya, May 14<sup>th</sup> 2002, Pp38
- Parchment Media Services, 2000, NGOs Kenya 2000, Parchment Media Services, Nairobi Kenya, Pp79
- RoK (Republic of Kenya), 2002a, Draft National Information and Communication Policy (ICT) Policy, Republic of Kenya, Nairobi Kenya pp 27
- RoK (Republic of Kenya), 2002 b, Information Technology Bill 2002, 2<sup>nd</sup> Draft, Republic of Kenya, Nairobi Kenya pp51
- Sihanya B, 2002, integrating innovation and intellectual property into Kenya's Constitution, Institute of Economic Affairs, Nairobi Kenya pp 33

Tweet, Dr, NGO Coordinating Bureau, Nairobi Kenya, July 2002, Personal interview