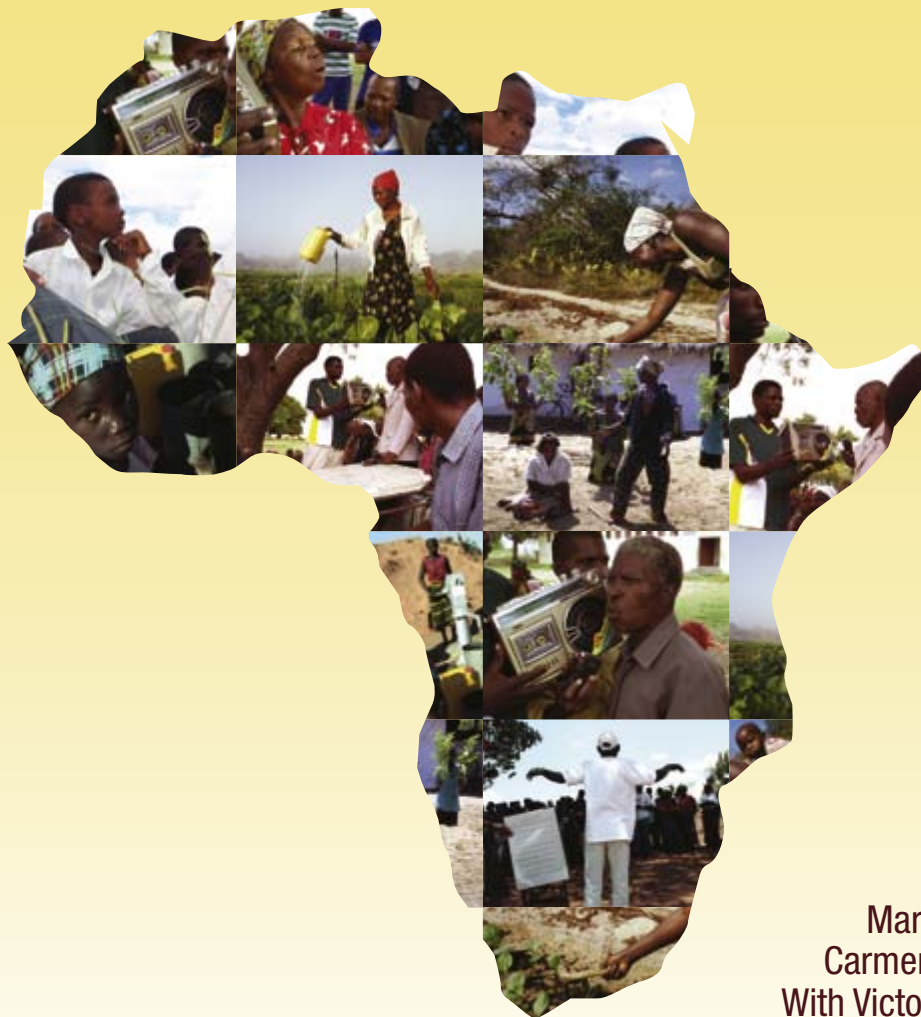


# SOCIAL ACCOUNTABILITY IN

# AFRICA

PRACTITIONERS' EXPERIENCES AND LESSONS



Edited by  
Mario Claasen and  
Carmen Alpín-Lardiés  
With Victoria Ayer (SAIIA)



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ANSA-Africa Secretariat

# Foreword

It gives me great pleasure to introduce the inaugural edition of the Affiliated Network for Social Accountability (ANSA-Africa) *Social Accountability in Africa* volume, produced under the auspices of the ANSA-Africa World Bank-funded development grant facility.

The publication is intended to serve as a knowledge resource to support policy-makers, public policy practitioners, law-makers, public institutions, public managers, the research and academic community, civil society, donor organisations, international and multilateral development agencies and all those actively involved and concerned with the subject of the ‘governance-accountability’ nexus in Africa.

Consistent with its mandate of conducting public-purpose, policy-relevant research, the Human Sciences Research Council (HSRC) holds the view that social accountability can significantly promote sustained good governance in Africa. This may help to address the many challenges the continent faces in moving towards sustainable development, in particular achieving the challenges of the United Nations Millennium Development Goals (MDGs).

The stimulus and demand for more effective and greater levels of social accountability to improve the quality, transparency and developmental impact of governance in Africa has experienced a gradual and steady rise in recent years due to various factors. These include among others:

- Growing consensus that democracy thrives when there is a strong civil society and strong government which are mutually reinforcing;
- The role played by civil society in scaling up government development programmes while also advocating for human rights and principled democratic values is indispensable;
- The recognition that in pursuing social accountability, civil society organisations need to ensure that they are accountable to their constituencies, report on their work, get feedback and support and are transparent about their sources of funding;

- The progress in setting constitutional and legislative frameworks for the decentralisation of governance and devolution of power from central to provincial and local governments is a step towards social accountability;
- The promotion of gender and youth roles in budgeting and developmental initiatives is critical to ensure accountability and inclusiveness; and
- The use of media tools in information dissemination to broaden community understanding of government programmes plays an important role.

Since the first ANSA-Africa stakeholder conference held in December 2006 there has been an expansion of new African networks for social accountability learning, knowledge sharing and capacity building in more than 1600 organisations across the African continent. These mirror similar trends which have emerged on the Indian subcontinent and in the Philippines with the expansion of the ANSA model. This is reflective of the growing global concern with good governance as a prerequisite for sustainable development.

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The collective challenge confronting proponents of social accountability is how best to galvanise and institutionalise social accountability and the possibilities it presents at continental, sub-regional, country and local levels. Other challenges include:

- Extending and expanding the network, building on existing regional and in-country networks. A vital component of this endeavour is the need to cultivate continuous growth, cohesiveness and strengthening of the African social accountability movement, including training and capacity building, shared learning, information exchange, and meeting the demand for integrating and incorporating French and Portuguese language content;
- Translating complex concepts into practical, locally specific and easy to understand indicators, generating governance criteria and standards for comparing the quality of governance in different situations and recommending action plans for improvement;
- The lack of a revenue base and the dependence on transfers from central government are impediments to local initiatives;
- Convincing all levels of government to embrace social accountability, the benefits it presents and the need for capacity building and resource mobilisation; and
- The ongoing processes concerned with deepening the political and economic integration of the African continent raise important questions worth considering regarding the relationship and role of ANSA-Africa in providing practical support to social accountability responsibilities of multilateral forums such as the African Union (AU), the New Partnership for Africa’s Development (Nepad) and regional economic communities (RECs).

This inaugural ANSA-Africa *Social Accountability in Africa* volume provides a valuable knowledge base drawn from a rich and diverse wealth of experiences and lessons learnt. Collectively, the chapters provide socio-political analysis of different country contexts to show how social accountability strategies and interventions are implemented and monitored.

I trust that this volume will provide a solid foundation and fountain of knowledge to keep us on course toward the goal of strong, socially accountable democracies on the African continent.

***Dr Olive Shisana***

CHIEF EXECUTIVE OFFICER, HUMAN SCIENCES RESEARCH COUNCIL



# Introduction

By *Mario Claasen* and  
*Carmen Alpín Lardiés*<sup>1</sup>

1

## THE ANSA-AFRICA NETWORK

The Affiliated Network for Social Accountability in Africa (ANSA-Africa) was born out of a stakeholders' conference convened by the World Bank Institute (WBI) and the Human Sciences Research Council (HSRC) of South Africa in 2006 in Accra, Ghana. Stakeholders, including government officials, donors, civil society organisations and multilaterals attended the conference to discuss the status and future avenues of social accountability initiatives in Africa. At this conference, the stakeholders recognised the tremendous wealth of social accountability initiatives underway across the continent but also identified the lack of knowledge and lesson sharing amongst those engaged in these initiatives. Participants also raised concerns regarding the capacity of citizens to engage and hold their governments accountable. The capacities of citizens and civil society were spread unevenly between Anglophone-, Francophone- and Lusophone-speaking countries. According to the stakeholders, what was needed was a continental platform that could serve as a clearinghouse of knowledge products, provide an inventory of capacity building on social accountability initiatives and methodologies, and support cross-country learning exchange on various initiatives.

The ANSA-Africa Network was officially launched in 2007 with the Secretariat being hosted at the HSRC up until December 2008 and subsequently at African democracy institute Idasa. The Network's governance structures include an Executive Committee (EXCO) and the Technical Advisory Group (TAG). The EXCO is the highest decision-making body in the Network. The Secretariat submits its strategic plans and operational plans to the EXCO for approval. The EXCO represents experts in the field of social accountability but also reflects the linguistic regions of Africa, namely Francophone, Lusophone and Anglophone. The EXCO convenes on a quarterly basis. The TAG is a group of technical

<sup>1</sup> Idasa, Kutlwanong Democracy Centre, Pretoria, South Africa

experts in various fields of social accountability such as health, education, anti-corruption, social welfare, etc. This is an advisory group that often assists the Secretariat in the identification of experts in certain areas and the conceptualisation of research outputs.

## WHAT IS SOCIAL ACCOUNTABILITY?

In the broadest sense, accountability is the requirement of those in power to explain and take responsibility for their choices and actions.<sup>2</sup> Ackerman defines government accountability as a “proactive process by which public officials inform about and justify their plans of action, their behaviour and results and are sanctioned accordingly”.<sup>3</sup> What is striking about Ackerman’s definition is his recognition of accountability as a proactive process where government officials do not sit and wait for citizens to demand but actively and voluntarily disseminate information, convene forums of participation and ultimately give account. It also recognises that accountability is not merely a once-off activity but a continual process between duty-bearer (public official) and rights-holder (citizen).

However there is one key problem with this concept – it assumes that accountability exists only between those who hold formal state power and those who do not. It is quite possible and actually encouraged that accountability involves holding one’s peers accountable. For instance, Members of Parliament (MPs), irrespective of political party, have a mandate to have oversight not just over the executive but also over each other. In many countries MPs must publicly declare all assets and gifts and for those who do not declare, it is their peers who will hold them accountable. This often means some form of sanction against those who do not adhere to the rules.

The sanctions are designed to deter any form of rule-breaking, but often this is not sufficient. For a government official with a minimal salary there is very little incentive not to commit corruption. Punitive measures are necessary to prevent mismanagement of resources and abuse of power. But excessive punitive strategies can paralyse officials’ behaviour and this can be counter-productive to improving government performance and can limit their creativity.<sup>4</sup> Knowing that they are being watched by outsiders and not only by their peers can act as a powerful deterrent to officials tempted to break the rules.

The active participation and engagement of citizens and civil society groups in policy-making and implementation can greatly improve accountability and overall good governance. Citizen monitoring can complement elections and by so doing reinforce and improve vertical accountability mechanisms. Citizen monitoring can include social audits of public services and expenditure-tracking surveys. Similarly, citizen monitoring can also enhance horizontal accountability within the state. Citizens can raise awareness by setting standards of performance of public services and placing pressure on oversight institutions to act, through institutions such as the ombudsmen offices in various countries. It is

<sup>2</sup> Ackerman, J.M., 2005. Social Accountability in the Public Sector: a conceptual discussion, Paper No. 82, Washington D.C., World Bank, p. 1.

<sup>3</sup> *Ibid.*, p. 2.

<sup>4</sup> *Ibid.*, p. 12.

through these institutions that citizens can participate and fuse the vertical and horizontal accountability mechanisms.<sup>5</sup>

It should be acknowledged that the tools or approaches used by actors who aim to assert social accountability is not a new phenomenon but the concept of social accountability is new terrain that aims to develop a framework of how citizens demand and enforce accountability from those in power.

It is well recognised that regular elections are a necessary but not sufficient form of accountability mechanism available to citizens. Elections only hold elected officials accountable and not appointed government officials. Questions arise such as “Who holds the officials accountable?” and “How are they held accountable?”

It is also not possible through elections to hold individual office-bearers accountable. Voters tend to view their vote as more about seeking the best suitable candidate during elections and less about holding past office-bearers accountable. Politicians are only voted into office by a certain amount of voters which creates the risk of politicians favouring patronage or corruption for a few rather than pursuing the long-term benefits of their constituencies.<sup>6</sup>

The purpose of elections is for citizens to delegate their power to political leaders to represent and promote their interests at the national, regional or local level of government in the form of institutions such as national legislatures, local councils and government ministries. In the recent past, donors and development actors often attempted to address the accountability deficits and overall governance in the government institutions (also referred to as “supply-side” governance<sup>7</sup>). The first form of accountability mechanisms created included administrative rules and procedures, political forms of checks and balances, financial reporting and auditing procedures through their ability to influence as a result of official development assistance (ODA) distribution.<sup>8</sup> But often these had limited successes in ensuring that state institutions were accountable to the citizenry.

In recognition of this challenge, governments, either willingly or through outside pressure, established independent institutions to promote accountability and good governance in state institutions. These include commissions on human rights or gender, ombudsmen and anti-corruption commissions. Most of these institutions play a monitoring role and are meant to be independent from state institutions. However, in the African context, these forms of institutions face their own challenges, at times deliberately created by the state to undermine the role of these independent bodies. These challenges include under-resourcing (both human and financial resources), ambiguously defined roles, and the most common one of not having the necessary ‘teeth’ to reprimand officials for misconduct. In all of these governance initiatives related to state institutions playing an oversight role there have been few attempts to bridge the “supply-side” and the “demand-side” of governance.

Demand-side governance initiatives refer to citizen- or civil society-led activities to exact accountability from power-holders. In this category there are

5 World Bank, 2004. *State-Society Synergy for Accountability: Lessons from the World Bank*, Washington D.C., World Bank, p. 9-10.

6 *Ibid.*, p. 9.

7 Malena, C., Forster, R., and Singh, J., 2004. *Social Accountability: an introduction to the concept and emerging practice*, Paper No. 76, Washington D.C.: World Bank, p. 1.

8 World Bank Institute, 2005. *Social Accountability in the Public Sector. A Conceptual Discussion and Learning Module*. Washington D.C.: The World Bank.

myriad initiatives and approaches ranging from social movements using protest, to communities using expenditure tracking to engage with the state and service providers. This book’s focus is on the latter as a form of democratic engagement with the state and its institutions, referred to here as social accountability.

## OVERVIEW OF THE BOOK

There are numerous examples of how citizens and civil society groups hold their government, private sector actors and donors accountable through various means. The examples include approaches such as participating in national planning and budget processes, conducting independent budget analyses, tracking resource flows from national to the local level, and assessing and verifying service delivery. However, these initiatives are often not known beyond the borders of the state or country where they are implemented. Thus, other citizens and civil-society organisations (CSOs) concerned about service delivery in their communities cannot learn about how other community members exact accountability from their government officials.

In addition, it has often been the case that when cases of social accountability initiatives have been documented they were not rooted in an African context or were out of date and thus not relevant to the challenges that African communities are faced with currently. For example, the Porto Alegre (Brazil) experience with participatory budgeting was conducted in the late 1980s and since then a plethora of similar initiatives has been instigated across Brazil and the Latin American region.<sup>9</sup> However, the case of Porto Alegre occurred in a specific context and time which ensured its successes and outcomes for that particular community. However, although the methodology of participatory budgeting in Porto Alegre has been altered to suit different contexts since the 1980s, there are still very few well-documented African cases of participatory budgeting that have occurred and speak to this continent’s audiences and contexts.

It is for this reason that the ANSA-Africa Network commissioned the South African Institute for International Affairs (SAIIA) to undertake a compilation of African social accountability case studies. The initiatives described in this book are certainly not the only ones on the continent so this collection of case studies is not meant to be a comprehensive overview of social accountability initiatives. Instead, this compilation is meant to be a first attempt at building a consolidated knowledge resource on social accountability across the continent. So the case studies are diverse and present unique approaches or tools to ensuring greater social accountability.

The range of cases utilises a variety of tools, and some are more technical than others. For instance, the Local Governance Barometer (LGB) case is arguably the most technical tool in the collection and for this reason the chapter is written in plain language to ensure that a wider audience has access to their work and methodology. Other chapters, like those initiatives that are government led, tend to focus more on the institutional arrangements and rationale for these arrangements. Despite the diversity of the chapters they also have some commonalities.

<sup>9</sup> World Bank, 2008. *Brazil: Toward a more inclusive and effective participatory budget in Porto Alegre*, Washington D.C.: World Bank.

The book starts with an overview chapter presenting data from the Afrobarometer on 19 African countries. This is followed by a collection of case studies. These are arranged into three sections, although all the chapters can stand alone and provide insights into a particular context and approach adopted. The first section focuses on experiences from civil society groups advocating for change. Government initiatives to promote institutional accountability are examined in section two, and the cases in section three explore joint initiatives between government, civil society and private actors to promote accountability and enhance governance.

The book presents a range of case studies that are not academic in nature but rather examine the experiences and lessons learned by practitioners who have pioneered social accountability initiatives in their country or sector. The value of practitioners writing their stories is that one receives first-hand experience of the challenges, methods and successes of designing and implementing these initiatives. When reading these chapters one will note that the voices of the practitioners are very prominent as they were the ‘insiders’ of these initiatives and have the ability to reflect on their processes. The practitioners include actors from civil society, government and policy-makers. The practitioners or authors were tasked to bring to light the challenges they faced, the rationale for the particular tool or approach used, how these approaches were implemented, the challenges with the implementation of the initiative, and the key lessons learned from their experiences.

## THE IMPORTANCE OF THE CONTEXT

The diversity of initiatives partly reflects the different countries’ institutional governance frameworks. This is indeed one of the main lessons arising from the book. It is crucial to understand the context when choosing an approach to address social accountability. Derek Luyt in Chapter 1 quotes the WBI: “Context is absolutely crucial. There is no single ‘silver bullet’ or special recipe for creating successful social accountability initiatives...the best strategy will always depend on the social and political context”.<sup>10</sup> The choice of an appropriate approach will depend on whether there is an enabling or hindering environment in terms of whether the political regime is democratic, whether political and civil rights are guaranteed, whether there is a culture of political transparency, whether participatory mechanisms are more or less institutionalised, or whether civil society and the government are weak or strong.

With the exception of three chapters which cover the African continent (Overview, Chapters 4 and 9), the chapters focus on particular countries. South Africa and Kenya have three dedicated chapters each: Chapters 1, 8 and 11 cover South Africa, whilst Chapters 2, 7 and 12 examine initiatives in Kenya. One chapter each is dedicated to initiatives in Uganda (Chapter 3), Malawi (Chapter 5), Mozambique (Chapter 6) and Madagascar (Chapter 10).

The case studies covered are in countries that underwent transition to a democratic regime, but all of them are recently established democracies: Uganda (multiparty elections only held in 2006 but prior to this the country had a

<sup>10</sup> World Bank Institute, 2005. *Social Accountability in the Public Sector. A Conceptual Discussion and Learning Module*. Washington D.C.: The World Bank.

vibrant civil society), South Africa and Malawi (since 1994), and Kenya (first multi-party elections held in 1991). Although fair and transparent elections are not a sufficient accountability mechanism, the Kenyan case illustrates that they are a necessary mechanism. Cyprian Nyamwamu’s chapter reporting the 2008 post-election crisis outlines the work of Kenyans for Peace with Truth and Justice (KPTJ) and the National Civil Society Congress (NCSC) in ensuring electoral truth and accountability and governance reforms, respectively. The crisis also had a negative impact on service delivery, according to Joyce Nyamweya (Chapter 7).

In terms of the institutionalisation of participatory mechanisms, this varies between building mechanisms into the strategic plans of government agencies, creating agencies to ensure society’s participation in government activities, or inscribing participatory mechanisms in law.<sup>11</sup> This third layer is very rare, with the exception of the freedom of information laws enacted across the world over the past two decades.

In Uganda, the Constitution establishes the right of citizens to participation; legislation on access to information was introduced in 2005 and there is a multitude of independent institutions such as the Auditor-General. However, the African Peer Review Mechanism (APRM) report concluded that corruption was a major problem.

Janine Hicks in Chapter 8 notes that in South Africa, even though government relies on CSOs to deliver services, at a political level they are not taken seriously by government. Furthermore, Derek Luyt reports in Chapter 1 that the electoral system in South Africa works against MPs and councillors being accountable to voters. Also the African National Congress’s (ANC) overwhelming majority makes it easy for politicians to be less accountable. The government used to be dismissive of media and CSOs’ reports on corruption. However, the current context and citizens’ protests “have eroded the denialism of the past”.

In Kenya, following the post-election crisis, both the government and civil society remain relatively weak. The Constitution is supportive of civic engagement, but the legislative environment grants substantial powers to the executive over non-governmental organisations (NGOs). As Alexander O’Riordan states, the difficulties arise in the details of registration, tax exemptions are rarely granted, and there is a general distrust of NGOs within government and levels of corruption are high.

Poverty levels in the countries covered in the book are very high. For this reason, some of the organisations have adapted their social accountability strategies to address this. A good example of this is Social Watch Benin’s report on the country’s progress on achieving the Millennium Development Goals (MDGs) to complement their budget analyses.

Despite all the above country contextual factors, there is a good amount of synergy and complementarities in the aims of the different initiatives. They are working towards holding the state accountable for its services. It is in this context that establishing advocacy links are of utmost importance.

It is our sincere hope that these case studies inform and inspire you to promote and implement social accountability in your country and/or community. ANSA-Africa’s ‘raison d’être’ is to document the African experience and to

<sup>11</sup> Ackerman, J.M., 2005. Social Accountability in the Public Sector: a conceptual discussion, Paper No. 82, Washington D.C., World Bank.

provide platforms for reflection and knowledge sharing for improved accountability and governance. We hope that this book is a step in this direction.

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# Controlling Power – Africans’ Views on Governance, Citizenship and Accountability

By Robert Mattes<sup>1</sup>

8

Outsiders sometimes like to impose their ideas on how Africans should govern their countries. But what do Africans themselves want? Surveys in 20 sub-Saharan countries reveal a widespread rejection of dictatorships and ‘big man’ leadership – suggesting a desire for a more accountable form of government. But to whom, then, must government be accountable? The author discovers that some think political parties, others think parliament and too few think the voters themselves. Nevertheless, a few ideas emerge on how governments can be made to be more accountable to their citizens, like moving away from large proportional representation systems.

## INTRODUCTION

Despite the highly visible counter-examples of Kenya and Zimbabwe, sub-Saharan Africa currently stands at a high point in its drive to institutionalise the democratic experiment it began in 1989. Thirty countries currently convene regular, free and fair elections.<sup>2</sup> Twenty-two countries are now judged by Freedom House to be electoral democracies.<sup>3</sup>

In some places, voters are beginning to punish poor performance. Ghana has just completed its second post-democratisation changeover with the governing party handing control back to the old-guard party it defeated in 2005. In Malawi’s last election, 76% of parliamentarians lost their seats.<sup>4</sup> And even in South Africa, where one party dominates, voters recently responded to electricity crises,

<sup>1</sup> University of Cape Town (UCT), South Africa

<sup>2</sup> Lindberg, S., 2007. *The Power of Elections Revisited*, Paper Presented to Conference on Elections and Political Identities in New Democracies, Yale University, 28-29 April 2007.

<sup>3</sup> Mattes, R. and Bratton, M., 2009. *The Future of Democratization in Sub-Saharan Africa*, Paper Presented to 21st World Congress of Political Science, Santiago, Chile, 12-16 July 2009.

<sup>4</sup> Smiddy, K. and Young, D., forthcoming 2009. “Presidential and Parliamentary Elections in Malawi, May 2009”, *Electoral Studies*.



rising inflation, high-level corruption scandals and leadership struggles in the governing party by turning out in increased numbers and, for the first time, reducing the African National Congress's (ANC) parliamentary majority.

Yet even these functioning democracies are incomplete. Legislatures, statutory watchdog agencies, opposition parties, civil society organisations and news media struggle to influence presidents and their governments in even the slightest way. Flawed electoral processes make the problem worse in the continent's competitive authoritarian states where elected governments are held accountable in only the most minimal sense. Where do ordinary Africans stand? Do they want greater accountability or have the post-colonial patterns of 'big man' leadership accustomed them to accept unaccountable leadership? In this chapter, I address this question by using data from the most recent series of Afrobarometer studies to explore citizens' views on holding political power to account – and who it is they think ought to play that role.

## THE AFROBAROMETER

The Afrobarometer is a comparative series of national public attitude surveys in sub-Saharan Africa on democracy, markets and civil society. As a social scientific project, it is dedicated to measuring nationally representative samples of public opinion accurately and precisely. As a political intervention, it is also committed to presenting results and analysis to elected representatives, government officials, civil society leaders and donors across the continent to increase the visibility of public opinion in African politics.

The Afrobarometer is a joint enterprise of the Centre for Democratic Development (CDD-Ghana), Idasa and the Institute for Empirical Research in Political Economy (IREEP, Benin). National partner organisations in each country conduct the fieldwork, data entry, preliminary analysis and dissemination of results. Michigan State University and the University of Cape Town provide technical and advisory support services. The survey is currently conducted in 20 sub-Saharan countries: Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe in Southern Africa; Kenya, Madagascar, Tanzania and Uganda in east Africa; Benin, Burkina Faso, Cape Verde, Ghana, Liberia, Mali, Nigeria and Senegal in west Africa. Since 1999, Afrobarometer has accumulated interviews with more than 105 000 Africans, including four rounds of surveys in 12 of those countries.

Fieldwork for round 4 was conducted between March and December 2008 (due to state-sponsored violence, a round 4 survey could not be conducted in Zimbabwe; instead this bulletin refers to results from the round 3 survey of October 2005). Findings from Zambia should be considered provisional; final results were not available at the time of writing. All 26 414 round 4 interviews were conducted face-to-face by trained fieldworkers in the language of the respondent's choice.<sup>5</sup> It is important to note that Afrobarometer surveys can only be conducted in the continent's most open societies. Hence the results do not represent the continent as a whole – or all Africans.

<sup>5</sup> Respondents were selected using a random, stratified, multistage national probability sample representing citizens aged 18 or older. Each country sample yielded a margin of error of  $\pm 3$  percentage points at a 95% confidence level. The pooled, cross-country sample was equally weighted to standardise national samples at  $n = 1200$ .

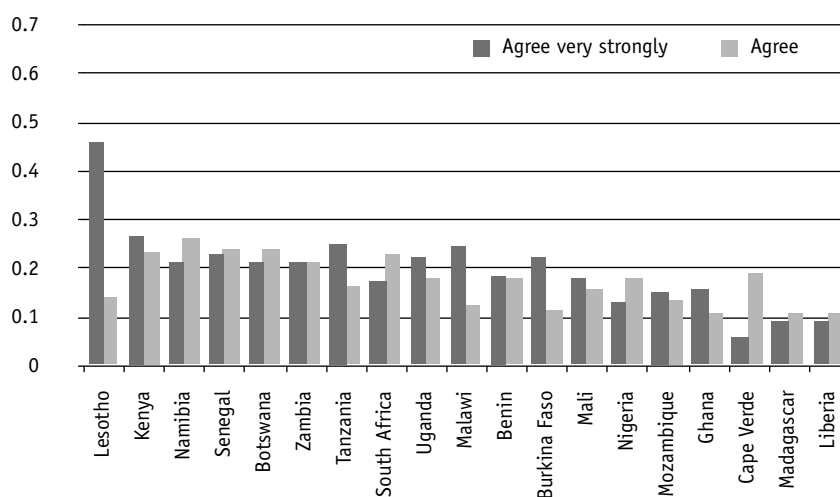
## THE DEMOCRATIC REGIME AND ITS ALTERNATIVES

To begin at the broadest level, we have known, from several rounds of Afrobarometer data, that large majorities of Africans choose democracy as the best form of government for their country. Even larger percentages reject the idea of ending elections and closing parliament to hand over power to a ‘strong man’ presidential dictator. And an equally large majority regularly reject military rule as an alternative to democracy. Smaller majorities reject the idea of allowing only one party to contest elections. However, while nine in ten respondents regularly agree with the democratic response on at least one of these four survey questions, just under half endorse all four, leading to the conclusion that support for democracy in Africa is “wide, but shallow”.<sup>6</sup>

But while Africans do not want to return to the types of regimes under which they mostly lived before the 1990s and favour popularly elected government, it does not necessarily follow that they see accountability as an important element of democracy. In fact, Afrobarometer has asked respondents on at least two separate occasions: “What, if anything, does ‘democracy’ mean to you?” and only about 1% of respondents explicitly mentioned accountability. Most tend to provide answers related to general civil liberties, popular participation or political rights.<sup>7</sup> Indeed, the literature on African political culture often emphasises the degree to which ordinary citizens hold a paternalistic, deferential and acquiescent view of individual leaders and political authority,<sup>8</sup> a posture which is the antithesis of accountability.

Thus we begin our exploration by reviewing responses to two questions that explore the link between the citizen and the state. Confirming the conventional

view, less than four in ten respondents in 19 countries in 2008 (38%) chose the statement: “Government is like an employee; the people should be the bosses who control the government” rather than: “People are like children; the government should take care of them like a parent” (Figure 1). The proportion of pro-accountability responses fell to less than one-third in six countries (Nigeria, Mozambique, Ghana, Cape Verde, Madagascar and Liberia).



**Figure 1:** People are bosses, government is employee

6 Bratton, M., Mattes, R. and Gyimah-Boadi, E., 2005. *Public Opinion, Democracy and Market Reform in Africa*, Cambridge: Cambridge University Press.

7 *Ibid.*, Bratton, M. and Mattes, R., 2009. *Neither Consolidating Nor Fully Democratic: The Evolution of African Political Regimes, 1999-2008*, Afrobarometer Briefing Paper, no. 67, May, Cape Town: Idasa/Accra: Ghana Centre for Democratic Development/East Lansing, MI: Michigan State University.

8 Chazan, N., 1993. “African Political Culture and Democracy”, in Diamond, L. (ed), *Political Culture and Democracy in Developing Countries*, Boulder, CO: Lynne Reiner; Etounga-Manguelle, D., 2003. “Does Africa Need a Cultural Adjustment Programme?” pp. 65-76, in Harrison, L. and Huntington, S. (eds), *Culture Matters: How Values Shape Human Progress*, New York: Basic Books; Owusu, M., 1993. “Democracy and Africa: A View From the Village”, *Journal of Modern African Studies* Vol. 30, no 3: pp. 369-396; Mamdani, M., 1996. *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, Princeton: Princeton University Press.

Challenging the common wisdom, however, we find that a majority (60%) agree that “Citizens should be more active in questioning the actions of leaders”, rather than the alternative: “In our country, citizens should show more respect for authority” (Figure 2). The pro-accountability proportions rise above 70% in three countries (Senegal, Kenya and Malawi) and even 80% in two (Tanzania and Zambia), but drop to under 45% in three (Liberia, Madagascar and Lesotho).

Thus while Africans seem to retain a thoroughly paternalistic view of government and the state, they are simultaneously less acquiescent and more willing, at least potentially, to question their leaders than we might have thought. The sentiments may seem at first glance to be antithetical, but what people seem to be saying is that they want a relatively strong state that looks after citizens’ welfare but are, at least on the face of it, not willing to simply accept decisions and actions of their leaders. This desire may present a tentative basis on which to build a culture of accountability, but we need to know much more about what people actually think about the process of holding leaders to account, and who it is that ought to play this role.

Classically, accountability has two dimensions: in its vertical variant, it consists of voters holding government accountable through elections; horizontally, it consists of the state holding itself accountable by separating executive, legislative and judicial powers and creating institutional checks.<sup>9</sup> Thus we need to establish first whether people are willing to take a more active role in calling their leaders to account and

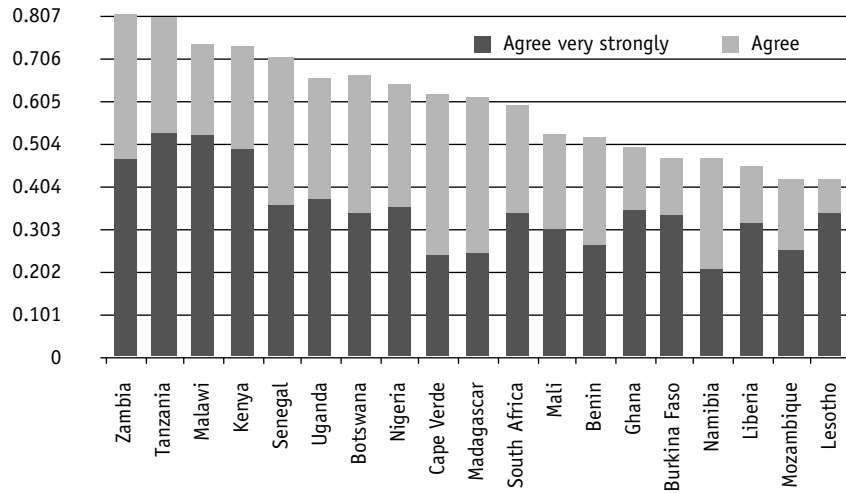


Figure 2: Citizens should question the actions of leaders

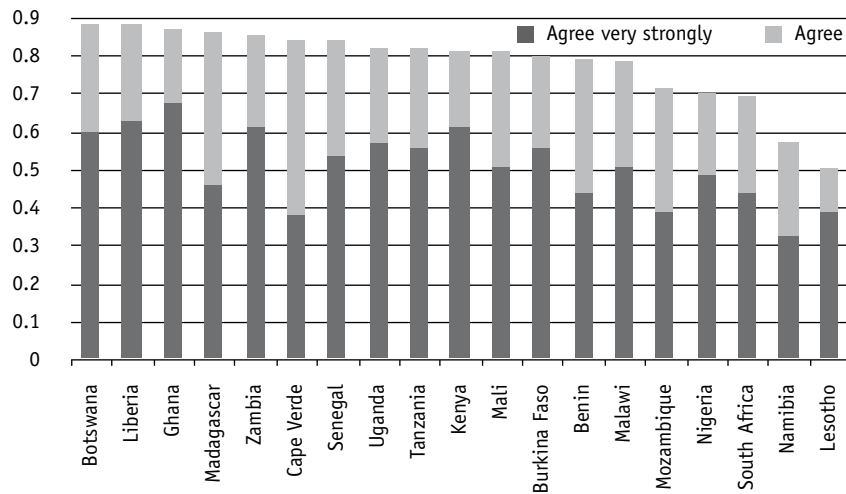


Figure 3: Leaders should be chosen through regular elections

<sup>9</sup> Hamilton, A., Madison, J. and Jay, J., 1961. *The Federalist Papers*, New York: New American Library; Schmitter, P. in Diamond, L. and Morlino, L. (eds) 2005. *The Quality of Democracy*, Baltimore: Johns Hopkins University Press.

second whether they want their leaders to be held accountable by other political institutions.

## VERTICAL ACCOUNTABILITY

We first examine attitudes to competitive multi-party elections. Overall, almost four out of five respondents (78%) agree that leaders should be chosen “through regular, open and honest elections” as opposed to this statement: “Since elections sometimes produce bad results, we should adopt other methods for choosing this country’s leaders” (Figure 3). In most countries, the former view is shared by approximately four in five respondents (80%). But the percentage drops to around 70% in Mozambique, Nigeria and South Africa, and under 60% in Namibia and Lesotho.

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Africans also support multi-party elections (Figure 4). As mentioned previously, approximately three in four (73%) reject the notion of one-party rule (as defined in a question proposing that only one political party be allowed to stand for election and hold office). And in response to a separate question, two thirds (66%) agree that “many political parties are needed” to ensure that people “have real choices in who governs them”. Against that, almost one third, 29%, agree with an opposing statement that “political parties create division and confusion; it is therefore unnecessary to have many political parties”.

But while most Africans support the idea of regular elections, it remains unclear whether they see them primarily as a means to choose favoured candidates and parties and send policy demands to their leaders, or whether they also understand the electoral connection as a means to hold leaders accountable through the threat of re-election. Some insight comes in responses to a

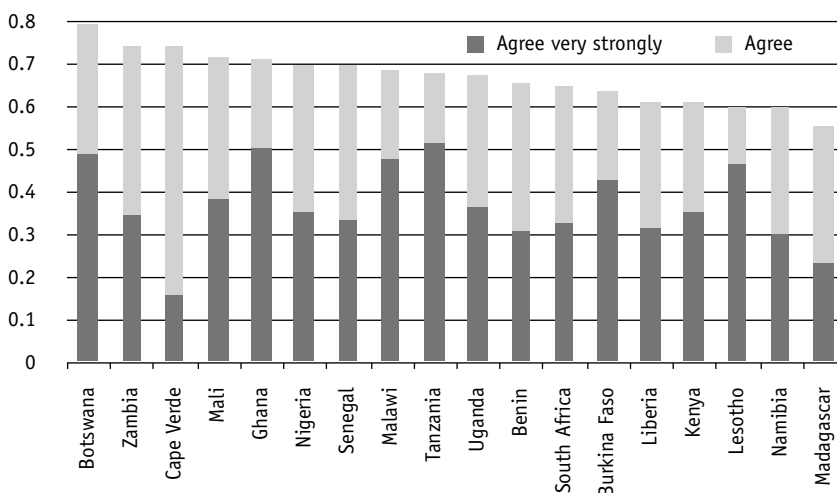


Figure 4: Multiple parties are needed to ensure choice

question about accountability between elections (Figure 5). Respondents were asked: “Who should be responsible for making sure that, once elected, representatives to the National Assembly do their jobs?” The responses indicate that voters may not fully grasp the idea of using their vote as a way to discipline poorly performing elected officials. Only four in ten (38%) of all Africans surveyed responded “the voters”. One in four (25%) said the president or the executive should be responsible for monitoring legislators, a curious inversion of the notion of legislative oversight. One in five (19%) said Parliament itself should have the primary role for policing its own members, and one in ten (10%) think this is the role of their political party (similar results were obtained to a question about holding local government councillors accountable).

To be sure, majorities recognise the voters’ role in vertical accountability in Uganda, Zimbabwe, Kenya and Benin, rising to 70% in Malawi and Madagascar (Figure 6). But the figure falls to under 30% in several countries, including Lesotho, Mozambique, Ghana, Nigeria, Cape Verde, Namibia and South Africa. It is such confusion that led Bratton and Logan to conclude that “while Africans had become ‘voters’ they had not yet become ‘citizens’”.<sup>10</sup>

At the same time, Africans certainly want to keep their elected representatives close to them, presumably so they can question them, let them know their

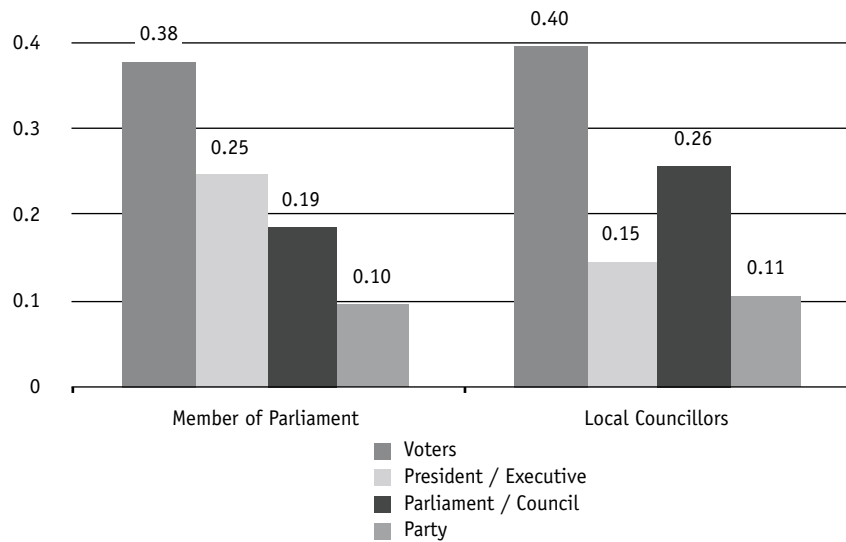


Figure 5: Who should make sure elected leaders do their jobs

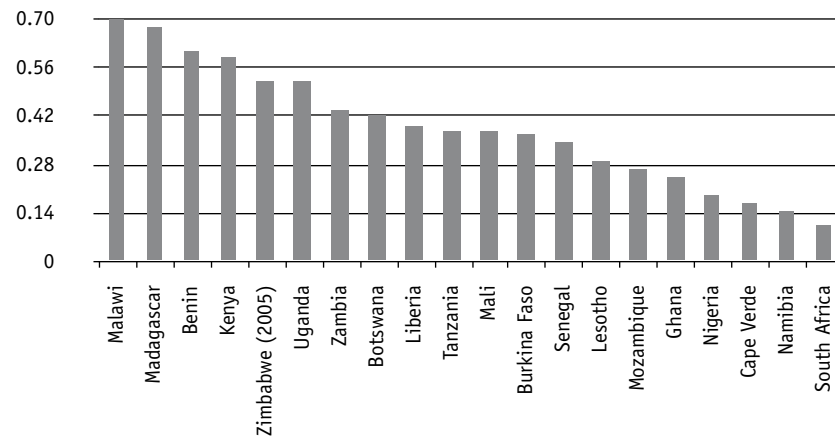
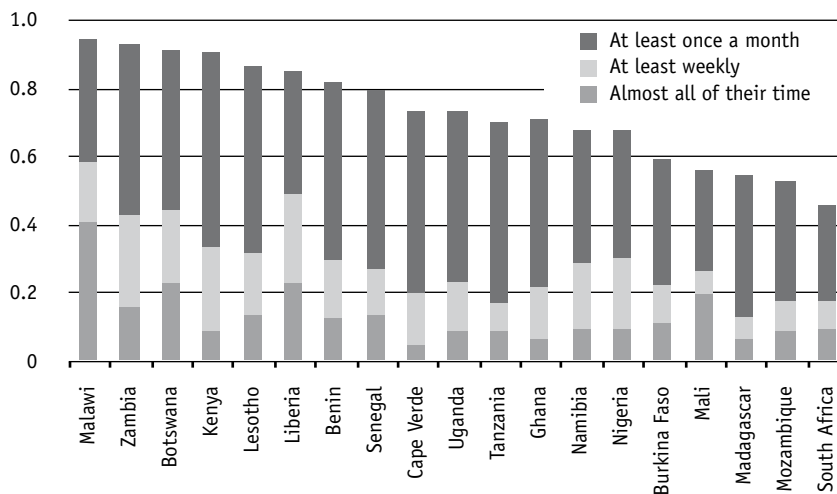


Figure 6: Voters should be responsible for holding MPs accountable

10 Bratton, M. and Logan, C., 2006. *Voters But Not Yet Citizens: The Weak Demand for Political Accountability in Africa's Unclaimed Democracies*. Afrobarometer Working Paper no. 63, Cape Town: Idasa/Accra: Ghana Centre for Democratic Development/East Lansing, Mi: Michigan State University.

problems and secure their assistance in getting government to solve personal and communal problems. Afrobarometer asked respondents: “How much time should your representative to the National Assembly spend in this constituency to visit the community and its citizens?” (Figure 7). Majorities in every country except South Africa said their Member of Parliament (MP) should be in the constituency at least once a month. Support for this notion rose to more than 70% in Uganda, Cape Verde and Senegal, and more than 80% in Benin, Liberia, Lesotho, Kenya, Botswana, Zambia and Malawi. Substantial proportions of these citizens say that the MP should be there “at least weekly” or even “almost all the time”.



**Figure 7:** Amount of time that MPs should spend in their constituencies

## HORIZONTAL ACCOUNTABILITY

Thus Africans support the idea of competitive, multi-party elections, and desire frequent proximity to their national legislators. However, many have not grasped that they can use elections as a means to provide incentives for legislators to do their jobs, including visiting the constituency and listening to public needs. If citizens do not see themselves as responsible for holding their elected officials accountable, to what extent do they see political institutions playing this role? Populist approaches to democracy assume that as long as leaders renew their legitimacy through periodic elections, they should have virtually unfettered power to achieve the popular will. The liberal approach, in contrast, places limits on elected governments – especially executives. It entrenches individual rights constitutionally and requires executives to seek approval of policies from elected legislatures, submit their records for review by legislative committees, and open their affairs to the probing eyes of statutory watchdog agencies, courts, civil society organisations and news media.

To explore popular thinking on horizontal accountability, we began with this question: “Who should be responsible for making sure that, once elected, the president does his/her job?” Echoing their response to questions on MPs and local government councillors, 40% of all respondents answered that it was

the voters’ responsibility. More remarkably, only one quarter of respondents (27%) saw this as the responsibility of the legislature. Another 12% picked the executive, presumably meaning the cabinet, as the source of presidential accountability and another 11% said it was the job of their party. At most, just fewer than 40% of Kenyans said the legislature should oversee the president; only 15% in Malawi and Zambia, and less than 10% in Madagascar said so (Figure 8).

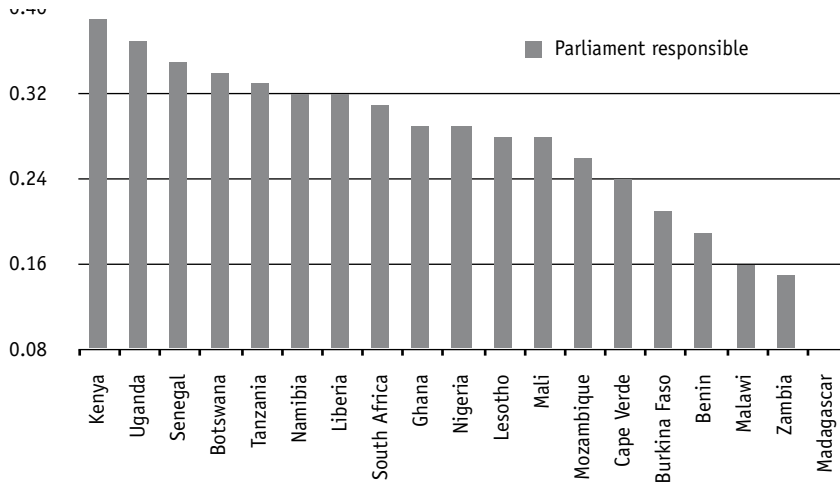


Figure 8: Legislature should be responsible for holding the president accountable

Thus, presented with the issue, few Africans spontaneously embrace the idea of horizontal accountability between separate, autonomous institutions. However, once they are primed to think about the broader issue and presented with alternatives, there is considerably more support for various forms of horizontal accountability. Recalling that 79% of respondents reject authoritarian alternatives like ‘big man’ rule (as discussed earlier), there is substantial cross-national variation (Figure 9) in responding to a proposition that “the president

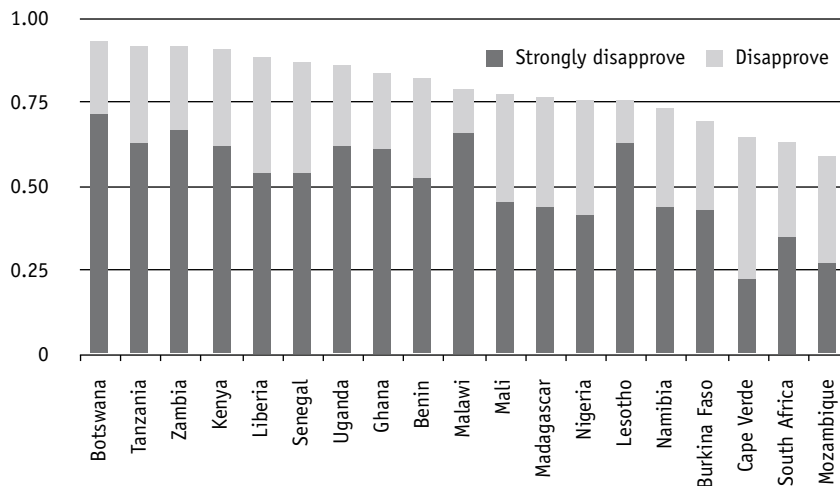


Figure 9: Presidents can decide everything

can decide everything” ranging from 90% opposition in Botswana, Tanzania, Kenya and Zambia, to a much softer rejection of about 60% in Cape Verde, South Africa and Mozambique.

Rejecting presidential dictatorship is a starting point but does not equate with a belief that the president ought to be accountable to other institutions. Public support for reining in the powers of Africa’s ‘big man’ leaders is reflected in a different question (Figure 10). A total of 68% agree with the statement that “the

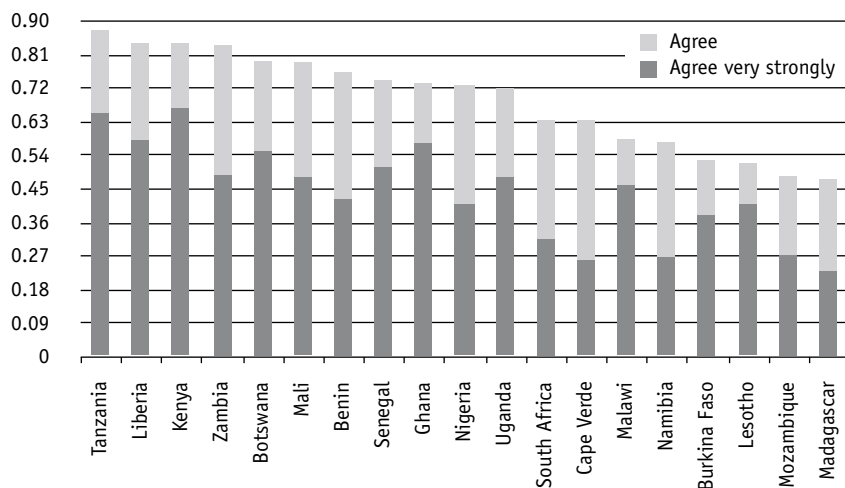


Figure 10: Presidents should only serve two terms

constitution should limit the president to serving a maximum of two terms in office” (as opposed to saying there should be no limit on his/her term). Support was highest in Tanzania, Liberia, Kenya and Zambia (over 80%), four countries that have a history of autocratic leaders.

A desire to limit executive power is also reflected in the fact that overall 64% support the view that “the president must always obey the laws and the courts, even if he thinks they are

wrong” as opposed to saying that, since he had been elected to lead the country, he should not be bound by laws and courts (Figure 11). Support ranges from over 80% in Tanzania, Liberia, Kenya and Zambia, to under 50% in Mozambique and Madagascar.

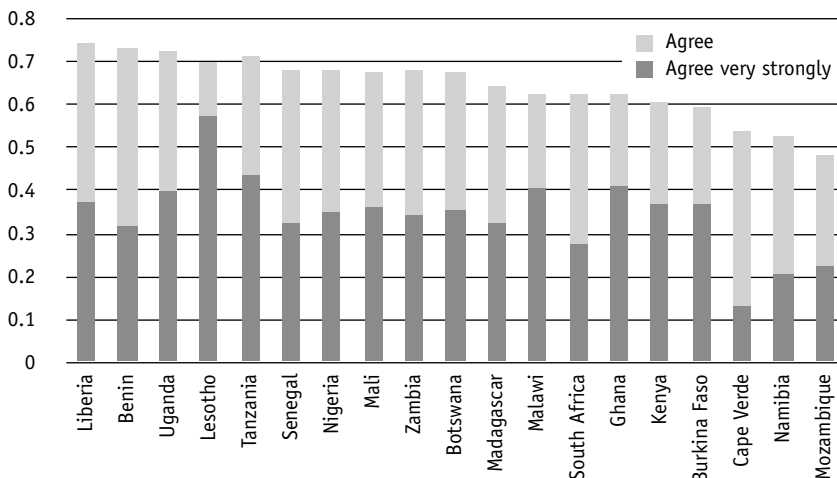


Figure 11: Presidents must always obey the laws and the courts

Africans also support the broad notion of legislative autonomy vis-à-vis the executive, 64% agreeing that “the representatives to the National Assembly



represent the people; therefore they should make laws for this country, even if the president does not agree” as opposed to: “Since the president represents all of us, he should pass laws without worrying about what the national assembly thinks” (Figure 12). Support is notably lower in four Southern African countries dominated by a single party (South Africa, Mozambique, Lesotho and Namibia).

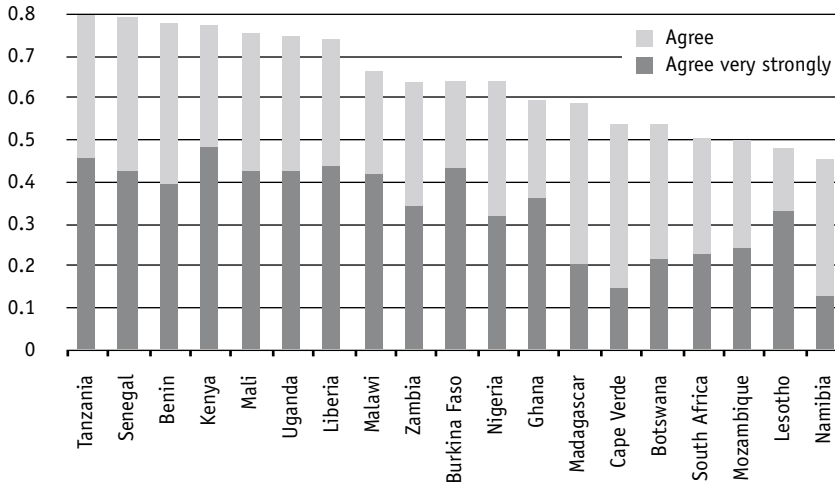


Figure 12: Parliament should make the laws even if the president disagrees

In the strongest statement supporting horizontal accountability and legislative oversight, a lower but still impressive 60% agree that “the national assembly should ensure that the president explains to it on a regular basis how his government spends the taxpayers’ money” as opposed to the alternative sentiment that he should be able to devote his full attention to developing the country rather than wasting time justifying his actions (Figure 13). However, fewer than 50% in five countries agree with legislative oversight (Mozambique, South Africa, Lesotho, Madagascar and Namibia).

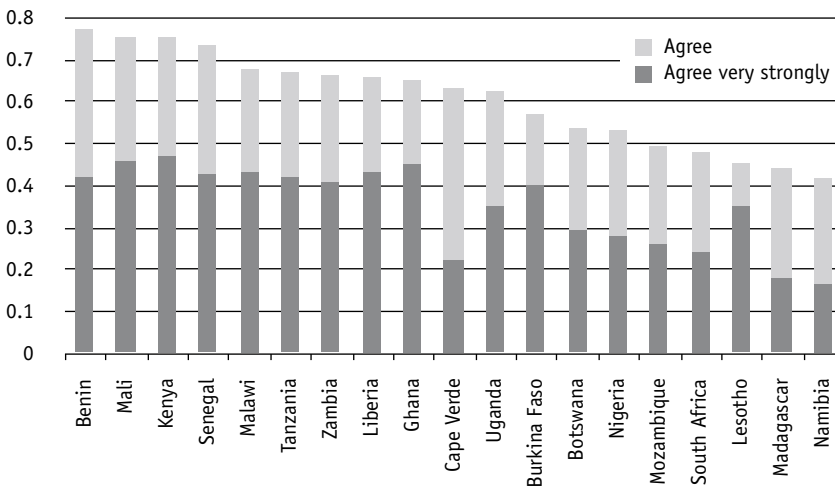
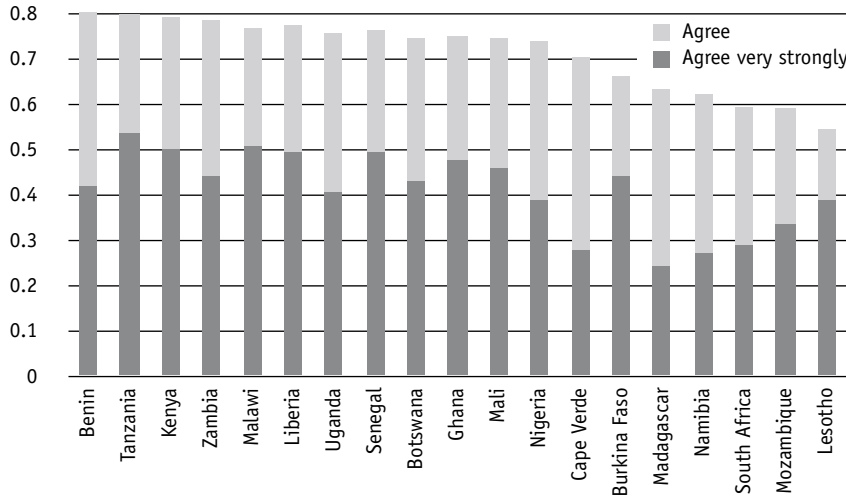


Figure 13: Parliament should ensure that the president accounts on a regular basis

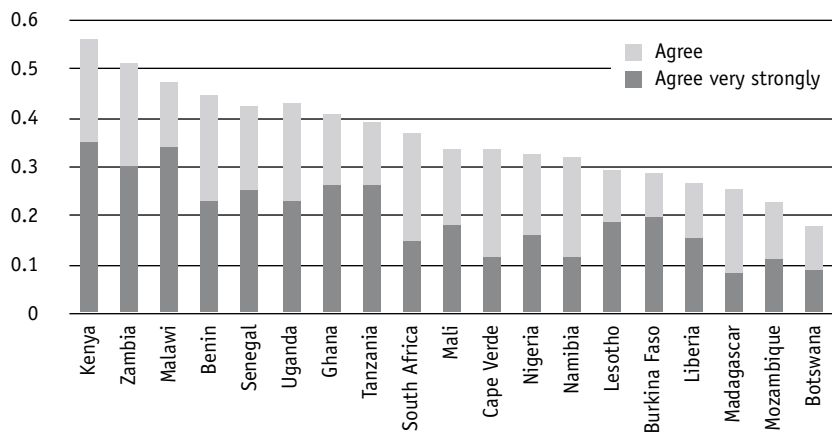
Africans even support an accountability role for non-state actors (Figure 14). Seven in ten respondents (71%) agree that “the news media should constantly investigate and report on corruption and the mistakes made by the government” as opposed to: “Too much reporting on negative events, like corruption, only harms the country.”



**Figure 14:** News media should constantly investigate and report on government corruption and mistakes

However, people do not accept that opposition political parties have a role to play in holding government accountable (Figure 15). Just 36% agree that “opposition parties should regularly examine and criticise government policies and actions”. In contrast, 59% say they should concentrate on cooperating with government and helping it develop the country. In a separate set of questions, just 34% say they trust opposition parties as opposed to 52% who trust the governing party. Given

that legislative scrutiny is often driven by opposition parties, Africans’ attitudes to opposition parties threaten to undercut a key dimension of horizontal accountability.



**Figure 15:** Opposition parties should regularly examine and criticize government policies and actions

## WHO WANTS ACCOUNTABILITY IN AFRICA?

What are the factors that lead some Africans to be more demanding of vertical accountability? To investigate this question, a reliable and valid composite scale was created from the average of the responses to the three questions that ask who should be responsible for making sure that MPs, local councillors and the president do their job between elections.<sup>11</sup> On each question, respondents are assigned a 1 if they answer “the voters” and a 0 if they provide any other answer. The average responses, grouped by country, are displayed in Figure 16.

Multiple regression analysis was then used to identify the individual level demographic and cultural value factors, and which national level factors help us understand who is more or less likely to see voters as responsible for holding elected leaders to account. According to this analysis, after taking into account factors like age, gender, rural-urban status, poverty, education and news media use, the single strongest impact is the nature of a country’s electoral system.

With the baseline of comparison being the majority of countries that elect legislators to single member districts, citizens of those countries that use large national- or regional-list proportional representation (South Africa, Namibia and Mozambique) are considerably *less* likely to see themselves as responsible for holding representatives to account. In contrast, those who live in countries that elect representatives by proportional representation to small multi-member districts (or combine proportional and first-past-the-post systems) are more likely to support vertical accountability. However, the negative impact of large-list proportional representation is about twice the size of the positive contribution of small multi-member districts. People who know the identity of their MP are also more likely to see themselves as responsible (which itself is facilitated by single member or small multi-member districts), as are rural voters. In terms of values, those respondents who agree that people should control the government – like a boss controls an employee – are also more likely to support vertical accountability (full results in Appendix).

In order to create a valid summary measure of demand for horizontal accountability, a composite index was created from the responses to the questions on parliamentary autonomy in making laws, presidential-term limits, media scrutiny of government, opposition party scrutiny of government and

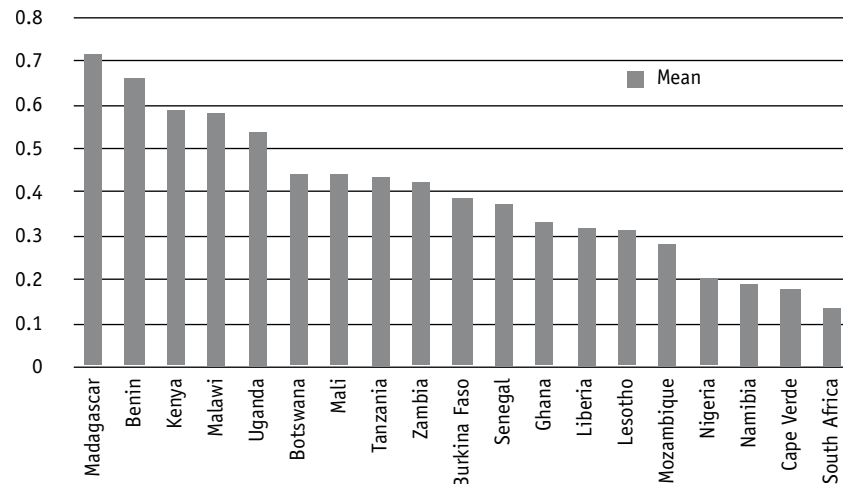


Figure 16: Index of vertical accountability

<sup>11</sup> Factor analysis (using maximum likelihood extraction) extracted a single, unrotated factor with an Eigenvalue of 2.00 that explains 66.5% of the common variance across the three items. The items are correlated with the factor as follows: MPs = 0.763, local councillors = 0.763 and president = 0.594. Reliability is high (Alpha = 0.747).

parliamentary responsibility for making sure the president does his/her job.<sup>12</sup> Again, multiple regression analysis was used to identify the factors that increase (or decrease) popular support for horizontal accountability. The single strongest predictor was the belief that citizens should be more active in questioning their leaders, followed by the belief that leaders should not favour their own group once in office. As with vertical accountability, living in a country that uses proportional representation with large national or regional lists also exercises a strong and negative impact on support.

Horizontal accountability also appears to be a more cognitively demanding concept; support is significantly higher among those respondents who are ‘cognitively engaged’ with politics (i.e. those who are both interested in politics and engage in frequent political discussion with family and friends), get news about politics from the media, have higher levels of formal education, and know the identity of their MP. Finally, membership in a religious group also increases support.

## CONCLUSION

Ordinary Africans demonstrate an incomplete grasp of political accountability. While they are willing to play a more questioning and critical role toward the state, they still hold paternalistic views of that state. They clearly support multi-party elections, and want their legislators to remain close at hand. But they appear to support elections as a mechanism of choice rather than as a means of controlling the behaviour of their representatives by threatening to withhold their vote. They want their MPs nearby to solve personal and political problems, rather than provide answers about their performance. The typical African sees someone else as responsible for calling legislators and councillors to account, rather than themselves.

And while Africans oppose the unrestrained power of ‘big man’ rule under which many lived for so long, most fail to grasp who ought to exercise those restraints, assigning the job to political parties or the cabinet, rather than to the legislature. However, questions that provide the idea of holding presidents accountable and limiting power through independent courts, legislatures and news media, find popular support for the idea. While opposition parties usually have the greatest incentive to make legislatures into real institutions of horizontal accountability, they continue to be seen with suspicion and wariness by ordinary voters.

Changing these attitudes is no simple matter. However, a few lessons can be taken from these findings. Initiatives that increase popular contact with, or awareness of, elected representatives and representative institutions should also work to increase public demand for accountability. These would include: electoral reforms that move away from large national or regional party lists in proportional representation systems to create smaller electoral districts with

<sup>12</sup> Factor analysis (using maximum likelihood extraction and Direct Oblimin rotation) extracted a rotated factor with an Eigenvalue of 1.88 that explains 26.9% of the common variance across the seven items. The items are correlated with the factor as follows: Support for Parliamentary Autonomy in Making Laws = 0.482, Support for Presidential Term Limits = 0.439, Support for Media Scrutiny of Government = 0.417, Reject Presidential Dictatorship = 0.405, Support Legislative Oversight of Executive = 0.301, Support Opposition Scrutiny of Government = 0.152 and Believes Parliament Responsible for Holding President Accountable Between Elections = 0.114. Reliability is barely acceptable (Alpha = 0.539).

fewer members, initiatives that build the capacity of opposition political parties to improve their images among the electorate, and programmes to strengthen news media, especially independent media, in covering what goes on inside legislatures and courts, and what their councillors, legislators and civil society organisations actually do.

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## APPENDIX

### Support for Vertical Accountability, Explanatory Factors Compared

	Pearson's r	Unstandardised Regression Coefficient (b)	Standardised Regression Coefficient (B)	Partial Correlation
Constant		0.273		
Country Uses Large-List Proportional Representation	-0.131	-0.157	-0.144	-0.131
Know Identity of MP	0.125	0.080	0.100	0.092
Country Uses Small Multi Member Electoral System	0.107	0.076	0.089	0.081
Government Is Employee, People the Boss	0.054	0.014	0.054	0.053
Rural	0.064	0.037	0.044	0.044
Adjusted R <sup>2</sup>	0.056			
N	22,646			

22

All variables  $p \leq 0.001$ .

### Support for Horizontal Accountability, Explanatory Factors Compared

	Pearson's r	Unstandardised Regression Coefficient (b)	Standardised Regression Coefficient (B)	Partial Correlation
Constant		1.1771		
Citizens Should Be More Active Questioning Leaders	0.304	0.101	0.237	0.228
Leaders Should Not Favour Own Group In Office	0.180	0.049	0.117	0.114
Country Uses Large-List Proportional Representation	-0.201	-0.337	-0.187	-0.177
Cognitive Engagement	0.156	0.056	0.081	0.077
News Media Use	0.117	0.033	0.058	0.049
Formal Education	0.117	0.017	0.053	0.045
Female	-0.099	-0.070	-0.053	-0.052
Belongs to Religious Group	0.082	0.035	0.049	0.045
Know Identity of MP	0.144	0.058	0.044	0.041
Adjusted R <sup>2</sup>	0.171			
N=	22,426			

All variables  $p \leq 0.001$ .



SECTION 1

# CIVIL SOCIETY-LED ACCOUNTABILITY





# Seeking Social Accountability from Provincial Government in South Africa

By *Derek Luyt*<sup>1</sup>

25

The Eastern Cape is one of the poorest and most ineffectively governed provinces in South Africa. This chapter outlines the efforts of the Centre for Social Accountability (CSA) to improve, through its various social accountability strategies, the governance of the province and the delivery of state services such as health, housing and education to its impoverished people.

## INTRODUCTION: THE STATE, RESOURCE MANAGEMENT AND SOCIAL ACCOUNTABILITY

The CSA defines social accountability as “the right to obtain justifications and explanations for the use of public goods and resources from those responsible for their management and use (whether government officials or private service providers)”. In terms of this definition, those tasked with managing or deciding on the use of these goods and services are duty-bound to justify and explain their performance in progressively realising the human rights of those they serve. In addition, they are obliged to take corrective action in instances of underperformance, as well as the misuse or abuse of resources.

The CSA maintains that there is a set of minimum information requirements necessary to judge the effective management of public resources and the realisation of socioeconomic rights by the state. If this information is not made available to the public, then it is not possible for social accountability to exist in any meaningful form.

This information relates to five key processes which are required of the state if it is to deliver public services effectively. The CSA has developed a monitoring methodology and related tools which engage with the five processes. These are:

<sup>1</sup> Centre for Social Accountability (CSA), Grahamstown, South Africa. The CSA is an independent institute affiliated with Rhodes University. CSA incorporates the Public Service Accountability Monitor (PSAM) which has been engaged in applied social accountability monitoring work since 1999.

1. *Planning and resource allocation tools* evaluate whether government departments base their strategic plans and budgets on adequate analyses of what service delivery needs are in terms of community and citizen’s needs but also in terms of strategic asset management considerations. An evaluation is also made of whether the plans are based on a thorough analysis of the department’s own organisational limitations.
2. *The CSA’s expenditure management tools* enable evaluation of expenditure against outputs. Spending is tracked against budget allocations, and emphasis is placed on whether service authorities can explain their expenditure patterns and variations on budgets as well as whether management controls, including corrective action, are adequate.
3. *Performance management tools* are able to hold departments accountable for the quality of their service delivery. Civic actors should demand that explanations for poor performance be documented, and that corrective action be taken where necessary. CSA tools help to establish internal control weaknesses, quality of reporting and auditing, adequate human resources utilisation, the effectiveness of internal monitoring and responsiveness to delivery challenges.
4. *Public integrity management tools* enable civic actors to demand explanations for departmental disciplinary processes and ensure that any corrective action is effective in preventing abuse of public resources. The CSA’s tools monitor the effectiveness of public integrity management mechanisms, and cover cases of misconduct, inefficiency, maladministration, corruption and conflicts of interest. Revelations by whistle-blowers and allegations by complainants also come under review.
5. *Oversight tools* enable civic actors to demand explanations for the operation of oversight bodies and the way in which departments account to them. The CSA’s tools help civil society assess the degree to which service authorities and the executive account to constitutional oversight bodies. Emphasis is placed on whether legislative committee recommendations are implemented. Where nothing is done, justifications for inaction are evaluated.

Monitoring of these five public resource management processes forms the basis of the CSA’s social accountability work. Outputs based on the tools outlined above, such as our Budget Analyses and Strategic Plan Evaluations, are circulated to all members of relevant Portfolio Committees, Ministers and Heads of Department and Strategic Planning Units as well as the Minister and Departmental Head of the Provincial Treasury. The CSA receives written feedback from these politicians and officials in response to our outputs (which have achieved some successes in influencing planning and budgeting). Important issues arising from the outputs are also shared with the media in the form of press releases and analysis pieces, and are placed on the CSA website at [www.psam.org.za](http://www.psam.org.za).

## SOCIAL ACCOUNTABILITY IN CONTEXT

Social accountability is firmly on the governance and development agenda, but, as the World Bank Institute puts it, “context is absolutely crucial. There is no single ‘silver bullet’ or special recipe for creating successful social accountability

initiatives ... the best strategy will always depend on the social and political context.”<sup>2</sup> This is important to bear in mind when comparing social accountability initiatives from different countries. What works in one country may not work in another, and what does not work in one country may well work in another. It all depends on the existing governance context determined by both historical and contemporary factors. Social accountability initiatives which are not sensitive to their shifting contexts will always suffer questions of relevance.

It is beyond the scope of this chapter to provide an analysis of the origins of the CSA. Nevertheless, drawing attention to some of the more salient aspects of South Africa’s historical trajectory of the last 15 years will hopefully serve to provide a better understanding of the work of the CSA.

For the World Bank, elections are a “very blunt instrument with which to hold government accountable”.<sup>3</sup> Of course, free and fair elections are an indispensable element of democratic and accountable governance. However, the deepening of accountability beyond elections is not just necessary for good governance and the rule of law, it is also central to ensuring adequate service delivery and development policies and practices capable of combating poverty and inequality.

In South Africa, elections are indeed a “very blunt instrument” of accountability. In the first place, at national and provincial level, the country’s proportional representation system ensures that those elected to Parliament are primarily accountable to the party they represent. Secondly, although the local government electoral system provides for direct representation alongside proportional representation, councillors directly elected from the wards within a municipality are authorised to stand for elections by virtue of the party list of candidates, ultimately determined by leadership structures within political parties (with the limited exception of independently elected councillors).

While the ruling African National Congress (ANC) is a legitimately and popularly elected government (and has been since 1994), the persistence of high rates of poverty in South Africa, and the growth of inequality, are in part testimony to limited social accountability. The dismal legacy of apartheid has left the ANC with immense social and economic challenges which cannot be easily and quickly overcome. However, despite their achievements in expanding the delivery of government services to the poor, the results of increased state expenditure have had mixed results specifically in their attempts at reducing poverty and inequality.

Poverty levels in South Africa remain high, and have not been greatly reduced since 1994. Despite this, and despite the fact that the poor in South Africa vote overwhelmingly for it, the ANC, after 15 years in government, has yet to develop a consistent and coherent national intervention to combat poverty and inequality. What decreases in poverty levels there have been in South Africa have been achieved largely by increased state expenditure on social security grants and expanded public works. There are clear fiscal limitations to such expansion. Given these limitations, effective public resource management becomes especially important: every cent must be made to count. Certainly, corruption

<sup>2</sup> World Bank Institute, 2005: “Social Accountability in the Public Sector. A Conceptual Discussion and Learning Module”, Washington D.C.: World Bank, p. 12.

<sup>3</sup> World Bank, 2004: “Social Accountability: An Introduction to the Concept and Emerging Practice”, Social Development Paper No. 76. Washington D.C.: World Bank, p. 3.

represents a profound challenge to the alleviation and eradication of poverty, but so too does poor performance of politicians and government officials.

The popular electoral support for the ANC, juxtaposed with compromised mechanisms of internal and external accountability, creates special challenges for civil society attempts to deepen accountability in South Africa. Evidence of poor governance publicised by the media and civil society organisations (CSOs) is frequently brushed aside by ruling-party politicians as being motivated by ‘anti-government’ and, by extension, ‘anti-the-people’ sentiment. It is far easier to revert instead to populist rhetoric invoking the will of the people and/or the legacy of apartheid. Such rhetoric is not easily dismissed, since it connects with deeply felt resentments for the legacy of the past. For a ruling party buttressed by popular electoral support, compelling evidence of poor governance is not necessarily sufficient to ensure improved accountability.

Given the extent of poverty in South Africa and the pressing social realities of the poor, the demand for social accountability is, for the majority of citizens, either subordinated to political authority (in the hope that such subservience will be rewarded with desperately needed services) or supplanted by confrontational and often violent community-based service delivery protests. These responses are understandable given the prevailing socio-political context, but they do not advance the institutionalisation of social accountability.

We believe that the socio-political context in South Africa has not been conducive to mass-based initiatives aimed at constructively engaging the state in order to institutionalise social accountability. Furthermore, CSO demands for social accountability have generally not been built on a foundation of robust demand for social accountability from civil society, but rather more parochially focused demands to be included in the policy development process of the state. This situation, however, may be changing.

In strengthening social accountability, the CSA and other CSOs must therefore be able to respond to service delivery issues from a position which consistently relates such issues to an underlying lack of accountability of politicians and government officials. This entails meticulous and balanced research and evidence-gathering on the part of CSOs to account for the link between inadequate service delivery and limited accountability or poor governance, especially at local level. Political opportunists may easily exploit impoverished communities to drum up support for their own narrow political interests. Such opportunism only serves to weaken the institutionalisation of social accountability.

## **CSA STRATEGIES FOR STRENGTHENING SOCIAL ACCOUNTABILITY**

Experience suggests that the government is more likely to create effective channels of accountability if there is a strong demand from civil society for it to do so. While previous CSA strategies for advancing social accountability primarily involved working together with evidence-based civil society partners and the media to strengthen the demand for accountability, these strategies have definite limitations.

The CSA has increasingly come to recognise that a strategy combining evidence-based social accountability monitoring with mass-based demands for improved service delivery is necessary to advance the institutionalisation of accountability. This has led the CSA to work more closely with mass-based CSOs, but at the same time it is also developing an approach which incorporates more constructive engagement with the government. It is a strategy which will continue to evolve, since it involves balancing a number of complex and changing circumstances.

In terms of policy implementation and service delivery, governance is only as good as its weakest link, and in South Africa the weak links are provincial and local government. Having said this it must be noted, however, that there is great variation in the quality of provincial and municipal governance. Some provinces and municipalities display relatively good governance; others are simply appalling.

The Eastern Cape is one of the worst performing of the nine provincial governments in South Africa, and contains some of the worst performing local municipalities. Being based in the Eastern Cape, the CSA is much concerned with provincial government. Although the CSA has had requests to become more involved in accountability monitoring of local government, our capacity to do so is extremely limited: there are 283 municipalities in South Africa, 46 in the Eastern Cape.

The CSA was started ten years ago, when the Eastern Cape was itself only four years old. The province incorporated the previously 'independent' ethnic homelands of the Ciskei and Transkei as well as areas of the previously 'white'-ruled Cape Province. From its inception it was faced with daunting socioeconomic challenges which its newly formed provincial administration was ill-equipped to handle. The creation of a single administration for the Eastern Cape was fraught with political and bureaucratic tensions. Although the structure of the Eastern Cape provincial government has undergone changes since 1995, the Public Service Accountability Monitor (PSAM) continues to monitor its major departments: Education, Health, Housing and Social Development. These four departments are responsible for the delivery of vital services, especially to the poor, and consume the bulk of the provincial budget (nearly 80%, or R33.5 out of R42 billion, in the 2009/10 financial year).

By 1999 the Eastern Cape government and administration was in a bad shape: it lacked qualified and skilled personnel and was further weakened by political infighting, corruption and inefficiency. Under the circumstances, it was understandable that the PSAM's approach tended to be confrontational and relied heavily on using the media to expose the systemic problems of the Eastern Cape government. The success of the PSAM's media-based advocacy helped establish its reputation and its credibility as a source for journalists, but also tagged it, especially for the government, as a 'watchdog' institution. While the PSAM does not object to being cast in this mould, its strategies for strengthening social accountability have evolved well beyond being a 'watchdog'.

This evolution of the CSA's advocacy strategies is in part due to the development of the organisation itself and in part due to the changing social and political environment in which it operates. In the remainder of this chapter we trace this evolution of the CSA's strategies to strengthen social accountability by outlining our relationships and partnerships with the media, CSOs, Chapter

Nine institutions and government–civil society bodies. We also discuss our litigation strategy and our engagement with the government, particularly through the provincial legislative and executive arms.

## MEDIA

The media has played an important role in informing the public about issues relating to governance, service delivery and accountability in South Africa and the CSA maintains a relatively high media profile. The CSA has established a good reputation with journalists.

The independent community media differs from the mainstream media in a number of ways. Amongst other advantages, it has a deeper reach into local communities and it has potential to contribute to the strengthening of social accountability in ways not available to the mainstream media.

On the downside, while working with community media can contribute to the institutionalisation of social accountability through more constructive interactions between government, civil society and the media, it is also true that the community media is not uniformly progressive: some are downright reactionary, promoting, amongst other things, xenophobia and gender discrimination. They are not entirely promising vehicles for the institutionalisation of a rights-based social accountability.

The CSA has also been involved in training of journalists focused on generic investigative skills, but also considers more specialised areas such as the use of access to information legislation and the structure and functions of provincial and local government. The CSA considers this training important, since many journalists lack the skills and knowledge to investigate and report adequately on governance-related matters.

Use of the media is an essential element of the CSA’s overall advocacy strategy, but media success can also impact negatively on other elements of this strategy by placing excessive demands on the institution. Organisations like the CSA may be misused by journalists seeking easy copy. What we call ‘Rent-a-Quote’ should be resisted, as should the temptation to comment on matters with which one is not thoroughly familiar. The consequences of uninformed comment can severely dent the credibility of an organisation whose reputation depends on accuracy, balance and impartiality.

While using the media remains a vital part of the CSA’s advocacy strategy, it cannot be the only part. Accountability is not simply about acting as a government watchdog. It should also be aimed at critical but constructive engagements aimed at strengthening governance through positive interactions, drawn from evidence-based accountability monitoring, with CSOs and various levels of government.

## CIVIL SOCIETY ORGANISATIONS AND CHAPTER NINE INSTITUTIONS

Chapter Nine of the South African Constitution established a number of bodies such as the Public Protector, the South African Human Rights Commission (SAHRC) and the Auditor-General. Known as “Chapter Nine institutions”, they are defined as “state institutions supporting constitutional democracy”, and are, in theory, independent of the state. The CSA believes that these institutions have a crucial role to play in strengthening democratic, transparent and accountable governance. However, within the current socio-political context, Chapter Nine institutions need the support of CSOs in order to ensure the longer-term fulfilment of their constitutional mandate. They are limited by, inter alia, capacity constraints, reliance on government funding, and they also depend primarily on positive government responses (which are frequently not forthcoming) to implement their findings and recommendations. In short, they lack teeth, and need the backing of civil society.

Hence the role of CSOs in entrenching social accountability in South Africa is especially important. Their independence allows them to undertake more effective accountability monitoring and advocacy. However, many lack capacity and face various obstacles, including accessing information from the state, despite the Promotion of Access to Information Act (PAIA). Using this Act is time-consuming and can be expensive if the state body fails to provide requested information.

The CSA recognises that partnerships and working relationships with both civil society and Chapter Nine bodies are needed to strengthen and deepen accountability. The CSA therefore has developed working relationships with a number of CSOs at national, provincial and local level. Working with a range of CSOs and employing diverse advocacy channels, including those provided by the Chapter Nine institutions, can throw up further opportunities for strengthening the demand for social accountability.

The development of our initiative for improved public health care in the Eastern Cape is a case in point. The PSAM has long expressed concern at the inadequacies of the delivery of public health services by the Eastern Cape Department of Health, and in February 2008 issued a press release stating that “unfortunately, those ultimately responsible for the proper functioning of the Department of Health – the MEC, the [Head of Department] HOD and the Premier – appear unable or unwilling to recognise its systemic problems and to act accordingly. The Public Service Accountability Monitor (PSAM) therefore urges the National Executive to intervene in terms of Section 100 of the Constitution to prevent the public health services in the province from degenerating further and to ensure an adequate standard of public health care for its people”.

The CSA followed this up by writing a letter to Director-General Frank Chikane, Secretary to the National Cabinet, on 11 March 2008 requesting that the national executive intervene in terms of Section 100 of the Constitution in order to ensure an adequate standard of public health care for the people of the province. We received no response from Chikane or the Cabinet, nor did we receive any response to a reminder sent on 21 May 2008. In response to the complete silence from national government in respect of the state of public

health services in the Eastern Cape, we submitted a lengthy formal complaint to the SAHRC. The introduction ran as follows:

*The PSAM is deeply concerned at the poor state of public health services in the Eastern Cape. In submitting this complaint we consider in turn four problems central to the inability of the Eastern Cape Department of Health to deliver adequate public health services in the province. We set out evidence which we believe indicates:*

- 1. that the Department has failed to manage its finances appropriately and has no adequate plans to do so*
- 2. that the Department has failed to resolve its chronic staff shortages and has no adequate plans to do so*
- 3. that the Department has not conducted strategic planning of a standard necessary to guide the implementation of health services commensurate with the health needs of the Province*
- 4. that the Department has failed in important respects to demonstrate adequate accountability and transparency.*

*We further contend that the Department lacks the capacity to solve these problems and hence cannot ensure an adequate standard of public health care for the people of the Eastern Cape, consistent with the provisions of Section 27 of the Constitution, and that this amounts to a systematic abuse of the human rights of the most vulnerable people in the Province... We request that the South African Human Rights Commission investigate the complaints brought to its attention in this submission and takes appropriate action in the event that it satisfies itself that some or all of the grounds for the complaints raised in this submission are cogent and valid.*

The SAHRC invited a response from the Department to our complaint, to which we have in turn responded. But, as of 31 August 2009, the complaint was still under consideration. If nothing else, the CSA has learned that the attempt to strengthen service delivery and accountability through the SAHRC is a lengthy and time-consuming process.

However, the CSA was approached by the provincial offices of the Congress of South African Trade Unions (Cosatu) to make a presentation to union shop-stewards on our SAHRC complaint regarding the Department of Health. The matter was of interest to them because the union is also concerned about the state of public health services in the province and because they represent both nurses, through the affiliated Democratic Nursing Organisation of South Africa (Denosa), and health support workers through the affiliated National Education Health and Allied Workers Union (Nehawu).

As a result of this interest from the mass-based Cosatu and the Treatment Action Campaign (TAC), a powerful CSO engaged in HIV/AIDS advocacy work, the CSA decided to partner with the two organisations to produce a health Service Delivery Review (SDR). The aim of the SDR is to extend the monitoring work of the CSA by gathering information from a variety of sources relevant to the performance of the Eastern Cape Department of Health, to



analyse this information and to formulate recommendations aimed at improving public health care in the Eastern Cape. The SDR process is being undertaken jointly by representatives from Cosatu, TAC and the CSA, with input from the Centre for Economic Governance and AIDS in Africa (CEGAA).

The CSA believes that it is important to work together with mass-based civil society partners in compiling this report. It will allow more information to be fed into the report and will incorporate a wider range of experience, knowledge and skills. It will also add weight to the recommendations of the report and to other advocacy activities arising out of it. In short, the SDR aims to combine the strengths of evidence-based and mass-based CSOs in the common interest of promoting service delivery and social accountability.

The CSA's use of the SAHRC complaints procedure in respect of public health services delivery in the Eastern Cape, leading to the decision to produce a health SDR in conjunction with mass-based CSO partners, thus illustrates the point that employing diverse advocacy channels can throw up further opportunities for strengthening the demand for social accountability.

Another mini-campaign launched in the media by the CSA in support of Chapter Nine institutions was that of drawing attention to the issue of financial management in government departments, and in particular the important oversight role played by the Office of the Auditor-General (AG). In October 2007 the CSA issued a press release entitled "Taking the Auditor-General More Seriously" which noted that "the Auditor-General's recommendations *should* be implemented by responsible government officials or, ultimately, their political bosses. But they hardly ever are", and concluded that "it is high time that the Eastern Cape government started taking the hard-pressed staff toiling away in the offices of the Eastern Cape Auditor-General more seriously. But this is unlikely to happen until we, the public, do so too".

This press release received wide media coverage and led to the participation of a CSA member of staff, together with the AG appearing on a South African Broadcasting Association (SABC -- the South African public broadcaster) debate on the role of the AG in public finance management oversight.

The CSA believes that it has been relatively successful in drawing public attention to the role of the AG in strengthening financial accountability in government departments. The following letter was received from the Office of the AG in December 2007:

"I want to thank you and your colleagues for all your assistance and support this year. You really played a meaningful role in helping us profile the work of this Office and how it can improve, and continue to play a crucial role in safeguarding taxpayers' public resources. Thanks again, much, much appreciated."

The media now routinely refers to the AG's audit opinions on national, provincial and local government, and the government recently launched "Operation Clean Audit 2014", which aims to ensure all provincial and local authorities produce clean audits by 2014. According to the Minister of Cooperative Government, Sicelo Shiceka, "clean audits...and clean governance can only lead to better service delivery which is a step towards the creation of a better life for our people".

## GOVERNMENT-CIVIL SOCIETY BODIES

The CSA also participates in a number of joint government-civil society bodies whose purpose, ostensibly at least, is to promote transparent and accountable governance through joint government and civil society participation.

One such body is the South African National AIDS Council (Sanac) which includes senior politicians, government officials and members of a variety of civil society bodies. Sanac is “the highest national body that provides strategic and political guidance as well as support and monitoring of sector programmes”<sup>4</sup> dealing with the crucial issue of HIV/AIDS.

Another joint government-civil society body on which the CSA serves is the Eastern Cape provincial Victim Empowerment Forum (VEF). The VEF is tasked with drawing up plans for the implementation and monitoring of victim empowerment programmes in the Eastern Cape (victim empowerment programmes deal largely with the issue of violence against women and children). The VEF is made up of representatives of relevant provincial departments (such as Justice, Health, Education and Social Development), the South African Police Services (SAPS) and civil society.

Participation in these bodies offers the CSA opportunities for strengthening civil society attempts to promote social accountability through constructive engagement with government. More generally, the CSA believes that it is important to participate in similar government-civil society bodies. They are, after all, set up to promote transparent, participatory and accountable governance, and the onus is on civil society to ensure that they do so. It is too easy to dismiss them as vehicles for co-opting civil society whose real purpose is to create an illusion of participatory government.

## LITIGATION

The CSA believes that access to government-generated information is crucial to the institutionalisation of social accountability and that it is important to resort to litigation when necessary to force politicians and officials reluctant to make information available to the public to do so. A significant (and successful) use of litigation by the CSA involved the use of PAIA against the Office of the Eastern Cape Premier in 2008.

One of the perennial criticisms that the PSAM has had of the planning and policy documents of many of the Eastern Cape’s major service delivery departments is that they are not adequately informed by up-to-date needs analyses of the people they are intended to serve. Hence they are constrained in their ability to plan and budget accurately. The 2005 decision by then Eastern Cape Premier Nosimo Balindlela to commission a Rapid Assessment of Service Delivery and Socioeconomic Survey (RAS) was therefore welcomed by the PSAM. The Fort Hare Institute for Socioeconomic research (FHISER) was contracted to undertake the survey over the period 1 November 2005 up until 30 June 2006. Altogether 12 235 households were interviewed while there were 300 interviews

<sup>4</sup> South African National AIDS Council, undated. “HIV & AIDS and STI National Strategic Plan for South Africa 2007 – 2011”. SANAC Secretariat (Department of Health), p. 9.

with agencies and suppliers in all municipal wards. The survey was completed in June 2006.

Despite the RAS having been finalised in June 2006 amidst assurances by the Premier that its findings would inform government's strategic plans, the PSAM found no reference to the RAS in their preparations. Further enquiries revealed that the RAS (despite being a public opinion survey) had been embargoed from publication.

This prompted the PSAM to request a copy of the RAS from the Office of the Premier on 5 March 2007, but this was declined, arguing that that survey was: "unfortunately an internal planning document. We are busy making easy-to-read versions of it and these may be made available for general consumption within the next few months... The survey results document is incomplete without the departmental responses and these are being collected as we speak."

The PSAM then submitted a formal request for the RAS to the Director-General (DG) of the Province in accordance with the provisions of the PAIA on 27 March 2007. Access to the unabridged RAS was however refused and an internal appeal was lodged with the Premier on 29 May 2007. The Premier rejected the appeal on the following grounds:

"Whilst I appreciate the motivation for seeking the release of the information, it is equally important for government to thoroughly canvass the report with all relevant structures/institutions within provincial and local government..."

FHISER, which had undertaken the research and produced the RAS, had received numerous requests from a range of parties interested in the results of the survey. Unfortunately FHISER had signed a confidentiality clause with the Premier's office and was contractually bound not to release it. This did not however stop it from expressing its dismay at the Premier's stance on the matter.

The PSAM decided to issue court proceedings, having exhausted all internal mechanisms to secure the release of the RAS. The Premier and DG argued in their court papers that the provincial departments and municipalities were in the process of taking decisions on how to address the challenges identified in the survey. The Premier and DG also contended that the decision to embargo the RAS was taken to prevent premature public disclosure of the whole report and because a reasonable fear existed that certain aspects raised in the report could be taken out of context if not seen against the responses by provincial departments and municipalities to the challenges raised in the report. A fear that problems raised in the report could be sensationalised in the media was also expressed.<sup>5</sup>

In an important ruling, judgment was delivered in favour of the PSAM on 29 May 2008. The Judge found, *inter alia*, that:

"It stands to reason that information should only be withheld in exceptional circumstances. The provisions of section 44 of the Information Act may not be invoked for purposes of convenience, or because full disclosure would attract criticism, cause embarrassment or because it is believed that a sanitised version of the report in question would better serve the interests of all concerned.... Service delivery is in the interests of everybody. No grounds were advanced as to why an apprehension of media mischief was justified or so serious as to warrant non-disclosure of the information which, by its nature, belongs in the public domain. The suppression of people's views can be the very catalyst to inhibit a

<sup>5</sup> Judgment of Revelas, J. delivered in the Eastern Cape Division of the High Court on 29 May 2008 under Case No. 6047/2007. A copy of the judgment can be accessed at: <http://www.psam.org.za/newsitem.php?nid=1171..> at p. 8, paragraph 15.

candid debate on a problem. Our history had many examples of just how the non-disclosure of the views of citizens of this country served as a catalyst to destroy, let alone inhibit, candid debate on problems which concerned all.”<sup>6</sup>

The PSAM’s successful court case against the Premier and DG received extensive coverage in the media and re-emphasised the need for the administration to act accountably and transparently. Since securing the release of the RAS its findings have been drawn upon by a range of civil society organisations. The PSAM has since referred numerous interested parties to the FHISER and provincial government websites where the RAS can now be accessed.

The PSAM continues to draw upon the RAS when analysing departmental budgets and strategic plans. The PSAM also used the RAS findings to support its complaint lodged with the SAHRC against the Eastern Cape Department of Health (which has indicated that it has not had access to the RAS despite prior assurances by the Premier’s Office to the PSAM that the RAS was circulated amongst all provincial government departments affected by the results of the survey).

The CSA has successfully litigated in other cases as well, most notably in February 2008 when it won a PAIA case which compelled the Eastern Cape Department of Housing to provide information relating to steps taken against government officials implicated in housing fraud. The relevant documents were circulated to departments employing officials implicated in the fraudulent activities, and the Department of Education subsequently commenced with disciplinary hearings against 200 officials.

It is true that litigation should not be undertaken lightly, since it is expensive, time-consuming and generally requires specialist knowledge and experience. But it is equally true that the use of laws such as PAIA is an important element of any strategy seriously committed to strengthening social accountability. The CSA’s experience has been that the more we use PAIA, the more likely the government is to make information publicly available. As far as access to information legislation is concerned, the ‘use it or lose it’ adage holds true. And if the right to access to information is lost in practice, so too is the right to social accountability. Litigation will remain an important, if sparingly used, element of the CSA’s strategy for strengthening social accountability.

## WORKING WITH THE GOVERNMENT

Apart from the participation in government-civil society bodies referred to above, most elements of the CSA’s strategy to strengthen social accountability suggest a confrontational approach to the government. However, the CSA does not believe that social accountability can only be strengthened by adhering to a singularly adversarial relationship with the government. On the contrary, we believe that it is necessary to enter into cooperative relations with the government in attempting to strengthen social accountability. But the socio-political context and the capacity of social accountability institutions such as the CSA need to enable such relationships to grow.

<sup>6</sup> Judgment of Revelas, J. at p. 11, paragraphs 24 and 25.

A context within which CSOs and agencies such as the CSA can enter into more cooperative relationships with the government is emerging in South Africa. Ongoing social protests against poor service delivery, overwhelming evidence of poor governance and the persistence of high rates of poverty, inequality and other social problems have combined to erode the political denialism of the past. Ruling party politicians now routinely extol the virtues of accountable governance. Accountability, at least in theory, is now viewed as an essential goal of good government, and not simply as a stick with which to beat it.

At the same time, the CSA is now a well-established organisation, and at least some government officials are recognising the usefulness of its monitoring methodology and outputs. In 2007, the PSAM was approached by the Head of the Provincial Treasury to provide input on the draft strategic plans of all 13 departments in the Eastern Cape, a clear indication of the recognition by government officials of the usefulness of its outputs.

Since the request from the Provincial Treasury, the CSA has been approached by other departments for comment on their strategic plans. For example, at the same time that the SAHRC was considering the CSA complaint against the provincial Department of Health, the latter approached the PSAM to assess the second draft of its 2009/10 – 20011/12 Annual Performance Plan (APP), which we did. In its final APP, the Department expressed “sincere gratitude to PSAM and hopes the strategic engagement will continue to improve the development of the statutory planning documents of the Department”.

The fact that such approaches could be made at the same time that the CSA was involved in more confrontational social accountability suggests that it is possible to engage the government in cooperative attempts to strengthen social accountability whilst maintaining a genuine independence.

It also suggests the need to adopt a more nuanced approach towards working with the government. Politicians and government officials are not all the same. True, some are lazy, incompetent or corrupt (or all of these), but many are not. Many are committed to improving service delivery and strengthening accountable governance, and the CSA gears its cooperative engagement towards them. This is possible without compromising CSA’s independence or shedding more confrontational aspects of its advocacy. It also means however that the CSA must select its targets for confrontation in the media more carefully than in the past.

## TRAINING

Training in social accountability is an important aspect of the CSA’s work, and it has developed an 11-day Fundamentals of Social Accountability course accredited by Rhodes University. The course facilitates a sharing of experiences and of effective advocacy tools, including those being successfully implemented by the PSAM amongst regional civil society in Africa. The CSA further provides in-country support (through training workshops and mentoring) to organisations that adopt a rights-based approach to social accountability.

The CSA’s course began in August 2007 with 14 participants from four countries – Tanzania, Malawi, Kenya and South Africa. It has since been repeated three times, and has been well received. The CSA believes the course can play

a significant role in developing the capacity to strengthen social accountability in Southern Africa.

## CONCLUSION

This chapter has sought to provide an introduction to the CSA’s understanding of the right to social accountability and its importance to good governance as well as to its basic social accountability monitoring methodology. It has also suggested that strategies aimed at strengthening and institutionalising social accountability need to pay particular attention to their changing historical contexts, and to the development of the organisation itself. Through an outline of the CSA’s evolving strategies to strengthen social accountability, it was suggested that in the current South African context, it is necessary to ally evidence-based social accountability monitoring with mass-based demands for improved service delivery. It was further suggested that a strategy for strengthening social accountability can, and indeed should, entail both confrontational and cooperative relationships with the government, involving a broad range of activities and working relationships with the media, CSOs and Chapter Nine institutions, government-civil society bodies and the law. The exact permutations of any advocacy strategy are extraordinarily complex, and there is no set formula to determine them. Perhaps the only necessity is a consistent commitment to the right to social accountability.

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# Ensuring Social Accountability in Times of Political Crisis in Kenya

By *Cyprian Nyamwamu*<sup>1</sup>

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When Kenya came close to self-destruction after a disputed presidential election in 2007, politicians appeared unable to stem the tide of violence and anarchy that overwhelmed the country. This chapter describes civil society's united response to the crisis, their efforts in securing international mediation and in finding solutions to the crisis in the face of widespread ethnic cleansing, indiscriminate killing and an obdurate government.

## INTRODUCTION

On 30 December 2007, smouldering resentments arising from a controversial election campaign brought violence and mayhem almost immediately after Kenya's Chief Justice swore in Mwai Kibaki as President. National television was dominated by images of police officers battling to restore order. International television organisations zoomed in to capture live horrendous scenes of anarchy and violence.

Both President Kibaki, candidate of the Party of National Unity (PNU),<sup>2</sup> and his opponent, Raila Odinga of the Orange Democratic Movement (ODM)<sup>3</sup> claimed to have won the presidential election. However neither seemed to have the political clout to call a halt to what became a full-blown, ethnically laced civil war.

Within a week of the Electoral Commission of Kenya (ECK) declaring Kibaki the winner, acute food shortages occurred in almost every part of the country. Transport services were halted not only by gang and militia violence, but by pumps running dry at fuel stations. Critical services were halted.

<sup>1</sup> National Convention Executive Council, Nairobi, Kenya

<sup>2</sup> The Party of National Unity (PNU) was formed some ten weeks before the general elections in October 2007.

<sup>3</sup> The Orange Democratic Movement Party (ODM) was born out of the 2005 constitution referendum contest. It is noteworthy that both these formations were products of conflict and competition. Both parties were moulded by sentiments arising from a bitter fallout among leaders who shared power in government.

Kenya is a multi-ethnic society with a history of ethnically aligned voting blocs and ethnically motivated political violence. After the introduction of a multi-party political system in 1992, the contest between the PNU and ODM quickly developed ethnic overtones which threatened to become uncontrollable. The post-December 2007 violence arose, at first, because some citizens perceived that the PNU had stolen the vote in the presidential election. This was followed by what seemed to be carefully planned attacks by militias from ODM-aligned ethnic communities against ethnic communities perceived to be aligned to the PNU. By mid-January 2008 this had led to tit-for-tat retaliation.<sup>4</sup>

## THE CRISES

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In the countdown to this fourth multi-party election, opinion polls predicted a closely fought battle, with ODM’s Raila Odinga leading in all the polls by a 2% to 4% margin. On the morning of 28 December 2007 tensions began to build at the Kenyatta International Conference Centre (KICC), where votes were to be counted. The commissioner of police arrived and took over the ECK’s task of briefing the nation on live television on the election’s progress. He urged the losers to accept the outcome gracefully and the winners not to celebrate robustly. ODM agents, who believed the police favoured the PNU, protested that the police now appeared to be in control of the tallying process. The next morning the government banned all live transmissions on the election on television and radio. Accusations and counter-accusations flew. ECK officials were accused of ‘fattening’ the vote and manipulating computer data. A delay in declaring the result compounded suspicions. The unease spread from the national tallying centre to outlying villages. ODM supporters cried foul and talked of a plan to rig the election.

On the morning of 30 December, the ECK chairman, Samuel Kivuitu, appeared before cameras to announce that he had been unable to reach several of his election officials, even some in nearby polling areas. He feared that elections results were being ‘cooked’.<sup>5</sup> The ODM insisted that votes from PNU strongholds had been inflated to increase President Kibaki’s tally. It released its own figures, showing that Odinga had won.

By afternoon, tensions had reached fever pitch at the KICC. The Commissioner of Police ordered thousands of paramilitary officers to evacuate the tallying centre. Election observers, political party agents and the media were thrown out except for the state broadcaster, Kenya Broadcasting Corporation (KBC) TV channel. Eventually the state broadcaster announced that Mwai Kibaki had won the presidential election. Minutes later, he was sworn in. Within hours, about six towns including Nairobi city and Mombasa reported incidents of arson and by the morning of December 31, nearly 100 people had been shot dead by the police who seemed to believe they were dealing with an insurrection.

The contested presidential election results were merely the trigger. There had been many underlying issues and the New Partnership for Africa’s Development

<sup>4</sup> A more detailed analysis of the violence is to be found in the Waki report accessed at [www.dialoguekenya.org](http://www.dialoguekenya.org).

<sup>5</sup> Samuel Kivuitu, the then ECK chairman, made these statements live on all national TV stations on 29 December 2007 before live TV transmissions were banned by the state.



(Nepad) African Peer Review Mechanism (APRM) Country report on Kenya in 2006 had observed that “Without being selective or attempting to define priorities, there are areas of deficiency or shortcoming in the Kenyan systems that are of a recurring or cross-cutting nature. These more general problems, seemingly interlinked, may require a holistic, and perhaps more urgent approach because of the wider impact they have on the quality of governance in all areas of activity. These overarching issues are as follows: managing diversity in nation building, implementation gaps, poverty and wealth distribution, land, corruption, the constitution, gender inequality, youth unemployment, and transformative lack of leadership”.<sup>6</sup>

The report found out that Kenya had failed to manage its diversities, hence the ethnic exclusion and tensions; there were major disparities in income distribution that took ethnic and regional dimensions; and economic mismanagement had led to massive unemployment especially among the youth who were idle and despondent. The report also found that indeed the country lacked transformative leadership that could rally Kenyans to undertake major constitutional, institutional and administrative reforms that were much needed to transform the Kenyan state and make governance effective and efficient. Due to a combination of these factors, the Kenyan state had moved into a survival mode rather than focusing on delivering opportunity, security and human development.

However, these findings in the APRM report were all ignored by the government. On the contrary, the government dithered on the reform agenda. These issues having remained unresolved precipitated national resentment and rebellion against public institutions and institutions. With Orange Democratic Movement (ODM) politicians removed from the government in November 2006 and the National Rainbow Coalition (NARC) government seen to be controlled by President Kibaki’s loyalists, the 2007 election was billed as a battle for survival between the two sides.

Politically speaking, tensions in the country’s ruling NARC had been building since 2003, when Odinga’s Liberal Democratic Party (LDP) accused Kibaki’s National Alliance Party of Kenya (NAK) of short-changing it politically by not allocating cabinet and senior civil service and security sector appointments on a pre-election 50:50 basis. The divisions sharpened so much that by November 2005, when Kenya held an historic referendum, the NAK, with a banana as its emblem, supported a proposed new constitution and the LDP, with an orange as its emblem, teamed up with sections of former president Moi’s Kenya Africa National Union (Kanu) to reject it. The “No’s” won nearly 57% of the vote.

Post-election violence took near-genocide proportions. The whole of East Africa and the eastern part of the Democratic Republic of Congo (DRC) felt the impact of the breakdown in law and order. Uganda, Rwanda and Burundi – countries that depended on Kenya for essential imports and who relied on Kenya as their transport port for imports – suffered major disruption in the economic sectors. Within a week, more than half a million people were displaced. Businesses were destroyed, farm produce and livestock wiped out, villages reduced to ashes, and national roads made impassable.

<sup>6</sup> See “Overarching issues of Kenya’s governance” in the Nepad-APRM Country review report, May 2006, p. 240, accessed at <http://www.nepad.org/2005/files/aprm/APRMKenya-report.pdf>.

A series of crises on every front engulfed the country and worsened when the PNU brushed aside civil society organisations’ calls for a negotiated political settlement to accommodate the ODM. Displaced people faced a humanitarian disaster. Towns and cities ran out of essential commodities. Human rights activists found themselves threatened by state and informal agents for being neutral and calling for international mediation. Kenyan hospitals could not cope with the injured.

When the ODM rejected a PNU suggestion that it challenge Kibaki’s appointment in court, no constitutional mechanism seemed available to resolve the dispute. The crisis became even more complicated when the ECK chairman, who had declared President Kibaki the winner, repudiated the election results days later. When he said he had been pressurised by PNU officials and confessed that he did not know who had won the election, Kibaki’s right to hold power was undermined.

A total of 1 333 Kenyans were killed in the post-election mayhem. More than 4 000 women, girls and boys were reported raped, defiled or sexually violated. Once again women paid the highest price for a situation over which they had little influence.<sup>7</sup> The government estimated that the economy had lost nearly \$2 billion in the first month of the chaos alone. Many believed this to be a gross underestimate. Property destroyed and business revenues lost ran into billions of dollars, and almost a million jobs were destroyed, primarily in agriculture and tourism, which all but shut down.

## PAVING THE WAY FOR A NEGOTIATED SETTLEMENT

When it became clear that the country was on the brink of disaster and the PNU was unbending, civil society kick-started a campaign for international mediation. At their invitation, former presidents of African countries – including Kenneth Kaunda of Zambia, Ketumile Masire of Botswana and Benjamin Mkapa of Tanzania – arrived to help. The ODM endorsed the initiative but the PNU dismissed the visitors, including Nobel Peace Prize winner Desmond Tutu, as “tourists who had come to town to have a cup of tea”.<sup>8</sup>

Ghanaian President and Chairman of the African Union (AU) John Kufuor broke the deadlock. He appointed a panel of eminent Africans headed by former United Nations (UN) secretary-general Kofi Annan to lead the mediation. Annan was joined by Graça Machel and Benjamin Mkapa.<sup>9</sup> They worked tirelessly for nearly a month to persuade the parties to agree to a political settlement based on a power-sharing agreement that would leave Kibaki as president, and make Odinga prime minister.

On 28 February 2008 – two months after the violence had been unleashed – a National Accord was signed and violence began to subside.

A civil society coalition was created, comprising four broad formations. An umbrella body named the National Civil Society Congress (NCSC) created earlier in 2005 to harmonise civil society affairs in Kenya offered political

<sup>7</sup> See a detailed analysis in the report of the Centre for Rights, Education and Awareness (CREAW) titled *Women Paid The Price* accessed at [www.creaw.org](http://www.creaw.org).

<sup>8</sup> *The Standard Newspaper*, 15 January 2008, seen at <http://allafrica.com/stories/200801141777.html>.

<sup>9</sup> Graça Machel is the wife of former South African president Nelson Mandela and on Nepad-APRM’s Steering Committee while Benjamin Mkapa is former Tanzanian President (1995-2005).

input, leaving three other groups to deal with other aspects. These groups were Kenyans for Peace with Truth and Justice (KPTJ), Vital Voices, and the Humanitarian Coalition that was spearheaded by two non-governmental organisations (NGOs) – the Peace-net and the African Peace Forum. These formations had already been in existence except for the KPTJ that was specifically formed in response to the crises mainly to bring together human rights non-governmental organisations (NGOs), the state agency, Kenya National Commission on Human Rights (KNCHR), and professionals volunteering their skills to resolve the crisis.

The KPTJ, mainly directed from the African Centre for Open Governance (Africog), and the Kenya Human Rights Commission (KHRC), in the main, played a technical and evidence-based advocacy role to underline the need for electoral truth and accountability. They consisted of skilled professionals from leading civil society organisations and others acting in an individual capacity. Together they created a powerful and credible platform to demand accountability and truthfulness in governance.

Vital Voices was an organisation which argued that because the violence affected women and children more severely, women's voices needed to be heard above others in the mediation process. Led by the Federation of Women Lawyers (FIDA Kenya), the Centre for Multiparty Democracy (CMD-Kenya) and other women leaders including Abida Ali-Aron, Pamela Mburia, Judy Thongori and Njeri Kabeberi, Vital Voices played a significant role in leveraging women's demands and encouraging the panel of eminent Africans to carry on in the face of hostility from PNU and ODM protagonists.

The Humanitarian Coalition gathered and disseminated information from all over the country on the situation on the ground, analysing what could be done to minimise fatalities, injuries and property damage. Peace-net and the Nairobi Peace Initiative (NPI), led by Ambassador Bethuel Kiplagat, had been working on conflict prevention and had tried to anticipate possible consequences arising from the presidential election.

## THE NATIONAL CIVIL SOCIETY CONGRESS

The NCSC was established in 2005 and was composed of civil society organisations (CSOs) working in various fields. The post-election violence pushed it into top gear. Its eight executive directors, representing eight CSOs, offered strong leadership that galvanised it into action. They created seven working groups in early January 2008 as the crisis worsened. They were:

1. **The mediation and political negotiations team:** This team was led by Njeri Kabeberi (CMD-Kenya), Cyprian Nyamwamu (National Convention Executive Council – NCEC), Shem Ochola (Action Aid), Kepta Ombati (Youth Agenda), Philo Ikonya (PEN International) and Ann Njogu (Centre for Rights Education and Awareness – CREAM). It helped the KPTJ to launch an international campaign for an independent mediation mission. It also engaged with Kofi Annan's mediation panel and, subsequently, the dialogue and reconciliation committee. It kept in daily contact with the mediators and the political leadership of the ODM and PNU.

2. **The technical and research team** led by Paddy Onyango, Cyprian Nyamwamu, Harun Ndubi (Haki Focus), Peter Kariuki (Social Economic Rights Foundation – SRF) and Wanyiri Kihoro among others, the technical team operated from the NCEC, and the Citizens Coalition for Constitutional Culture (CCCC). It was tasked with generating daily technical articles designed to help the mediation and negotiation process. It worked hard to bolster the technical firepower of the NCSC. The Congress generated four initial documents that were presented to the Kofi Annan Panel of Eminent Africans and later to the Kenya National Dialogue and Reconciliation (KNDR) Committee. These documents included *The National Civil Society Congress Position on Resolving the Political and Constitutional Crisis*, *The Root Causes of the Constitutional and Political Crises Kenya is Faced With: An Analytical Perspective*, *The Constitutional Strategy and Options for Overcoming the Crisis: the Civil Society of Proposal*, and *Steps towards a Transitional Government and an Interim Constitution for Kenya: The National Civil Society Congress Proposal*. The KNDR Committee benefitted immensely from the technical input from the NCSC among other civil society initiatives. The agenda and resolutions of the Dialogue Committee reflected the wishes of the civil society formations, particularly the input from the NCSC.<sup>10</sup>
3. **The outreach and mobilisation team:** The outreach team was headed by Sam Ongoro, Mugure Gituto, Washington Makodingo and Hilda Obyerodhyambo. They put in place a mechanism for data collection and resource sharing amongst CSOs. The team worked with religious and political leaders and created a network for support to Kenyans in danger, and this proved crucial in helping citizens and activists particularly to cope with real threats on the ground and to contribute more effectively to prevent the total implosion of the nation. Countrywide participation was important for legitimacy of civic society initiatives.
4. **The media and communications group.** The team was led by Shiku Gikonyo, Jeff Birundu and Ndung’u Wainaina. The team performed a vital service by keeping internal and external audiences updated on what the NCSC was doing. It updated the media, sometimes twice a day, on developments in the congress and on the KNDR Committee.
5. **The self-defence and welfare unit:** The team was headed by the KHRC and the National Commission on Human Rights (NCHR). Operating under wraps, it played a significant role when, two or three weeks into the crisis, the NCSC learnt that activists were being targeted for murder by state and informal groups allied to the PNU. Police and militias involved in the killings and rights violations wanted to silence whistle-blowers. This unit helped to ship more than 100 activists to safety in and outside Kenya.
6. **The networking and alliance-building group:** The team headed by Cyprian Nyamwamu and Ann Njogu reached out to trade unions, private and business sector leaders, the religious fraternity, political parties and civil society formations, promoting a common understanding of what needed to be done by non-state actors.
7. **The coordination working committee:** This included representatives from each of the other working groups and it met every morning to assess the situation and instruct each working group on priorities for the day.

<sup>10</sup> The Communiqués of the KNDR Committee can be accessed at [www.dialoguekenya.org](http://www.dialoguekenya.org).

Overall strategy entailed five actions:

- Defining a clear and practical agenda to resolve six crises – humanitarian, security, human rights, constitutional, political and economic;
- Standardising information and presenting it to the Kofi Annan Panel from four different sources – the NCSC, KPTJ, Vital Voices and the Humanitarian Coalition;
- Offering current and authoritative scenarios and proposals on how to resolve the political deadlock;
- Persuading the ODM and PNU to accept centre-line issues and national interest principles in the negotiations; and
- Building a huge and persistent ‘voice of the people’ outside the negotiating room to echo the message the civil society coalition was sending to the negotiators. This was very important in establishing the legitimacy of civil society demands.

The NCSC and other civil society formations that were on the frontline to save the nation from implosion and the path of conflict outlined clear objectives that formed the rationale for intervening in the mediation process. These objectives were identified in a document presented to the Kofi Annan Panel. They were:

- An interim constitution be passed by the Kenyan Parliament to offer a foundation for resolving the political and constitutional crisis;
- A transitional government be formed bringing together the two parties in the post-election conflict, namely PMU and ODM. The transitional government, it was strongly proposed, should be led by a cabinet of not more than 24 ministers;
- A criminal justice mechanism to deal with crimes committed in the elections be established;
- A truth, justice and reconciliation process be established;
- An economic stimulus plan to help recovery and reconstruction be put in place;
- Sustained reforms to governance structures and institutions be planned for and implemented; and
- A fresh election be carried out in two years.

These objectives became the prominent social accountability issues.

The civil society coalition chose to engage with the mediation process through broad formations rather than through a monolithic platform to give room for manoeuvre and to emphasise the urgency and weight of the issues before the Kofi Annan Panel. In addition, it recognised that many Kenyans did not want to be placed in an organisational straitjacket. Flexible platforms like the KPTJ enabled individuals with specialised skills to offer specific input as and when they wanted to. The result was that the best ideas in the nation were harvested to fix the crisis.

Similarly, structures were designed to attract greater resources and talents from the entire global community. This proved effective in the delicate situation. Here the leadership provided by the CSO directors in the NCSC was indeed crucial. They knew that a democratic process was necessary, but the context was dangerous and needed a strategic mode of operation. Nevertheless, their structures provided enough space for consultations, and enabled them to take on board the talents and strengths of other leaders as they emerged.

## FACTORS THAT MADE THE CIVIL SOCIETY COALITION STRATEGY SUCCEED

### Key point 1: Establish a track record.

The civil society coalition found itself in a strong position to engage because it had intervened on the side of democracy before the December 2007 general elections. Together with religious organisations, it had established the Kenya Domestic Observation Forum (KEDOF) to observe the election. Experience gave it credibility in commenting on the controversial presidential election.

Given that polls had indicated a close-fought race, KEDOF anticipated that the presidential election might well become controversial. By carrying out scenario analysis beforehand, it was empowered to intervene as a credible actor. Unfortunately, while its scenarios were shared with other organisations, they were not widely shared with the public through the media.

### Key point 2: Do not plunge before you are understood: principles and objectives of intervention.

By outlining its principles of engagement, national civil society in effect outlined its mandate from the public and enabled the people of Kenya to better understand its role.<sup>11</sup> Simply declaring its principles was not enough. In the end, what helped most was to have a thorough conversation with the media. This enabled the media to legitimise the role of civil society in the mediation process.

### Key point 3: Be professional.

Civil society formations operated with a key point in mind: showing concern was necessary, but remaining professional was more important in a volatile political situation. Leadership had to keep a cool head. All four civil society formations remained highly professional and engaged the negotiations process with authority, backed with facts and relying on the framework of international principles.

They relied on international and national reports on Kenya’s governance, such as the 2006 APRM report which had been ignored by the government, and on international covenants and protocols signed by Kenya. These included the AU post-conflict reconstruction policy which specifically supported full participation by women and civil society in post-conflict reconstruction.

By anchoring themselves thus, civil society gained credibility and leverage in the negotiations, more so because the panel itself was established on the basis of international instruments, particularly the AU democracy and good governance protocols and statutes.

### Key point 4: Focus on the problem.

Civil society gained respect because it stayed focused on the problem. PNU and ODM protagonists had wanted to veer off and argue over who had won or lost the election and what had been rigged. But the civil society coalition insisted

<sup>11</sup> The principles included the inviolability of human rights, accountability and truth, justice, tolerance and unity in diversity (co-existence) and gender justice. These principles ensured the CSOs worked with unity of purpose. The principles promoted greater understanding and gave direction to the movement to save the nation in agreed-upon ways.

that the important thing was to resolve the crisis and stop the senseless loss of lives.

**Key point 5: Consolidate clout and show muscle.**

While it was important to consolidate political and strategic clout, civil society avoided the trap of seeming to vie with the political parties for a seat at the negotiation table. By being concerned but non-partisan, it gained credibility and trust from all parties.

Nevertheless, it did not hesitate to inform the parties that, if they did not act in the greater interest of the nation, then it was willing to step in to save the country from collapse. It set up forums around the country to ensure that community leaders spoke with one voice, reinforcing the message. Consolidating clout was the main role of the NCSC. Meanwhile, the KPTJ exercised massive diplomatic and legal clout abroad and in the law courts, informing the attorney-general that it was willing to sue electoral commission officials for bungling their job and causing the death of thousands. Civil society thus demonstrated that it was ready to apply all necessary sanctions to ensure the negotiations succeeded.

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**Key point 6: Do not act alone.**

Civil society did not act alone; it worked always with the Kenya Private Sector Alliance (KEPSA) and the churches' coalition. It consulted fully with the leadership of the Central Organisation of Trade Unions (COTU). It realised that acting on its own could drive a wedge between it and through social and business interests, decimating its own clout, causing more damage to the economy and endangering more lives.

**Key point 7: Do not claim credit.**

Civil leadership was closest to the mediation panel but resisted the temptation to claim credit for its progress. Kofi Annan, Graça Machel and Benjamin Mkapa drew inspiration and strength from regular meetings with civil society leaders, who required no public recognition. As a result, the mediation process appeared to be anchored around the negotiating table and its progress to be emerging from the ranks of the negotiators. If civil society leaders had claimed credit, the panellists might have seen them as actors with an agenda and been more reluctant to accept their involvement.

**Key point 8: Document your story.**

Civil society actors knew that, without taking credit, they needed to document their role for historic reasons, to share and learn from each other's experiences and use these documented stories and experiences to strengthen their negotiating power in the mediation processes. All members of the coalition – including the NCSC, KPTJ, Vital Voices and the Humanitarian Coalition – kept extensive records and published weekly website reports to keep members up to date on their work.

Peace-net gave extensive coverage to the successes and challenges experienced by humanitarian and peace-building initiatives. The KPTJ contracted the Media Analysis and Research Services (MARS) Group to document all the television

footage on the political developments. Later, KPTJ published three newsletters giving facts and figures relating to the mediation process.

**Key point 9: Have a monitoring mechanism.**

The KPTJ applied its abundant technical resources to monitor and record the work of the dialogue and reconciliation committee from its first formal meeting. Daily and weekly reports proved vital in measuring the committee’s ability to assess proposals from various channels. This work helped persuade Kofi Annan’s dialogue committee to publicise all agreements reached. Publication in the mass media, in turn, gave civil society the latitude to exert even more influence on the committee’s decisions.

**Key point 10: Get the international community on your side.**

The international community, in the end, played a strategic role in ensuring a successful outcome to mediation. Interestingly, it was inspired in part by the strength, commitment and professionalism of Kenyans themselves in working to return their country to peace. Without the timely intervention of the AU, the EU and the United States (US) government, the mediation would not have been secured. Civil society opened dialogue with the diplomatic corps in Nairobi and sent delegations to Addis Ababa, Brussels, London, New York and Washington. These delegations got the international community fully engaged. The material and strategic resources offered softened the targets at the negotiating table. Without this campaign to clarify options acceptable to Kenyans, little progress would have been made.

**Key Point 11: Innovative technologies and the mass media make for campaign success.**

Civil society initiatives relied heavily on information technology for worldwide communication. Emails and other communication systems enabled meetings to be convened and decisions to be communicated quickly. Mobile phones and short text messaging proved handy in consolidating civil society platforms. As much as the SMS played a part in spreading hate messages between ethnic communities, it proved powerful in bringing together people of goodwill.

Similarly, civil society quickly joined forces with the mass media to harmonise and popularise messages of peace. The media in Kenya were vibrant and penetrating, unlike in countries such as Zimbabwe. The government banned live coverage of post-election repercussions, but in the end this had little effect. Without international media broadcasting to the world on the situation unraveling in Kenya, perhaps the world would not have responded so promptly.

## **CHALLENGES AND THREATS FACED BY THE CIVIL SOCIETY COALITION**

Establishing a working understanding with political parties proved a major challenge for Kenyan CSOs. Political parties accused civil society of being partisan in the contest between ODM and PNU in the 2007 elections. They were also



reluctant to accept interventions from outside party structures. This lack of trust delayed the building of consensus on what needed to be done.

Similarly, it proved difficult to secure credible international mediators who could get participants to agree on negotiating terms. Civil society, the ODM and President John Kufuor of Ghana deserve credit for steadfastly insisting on neutral mediation. This was not easy as tested mediators like Cyril Ramaphosa of South Africa were rejected by the PNU, which accused him of being a business associate of the ODM's Raila Odinga.

One indefinable threat loomed over those who sought national reconciliation: the threat of death. Human rights defenders and other activists often had to go into hiding to avoid being killed by partisan policemen or agents of informal militia aligned to the PNU or ODM. The names of dozens of rights activists were widely circulated on the internet and distributed near their homes to intimidate them. The threats seemed ever-present right up to the time that the national accord was signed on 28 February 2008.

In addition, broken communication networks, damaged roads and neglected infrastructure posed real challenges. Up-country CSOs had to operate in near unbearable circumstances. Finance was short or non-existent. Strong leadership and close consultation ensured that civil society meetings were well organised and structured, minimising conflicts and misunderstanding.

## THE IMPACT OF CIVIL SOCIETY INTERVENTIONS

Kenyan civil society emerged from the crisis united, stronger and more credible. Kofi Annan spoke many times of the bigger challenge to all citizens: to ensure the national accord agreement was implemented. In a meeting with the NCSC, Annan noted with deep concern that “the political leadership’s mindset has not changed and this requires that you as civil society organisations work with Kenyans to protect the country from relapsing into chaos”. Graça Machel acknowledged the role played by civil society, the media and particularly the women of Kenya in shaping the outcome. And she noted that civil society’s presentation of the APRM’s report on Kenya helped the mediators ground their work in research. Kenya’s youth, meanwhile, ensured that the national accord emphasised that youth unemployment was a major cause of post-election chaos.

When Kenya’s new coalition government created the largest cabinet ever, the civil society congress and KPTJ demanded through memorandums to the president and the prime minister that the cabinet be lean, not exceeding 24 ministries. The two principals ignored this strong public demand. The NCSC and the KPTJ urged President Kibaki and Prime Minister Odinga not to swear in the ministers in the public square at Uhuru Park. They refused at first and then moved the event to State House. It was a remarkable demonstration both of the weakness of the coalition at the time, but also of the influence of citizens and civil society over government.

Finally, civil society succeeded in getting a commission of inquiry into the post-election violence and into the election itself. Then it mobilised to ensure that the Waki and Kriegler Commissions received the benefit of its input – and the input of ordinary citizens. Both commissions acknowledged the central

role played by Kenya’s civil society in democratising the country and enforcing accountability for human rights abuses. This key strategy helped to break the back of government impunity.

## CONCLUSION

Social accountability is a concept that the rulers of most African countries, Kenya topping that list, dislike strongly. The principle of accountability in governance processes remains tentative. The Kenyan example where non-state actors played a major role to ensure that international agreements were respected in resolving the national political crisis offers two lessons. Firstly, accountability requires a strong public voice and strong accountable institutions and rules. Secondly, the international community is important in promoting accountability.

Therefore, deepening democracy relies heavily on the work of all pro-democracy forces towards transforming the democratic institutions of governance (judiciary, parliament, the executive, political parties, electoral bodies and local government agencies) to make these agencies more responsive to the needs of the people. This can only be achieved through constitutional, legal and institutional reforms that are carried out through open, consultative and inclusive processes. Such reforms shall succeed when the elite of African countries unite around central issues of reforms that secure the interests of all political forces and stakeholders. If only executed as a class project spearheaded by the executive and rubber-stamped by the legislature these processes shall fail.

Political parties and CSOs of African countries now more than ever before have a truly historic mission to lead the processes of building the broadest alliances aimed at forming national democratic projects. Political parties and CSOs must not cede this role to legislatures or Members of Parliament because most of them are captured by the executive, prone to political corruption and lack intellectual commitment to facilitate state transformation. Political parties must work closely with CSOs, trade unions, religious leadership and the private sector agencies in the consolidation of the democratic agenda and the execution of the state transformation task, whose aim must faithfully remain to deepen the people’s voice and enhance accountability in the governance processes of the country.

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# Using the Media to Advance Social Accountability in Uganda

By *Juliet Nakato Odoi*<sup>1</sup>

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Many civil society organisations (CSOs) recognise the importance of the media in their advocacy work and often invest in different forms of media activities. Effective use of the media is vital for effective social accountability work but this often provides challenges for CSOs. However, several organisations have managed to utilise the media effectively and achieve results in their social accountability work. Drawing on interviews with key CSO and media actors, this chapter looks at the way different CSOs have worked with the media as key stakeholders to achieve significant progress in their social accountability work.

## THE UGANDAN CONTEXT

Uganda's Country Self Assessment Report (CSAR), drafted during the African Peer Review Mechanism (APRM)<sup>2</sup> process provides a good indication of the problems that face Uganda. The report also hints at the frustrations felt by Ugandans as a result of the growing inequality within and across regions. The inequalities of income and basic social services such as health care and education are evident. High levels of impoverishment among groups such as unemployed youth, minorities, orphans and vulnerable children are a serious cause for concern.<sup>3</sup>

The report stresses the importance of effective policy implementation and corruption as critical challenges to Uganda's development.<sup>4</sup> A civil society submission to the APRM in Uganda notes that as a consequence of corruption,

<sup>1</sup> Agency for Cooperation and Research in Development (ACORD), Kampala, Uganda

<sup>2</sup> For more on the African Peer Review Mechanism, see Chapter 4.

<sup>3</sup> Panel of Eminent Persons, African Peer Review Mechanism, Country Review Report of the Republic of Uganda, January 2009, Para 625, p. 158.

<sup>4</sup> *Op. cit.*

fewer resources are available for poverty reduction activities. The report adds that if this state of affairs persists, Uganda is unlikely to meet the Millennium Development Goals (MDGs).

Uganda has an elaborate legal and institutional framework to promote government accountability and improve governance. Some of the legislation in place includes the Constitution of the Republic of Uganda, 1995; the Leadership Code Act, 2002; the Whistle Blower Act, 2006; the Public Procurement and Disposal of Public Assets (PPDA) Act, 2003; and the Access to Information Act, 2005. There are also several institutions that the government has put in place to promote transparency and accountability in the implementation of government policies and programmes. These include the Public Accounts Committee, Local Government Accounts Committee, the Office of the Auditor-General (AG), the Accountant General's Office, the Office of the Inspector General of Government (IGG), the Directorate of Public Prosecution and the Criminal Investigation Department (CID) of the police.

In spite of all these laws, policies and institutions, general performance by the government and perceptions of the public continue on a downward spiral. Public perception of corruption is high with the police being singled out as the most corrupt institution and the Uganda Revenue Authority following at a close second.<sup>5</sup> Frustrated with the lack of progress in fighting corruption and poor service delivery, CSOs are beginning to develop social accountability programmes in a bid to mobilise citizens to push for change.

The time is ideal as communities are increasingly losing patience and taking matters into their own hands, making a bad situation worse. On 21 August 2009, a group of villagers rioted following the death of Sylvia Nalubowa who died at Mityana Hospital after being left unattended for seven hours although she was experiencing complications during childbirth. The villagers – who attempted to lynch the health workers – accused them of always demanding bribes and being negligent in their work. The police provided protection to the health workers and eventually calmed the irate crowd.<sup>6</sup> The actions of the villagers point to the increasing frustration felt among citizens about the poor services they receive or, in some cases, the total lack of services.

## WHY THE MEDIA MATTERS

It is widely accepted that Uganda has a strong legal and institutional framework that should ideally be able to address most of its development concerns. This 'supply side' of accountability, however, has not been sufficient on its own to create change because in actual practice the government shows little accountability to citizens. Several initiatives are currently in place which also seek to increase donors' and development partners' accountability to their intended beneficiaries. Increasingly, there are calls for strengthening the 'demand side' of accountability, which involves citizens and civil society demanding account-

<sup>5</sup> Uganda NGO Forum, Country Self Assessment: The Way We See Ourselves. A Civil Society Submission for the Africa Peer Review for Uganda. August, 2007.

<sup>6</sup> "Rioters attack Mityana Hospital", *New Vision*, 21 August 2009.

ability through forms of civic engagement, such as advocacy and monitoring of government programmes.<sup>7</sup>

Social accountability experts note that while there are many examples of citizens using budgets and other information to expose corruption, these efforts depend on increased “hunger for such information from citizens and from those such as the media – who inform them”.<sup>8</sup> Much of that information is available in forms that people, who are often time and resource poor, cannot easily understand, interpret or use.

While the media are “a fundamental component of the democratic architecture of the societies they work in”,<sup>9</sup> they face many capacity constraints in terms of funds, opportunities for advancement, censorship and access to information. Through informed critique and investigations, an independent and well-informed media can play an important role in advancing civil society’s demands for greater accountability by government. This chapter highlights a number of partnerships which have formed between civil society and the media on recent issues of public concern. These relationships did not merely advance a particular agenda but by working together, they widened the space available for both sectors in Uganda.

## THE OPERATING ENVIRONMENT OF THE UGANDAN MEDIA

While freedom of expression and the right to access information are enshrined in the 1995 Constitution and media-centred laws in place, several challenges affect the full enjoyment of the freedom of expression and the media. The APRM CSAR notes that the Press and Journalist Statute (1995) provides for issuing annual licences and practice certificates to journalists, with a penalty of 300 000 Uganda Shillings or imprisonment for failure to comply.<sup>10</sup> The powers granted to the Minister of Information to “ban publications in public interest” under sections 36 to 46 of the Press and Journalist Statute (1995) can be abused and thus limit press freedom.

### OVERVIEW OF FEATURED ORGANISATIONS

**Agency for Cooperation and Research in Development (ACORD).** ACORD links citizens and their organisations at grass-roots level to national, sub-regional, pan-African and global issues and actions in an effort to help marginalised people reclaim their rights. ACORD particularly seeks to facilitate their participation in Africa-led social movements to bring about social justice and rights-based development.

**Advocates Coalition for Development and Environment (ACODE).** ACODE is an independent public policy research and advocacy think-tank that seeks to

<sup>7</sup> World Bank, *Uganda: Policy Note on Social Accountability*, March 2008.

<sup>8</sup> Dean, J. *Accountability, Media and the Development System: A Complicated Romance*, The Drumbeat, accessed at <http://www.cominit.com/en/node/289977/bbc> (1 July 2009).

<sup>9</sup> *Op cit.*

<sup>10</sup> Panel of Eminent Persons, *African Peer Review Mechanism, Country Review Report of the Republic of Uganda*, January 2009, Para 625, p. 158.

influence development and governance policies for the promotion of social justice in Eastern Africa through independent policy research and advocacy. The organisation helps governments expand their range of policy options for dealing with challenging and controversial public policy issues. Through research the organisation contributes to policy debate, confronting and challenging controversial public policy problems. The organisation contributes to the formulation of policies that support sustainable development through advocacy, enhancing livelihood and income options for poor people and empowering communities to demand for justice.

**Centre for Domestic Violence Prevention (CEDOVIP).** CEDOVIP focuses on violence against women and works closely with the media to influence attitudes and perceptions that perpetuate violence against women, knowing that without this, policy and legislation alone cannot achieve much.

**Raising Voices.** Raising Voices is an organisation that tackles issues of domestic violence against children and women. The organisation uses mainstream print and electronic media to get its message across to the public and policy-makers. While the staff started out writing a weekly column, a survey by the organisation showed that people often read headlines and not the story details. This influenced them to switch methods and use serialised cartoons to get their message about preventing violence against children across to the public.

**Uganda Debt Network (UDN).** UDN is an organisation that was originally formed to campaign for debt relief. After a successful debt relief campaign which led to Uganda becoming the first country to benefit from the Highly Indebted Poor Countries (HIPC) Initiative in Africa, the organisation moved on to undertake activities that challenge the underlying causes of the debt burden. Among these activities are tracking budget spending and carrying out value-for-money audits at local and national level.

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Gerald Tenywa, a senior reporter with the *New Vision*, notes that the mandate of these organisations is to protect the public good and give a voice to the voiceless, much like civil society. However, media houses need to make money, mainly through selling advertisement space and copies. James Serugo of *The Monitor* also notes that there are many inexperienced journalists whose lack of professionalism leads to stories that lack critical information or are filled with distorted messages. Even if “a more professional approach to investigative journalism can serve both objectives of altruism and making profits”,<sup>11</sup> few journalists have the resources to secure the necessary training.

## CIVIL SOCIETY ORGANISATIONS’ (CSO) WORKING ENVIRONMENT

A study of civil society in Uganda conducted by Development Network for Indigenous Voluntary Association (DENIVA) indicates that civil society appears

<sup>11</sup> World Bank, *op cit.*

fragmented, uncoordinated and distant from the ordinary people as accountability to the donors takes precedence over accountability to the local population.<sup>12</sup>

In addition, CSOs lament attempts by the government to close the space for civil society’s engagement in development processes through restrictive policies and laws such as the NGO Amendment Act (2006). In April 2009, CSOs petitioned the Ugandan Constitutional Court demanding that the NGO Amendment Act 2006 be declared unconstitutional.<sup>13</sup> Some of the issues that CSOs objected to include mandatory registration impediments and monitoring by security bodies, which they believe would prevent them from carrying out their activities effectively.

It is evident that both the media and civil society work in a less than ideal environment. CSOs and the media also have very different underlying objectives and motivations, which can cause confusion, miscommunication and even hostility between these two important sectors. However, there are decided benefits to working together. And as the case studies below illustrate, the media can prove a potent ally.

## BUILDING RELATIONSHIPS WITH THE MEDIA

The best engagement with the media is deliberate and planned, not ad hoc. Usually, most CSOs decide to work with the media if there is a need to sensitise the public or generate public debate on a critical issue in a short period of time. Clearly, working with the media is more cost-effective in reaching a wider number of people compared to many other methods (such as meetings). However, every method has challenges as well. Few organisations take the time to understand the perspective of the media, to present the stories in compelling ways backed up by proper research.

### **Understand the media’s interests.**

Mukokotani Ruyendo, Senior Advocacy and Communications Officer at UDN emphasised his organisation aims to achieve good results without spending excessively. Topical and intense issues such as misuse of public resources tend to attract the media. Ruyendo, who worked in the media before working at UDN, adds that editors use these criteria for deciding which stories to run. Similarly, the Communications Officer at UDN, notes that corruption, a key issue for UDN, is of great national concern and usually attracts media interest.<sup>14</sup>

<sup>12</sup> DENIVA “Civil Society in Uganda: At the Crossroads?” June 2006. Cited in [http://www.civicus.org/new/media/CSI\\_Uganda\\_Executive\\_Summary.pdf](http://www.civicus.org/new/media/CSI_Uganda_Executive_Summary.pdf), 7th September 2009.

<sup>13</sup> The petitioners for CSOs Constitutional petition No 5 of 2009 include Human Rights Network, Anti Corruption Coalition–Uganda, Advocates Coalition for Development Environment, Development Network for Indigenous Voluntary Association (DENIVA), NGO Forum, Uganda Women Network, Uganda Land Alliance and Environmental Alert.

<sup>14</sup> Interview with the Uganda Debt Network Communications Officer, Kampala, 3 June 2009.



## UGANDA DEBT NETWORK CAMPAIGN AGAINST TEN MILLION-SHILLING CONSTITUENT DEVELOPMENT FUND FOR MEMBERS OF PARLIAMENT

Uganda Debt Network (UDN) launched a campaign to mobilise public opinion against the Constituent Development Fund (CDF) of ten million Uganda shillings given to Members of Parliament (MPs). The CDF was based on a pledge by President Museveni to relieve MPs of the pressures of their constituents who expected them to contribute to development projects. A proposal for the creation of a CDF was adopted by the 7<sup>th</sup> Parliament on 9 September 2005 in a plenary session. The funds were meant to be used for activities that directly increased household incomes and productivity, interventions that trigger rapid rural transformation and economic development, and agro-processing and marketing of produce in the respective constituencies.

UDN argued that the way the CDF was being handled was neither transparent nor accountable. There was no law to govern its operation to ensure prudent utilisation and there was gross abuse by MPs, 73% of whom could not point out precise projects on which the money had been spent (UDN 2007). Members of the public were generally unaware of the existence of the CDF. Worse still, CDF funds were being deposited directly into individual accounts of MPs and not into district accounts.

UDN called for the creation of clear accountability and auditing procedures overseen by the Clerk to Parliament and the AG respectively. The organisation also called for greater publicity of the CDF and increased participation of the citizens in the planning and utilisation of the funds.

Following sustained media coverage of the issue and clear public displeasure over the way MPs were using the CDF, the government scrapped the CDF citing lack of proper guidelines for accountability.

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### Make your research understandable, reliable and relevant.

Mbazira also suggests that CSOs need to present information in a simple, easy-to-use format that is helpful to journalists who are not specialists in that issue. Information to the media should be obtained from various sources (including governmental reports), not just one organisational document, to ensure credibility and to hold their interest. Ruyendo notes that the quality research of UDN speaks for itself and has attracted local and international reporters who often contact the organisation for information on corruption reports.

### Save Mabira Crusade

On 8 August 2006 *New Vision* published an article saying that the government of Uganda planned to de-gazette Mabira Forest (7 100 hectares) and give it to the Sugar Corporation of Uganda Limited (SCOUL). This action contravened the Constitution of the Republic of Uganda, the National Land Act (Cap 227 Laws of Uganda) and the National Forestry and Tree Planting Act, 2003.

In April 2007 key stakeholders including members of civil society, cultural and religious leaders and MPs began to protest against the government's actions. This developed into the *Save Mabira Crusade* where the media played a key role. ACODE and partners took several actions which included:

- Using radio, television and newspapers to provide information to the public;
- Sending out SMSs and emails to the public calling for a boycott SCOUT sugar products;
- Filing a petition in the High Court on the Mabira and Butamira Forest give-aways by the government (ACODE, Greenwatch and other environmental activists); and
- Circulating flyers, banners and car stickers with messages calling on the public to save Mabira Forest (printed in English and Luganda).

In mid-April 2007, the group secured official permission to host a mass protest by concerned citizens and environmental activists. On the day of the rally, things turned ugly. Police sprayed teargas and water into the crowd. The ensuing chaos left three dead and several injured. Soon after, the government decided to abandon its plans to de-gazette Mabira Forest. Due to its status as a symbol of national pride, the Mabira cause attracted intense media coverage from both local and foreign media.

Gerald Tenywa, a *New Vision* staff reporter with an educational background in environmental issues, echoes this view and notes that the Mabira crusade was only a part of research that had started years before. He notes that the process started out with research by journalists on unclear investment concessions to investors in protected areas by the government of Uganda. Government’s actions in giving away Butamira Forest Reserve to Kakira Sugar Works Limited were also highlighted in the media, following research by ACODE.<sup>15</sup>

He adds that the Butamira concession sparked off further research on forest governance with organisations like ACODE providing information through research. Information was exchanged between the media and CSOs, and with the public through newspapers and other media. As Tenywa notes, each story covered provided journalists with additional opportunities for learning, including much-needed information on the relevant laws and the extent to which they were observed.

ACORD has also worked effectively with the media to sensitise the public – and public officials – against stigmatising and discriminating against people living with HIV/AIDS (PLWHAs). Wilfred Opobo, Director of Programmes at ACORD Uganda, notes that to handle such key development issues the organisation cultivated amicable relations with the media by clarifying the partnerships and managing expectations from the onset. ACORD was honest about what it had to offer to the media and what help it required from them in the campaign.

### **DISTRICT LEADERS CAUTION AGAINST DISCRIMINATION OF PEOPLE LIVING WITH HIV/AIDS IN GULU**

When the ACORD project started in 2005 there were less than 2 000 people registered by the network. However, by the end of the project in 2008 there were over 5 000 members. ACORD worked with all radio stations in Gulu and with *The Monitor* and *New Vision* in the print media. The advocacy and information campaign highlighted ongoing cases of discrimination on the ground. In one

<sup>15</sup> Godber Tumushabe and Arthur Bainomugisha, “Constitutional Reform and Environmental Legislative Representation in Uganda: A case study of Butamira Forest Reserve in Uganda”, ACODE Policy Research Series, No. 10, 2004.

case, a head teacher fired a teacher who was HIV-positive. In response, the district leaders and the District Education Officer reinstated her and issued a stern warning to employers about discriminating against PLWHAs.

## METHODS OF WORKING WITH THE MEDIA

Too many CSOs simply call up a reporter a day or two before an event and expect to receive front-page coverage. Like any relationship, working with the media takes time and effort. CSO staff need to read and listen to the media in order to identify individuals they want to work with, preferably those who already understand and have an interest in their issues. Editors should be consulted when seeking reporters to cover stories since they often know each reporter's strengths and more importantly are responsible for assigning them to cover stories. Reporters may receive dozens of press releases in a day. For an issue to receive media attention, follow-up discussions – not just emails – with reporters to convince them to investigate issues of concern need to be held.

Some of the most common ways in which CSOs work with the media are highlighted below:

### a) Training:

Various organisations noted that they organise training for journalists, especially where there is little public information on the issue being addressed. Raising Voices trains about ten journalists twice a year who they work with on a regular basis. These journalists are contacted about stories relating to violence against children. In other instances, the journalists call staff members for interviews when they need additional information for stories on domestic violence.

Prossy Jonker Nakanjako, a senior programme officer in the Department of Preventing Violence Against Children of Raising Voices, notes that training journalists has yielded results and there is a change in the way domestic violence is covered. Previously, the media was not very sensitive in their stories, particularly to the victims. Nakanjako adds that the training has helped improve coverage of stories related to violence against children.<sup>16</sup>

Brenda Kugonza notes that the organisation focused on training of journalists with the following aims:

- Enhancing their knowledge on the causes of domestic violence and making them part of the solution by including demands for action from the government in their stories;
- Highlighting the weaknesses in the way institutions such as the police handle domestic violence cases which they often claim are private matters; and
- Encouraging them to focus on policies and to engage their leaders, including ministers, local government officials and the president on domestic violence.

<sup>16</sup> Raising Voices developed one-page guidelines which they shared with the media on how to interview children in situations of violence, including seeking permission from adults and obscuring their faces when they decide to use their photos in stories.

## INFLUENCING ALTERNATIVES TO CORPORAL PUNISHMENT IN UGANDA

Raising Voices and other stakeholders protested against the acts of corporal punishment in Ugandan schools that were reported in the *Sunday Monitor* newspaper in 2006.<sup>a</sup> In another instance *New Vision* reported that students in Arua district had been beaten so badly by their teachers that they had to be hospitalised.<sup>b</sup> The events generated plenty of media coverage and several members of the public wrote letters to the editors to express their dissatisfaction over the rampant cases of corporal punishment in schools despite the fact that it had been banned by the Ministry of Education and Sports (MoES) in 1997 and circulars to this effect had been issued.

In August 2006 MoES issued a third circular banning corporal punishment in schools.<sup>c</sup> Realising the importance of preventing violence against children in schools, MoES, in collaboration with Raising Voices and the United Nations Children’s Fund (UNICEF), launched a publication that provided alternatives to corporal punishment. Various stakeholders felt that this publication would help reduce cases of corporal punishment in schools since teachers have complained that they have no guidelines to follow when punishing children, which encourages excesses.<sup>d</sup>

**a** “This Brutal Assault by Teachers Must Stop” *New Vision*, 4 August 2006.

**b** “Caning Banned in Schools” *New Vision*, 13 August 2006.

**c** *Op. cit.*

**d** “Why Caning is an Issue” *New Vision*, 14 July 2003.

In response, the media is increasingly questioning and challenging police methods of handling cases which perpetuate violence against women. Parliamentary press reporters are among those trained to understand the Domestic Violence Bill (passed by Cabinet and yet to be tabled in Parliament). These journalists have written stories on domestic violence covering different angles and targeting both members of the public and policy-makers.

The *Monitor* has dedicated significant space for domestic violence issues in its Saturday pullout, *Full Woman* while the *New Vision* has *Women’s Vision*. The electronic media has developed programmes addressing violence against women, including an investigative journalism programme in Luganda on World Broadcast System (WBS) television called ‘Vvumbula’ which mainly addresses issues of domestic violence, including violence against children. ‘Legal Eye’ is another television talk show which focuses on weak legislation and policies, including those relating to women’s protection in Uganda.

In its HIV/AIDS sensitisation campaign, ACORD selected two reporters per media house for training. This selection was based on discussions with the media house’s management. The organisation sought competent journalists with a good grasp and interest in HIV/AIDS issues. ACORD provided information on HIV/AIDS stigma and discrimination with a view to eliminating biased reporting on the issue.

### **b) Learning groups:**

ACODE also works with a group of stakeholders who engage with the media to collect and disseminate information. For example, the Forest Governance

Learning Group, which has been in existence since 2005, is a group of journalists who voluntarily write stories on different environmental issues. It was primarily journalists from this group who covered the story of the government's planned giveaway of Mabira Forest. The coordinated organisation between different actors ensured effectiveness of the campaign. For example, press briefings were organised collaboratively.

**c) Public dialogues:**

In addition to the above activities, ACODE organised dialogues and engaged various decision-making bodies including the Environment and Natural Resource Working Group and the Attorney General on the disadvantages of de-gazetting the forest reserve. This information was always shared with the media at various forums, resulting in improved coverage of Environment and Natural Resources (ENR). ACODE shared information on Mabira with over 40 international journalists, giving the issue international attention. Journalists from the British Broadcasting Corporation (BBC), Voice of America and the local media also provided additional information to the members of the crusade and also proposed possible actions that should be taken.

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**d) Setting the agenda for investigative journalism:**

Sharing of information on project activities and reports has yielded positive results as journalists have followed up on information from the organisation's reports, supplemented them with their own information and written stories which sometimes make the headlines. There were also several follow-up stories and letters to the editor from the public calling for the enforcement of the government's directive to stop corporal punishment in schools.

In the electronic media, Drake Sekeba of WBS has made an impact on television audiences through 'Vvumbula'. Sekeba is one of the journalists who has received training from Raising Voices and won acclaim for bringing to the public the story of Aisha Nabukera, a young girl who was allegedly burnt by her stepmother. The print media also covered this story extensively and there are still reports on the progress of the young girl in response to the public interest the story generated.<sup>17</sup>

Kugonza adds that CEDOVIP also interacts with editors of electronic and print media in seminars and meetings to discuss their roles in protecting citizens from domestic violence. As a result of this interaction, the organisation has received occasional offers of free space by media houses for covering domestic violence issues. Media coverage on domestic violence encourages the public to speak out on domestic violence and advises them on the critical procedures they need to follow in cases of violence. CEDOVIP has observed an increase in the reporting of domestic violence, which is helping to break the silence on this issue.

**e) Rewards and sanctions:**

CEDOVIP has 'media cards' which are in effect report cards expressing satisfaction with or disappointment at the handling of domestic violence stories by media houses. The cards are sent out once a month and have been effective

<sup>17</sup> Interview with Prossy Jonker Nakanjako, Kampala, 14 July 2009.

in causing a positive change in the way domestic violence is being covered in the media. *Bukedde*, a subsidiary paper of *New Vision*, is cited in particular as a success story as the paper has significantly improved its coverage of domestic violence. Kugonza also notes that while it is easy to monitor the print media, this is not straightforward for electronic media where it is harder and more expensive to keep track of important programmes.

## MONITORING AND EVALUATING MEDIA WORK

In its efforts to de-stigmatise HIV/AIDS, ACORD carried out reviews of its media work every six months, examining the objectivity of the reporters, relevance of messages to targets and impact of messages. ACORD also received feedback from journalists on their experiences while interacting with readers and callers.

Raising Voices also carried out monitoring and media assessment surveys which provided details on which key issues are picked up by the media, frequency of coverage of issues and responses of the public to the issues covered in print and electronic media. While they use both print and electronic media, they have one key message repeated in different formats for different audiences. Nakanjako adds that radio is a very powerful tool for reaching bigger audiences while newspapers have proven critical for reaching policy-makers at different levels.

To monitor media work the organisation conducts a quarterly tracking analysis for print media which looks at issues such as objectivity in reporting, sources questioned and whether or not stories are sensationalised (for example, not having pictures which further exploit or humiliate victims, not using their names or using domestic violence stories to ridicule rather than inform). The analysis also looks at the positioning of the story in the papers (is it headline news? middle pages? etc) and how much space it is allocated, among other issues. CEDOVIP then shares its analysis with the media houses.

## CHALLENGES

While vital, working with the media can be quite daunting for many CSOs and some journalists have expressed dissatisfaction with their relationships with CSOs. UDN has addressed this challenge by inviting journalists to UDN training and meetings, which has resulted in more accurate coverage of corruption. Efforts at training and building capacity may be wasted however, as journalists move onto more lucrative careers in areas such as public relations.<sup>18</sup> Poorly paid journalists may expect payment from the organisers of the events that they cover. CSOs need to clarify their positions on the issue of paying journalists before the meeting to avoid unrealistic expectations. Freelancers are only paid when their stories run and may thus be tempted to seek money in the course of their work.

Gerald Tenywa advises CSOs to request editors to send names of the journalists who will cover an event to reduce requests for money. He adds that many

<sup>18</sup> Interview with James Serugo, Kampala, 5 June 2009.

media houses pay transport to their reporters when they are assigned to cover a story. He cautions against fake reporters who are often equipped with false identity cards.

The large number of new newspapers, radios and television stations in Uganda has significantly increased the competition in a market with already limited financial resources.<sup>19</sup> This means that even those reporters with a keen interest in covering development issues may not be able to do so without support. Tenywa notes that the investigative work that went into the stories about Mabira would not have been possible without financial support from the media houses which had to transport reporters to the field to get different angles on the story. Richard Kavuma, winner of the CNN Multichoice Journalist award of 2007 for his reporting on MDGs, notes that he often had challenges in getting funds to travel to far-off places and would never have been able to cover the stories without the financial support of his employers and the United Nations Development Programme (UNDP).<sup>20</sup>

Lauben Matsiko, sub-editor of *Orumuri*, a local language paper owned by the New Vision Printing and Publishing Company, notes that CSO staff bribe journalists by giving them money and thus encouraging them to always ask for money when they cover events.<sup>21</sup> Matsiko also berates CSOs for secrecy, unwarranted bureaucracy and giving journalists short notice to cover events.

Tenywa adds that CSOs can be very demanding without understanding how the media works or the news value paradigm which guides editors' decisions. Matsiko agrees with this view, noting that CSOs are generally ignorant about editorial policies of media houses. Tenywa notes that CSOs expect to see themselves on the front pages or in the papers whenever journalists cover their events and yet this may take a day or two or not at all if the editor feels that it should not run in the paper. CSOs have been accused of using language that is exclusive to their staff and peers thus marginalising and putting off journalists.<sup>22</sup> Tenywa notes that some CSOs want reporters to be their mouthpieces and only say positive things about them, which is not accountable or transparent because the bad and good need to be both acknowledged and reported. He advises perseverance and calls on CSOs to work on building relationships with the media.

Many CSOs do not take time to study the media to learn how to sell their stories and when. There is a problem with packaging information and very few CSOs summarise reports to highlight key information, meaning that a lot of this information ends up not being used.<sup>23</sup>

Few organisations have a communication strategy for engaging different stakeholders, including the media, leading to a 'fire-fighting' mode of working. This includes holding abrupt briefing meetings which journalists are expected to attend. A strategy helps, with planning and knowledge of exactly when and how communication will be handled.<sup>24</sup>

19 Nogara, M., January 2009. "Role of Media in Curbing corruption: the Case of Uganda under President Yoweri K. Museveni during the 'no-party' System". DESA Working Paper No. 72, New York: UN/Department of Economic and Social Affairs.

20 "Raising the Bar on Development Reporting" East African Media Workshop on the Millennium Development Goals, 7th and 8th August, 2008, Arusha, Tanzania.

21 Matsiko, L. "Working with the Media". Paper presented at CARE/REPA's Advocacy Clinic, Kabale, 15 October 2008.

22 *Op. cit.*

23 Interview with Gerald Tenywa, Kampala, 11 June 2009.

24 *Op. cit.*

## LESSONS

While CSOs have fears about working with the media, there are several things that they can do to have a meaningful and mutually beneficial relationship with the media. This section summarises the lessons that can be shared by CSOs and journalists interested in using investigative journalism to advance social accountability work (CSOs and journalists’ perspectives are taken into consideration).

CSOs can make a significant contribution to journalism by providing quality reports that can stand up to scrutiny. Ruyendo notes that UDN research is beyond reproach and thus attracts journalists.<sup>25</sup> Tenywa notes that ACODE conducts very good research on government policy with a clear focus on what they want to influence and their information is hard to challenge, making them a good resource for the media.

There is need for CSOs to cultivate relationships with key people in the media. ACODE, CEDOVIP, Raising Voices and UDN ensure that the media is always informed about new research, workshop reports and general information. This often results in a two-way relationship in which journalists and CSO staff provide each other with information for their mutual benefit. Tenywa notes that when journalists appreciate the technical expertise of organisations, they are likely to get back to them in case they need interpretation of key issues for their stories.

CSOs can encourage specialisation by journalists in areas such as environment and governance by inviting them to organisational events which help improve their understanding of the issues in question. James Serugo of the *Daily Monitor* notes that journalists who take a personal interest in a chosen area are likely to do better investigative work as it becomes a passion. Such journalists tend to build relations with members of the public who will serve as sources in a particular area of specialisation. Tenywa notes that his background in forestry and environment was a bonus to the Mabira campaign as he was already passionate about forestry and the environment.<sup>26</sup> Twesigye notes that practical skills on environmental issues for journalists eliminates the perception that they are not interesting and also help address concerns about how best to package the information for public consumption.<sup>27</sup>

He notes that CSOs need to be innovative in the way they work with the media. He shares a successful practice by their partner, Global Water Partnership, who took journalists around the country to show them the impact of environmental degradation. The result was several in-depth and well-covered stories on environmental degradation by journalists who were motivated and galvanised into action by what they saw in the areas they visited. While this required significant resources, he notes that the rewards were worth it.

Information to journalists should preferably be precise and concise to improve chances of having related stories covered in the media. Kugonza notes the importance of tagging domestic violence messages to ongoing debates in the media, without which they may not be regarded as relevant. Mbazira adds that packaging is important when working with the media, and UDN always pre-

<sup>25</sup> *Op. cit.*

<sup>26</sup> Interview with Gerald Tenywa, Kampala, 11 June 2009.

<sup>27</sup> Interview with Bashir Twesigye, Kampala, 23 May 2009.



press packs and releases with the key messages that the organisation wants their audience to have. This reduces misunderstandings and misreporting.<sup>28</sup>

CSOs need communication strategies which state how they will communicate with the press and other stakeholders. The Mabira case involved coordination and clear allocation of tasks. Members of the crusade would update each other and communicate using different means, including SMS. Tenywa says that the Save Mabira Crusade agreed that they would fund space for key stories in case the editors were not able to provide space for their stories (this was not necessary as the editor always gave space to the Mabira stories). The media was not paid but was committed and always involved in meetings.

Editors look for value for money when deploying reporters to cover stories. Tenywa notes that editors may release reporters to cover a topic which they feel will generate other stories over a long period of time rather than covering a small once-off event. He adds that investigative journalism is expensive and key decisions have to be made when selecting stories. He gave the example of having to choose between covering the World Environment Day and the budget speech. The budget speech was seen as a bigger event because it generates spin-off stories for weeks.

It helps to have a focal communication person who may or may not be the head of the organisation. CEDOVIP, Raising Voices and UDN all have people designated to handle communication in the organisation. While ACODE did not have a designated communication officer, it has gained experience on how to work with the media effectively.

There is often space for opinion pieces and letters to the editors which CSOs can take advantage of. CEDOVIP targets different sections of the newspaper (Opinion, Letter to the Editor and leisure magazines) to spread domestic violence messages in features sections, health, agriculture and magazines.

To improve their campaign's effectiveness, organisations need to monitor and evaluate their work in the media to gauge changing perceptions and the mood of the public. For instance, Raising Voices changed from writing opinion columns to serialised cartoons after realising that a large number of their target audience was not getting the information meant for them.

## CONCLUSION

There can be great rewards for CSOs working with the media but this takes deliberate planning to be effective. The organisations discussed in this paper have achieved some success in their social accountability work through their relationships with the media. Where they have been successful in advancing priority development and social justice issues in Uganda, it has often come out of a strategic working relationships between civil society and the media. Members of the media learn from CSOs and are driven to seek further information especially when information is well packaged.

Journalists sometimes have a weak capacity to analyse and report on governance and accountability. Journalists also tend to be underpaid and development stories are not normally seen as a fast track to professional eminence. Markets

<sup>28</sup> Interview with Rukia Nakammate Mbazira, Kampala, 3 June 2009.

in most developing countries are too small to support coverage of development issues, forcing the media to depend upon subsidies (for example, training is often subsidised by donors). Some journalists are increasingly worried about the media being used by the development sector. Partnerships between CSOs and the media are necessary to transform the less than free and open environment that both sectors face within Uganda.

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# Monitoring Ourselves – The African Peer Review Mechanism (APRM) as a Catalyst for Accountability

By *Terence Corrigan* and *Steven Gruzd*<sup>1</sup>

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This chapter illustrates how civil society organisations (CSOs), including the Open Democracy Advice Centre in South Africa and Minority Rights Group International (MRGI) in Uganda, successfully used the African Peer Review Mechanism (APRM) – Africa’s home-grown governance promotion and monitoring tool – to influence policy in their countries. It also reflects on experiences at the South African Institute of International Affairs (SAIIA), as a ‘Technical Support Agency’ in the South African process in 2006, and SAIIA’s research and training work on the APRM since 2002 across the continent. It draws lessons from these experiences and those of the other involved CSOs.

## INTRODUCTION

How can African activists and ordinary citizens raise their voices on governance issues – such as corruption, the rule of law and the electoral process – so that policymakers and officials hear them? How can policy debates be initiated, and leaders be held accountable to their constituents?

<sup>1</sup> South African Institute of International Affairs (SAIIA), Johannesburg, South Africa. SAIIA is an independent non-partisan public policy research organisation, with headquarters at the University of the Witwatersrand in Johannesburg. Established in 1934, it has striven to encourage interaction between South Africa and the outside world, foster research and promote debate. In recent years it has focused on exploring issues pertinent to Africa. See [www.saiia.org.za](http://www.saiia.org.za).

## THE AFRICAN PEER REVIEW MECHANISM IN A NUTSHELL<sup>2</sup>

The African Peer Review Mechanism (APRM) emerged from the New Partnership for Africa’s Development (Nepad) in 2002. The mechanism allows African governments and citizens to analyse their problems, assess progress to improved governance and suggest effective reform. By June 2009, 29 countries, representing more than 75% of Africa’s population, had signed up.<sup>3</sup>

Governments sign a memorandum of understanding with continental APRM authorities indicating their willingness to undergo review. The next step involves gathering information about governance performance in four broad thematic areas (democracy and political governance, economic governance and management, corporate governance and socioeconomic development), guided by an 88-page Self-Assessment Questionnaire (SAQ). Specific issues include human rights, health care provision, the state of the economy, the role of the judiciary and the behaviour of corporations. To help gather data, conduct national consultations and manage the process, the country typically forms a multi-stakeholder National Governing Council (NGC) or National Commission (NC). This body usually appoints research organisations to carry out technical aspects and help compile the Country Self-Assessment Report (CSAR). All parts of society – civil society groups, religious institutions, labour unions, business groups and the government – are meant to be fully involved. The CSAR includes a draft Programme of Action (POA) setting out plans to deal with identified problems. Once the CSAR is submitted to the continental APRM secretariat in Midrand, South Africa, a Country Review Mission (CRM) will visit. This is a delegation of scholars and experts who conduct an independent study of the country. Each CRM is led by a member of the APRM Panel of Eminent Persons, a body of seven respected Africans responsible for managing the process. A draft country review report is submitted to the government for comment, recommendations are made and the country is expected to amend its POA accordingly.

The country review report is presented to heads of state for discussion and final review, then made public six months later. Finally the country reports back each year on progress in implementing the POA, and prepares itself for subsequent reviews.

## HOW DOES CIVIL SOCIETY FIT IN?

The APRM is designed to involve ordinary people. Official guidance is clear:<sup>4</sup>

The APRM process is designed to be open and participatory. Through a participatory process, the APRM will engage key stakeholders to facilitate exchange of information and national dialogue on good governance and socioeconomic development programmes, thereby increasing the transparency of the decision-

<sup>2</sup> Adapted from Corrigan, T., *Mastering the APRM: Creating Your Submission*, SAIIA, April 2008, p. 3.

<sup>3</sup> These countries are: Algeria, Angola, Benin, Burkina Faso, Cameroon, Congo (Brazzaville), Djibouti, Egypt, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Nigeria, Malawi, Mali, Mauritania (suspended as a result of a coup in 2008), Mauritius, Mozambique, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda and Zambia. Cape Verde was meant to have acceded at the July 2009 African Union summit, but this had not been confirmed at the time of writing. By July 2009, 12 countries had passed through to the review by the Heads of State Forum: (in order of review) Ghana, Rwanda, Kenya, Algeria, South Africa, Benin, Uganda, Nigeria, Burkina Faso, Mali, Mozambique and Lesotho.

<sup>4</sup> APRM Secretariat, November 2003. “Guidelines for Countries to Prepare for and to Participate in the African Peer Review Mechanism (APRM)”, paragraph 13-14, p. 3.

making processes, and building trust in the pursuit of national development goals.

APRM country guidelines state: “The organisation of public participation in the APRM process is in itself a central aspect of enhancing the state of governance and socioeconomic development in the participating country. Such interactions can build trust, and establish and clarify mechanisms for ongoing engagement and empowerment of stakeholders.”<sup>5</sup>

Civil society has an important role to play. Participation needs the buy-in of citizens, often easier said than done. Ultimately, only civil society – non-governmental organisations (NGOs), community-based organisations (CBOs), churches, trade unions, business associations and the population at large – can provide the legitimacy that the process needs. Legitimacy is especially important because the APRM is intended to form a basis on which new policies or priorities are built. ‘Participation’ and ‘ownership’ are widely recognised as important to governance and development.<sup>6</sup> For citizens, they are crucial tools to encourage accountability. And accountability only makes sense if citizens feel that the government belongs to them.

But the government is the dominant party in the APRM: it accedes to the process, typically controls funding and timing, and ultimately wields more influence than other stakeholders in terms of the written rules. Even though civil society organisations (CSOs) are nominally involved, they lack any real power to alter the government’s plans. This means that civil society will sometimes need to assert itself if it is to be included. This may involve negotiation, confrontation or a combination of both. However, it can bolster its prospects of inclusion only if it understands the process properly and is willing to persevere. We have seen interesting examples of this, and we believe it is an opportunity worth seizing.

The APRM presents a ripe opportunity for civil society to influence governance, raise issues of concern and demand accountability from governments. Depending on context and circumstances, the interaction of African CSOs with the APRM has varied from country to country, and from organisation to organisation. Rare success stories stand out. The South African Institute of International Affairs (SAIIA) commissioned these organisations to tell their stories, to guide and inspire other activists.

## UGANDA’S MINORITY RIGHTS GROUP INTERNATIONAL: FOCUSED TENACITY<sup>7</sup>

In Uganda, the local chapter of Minority Rights Group International (MRG) – an advocacy group – saw the APRM as a platform to draw attention to the condition of marginalised minority communities usually neglected by policymakers.

The first hurdle was how to participate. The NC was evidently appointed to ensure that organisations with large followings were included, particularly umbrella groups. MRG saw an opportunity to publicise the conditions and agitate for the rights of minority groups – groups that had received relatively little attention in the country’s poverty reduction action plan. There was, however,

<sup>5</sup> *Ibid.*, paragraph 36, p. 12.

<sup>6</sup> These issues are dealt with regularly in academic and activist writing. See for example Stiglitz, J.E., 2002, “Participation and Development: Perspectives from the Comprehensive Development Paradigm”, *Review of Development Economics*, Vol. 6, pp. 163-182, and Botes, L. & Van Rensburg, D., 2000, “Community participation in development: nine plagues and twelve commandments”, *Community Development Journal* 35:41-58.

<sup>7</sup> Odoi, J.N., 2008. “Civil Society Participation in Uganda’s APRM Process”, SAIIA Occasional Paper, No. 2, June 2008.

little guidance on how to get involved. Official information was sparse and some groups were not even aware that the APRM was taking place. Umbrella organisations represented on the commission did not spread the word. Moreover, many groups felt that getting involved would be taxing, as they had not included it in their budgets and work plans.

To share the load, MRG approached CARE International about making a joint submission on governance issues affecting ethnic minorities. After perusing the official SAQ (the wide-ranging and complex 88-page document that all participating countries complete), it was concluded that making an input would be an enormous task, probably requiring a consultant. In June 2007, however, SAIIA facilitated a civil society workshop in Uganda to encourage participation. Activists were advised not to try to complete the full questionnaire but to write submissions and make recommendations only on issues most important to them.

Following that advice, MRG and CARE International produced a paper that focused on a few issues like minority rights, corruption and HIV/AIDS. They circulated it to potential partners for input and endorsement, then submitted it to the APRM Secretariat in Kampala and the continental APRM headquarters in South Africa in December 2007.

Later, participating in a workshop to discuss a broader CSO submission, MRG noted that the report was weak on addressing minority rights. It took its own existing report and adapted it to fit the new format, thus ensuring that its concerns were emphasised again in a more comprehensive submission.

Uganda’s CSAR was released to the public in January 2008, something no other country had done. The report included the key issues raised by MRG/CARE International, although they were not reflected in the proposed POA.

MRG, CARE International and their partners continued to ensure that focus was kept on their core issues. When the CRM visited Uganda in February 2008, MRG made sure interested groups were heard by giving their names to the APRM secretariat. Recognising that the government had a limited budget, three key items for inclusion in the POA were agreed:

- Developing a policy on ethnic minorities;
- Affirmative action to enable minorities to take part in political decision-making; and
- Restitution for ethnic minority communities affected by land alienation.

To ensure that these issues received attention, the parties agreed that they needed to be persistent. At a meeting with the CRM they kept raising hands, literally, until they were allowed to speak. A short document pointing out that the POA had excluded issues that were included in the CSAR was distributed. Juliet Nakato Odoi, formerly of the MRG, said the tactics produced some successes. Issues of concern to minorities were raised and acknowledged in public. The exposure helped minorities to gain access to policy debates – for example on land policy – and to address a parliamentary equal-opportunities committee. Representatives compiled a report on important minority issues that was tabled in July 2009. She added that, being on the government’s agenda, “minorities themselves have noted that they feel more recognised and involved”.<sup>8</sup>

<sup>8</sup> Email from J.N. Odoi, 9 July 2009.

## SOUTH AFRICA'S OPEN DEMOCRACY ADVICE CENTRE: TARGETED PERSEVERANCE<sup>9</sup>

The Cape Town-based Open Democracy Advice Centre (ODAC) saw the APRM's potential to improve laws and regulations on access to information, and to protect whistle-blowers who reported corruption. By adopting a mix of strategies and being tenacious, ODAC overcame difficulties and ensured that its issues were addressed.

The first obstacle was to become involved. ODAC contacted the responsible government department (Public Service and Administration) regularly to signal its interest and enquire about developments. It was repeatedly dismissed with the comment that "something will happen in two weeks".<sup>10</sup> When an inaugural conference was called for late September 2005 to discuss the APRM, more than a year after ODAC started enquiring, ODAC was not invited. It seemed apparent that the government intended to involve only civil society groups with large memberships, and not specialist policy and advocacy groups. This was against the spirit of the process.

Shortly before this conference, however, SAIIA had convened a workshop attended by ODAC which questioned the path the government was taking. Many civil society participants resolved to attend the inaugural conference, even if they were not invited. Ongoing pressure from civil society appeared to be effective (to some degree), and the government partly relented on key areas like timing, inclusiveness and research process. It also agreed to allow specialist research groups to be involved – a demand made at the workshop.

A second obstacle was the SAQ, which did not directly address ODAC's concerns. Believing it was free to adapt the questionnaire to reflect local issues, and gaining the endorsement of other organisations, ODAC prepared to present its revisions at the inaugural conference. But the government would not accept them. So it looked at other ways of making its mark. Could existing questions in the SAQ accommodate its issues?

A closer look suggested that its inputs could be accommodated in the first thematic area (democracy and political governance) and the second (economic governance and management). While neither specifically raised issues of access to information and the protection of whistle-blowers, ODAC argued that access to information was crucial in promoting rights (covered in the first thematic area), and that better access would encourage transparency in the public service (covered in the second).

Its submission tried to explain the strengths and weaknesses of South Africa's legislation, and suggest remedies. It backed its argument with evidence, often taken from government sources.

ODAC now needed to get its submission into the right hands. It distributed written arguments at parliamentary hearings (which were running a 'parallel process') and to research agencies contracted by the NGC. It concentrated on those aspects that it thought offered the best chance to have its concerns incorporated in the definitive POA. Parliament was "generally receptive".<sup>11</sup>

ODAC was satisfied that its concerns were captured in the draft CSAR that was released for discussion at a consultative conference in May 2006. But the draft POA did not mention these matters – and this was the document that would bind the government in implementing reforms. Subsequently, the draft CSAR report

<sup>9</sup> Hutchings, N., Dimba, M. and Tilley, A., 2008. "Assessing South Africa's APRM: An NGO Perspective". SAIIA Occasional Paper No 2, June 2008.

<sup>10</sup> *Ibid.*, p. 2.

<sup>11</sup> *Ibid.*, p. 6.

was revised and issues raised by ODAC excluded. ODAC took its case to the CRM when it visited the country in July 2006. The CRM noted in its report that the CSAR had omitted problems relating to freedom of information legislation, and referred to the need to protect whistle-blowers.

Shortly before the government was due to meet the African Peer Review (APR) Forum in June 2007, it produced a new POA – without consulting civil society. Responding to protests, it said other stakeholders had contributed, but that the APRM did not allow it to release the new document to the public. ODAC took legal advice, which was that the rules allowed the POA to be released, and that government actions ran counter to the spirit of the process.

Reluctantly, the then Minister for Public Service and Administration, Geraldine Fraser-Moleketi – who served as the APRM’s focal point and chaired the NGC – agreed to convene the NGC to discuss the new POA. ODAC, now satisfied, was invited to a workshop to establish how the plan should be implemented. The final POA addressed both the issues of access to information and whistle-blowing.

Alison Tilley of ODAC maintains that there was a positive outcome: attention was drawn to the issues and the POA included a commitment to look at them and new legislation to provide additional protection for whistle-blowers. She notes that the process opened the way to better relations with government, which was ironic since ODAC had been critical of government. However, it appears that changes in the ruling party and the government may have blunted the process. No reporting or feedback appeared to have taken place regarding the APRM by the time of writing.<sup>12</sup>

## ENTRY POINTS FOR CIVIL SOCIETY

Although the APRM should provide opportunities for public participation, in reality CSOs and citizens have struggled to grasp the chance. The process can seem complex, intimidating, lengthy and elitist. Civil society groups are frequently poorly informed, and lack the skills and funds to influence or contribute to the process. Some have simply chosen to ignore or reject the exercise. Some may be unaware, or intimidated by its size and complexity. Efforts to encourage public awareness and participation have produced unsatisfactory results.<sup>13</sup> Others regard it as unacceptable because they say it seeks to give legitimacy to Nepad’s ‘neo-liberal’ agenda. Professor Patrick Bond of the Centre for Civil Society (CCS) at the University of KwaZulu-Natal makes this latter point forcefully in his writings.<sup>14</sup>

The APRM process is likely to offer civil society various entry points – usually billed as consultation. Past processes have included mass public meetings in all countries, workshops (including in Ghana, Lesotho and South Africa), nationwide opinion surveys (including in Ghana, Kenya and Nigeria), and invitations to make written public submissions (as in South Africa). But this participation should not be automatically assumed, and may need to be fought for.

<sup>12</sup> Email from A Tilley, 22 July 2009.

<sup>13</sup> See Herbert, R. & Grudz, S., 2008. *The African Peer Review Mechanism: Lessons from the Pioneers*, Johannesburg: SAIIA. Chapter 6.

<sup>14</sup> See Bond, P. “Nepad, the APRM and SA subimperialism: Civil society cooption or resistance?” in Bond, P. and Desai, A., *Foreign Policy Bottom Up: South African civil society and the globalisation of popular solidarity*, a report of the University of KwaZulu-Natal Centre for Civil Society, Durban, 25 July 2008, available online at <http://www.ukzn.ac.za/ccs/files/Bond%20Desai%20Foreign%20Policy%20Bottom%20Up%20July%202008.pdf>, retrieved 20 July 2009; moreover, a number of civil society groups have rejected the Nepad initiative as a whole, and show no interest in the APRM.



## Formal participation: The National Governing Council

A key formal site for CSO participation and influence is the NGC. Ambassador Bethuel Kiplagat, a member of the Panel of Eminent Persons, gives this insight:<sup>15</sup>

*The basic document clearly states that it [the NGC] should be a tripartite arrangement of the civil society, the corporate sector and the government. I think the formula we have been trying to encourage is one-third, one-third, one-third and that the leadership of that national commission or national committee or governing council, whatever name you want to call it, should come from the civil society or the corporate sector and not from the government because we don't want to see this as a government project. The government cannot be driving a programme for which itself (sic) is being evaluated. So this is why we want to make sure of its autonomy and independence, to make sure there is no domination, the government is not saying we cannot do that or we cannot do this.*

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Obviously, only a limited number of CSOs sit on the NGC and their influence is limited. Participating can drain time and resources. Potentially, it is also a means by which governments can exercise control, as there are no rules for how the body should be constituted. In South Africa, the NGC was chosen behind closed doors. While civil society provided ten of the original 15 members (the other five were cabinet ministers), all these CSOs were either openly sympathetic to the ruling political alliance or at best neutral/apolitical (although some may have clashed with the government over particular policies). Ghana's seven-person NGC was composed of civil society figures who, although well respected, were alleged to be sympathetic to the ruling party.<sup>16</sup> Yet these NGC members remain in place despite the former opposition winning Ghana's December 2008 elections.

The selection of NGC members can thus become an area where civil society may have to exert pressure to ensure adequate legitimate representation. Zanele Twala, former executive director of the South African Non-Governmental Organisation Coalition (Sangoco) and member of South Africa's NGC, made the following observation:<sup>17</sup>

*The NGC was very much government led. It depended very much on them to bring decisions to the floor on the NGC. For a whole lot of things that happened, from how to collect the data, decisions around the way to systematically present it, the writing and editing, civil society representatives were not systematically involved. When problems were raised around the process, we had very little influence.*

On the other hand, civil society activists have not always been exemplary. In Kenya, there was intense jockeying for positions by civil society groups. Considerable energy was expended by some to secure funding for their own organisations. Seating allowances of about \$150 a meeting may have contributed

<sup>15</sup> This comment was made during a video interview with SAIIA. See Herbert and Gruzd, *op. cit.*, pp. 26-27.

<sup>16</sup> *Ibid.*, p. 185.

<sup>17</sup> *Ibid.*, p. 269.

to frequent and unproductive meetings. A Kenyan academic and NGC member, Professor Wafula Masai, noted that there was “an insatiable desire for enhanced personal emoluments to influence funding for their organisations. This problem is partly explained by the lack of proper understanding of the APRM process and its methodologies alongside sheer greed”.<sup>18</sup> This behaviour provides ammunition to those governments that mistrust NGOs.

So civil society will need to be proactive and signal a clear intent to demand (and demonstrate) integrity. In Zambia, CSOs defied the trend to wait for an invitation from the government and united to form the Zambian Civil Society APRM Secretariat in 2007. It forcefully placed civil society’s role in the APRM on the national agenda at a time when the government was slow to provide momentum, constitutional reform was being contested and relations were strained. Despite its leading role, the group was apparently seen as a threat to the government – or irrelevant. None of its members was chosen to sit on the NGC in 2008. Improving relations remains a challenge.

### *Developing written submissions*

A great deal of emphasis has been placed on public meetings – visible markers of progress and accessible to (a limited number of) ordinary people. Meetings are politically important because they give a sense of involvement. In many African cultures, community meetings and rallies have a deep pedigree. However, their effectiveness is limited. The format – a large audience listening to speeches and then making verbal inputs with limited preparation, which may or may not be captured accurately (if at all) by the organisers – is simply not conducive to an in-depth interrogation of issues.

Our research, however, suggests that the most constructive and effective way for those outside official structures to engage with the APRM is to make a written submission. A written submission provides depth and breadth to an issue. Most importantly, written submissions that present data and supportive evidence in a persuasive manner can resonate beyond speeches made behind a meeting room’s walls.

A South African innovation was to use a website to invite submissions to various offices or to parliamentary committees. Written submissions were an important source material for the CSAR, and permitted stakeholders to express their views and recommendations in their own words. SAIIA was the Technical Support Agency (TSA) on economic governance and management. It received more than 60 written submissions. While quality and content varied, and there were administrative problems in collecting and collating them, they were nevertheless invaluable sources of information and diverse views.<sup>19</sup>

SAIIA actively promotes written submissions to influence policy. It has conducted intensive one-week workshops with CSO partner groups in Tanzania, Uganda and Zambia and facilitated the writing of draft submissions.<sup>20</sup> Producing a submission is not an easy task. Many civil society groups have limited experience in interacting with policy-makers, and some committed activists lack basic writing and research skills (or the associated resources). Even those who are familiar with the APRM and have the necessary expertise find the length

<sup>18</sup> *Ibid.*, p. 195.

<sup>19</sup> *Ibid.*, pp. 286-287.

<sup>20</sup> See Corrigan, T., *op. cit.* for more details on this methodology.

and complexity of the questionnaire daunting. We advise CSOs to put the SAQ aside and focus only on key issues germane to their own expertise. Once problems are analysed, evidence presented and solutions proposed, these can be linked back to the SAQ.

## **Lobbying**

The APRM deals with sensitive political issues. If carried out conscientiously it has the potential to upset powerful interests. It will probably not unearth devastating new information, but it could well open up public debate about modes of governance or policy choices. Civil society should be well prepared.

If powerful interests seek to subvert the process or its outcomes, it may be necessary for CSOs to intervene to keep things ‘honest’. The APRM is a new and generally unfamiliar concept. People and groups who have a potential interest are frequently poorly informed about it, and do not understand how it is meant to work.<sup>21</sup> This unfortunately creates an opportunity for manipulation, especially by governments.

When the APRM was launched in South Africa in September 2005, CSOs faced a situation of this nature. The minister who was the APRM focal point announced a process that would be completed in two months with token consultation. It would be heavily dominated by government and exclude independent research bodies. Civil society mobilised itself – through information meetings, networks inside and outside the NGC, opinion articles and radio and television commentary – to help force major concessions and a process that was appreciably more open. These included:

- A change in representation on the NGC, from an initial 50:50 split to one-third government, two-thirds civil society;
- A longer period for public submissions, from two to six months;
- Funding for CSOs on the NGC to convene their constituencies to compile submissions;
- The appointment of independent research institutions as TSAs to compile the CSAR and Quality Assurance Agencies [the Human Sciences Research Council (HSRC) and Auditor-General’s (AG) office];
- One-day expert workshops to make input into each of four draft CSAR sections; and
- The uploading of all original submissions to the South African APRM website, [www.aprm.org.za](http://www.aprm.org.za).
- Using the media is a skill that activists need to cultivate. Writing columns or persuading journalists of the importance of the APRM can have a large impact on spreading the word. African media frequently struggle to find content, and activists willing to make contact with journalists and editors may find a receptive audience. Well-written opinion articles by CSOs may bring out the issues better than coverage by journalists less familiar with the material.

For example, SAIIA published a number of articles on the South African process. Their impact is hard to measure, but it is noteworthy that the interventions elicited responses. Minister Geraldine Fraser-Moleketi said in an interview

<sup>21</sup> During the course of our work, we have frequently sought out possible interested groups in APRM signatory countries before the country has actually embarked on its process. Very seldom have we found that civil society activists are well informed about APRM before the process gets underway.

that she had had “running battles in the media from the onset, especially on the government-led process” and that the appointment of the Technical Support Agencies had been one measure to address those concerns.<sup>22</sup> This admission indicates that media pressure paid off. It was also fortunate that newspapers – particularly the influential *Sunday Times* – showed an active interest.

CSOs elsewhere have also successfully attracted media interest. Zambia’s APRM Civil Society Secretariat earned media exposure for the APRM through the activities of one organisation’s director, who writes a regular column for a local newspaper. In Sierra Leone, a civil society sensitisation workshop received radio and press coverage in May 2009, as did a Tanzanian submission-writing workshop in which SAIIA participated in 2008.

Activists should also watch for opportunities to promote their interests. The maxim that we should ‘talk to all who will listen’ is a good one. Keep in mind that involvement in the APRM is not limited to the internal country review process. The CRM that arrives to conduct its own research should be a target for influence. These missions generally demonstrate professionalism and capture relevant issues well (although not without contention). All indications are that they are amenable to receiving documents and discussing concerns. Both ODAC and MRG successfully influenced these missions because they were tenacious and they had cogent written submissions offering evidence and solutions. A key lesson is that civil society can exercise profound influence but it must be willing to press and agitate for it.

### *Sticking to standards*

Various codes, agreements and declarations distil a set of governance standards that APRM countries are deemed to have accepted (though governments themselves may not be entirely aware of their obligations).<sup>23</sup> They set minimum ground rules for all states, and goals for their governance. Many of these standards are explicitly named in APRM documents,<sup>24</sup> although ‘regional standards’ or standards of the International Labour Organisation (ILO) are also mentioned. SAIIA published a list of more than 80 identifiable codes in 2008,<sup>25</sup> but the actual number applicable to a country could be far higher. These standards offer a potentially vast advantage for activists engaged in democratic reform. The APRM exists in part to measure the compliance of African countries with agreed standards of government behaviour. Using the APRM process can stimulate awareness among activists that the standards exist, and that their governments are committed to them.

For instance, South Africa clearly violates United Nations (UN) and African Union (AU) anti-corruption standards<sup>26</sup> because it does not regulate private funding of political parties (a factor in high-profile corruption scandals). The government – and the ruling party, along with some smaller parties – has been reluctant to change this failing. Although the issue was raised in the APRM process, it has been ignored, bar a vague commitment to look into the matter at the last anti-corruption summit. Another good example is the 2007 AU Charter

<sup>22</sup> Interview with Geraldine Fraser-Moleketi, *Global Dialogue*, Vol 11.2, September 2006, p. 18.

<sup>23</sup> In Ghana’s case, for example, it was discovered that the country had no central document inventory – see Herbert, R. & Gruzd, S., 2008. *The African Peer Review Mechanism: Lessons from the Pioneers*, Johannesburg: SAIIA, p. 169.

<sup>24</sup> The questionnaire document, for example, contains extensive lists of standards.

<sup>25</sup> Gruzd, S. (ed), 2008. *APRM Governance Standards: An Indexed Collection*, Johannesburg: SAIIA.

<sup>26</sup> African Union, Convention on Preventing and Combating Corruption, 2003, Maputo, Mozambique; United Nations, Convention against Corruption, 2003, New York, USA.

on Democracy, Elections and Governance. Ironically, at the time of writing the only two ratifications were from Mauritania, suspended from the AU after a 2008 coup (readmitted in July 2009), and Ethiopia.

Country review reports have indicated areas where adherence or domestication of standards is lagging, demonstrating that they are taken into account, thus providing reform-minded activists another opportunity to bring to light the differences between their government's stated agreements and their actual practice. The moral weight of holding a government's putative commitment up to itself is considerable.

### ***Monitoring implementation***

The APRM is intended not merely to review governance but to reform it, hence the POA. A POA is potentially the most important aspect of the process, but in general seems to have been the most neglected. It is frequently tacked onto the end of reports as a list of recommendations that seem extremely broad and the interventions are poorly costed.<sup>27</sup>

Civil society could play an important role by monitoring the implementation of APRM recommendations. There is no recorded experience of this so far, although SAIIA knows of groups which want to do so. A central consideration is to determine whether a policy measure actually addresses a POA commitment. POAs have tended to be vague in their recommendations (indistinct notions like 'strengthening' institutions abound), and 'progress' reports emanate almost exclusively from governments charged with making the changes. More meaningful questions would be whether the measures are being implemented properly and whether they are having the desired effect. These are not likely to be easy tasks. Policy monitoring and evaluation can demand expertise which may not be widely available. If it could be done, however, it would provide a roadmap for governance monitoring in general and, with appropriate follow-up, a means to hold government accountable.

An emerging pattern reveals that governments do not seem to pay enough attention to APRM recommendations. Progress reports on countries stress existing programmes and how the APRM relates to them. Ghana has been a partial exception and has attempted to link governance reforms to the APRM. However, Professor Emmanuel Gyimah-Boadi of the Centre for Democratic Development (CDD) in Ghana has argued that potentially useful recommendations "remain potential".<sup>28</sup> Implementation has been disappointing partly because recommendations are poorly drafted. In South Africa's recent progress report, initiatives pre-dating the APRM were cited as evidence of response to recommendations.<sup>29</sup> This is a major weakness, and civil society may have to campaign for this to receive serious attention. Civil society could demand that POAs specify achievable actions with realistic costing and timeframes, and be developed in a more open, inclusive manner.

<sup>27</sup> See Aggad, F., 2008. *Addressing the African Peer Review Mechanism's Programmes of Action*, SAIIA Occasional Paper no 5, June 2008.

<sup>28</sup> Comments made by Prof E. Gyimah-Boadi at a conference convened by SAIIA entitled "The State of Governance in Africa: Formal Rules, Informal Realities and Strategies for Change", 18-20 November 2008.

<sup>29</sup> Government of South Africa, First Report on the Implementation of South Africa's APRM Programme of Action, January 2009.

## CONSTRAINTS AND PROBLEMS

Many in civil society tend to imagine that one particular approach will serve as a ‘magic bullet’ to resolve all problems. This is unlikely in the case of the APRM as with anything else. There are no guarantees that the APRM will produce far-reaching results – nevertheless, it does present an opportunity to make progress on reforming governance. The APRM is a tool for reform; one of many. While the process offers clear incentives (not least rebuilding decayed systems and economies), it would be naïve to imagine that everyone will benefit from it. Reform can be threatening to powerful groups and individuals. This can make it unwelcome to governments. Indeed, some analysts have argued that a successful APRM process would undermine the fundamental systems of many signatory states.<sup>30</sup> Clean, accountable, efficient governance would severely disrupt the patronage-based systems of most African societies. There is compelling evidence that some proponents of Nepad and the APRM (notably former South African president Thabo Mbeki) did not initially wish political governance to be reviewed.<sup>31</sup>

Ideally, the APRM should be a partnership between different elements in society, but the reality is that the government is the dominant institution. Perhaps nothing demonstrates this better than the fact that governments alone comment on the report. They do so, in the official wording, to “ensure the accuracy of the information and to provide the government with an opportunity both to react to the team’s findings and to put forward its own views on how the identified shortcomings may be addressed”.<sup>32</sup> The integrity of the entire APRM process, therefore, depends largely on the willingness of governments to be open and honest and to allow all views to be aired.

But if a government does not wish to deal with a given issue, it will probably be able to avoid it. Because the APRM process is lengthy, makes demands on time and resources and may produce uncertain results, many civil society groups may drop out or lose interest.<sup>33</sup> Alternatively, CSO efforts may be stymied by the government’s refusal to address an issue – as when the South African government refused to deal with party political funding. Government commitment to listen and political will are crucial.

Could civil society ensure that its input carries the same weight as governments? The central problem is that civil society is a diffuse entity. Even if it speaks as a ‘collective’, there is no guarantee that all perspectives will be taken into account. The problem, of course, is inherent in the very concept. On the other hand, the AU is at least rhetorically committed to involving civil society, and has established the Economic, Social and Cultural Council (ECOSOCC) for this purpose. The Pan-African Parliament provides a legislative dimension

30 See, for example, Jordaan, E., “Grist for the Sceptic’s Mill: Rwanda and the African Peer Review Mechanism”, *Journal of Contemporary African Studies*, 25:3, September 2007, pp. 331-353.

31 During 2002, contradictory comments were made on whether political issues would be dealt with by the APRM. Letters between Mbeki and former Canadian Prime Minister, Jean Chretien appeared to play an important role in ensuring that political issues would be considered. To get a picture of this, see, for example, “Pahad is right over peer review mechanism”, Sapa, 30 October 2002, available online at <http://70.84.171.10/~etools/newsbrief/2002/news1031.txt>; Mbeki T, Letter to the Right Honourable Jean Chretien, Prime Minister of Canada, 6 November 2002, available online at <http://www.sarpm.org.za/documents/d0000137/Mbeki.pdf>; Mbeki, T., “Critics ill-informed about Nepad peer review”, ANC Today, Vol 2, No 45, 8-14 November 2002, available online at <http://www.anc.org.za/ancdocs/anctoday/2002/at45.htm>; Bekoe, D.A., “Nepad and its Achilles’ Heels”, *Alternatives*, Vol 1, No 4, Winter 2002, available online at <http://www.alternativesjournal.net/volume1/number4/bekoe.htm>.

32 *African Peer Review Mechanism: Base Document*, 2002, available online at [http://www.chr.up.ac.za/hr\\_docs/aprm/docs/book3.pdf](http://www.chr.up.ac.za/hr_docs/aprm/docs/book3.pdf), accessed 2 March 2009.

33 ODAC noted that it was one of the few groups to stay with the process throughout – without question, an element in its success.

(and hence, some degree of representation of African electorates). Time will tell whether these bodies provide an opportunity for different strains of civil society to make a robust input that is taken seriously. To date, the record is poor.

Some governments have offered civil society an opportunity to participate at higher levels of the APRM process, even though it was not strictly required. Some have included civil society representatives as delegates to the Heads of State forum. But all seemed much in the mould of an optional concession to civil society by the government rather than an assertion of a right to participate. Attempts to influence the panel or the continental authorities have met with decidedly mixed results. SAIIA has, for example, met resistance from the APRM secretariat when it tried to interact with the panel. SAIIA has attempted to flag issues for delegates by placing articles in the media before AU and forum meetings. What has not occurred, to SAIIA's knowledge, is a significant attempt by civil society to lobby at AU summits or forum meetings – certainly not in the same way as Group of Eight (G8) or World Economic Forum (WEF) meetings are lobbied. No attempts have been made to alter the design of the process (and its government orientation), or to ensure that a government is questioned about an issue or held to account for a commitment. Civil society might find that a government can be held to a higher standard of behaviour if other governments are lobbied to put pressure on them. More especially is this true if governments understand that a failure to hold a peer to the highest standards will degrade the importance of the programme as a whole. This remains an avenue to pursue.

Another factor is Africa's propensity to compromise. Historically, pan-African institutions, incorporating as they do markedly different political systems, have been reluctant to impinge on each other's sovereignty. The APRM marks a departure from this attitude. But different countries have approached the APRM with different intentions, and with different ideas on how it should be organised. This lack of consensus frustrates efforts to impose best practices and results in an unwillingness to draw hard lines on how the process is conducted. This could have serious implications when governments decide to manipulate a review or exclude certain stakeholders.

Because the process depends on cooperation, it is most unlikely that continental authorities would antagonise a country by questioning too loudly the decisions of its government. The former executive director of the APRM secretariat perhaps unwittingly summed this up in an interview: "It is true the base APRM document says civil society must be involved at every stage, but the secretariat cannot force anyone to do anything."<sup>34</sup> As the process progresses from what are generally seen as the reformers and democratisers (Ghana, South Africa, Benin, etc), it will begin to engage with countries whose commitment to clean governance and democracy is less evident.

In addition, civil society in many African countries is weak: poorly resourced, disorganised and lacking in basic skills. Observers have remarked on a 'per diem' culture in which delegates attend meetings for the money, and not to resolve substantive problems.<sup>35</sup> Moreover many African countries simply do not have an active civil society, or have one intimately linked to the political class. In Mauri-

<sup>34</sup> Ochieng, Z. "African Leaders Turning Peer Review into a Farce", *The East African*, 10 April 2007.

<sup>35</sup> Corrigan, T. "Africa: Civil Society, Principles and Per Diems", *Allafrica.com*, 11 August 2008, available online at <http://allafrica.com/stories/200808110163.html>, accessed 2 March 2009.

tius, for instance, one observer noted that the elite might serve in government, business and NGOs simultaneously.<sup>36</sup>

A widely held view of Africa is that “despite the formal political structures in place, power transits essentially through the informal sector”.<sup>37</sup> The implication is that focusing on formal institutions and processes will produce less reform than focusing on *actual* operations of power and authority. This problem is likely to be more pronounced in countries that are not among the ‘democratisers’. There is no easy solution. The APRM facilitates an investigation of governance, which offers the possibility of highlighting the gap between the way things should work and the way they do work in practice. This could be a means to expose, and provoke debate on, ‘informal’ governance operations. Activists might need to be willing to raise issues relating to individuals and their performance – even though this is likely to meet furious resistance, and could have legal implications.<sup>38</sup>

## RECOMMENDATIONS

**Be aware and involved:** Be willing to set aside time and effort, and some minimal resources. Know when the process will start and how it will proceed. You can expect to make an impact only if you are willing to make the effort to insert yourself into the process. You also need to signal your intention to become involved. Contact the focal point’s office and ask when the inaugural conference will be held. Write a letter or column for a newspaper. You need to make it clear to all that you want to be involved, and that you intend to press for integrity and openness.

**Be focused:** There is no way that an activist group can do everything and address every issue. Decide what your priorities are and focus on them. If you wish to address a broader spectrum of issues, including some outside your field, consider forming a consortium with other groups and developing a combined submission.

**Lobby for ground rules:** While patterns have emerged, various countries have adapted the review process to suit their circumstances. No two countries are the same, so flexibility is needed. But watch out for arrangements that are unrealistic or that lend themselves to abuse. Civil society should ask about the funds available and the time-frames envisaged. What can reasonably be achieved within these bounds? Should more time be allocated? Should more resources be acquired? Civil society needs to understand how various institutions will be set up and staffed, and how it will be represented. How will consultations be carried out? Who will compile and edit the report? It needs to be able to have its say on those parts of the process that can become important ‘gatekeepers’.

36 Cited in Herbert, R. and Gruzd, S., 2008. *The African Peer Review Mechanism: Lessons from the Pioneers*, Johannesburg: SAIIA, p. 248.

37 Chabal, P., 2005. “Power in Africa Reconsidered”, in Engle, U. and Olsen, G.R., *The African Exception*, Aldershot and Burlington: Ashgate, p. 21.

38 At a workshop to discuss draft technical reports on the South African process, a ruling-party Member of Parliament (MP) repeatedly objected to the mention of individual names in the report. There may be reasonable grounds for this, allegations of libel and slander among them. However, to avoid discussion of dubious conduct by key office-bearers is to ensure their conduct escapes scrutiny. And that ‘informal’ exercise of power remains unexamined.



**Write down your thoughts:** To make a compelling argument, your best strategy is to produce a well-written, properly researched and cogently argued submission or policy paper. It need not be long – quality is better than quantity. Explain the issues, provide evidence of their importance and suggest solutions if possible. Do not rely on oral presentations or interventions at mass meetings.

**Communicate with all who will listen:** APRM is not just about the process while it lasts. It is a longer-term exercise in advocacy and dialogue. Use it to communicate your thoughts to all stakeholders. Other activists may be interested in aligning with you to press your issue. Ensure that your ideas and submissions are given to national APRM officials and the country review mission (which will probably be extremely grateful for them).

**Do not forget Parliament:** The potential of Parliament to play a role in the APRM has not been fully appreciated. If legislative changes must be made, Parliament will need to be involved, so informing and lobbying Members of Parliament (MPs) is a useful strategy. Whether or not you succeed in getting reform through the APRM, getting Parliament to play a more proactive role – demanding accountability from the executive and initiating legislation – you will have made a significant contribution to governance. Parliaments in Africa tend to be weak and dominated by the executive, yet they have more oversight powers than they use. The possibility of improved governance is substantial if parliaments assert themselves.

**Work with media:** The media is key. In Africa it is frequently starved for content and may find the APRM and its issues of interest to readers. Writing short newspaper columns or suggesting topics for radio talk shows can help to popularise the subject. The more attention attracted, the better the possibility that activists will become involved and that the process will be carried out properly.

**Take it further:** The APRM is a part of a broader process of governance engagement. You will need to continue to press your issues after the process is over, exploiting the progress you have already made by way of contacts, coalitions, documents and publicity. The APRM will have had very little meaning if it is merely something that occurs every few years and is promptly forgotten. It will have real meaning if it generates a willingness among citizens to take ownership of their governance as a matter of course.

## CONCLUSION

The APRM has the potential to promote accountability and good governance within certain limits and under certain conditions. A strong argument could be made that it has great potential for promoting answerability, but very limited potential to enforce it. It can create awareness, but has less scope to force reforms. Prompting dialogue is arguably its key contribution. Civil society needs to be ready and able to seize the opening. It must also know what it wants to say, and when and how to say it.

The APRM was designed to be acceptable to African governments. In the absence of a strong civil society movement, one that is prepared to fight its

corner vigorously, it will remain under the control and direction of governments. This means that its potential for reform depends on the goodwill of governments and the determination of civil society in asserting its rights.

Genuine commitment from governments to democratic reform will be crucial. Those governments that genuinely want a properly functioning governance system will seek input from critical voices.<sup>39</sup> They will want a rigorous peer review process for much the same reason that academics want their research work reviewed by peers: it enhances quality, and demonstrates to citizens, foreign governments, potential investors, and donors that they are serious about reform, and that they have little to fear and nothing to hide.

The worst option for the APRM is the mooted idea that it be made mandatory for all AU states, or that all states should be encouraged to join. The value of the process lies as much in the fact that some countries have stayed out as that many have joined. Until the APRM is able to deal equally strictly with all countries, and to demand the utmost probity from them, the APRM should restrict itself to reviewing the real reformers and democratisers. The key issue is the integrity of the process: undergoing a review must mean that a country has been subjected to a rigorous process designed to enhance the quality of governance.

Civil society can benefit greatly from the APRM. It is a bold initiative with much potential – provided it is carried out with determination and integrity. Some of this will need to be contributed by governments out of a commitment to reform and renewal. But a great deal will need to come from a civil society with the vision to see the process as an important tool for reform, and the drive to seize the opportunities it provides.

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<sup>39</sup> It is interesting to note that one observer who criticised the manner in which Ghana had gone about its process nevertheless conceded that the process had been open to all: “Irrespective of its weaknesses, this was a largely inclusive process, so much so that even someone commonly called a ‘social critic’ like me was invited to be part of it. The minister, Appiah, the team did what they could to make it inclusive.” – Dr Kwesi Aning, quoted in Herbert, R. and Grudz, S., 2008. *The African Peer Review Mechanism: Lessons from the Pioneers*, Johannesburg: SAIIA, p. 185.

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SECTION 2

GOVERNMENT-LED  
ACCOUNTABILITY



# The Role of the Ombudsman in Ensuring an Accountable Public Service – Malawi’s Experience

By *Enock D.A. Chibwana*<sup>1</sup>

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This chapter tracks the origins of the institution of the Ombudsman. It focuses on Malawi but draws on the experiences of other countries for comparative purposes. It points out the accomplishments and challenges in advocating for good and accountable governance.

## INTRODUCTION

The Office of the Ombudsman exists to guard against the arbitrary use and misuse of power in a democracy. It is there to uphold fairness, good governance and the rule of law. The office is often established by legislation (either through the Constitution or an Act of Parliament), with a mandate to investigate citizens’ complaints concerning maladministration, acts or decisions of the government, and to recommend remedies.<sup>2</sup> The institution is an important device for making the government accountable and to improve the public service.

In Malawi, as in many other jurisdictions, the term ‘Ombudsman’ refers to both the institution and the person holding the office. It is used in both senses in this chapter.

The Ombudsman first appeared in Sweden in 1809, where it flourished for almost a century before being adopted in other countries.<sup>3</sup> The office was created to oversee the conduct of government business and report to Parliament such abuses of power as unfair treatment of citizens, unreasonable decisions and arbitrary actions. This helped ensure fair administrative practices, efficient public administration and an accountable system of government.

The central concept is that the government, being so powerful, needs to be checked to protect ordinary citizens when their rights are infringed. Without it,

<sup>1</sup> Ombudsman, Malawi

<sup>2</sup> Reif, L.C., 1999. “The International Ombudsman Anthology”, Kluwer Law International, p. 51.

<sup>3</sup> See <http://www.Ombudsman.europa.eu/speeches/en/2004-09-09.htm>.

the ordinary citizen could be disregarded. The objectivity of the Ombudsman promotes the rule of law, respect for human rights and democracy.

In Denmark, creating an Ombudsman was an essential part of the reform programme of 1954.<sup>4</sup> The appointment was designed to reduce what was seen as the unfettered power of the executive. The role of Parliament was strengthened and legal safeguards for individuals improved. The original mandate was and still is confined to issues of maladministration. However, more recently established institutions – e.g. in Namibia, Uganda, Lesotho – have an extended jurisdiction which covers, among other issues, human rights, the environment and corruption.

The concept has spread all over the world. In the United Kingdom, the office of Parliamentary Commissioner for Administration was created in 1967 and covered the activities of central government departments.<sup>5</sup> In Malawi, the first Ombudsman was appointed in 1995. In Uganda, an Inspector General of Government has similar duties. In South Africa, the incumbent is called the Public Protector.

In every country in which the institution has been established, its introduction has not been without problems. In Malawi the public service did not readily accept being held to account. In 2000 the Executive became threatening when the Ombudsman instituted a high-profile investigation. The Ombudsman responded by threatening to resign and reveal the names of those who had threatened him. The interference stopped. Two years later the Inspector General of Police instructed all police officers not to co-operate after the Ombudsman began investigating a complaint from a member of the public. The Ombudsman, in turn, instituted contempt proceedings against five police officers for refusing to appear before him. The action was dropped after the intervention of the Parliamentary Legal Affairs Committee.

Some have argued that the institution should be reserved for mature democracies. Others say it is needed in societies where government institutions leave most of the people without protection. In Malawi, some see it as merely a nuisance to those in authority; others regard it as protecting victims of maladministration and human rights abuses.

In some countries, the Ombudsman has been instituted to handle complaints in specific organisations, sectors or industries. The popular ones, however, remain those that investigate government machinery and are also known as the political Ombudsman. This is the Ombudsman under discussion in this chapter.

The office is a watchdog guarding the way the government runs its business. It helps promote accountability, transparency and the rule of law, thus improving the public service, which becomes more aware of what is required of it.

Public servants hold their positions on trust. They are accountable to the public for how they conduct official business. They are expected to operate in a fair and open manner and according to law and regulations. They are obliged to explain their decisions. Accountability promotes democracy and trust in the government.

Transparency entails giving information on all matters relating to governance process. The duties and responsibilities of public servants are made known to those interested.

<sup>4</sup> “The Danish Ombudsman 2005”; Forketinggets Ombudsmand, p. 13.

<sup>5</sup> Information accessed at <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmpublic/121/12105.htm>.



The institution of the Ombudsman is there to ensure that the government performs within the law and is accountable. It does so by investigating claims of injustice or non-observance of the law and the rules, and taking corrective measures. In countries where accountability and human rights are at stake, and where the legislature is too weak to play its oversight functions and opposition parties are not sufficient, an Ombudsman becomes even more important. This is particularly true for Africa, as argued below:<sup>6</sup>

The Ombudsman institution is actually more relevant to Africa (and the less developed regions) than anywhere else in the world because of the specific problems facing Africa. The core concept of the work of the Ombudsman is looking into maladministration and administrative misconduct of public officers towards ordinary people. The conditions prevailing in Africa make maladministration, mismanagement and waste the order of the day, thus calling for institutional mechanisms to put matters right when an act of a public officer causes an injustice to a person. In Africa, the authoritarian character of the state is its most dominant feature even in situations where a democratic process is underway. In many African states, any threat from the political and, in many cases, economic hegemony of the ruling group results in intolerance of any independent centre of authority or power, such as courts or legislature or even non-governmental organisations (NGOs). In these conditions, it is evident that public control, criticism or accountability by the state apparatus cannot be expected without adequate institutional arrangements that can ensure control, accountability and transparency. One of these institutional arrangements is the Ombudsman because, in these circumstances, most ordinary people would otherwise be left without any protection against maladministration.

The Ombudsman institution has existed in Africa for more than 40 years, having been adopted in Tanzania in 1966. It has spread to about 40 countries.

## THE OMBUDSMAN'S FUNCTIONS

When Malawi adopted a new Constitution in 1994, three watchdog bodies were created in the belief that democracy would be meaningless if power was unchecked. They were the Malawi Human Rights Commission, the Malawi Law Commission and the Office of the Ombudsman.<sup>7</sup> The Ombudsman is appointed by and answerable to Parliament.<sup>8</sup> It became operational in 1995. The Ombudsman exists to provide a simple, speedy, inexpensive and accessible alternative to the courts which – in Malawi, as in other countries – are slow, over-burdened and bogged down. Legal representation is also expensive. Complaints of an administrative or quasi-judicial nature can be heard by the Ombudsman without procedural inconveniences.

The Constitution gives him power to investigate cases of alleged injustice. Section 123(1) of the Constitution says:

*The Office of the Ombudsman may investigate any and all cases where it is alleged that a person has suffered injustice and it does not appear*

<sup>6</sup> International Ombudsman Institute, 1999, "The International Ombudsman Year Book", Kluwer International, Vol.3, p. 185.

<sup>7</sup> Special Committee on Ombudsman's Office Report 2002.

<sup>8</sup> Section 121 of the Constitution of Malawi.

*that there is any remedy reasonably available by way of proceedings in a court or by way of appeal from a court or where there is no other practicable remedy.*

The jurisdiction of the Ombudsman has been challenged by respondents who have argued that court remedies are available.

One school of thought subscribes to a literal interpretation: that the Ombudsman cannot investigate a matter where the complainant can obtain a remedy in court. However, such an interpretation would render the Ombudsman useless as almost every case is actionable in court where remedies are available.

The second school of thought subscribes to a liberal interpretation giving the Ombudsman discretion to decide which cases to investigate. This would require him or her to look at the facts and merits to decide whether there is a remedy reasonably available by way of a court or whether there is no other practical remedy. This interpretation has been adopted by the institution and the courts. While remedies are available in court in almost all cases of injustice, it remains to be seen whether they prove reasonably available and practicable.

A key requirement is to provide speedy access to justice at no cost. In Malawi the judicial system is bogged down by legal technicalities bewildering to lay people. This calls for legal representation that cannot be afforded by an average Malawian. The Legal Aid Department, legally mandated to represent the underprivileged, is understaffed, under-resourced and overwhelmed with cases. A poor applicant might have to wait for years. This, therefore, is not a reasonably available remedy. In the *Ombudsman vs. Malawi Broadcasting Corporation (MBC)*<sup>9</sup> a court ruled that the Ombudsman could hear cases if it appeared to him that a court remedy was not reasonably available. It is against this background that the Ombudsman has been forced to rule exhaustively on jurisdiction before delivering a determination.<sup>10</sup> In one instance the ruling was:<sup>11</sup>

Section 123 (1) of the Constitution allows any person to lodge a complaint to the Ombudsman where it appears that a remedy is not reasonably available in the courts of law. The complainant is needy, frail and is of advanced age. She had engaged the Legal Aid Department, which, from the look of things, was not helpful to her. The Administrator General conceded in evidence that it was up to the Legal Aid Department to look at the legal aspects of this matter on behalf of the complainant. I am aware that the Legal Aid Department has staffing problems and as a result, is overstretched. It is unable to cope with the volume of work. To institute proceedings in the High Court, the complainant would require legal representation. She is entitled to legal aid, the very service which is not available to her. As a result, she would not be able to obtain a remedy on her own in the High Court since she is not conversant with legal matters. Further, considering her advanced age, this is a matter which requires urgent resolution. Courts are too technical and usually they are slow. Consequently, the complainant may not obtain a remedy in the courts. In view of the foregoing exposition, I hold that I have jurisdiction to look at the matter.

This shows how people may be denied justice if Section 123 (1) was interpreted literally.

<sup>9</sup> Civil Appeal No.47 of 2000, MSCA (Unreported).

<sup>10</sup> The judgment that is delivered by the Ombudsman at the end of a public inquiry is referred to as a ‘determination’.

<sup>11</sup> *Magwaya vs. The Administrator General*, Inquiry No. 99 of 2000.

The courts have also exercised their minds on whether practical remedies would be available. In *Air Malawi Limited vs. The Ombudsman*, Civil Appeal No.1 of 2000 in the Malawi Supreme Court of Appeal (MSCA) (unreported) it was held:

It is our view, however, that the present case is one where it would be proper for the Ombudsman to investigate because it is clear on the papers before us that the complainant would have no remedy reasonably available to him in court because of the possibility that the action would be caught by the Statute of Limitation.

Most Ombudsman institutions make recommendations only. These are not reviewable by the courts. In Malawi, however, the Ombudsman can make determinations that must be carried out unless quashed by the High Court, a rare occurrence. That is why there is high rate of compliance in that country.

Another disputed area is whether the institution is empowered to investigate the private sector as well as government sectors. The Ombudsman Act restricts such powers, Section 5 (1) providing:

Subject to the Constitution, the Ombudsman shall inquire into and investigate...any request or complaint in any instance or matter laid before the Ombudsman...concerning any alleged instance or matter of abuse of power or unfair treatment of any person by an official in the employ of any organ of Government, or manifest injustice or conduct by such official which would properly be regarded as oppressive or unfair in an open and democratic society.

A question has baffled many legal minds: should the Ombudsman go by the restriction in the Ombudsman Act or exercise the wider powers under the Constitution? What came out clearly in all legal debates is the supremacy of the Constitution. That gives the Ombudsman the power to investigate alleged injustices in both public and private sectors.

However, given the urgent need to reform the public service, the historical background of the institution and the intentions behind its creation, the office currently entertains only complaints against the government. Those against the private sector are referred to other forums.

While injustice is mentioned in the Ombudsman Act, it has not been defined. That has been left to external sources. Leading authors in Administrative Law have defined injustice as follows:

*Injustice and maladministration were deliberately left undefined. Injustice means something wider than legally redressable damage. It includes hardship and a sense of grievance which ought not to have arisen. Maladministration covers a multitude of sins, sins of commission and omission, corruption, bias, unfair discrimination, harshness, misleading a member of the public as to his rights, failing to notify him properly of his rights or to explain reasons for a decision, general high-handedness, using powers for wrong purposes, failing to consider relevant materials, taking into account irrelevant materials, or failing to reply to correspondence.*<sup>12</sup>

12 De Smith, S. and Braize, R. 1990 *Constitutional and Administrative Law*, 6th Edn, p. 649, Penguin Books Ltd.

Maladministration has also been defined to include “...such things as neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude, arbitrariness and so on”.<sup>13</sup>

It is clear from these definitions that the Office of the Ombudsman was indeed created to ensure good governance, administrative efficiency, fairness, justice and prevalence of the rule of law. By calling on government officials to explain reasons for their decisions, and by demanding that they act in accordance with set standards of service delivery, we are asking the government to be accountable to the people. And by calling on the government to keep citizens informed, we are asking it to be transparent in its dealings.

In Malawi, the Ombudsman is also mandated to investigate human rights abuses.<sup>14</sup> His office has inherent investigatory powers.

The Ombudsman office can only be effective where it is given untrammelled access to information, evidence and documents. In Malawi, he has full powers to:

- subpoena any person who he reasonably believes to be connected with any investigation by his/her office;
- require the immediate disclosure of information and the production of any documents from any public body;
- question any person who he reasonably believes to be connected with an investigation; and
- initiate contempt proceedings against any person or authority in connection with non-compliance with the powers conferred in this section.<sup>15</sup>

Further, the Ombudsman can request access to any premises, inspect and copy any documents and take statements under oath.<sup>16</sup>

When investigations reveal an injustice, the Ombudsman can direct the respondent to provide remedies. He would be ineffectual without full legal powers. He can:

- direct that appropriate administrative action be taken to redress the grievance or call for decisions to be reversed;
- cause an authority to ensure remedies for future grievances; and
- refer cases to the Director of Public Prosecutions for possible prosecution.<sup>17</sup>

The Ombudsman can also negotiate solutions.<sup>18</sup> Alternative dispute resolution provides an amicable way of resolving differences.

For all these functions to be performed effectively and powers to be exercised fully, guarantees of independence from interference are of paramount importance.

## THE OMBUDSMAN’S INDEPENDENCE

The Ombudsman needs to be guaranteed total independence. Worldwide, this is regarded as the most important factor.

<sup>13</sup> Foulkes D., 1990. *Administrative Law*. 7th Edition, 506, Lexis Law Publishing.

<sup>14</sup> Sections 15 (2) and 46 (2) (b) of the Constitution.

<sup>15</sup> Section 124(a) (b) (c) (d) of the Constitution.

<sup>16</sup> Section 6 of the Ombudsman Act.

<sup>17</sup> Sections 126 and 8 of the Constitution and the Ombudsman Act respectively.

<sup>18</sup> Section 8 of the Ombudsman Act.

In Malawi, independence is constitutionally entrenched. Section 121 stipulates that “in the exercise of his or her powers, functions and duties, the Ombudsman shall be completely independent of the interference or direction of any other person or authority”.

This independence would be meaningless without other guarantees like appointment and security of tenure. In Malawi, when the office falls vacant, Parliament – and not the executive – appoints the candidate. To avoid conflicts of interest, the appointee may not be a serving public officer or Member of Parliament (MP).<sup>19</sup>

He/she serves for a fixed renewable term of five years and can only be removed for gross misconduct or in circumstances where he/she would be automatically disqualified (like age). In practice the serving Ombudsman is interviewed again with other candidates after his/her first term. This is contrary to the Constitution, which makes this provision for reappointment:

A person appointed to the office of Ombudsman serves a term of not more than five years. The Public Appointment Committee may appoint that person for a further term of five years as it considers appropriate unless that Committee terminates that appointment in accordance with this section.

A prerequisite for independence is an adequate budget. Without funds, the Ombudsman would be unable to fulfil his/her mandate. Furthermore, he/she would be open to the risk that the government would deliberately frustrate him/her by denying adequate funds. Hence the legal requirement that the government must provide necessary resources.<sup>20</sup> In Malawi, the Ombudsman's office is given a budget ceiling by the Treasury yearly. The budget is approved by Parliament and is usually not adequate and the Treasury can arbitrarily reduce the amount without consultation. This affects operations adversely. For the financial years 2006/7 and 2007/8 there was a slight improvement in the funding levels.

The immunity that the Malawian Ombudsman enjoys strengthens the independence of the institution. He/she has the same protection and privileges as MPs. The current incumbent appoints his/her own staff, ensuring loyalty, and has vehemently criticised government institutions without fear or favour.

## SUCCESSSES

In nursing independence, the Ombudsman has had successes and faced challenges. From the start, the office was considered a nuisance by authority. The office faced a situation of total abuse of power and unprecedented maladministration resulting in massive injustices to citizens. The introduction of the institution was seen as simply a measure to slow down government and tone down its powers. Over the years, however, it has made remarkable inroads in promoting good governance.

It has provoked reform in the public service where once maladministration was commonplace. For example, before the democratic dispensation of 1994, the right to be heard was unknown to many Malawians. Using arbitrary power was the order of the day. Decisions were made without reasons and challenging them led to trouble for those affected.

<sup>19</sup> Section 122 of the Constitution.

<sup>20</sup> Section 125 of the Constitution.

Then the Ombudsman started coming up with cases of rules being breached by officials, especially over dismissals. After he voided a number of such decisions, the institution experienced a floodgate of similar complaints. In *Timothy Kachepa vs the Office of the President and Cabinet (OPC)*, the complainant, a Principal Secretary in the President’s Office, was prematurely retired without reason. The Ombudsman held that the decision was contrary to natural justice since he was not asked to make representations. He directed the government to deem him as having retired at mandatory retiring age.

Following many decisions favouring complainants, complaints dropped significantly, signalling a positive change in the way the government was handling disciplinary cases.

### ***Misleading the public***

Many cases have been brought against government officers for misleading the public by providing them with false or inaccurate information. The officers were called on to explain themselves and appropriate action was taken. In *Fudzulani and others vs OPC*, the government built a public school on customary land. The District Commissioner (DC) advised the complainants that they were not entitled to compensation because the land had been bought from traditional chiefs. The Ombudsman held that the right to own property was enshrined in the Constitution. The government was directed to pay the complainants.

The Ombudsman usually asks concerned institutions to tell the public how to go about getting services. In addition, the government has agreed to create a national service charter spelling out standards for service delivery. When completed, it will go a long way to help people to assert their rights.

### ***Neglect of duty***

The Ombudsman was flooded with complaints of neglect of duty by public officers. His intervention saw a drop in such cases. For example, many pensioners are now paid their dues without hassles.

### ***Delay***

It had been commonplace for the government to delay processing citizens’ applications without justification. This led to loss of public confidence. The problem was exacerbated by a lack of service standards. The Ombudsman demanded deadlines for processing applications and concluding matters.

### ***Backdating suspension or dismissal***

The Ombudsman observed a sharp rise in cases where suspensions or dismissals were backdated. In *Willard Nthara vs Northern Regional Water Board*, the complainant had his/her services terminated. The termination was backdated. The Ombudsman held that it had to take place only from the date of the letter of termination, so improving the lot of the complainant.

As a country coming out of a dictatorship, arbitrary decisions were the order of the day. The courts have been vigilant in ordering the reversal of such deci-

sions. But because of the overwhelming number of cases, the Ombudsman has had a fair share.

There has been a positive improvement, but some officials still act first and look for justifications afterwards.

### ***Failure to respond to correspondence/queries***

A commonplace administrative problem is failure to respond to correspondence or queries. Providing information plays a vital role in ensuring a transparent nation. With a population of 13 million in Malawi it would be unrealistic to expect everyone to go to government offices to be informed. It is thus imperative that government officials respond to correspondence to make the public aware of policies that affect them. In *Priscilla Musukwa vs Ministry of Education*, a teacher applied for unpaid leave to join her husband in Botswana. After waiting nine months, she went to Botswana without permission and was dismissed for absconding. The Ombudsman ruled that the respondent had failed in his/her duty to respond, and the dismissal was therefore unfair.

Although there has been an improvement after the Ombudsman's intervention, major changes are still awaited. Notwithstanding reforms, increased levels of accountability, and better governance, the office continues to encounter challenges, some of which are outlined below.

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## **CHALLENGES**

### ***Inadequate resources***

Although this is clearly provided for by the law, the Ombudsman's budget is too lean to support his activities. This cripples his/her ability to function properly. It is worth noting that 60% of funding comes from donors, not the government.

Unlike Malawi, where the executive can starve the Ombudsman, in Uganda once funds are approved by Parliament, the amount cannot be reduced. This is called protected expenditure.

### ***Lack of political will***

The government lacks the political will to support the Ombudsman, as evidenced by the shortage of funding despite many appeals. The office, in existence since 1995, should by now be so well established that funding is no longer a problem. Instead, the government consistently ignores pleas for support.

It is indisputable that when political will is lacking, progress is retarded due to the attitudes of government officers.

Senior government officers tend to have a negative attitude to the Ombudsman, perceiving the institution as aiming to frustrate government business. This has usually come about because they are used to making arbitrary decisions.

Toning down such attitudes is an ongoing process. The Ombudsman has conducted sensitisation workshops for MPs and senior officials.<sup>21</sup>

<sup>21</sup> Principal secretaries are called permanent secretaries in other jurisdictions.

The workshops helped to plan a cooperative way forward. Parliament’s Legal Affairs Committee has been instrumental in calling for compliance with the Ombudsman’s determinations.

The media has also played a vital role in changing attitudes.

### ***Absence of powers***

An inability to enforce the institution’s own determinations has been a major setback. Many ministries started holding back when it became clear that the Ombudsman had no powers to enforce decisions.

But Parliament’s Legal Affairs Committee has come to the rescue by using its authority to call government officials to account. On two occasions it has taken Principal Secretaries to task for ignoring determinations. Within a month, they had complied, an example followed by other officials who fear being reported to Parliament.

The Ombudsman now enjoys a good relationship with Parliament and uses its support to ensure that his decisions are taken seriously by public officers.

## **CONCLUSION**

The Ombudsman is an institution, established by the state, to ensure accountability and good governance. As such it straddles a somewhat peculiar divide: it is an institution of state – albeit conceived as an independent one – which attempts to hold the state to account.

The Ombudsman is an important part of many countries’ accountability systems, particularly those of developing countries. It offers people a means by which their claims vis-à-vis the state and other powerful interests can be supported, in an environment where other remedies – such as the court system – operate slowly and inefficiently.

In Malawi, the institution has faced considerable strain on its independence and its ability to do its work. It has, however, held firm and protected itself. Its continued independence has in particular been secured by the twin factors of constitutionally guaranteed independence and by the personal commitment to safeguard this independence on the part of the incumbent Ombudsman.

When the incumbent is willing to bend to political pressure – or is appointed to the office as someone who will do so – the integrity, independence and ability of the institution to function will corrode.

Democracy aims to promote good governance. Structures for protecting the foundations of democracy need to be in place. One such structure is the Ombudsman. It is an institution that functions as a fundamental tool for ensuring that accountability, transparency, good governance and the rule of law prevail.



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# Parliamentary Oversight of the HIV and AIDS Pandemic – The Case of Mozambique

By *Honourable Isau Joaquim Meneses*<sup>1</sup>

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HIV is an issue that is of utmost importance for everyone – and this includes parliamentarians. This chapter describes how elected Members of Parliament in Mozambique have used the parliamentary oversight committee as a way of understanding the impact of HIV at grassroots level. They have taken action to ensure that laws and plans are adhered to by both government and, importantly, civil society in the interests of those living with and affected by HIV.

## INTRODUCTION

The ultimate proof of the success of any genuine sovereign body is when the public approves and endorses the policies and actions of its representatives. In other words, as parliamentarians, we are ultimately accountable to the public. This chapter provides some personal reflections and experiences on the parliamentary oversight function. This function is, in my view, one of the core functions of parliament in a democratic society.

The question of parliamentary oversight as a form of social accountability is important, relevant and timely. In Southern Africa, where the HIV burden is so heavy that it affects all our lives, there has been increased state investment of public funds as well as significant levels of foreign development assistance for HIV prevention, treatment and impact mitigation. The level of funding, and the urgency with which Mozambique needs to combat HIV, means that there has to be rigorous and effective parliamentary oversight of all who receive public funds to carry out HIV-related activities.

This chapter first describes the HIV situation in Mozambique, then the role and potential of a parliamentary oversight committee – how we are established,

<sup>1</sup> Member of Parliament, Mozambique

Editor's note: This chapter is written in the first person as it reflects the author's personal experience.

how we are resourced and our main actions. I then describe in more detail some of the challenges and successes we have encountered in monitoring the implementation of a law that protects the rights of people living with HIV, and in ensuring that Parliament takes action to protect orphans and vulnerable children (OVC).

The opportunity to present my contributions and experiences in this chapter has been a difficult but gratifying task. For me it has been gratifying to try and systematise ideas that I have learnt in this process and to share the experiences that I have gained from the contact that this work has given me with various groups in society. It has been difficult because, as Members of Parliament (MPs), we are required to acquire complex and multi-disciplinary knowledge in order to carry out the oversight function, so it has been a challenge to pull the information together.

I have worked in the health and social welfare sector since I started working in 1980. Because of this experience, once I became MP in 1995 I was appointed focal point on HIV within the Health and Environment Committee. However, it became clear to me early on that we needed greater attention on HIV. The HIV epidemic was rapidly growing at a time when we were coming out of 16 years of war which also produced many other health and social problems, such as disabilities. Because of this, as I shall describe below, we introduced a more rigorous method of parliamentary oversight. The chapter also considers certain paradigms and challenges, with particular focus on the oversight of actions carried out by the Executive and its partners within the framework of the Plan of Action for Orphaned and Vulnerable Children.

## THE HIV PANDEMIC IN MOZAMBIQUE

The most recent surveillance carried out in 2007 indicates an HIV prevalence of 16% in Mozambicans aged between 15 and 49 years. This varies from 8% in the northern provinces of Niassa and Nampula to 27% in the southern province of Gaza. This means that one out of every five Mozambicans is infected.<sup>2</sup>

Although there is no accurate data on the number of HIV OVC (largely because of the difficulty in classifying such children and the difficulties in collecting data), estimates vary between a low official estimate of 300 000 up to approximately one million children.

Mozambique defines an orphan as a child aged between 0 to 18 years who has lost one or both parents.<sup>3</sup> In the interest of fighting discrimination, the government has made no distinction between children orphaned by AIDS and those orphaned by other circumstances, but it is believed that the majority of orphans are directly affected by HIV. The group of children affected by HIV includes: children caring for sick parents or for those responsible for their education, children rejected due to HIV-related stigma, children who are heads of households, children living in households headed by aged people, children living in communities with high levels of HIV infection, and children who have lost one or both parents.

<sup>2</sup> Ministry of Health, 2008. *Relatório Sobre a Revisão dos Dados de Vigilância Epidemiológica do HIV Ronda 2007*; PIXEL – Comunicação e Imagem; Maputo, Moçambique.

<sup>3</sup> Ministry of Women's Affairs and Social Welfare, 2006. *Plano de Acção para Crianças Órfãs e Vulneráveis (OVCAPs) 2006-2010*, Mvunga, Moçambique.

One piece of evidence to show that the number of vulnerable children is increasing is the rise in institutions caring for children. The number of children in childcare institutions increased from 8 301 in 2004 to 32 325 children in 2008 with fewer children being cared for in host or foster families.<sup>4</sup> A total of 824 678 OVC received basic services, namely health care, education, nutritional support, legal support, financial support and psycho-social assistance.<sup>5</sup>

## PARLIAMENT’S HOLISTIC APPROACH TOWARDS HIV AND AIDS

As stated by José Ramón Gibert, “Parliamentary control constitutes the core of relations between the legislative and the executive and, at the same time is... one of the basic components of the theoretical and constitutional foundations of Parliament.”<sup>6</sup>

Parliamentary oversight of the government can be carried out through different forms, which Luís Sá describes as powers: calls for information, questions, requests, enquiries, petitions, reviews of annual reports of the Attorney-General of the Republic (in the Ombudsman function), debates on matters of relevant national interest, and hearings.<sup>7</sup> There can also be motions of confidence or censure.

Parliament carries out several key functions – legislation, representation and control. The first function with regards to HIV that Parliament carried out was legislative. When we as parliamentarians became aware of the HIV and AIDS problem in the country at the end of the 1990s, our first actions were in our own constituencies. Our responses to HIV tended to be ad hoc public statements when questioned about HIV and we lacked a clear sense of what our actions should be. However, the HIV problem escalated. As parliamentarians, we were conscious of one very vocal group: people in or seeking employment who were being stigmatised because of HIV. A number of civil society bodies, including trade unions and associations of people living with HIV, proposed a law to protect people living with HIV. Some of the issues raised included concerns about compulsory HIV testing, lack of confidentiality, the rights of employees living with HIV including concerns about unfair dismissal and lack of compensation, workplace awareness raising, and treatment and care. A number of parliamentarians were both aware of the problem and felt empathy, so we moved quickly to pass a law to protect this group of people – Law 5/2002 that protects the rights of HIV-positive workers in and seeking employment. The preparations were carried out under the guidance of the Committee of Social, Gender and Environmental Affairs (CSGEA) but the debate and approval included the participation of all MPs.

With this move, we thought that we had made a substantial achievement. However, we discovered that in fact we still had a lot to do. I was the focal point for HIV within the CSGEA and received feedback that many further steps needed to be taken. There were many people who were not employed and

<sup>4</sup> Presentation by the Minister of Women’s Affairs and Social Welfare to the National Assembly of Mozambique, May 2009.

<sup>5</sup> *Ibid.*

<sup>6</sup> Gibert, J.R.M. and Morillo, J.C., 1983. *El Control Parlamentario*, Tecnos: Madrid, pp. 17-18.

<sup>7</sup> Sá Luís, 1994. *O Lugar da Assembleia da República no Sistema Político* (“The Place of Parliament in the Political System”), Caminho - Coleção Universitária: Lisbon.

therefore were not protected by Law 5/2002. Shortly after the Law was passed, those civil society groups who had initiated the dialogue with us, plus others, came back with a proposal for a second bill.

Therefore, in 2005 civil society and Parliament initiated discussions about a second bill on HIV. That is to say, we were carrying out our representative function as parliamentarians – we needed to listen and respond to the concerns of citizens. In general, we found that civil society groups were more advanced than Parliament. Their knowledge about HIV was greater than that of MPs and we used their expertise to organise seminars and discussion sessions about HIV and AIDS, especially understanding the facts of HIV, the importance of confidentiality and combating stigma and discrimination. We held seminars that included medical doctors, economists, sociologists, lawyers and trade unionists, in order for MPs to have a multifaceted understanding of HIV. This was done prior to the final drafting and approval of the second HIV Law.

Independently of this process, in 2005 the Mozambican Parliament concluded that it was essential to establish a National Parliamentary Group for Prevention and Fight against HIV/AIDS given the growing awareness of the problem. A consensual vote from both parliamentary benches (Frelimo and Renamo-Electoral Union) led to the establishment of the Parliamentary Office for Prevention and Fight against HIV and AIDS (*Gabinete Parlamentar de Prevenção e Combate ao HIV e SIDA* – GPPC-HIV e SIDA).

The GPPC-HIV e SIDA has five members, three of whom are from Frelimo (the ruling party) and two from Renamo-Electoral Union (the opposition), selected by MPs. Its key activities are to:

- coordinate legislative initiatives in the area of HIV and AIDS;
- collect and systematise HIV and AIDS information coming from MPs, other public and private institutions and many other bodies;
- present a briefing to the plenary at each Ordinary Session of Parliament on parliamentary action on HIV and AIDS;
- provide national parliamentary groups with information on HIV and AIDS relevant to their activities; and
- be briefed by each national parliamentary group on HIV and AIDS information that they have gathered from elsewhere, such as the Southern African Development Community (SADC) and African Union (AU) parliaments.

Our main oversight role is carried out through visits to different parts of the country. We undertake at least three to four field visits each year in between the two parliamentary sessions, that is, before March and between May and October. We develop an annual plan together, selecting places that we have not yet visited and prioritising those areas with the most serious HIV problems. All five members of the committee participate in these visits.

We have a team of three staff members who assist the GPPC-HIV e SIDA. Although each parliamentary committee has a small budget allocated by the state, we found that this was not sufficient. We have successfully raised additional funds from several donors to implement our work plan. The visit preparations are jointly undertaken by the GPPC-HIV e SIDA in coordination with provincial assembly delegations.

Each visit includes the following: a public meeting with civil society, an opportunity for individuals to meet with us confidentially and raise their concerns, visits to private sector companies for oversight, and visits to OVC projects

and hospitals. Normally, we hold the public meetings and audiences near the beginning of the visit to be able to respond to any urgent issues that we must take action on.

After returning from the visits, the GPPC-HIV e SIDA prepares briefings to Parliament. From 2006 to 2009 we presented seven briefings. These were not only highly publicised upon their presentation in the plenary sitting, but were also made available to the public through the Library of the National Assembly and directly from the GPPC-HIV e SIDA. In these briefings, we made recommendations that we feel will help greatly in the fight against AIDS in Mozambique. Based on those recommendations, several actions have been taken. A policy on nutritional supplements for people with HIV-related illness has been approved. An agreement that resulted in the establishment of the first antiretrovirals factory in Mozambique was sped up and finalised. In 2009, Law 12/2009 was passed. This law establishes the rights and obligations of people living with HIV and AIDS (PLWHAs) – the law that we started working toward in 2005 with civil society. The original law, Law 5/2002, has been revised and updated. A day was devoted to the discussion of HIV and AIDS in plenary session. In general, we have found increased participation and commitment of MPs with regard to HIV and AIDS. Finally, there are now regular meetings between Parliament and civil society. At least twice a year, we meet at the National Assembly with national networks of people living with HIV and AIDS or others involved in the HIV response to share views about the status of the pandemic and actions within the framework of national plans.

Returning to the issue of parliamentary functions, it is important to say that resorting to investigation has been indispensable in helping us obtain relevant information, both for investigative (oversight or control) and legislative roles of parliamentarians. In general, specialised committees use the following approaches when exercising oversight, with different approaches being used depending on the context: hearings and audiences, official requests for information, public consultation and Information and Communication Technologies (ICT).

However, our experience, particularly in learning about the dynamics of the management of public funds for HIV and AIDS programmes, suggests that there needs to be a slightly more investigative and broader approach. We found that we needed to improve our research techniques to fulfil our mandate. We also found that we needed to extend the parliamentary oversight role to include engagement with civil society organisations (CSOs) – all associations working in the field of HIV and AIDS, be they public, private or civil society – who implement plans and programmes on HIV and AIDS that are financially backed by public funds.

To illustrate this point, in the process of parliamentary oversight we found that some implementers were not using funds for the purposes for which they were first requested. This is an example of how the oversight function works when we use the full powers to look widely at the issues – we discovered this because of our open dialogue with beneficiaries. When we found out about this, we raised the issue with the relevant government bodies and asked them to rigorously control the application of funds and take drastic measures against those who did not use the allocated budget as planned. As a consequence, the government adopted new guidelines for the management of HIV funds by civil

society. The GPPC-HIV e SIDA successfully advocated transparent management and the establishment of a culture of accountability in the utilisation of public funds granted to associations working on HIV and AIDS. We believe that this was only possible because parliamentary oversight was not limited to government action but had a mandate to look at all recipients of government funds, who therefore fall under our oversight function.

It is not just the government and civil society that are part of our mandate. We also have an oversight function with the private sector, in particular in relation to the implementation of laws protecting people living with HIV. For example, in one provincial visit concerns were raised with us privately about a multinational that was allegedly carrying out HIV tests without consent. After this was raised with us, we visited the company in question and asked about the tests being carried out. The company said that certain tests were carried out but did not admit to taking HIV tests without permission. They refused to show us the letter that they use when requesting tests, which led us to believe that they were hiding something. We discussed the issue with a doctor who confirmed that he was receiving requests from that company to test blood samples for HIV. With this finding, we reported the company to the Department of Labour and the company was consequently investigated and fined.

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## PARLIAMENTARY ACTION AND ORPHANED AND VULNERABLE CHILDREN

For us, our work with OVC has a particular importance. Although children are not voters today, tomorrow they will have grown and we want them to have every chance to become healthy and productive adults. Because of this, it is essential that the rights of these children are well protected now. We need to monitor closely the actions of both government and non-governmental organisations (NGOs) to ensure that the rights of vulnerable children are upheld.

Mozambique is a signatory to international conventions, treaties and declarations that oblige it to protect children's rights, as does the Constitution of the Republic. Actions aimed at caring for children are guided, within this framework, by a set of strategies and policies. These include the government's five-year national development strategy, acts against trafficking and for the promotion and protection of children, various social welfare policies and the National OVC and Children's Plans of Action.

The GPPC-HIV e SIDA deemed it important to ensure implementation of the PACOV. This plan has four objectives: to create a protective environment that is also conducive to reducing the impact of HIV and AIDS on OVC; to strengthen the institutional capacity of the Ministry of Women's Affairs and Social Welfare (MMAS), Ministry of Health (MISAU), Ministry of Education and Culture (MEC) and other main partners at all levels; to strengthen the capacity of families and communities to find local solutions to protect and care for orphaned children who have been made vulnerable by HIV and AIDS, and to establish and strengthen systems for the collection, analysis, monitoring and evaluation of data.

The Mozambican Parliament has designed and developed a specific plan for follow-up and oversight of action by the government and its partners within the scope of the Plan of Action. This includes round tables as well as visits to projects and programmes which care for OVC and their host families.

Most round tables are held in the provinces, with the participation of MPs, children, provincial government structures and civil society representatives. At these round tables, children have the opportunity to present their concerns to MPs directly and to engage with provincial structures on sensitive areas related to them, such as health, education and social welfare. Children are represented by the members of the Children’s Parliament, child presenters from TV and radio programmes, children selected by provincial departments of the Ministry of Social and Welfare Issues, and child representatives from *Continuadores*, a children’s organisation.

Many concrete issues have been raised at these round tables. For example, in Cabo Delgado Province, as a consequence of the direct dialogue between children and MPs from the GPPC-HIV e SIDA, we were introduced to a household that had no sources of revenue, children who could not attend school, and that was headed by the eldest sibling, a girl of 16 years. Through advocacy and lobbying by the GPPC-HIV e SIDA, those children began to receive a food allowance and the eldest sister started an income generation project. Another example of the effectiveness of the programme was seen in Tete Province. During one visit, we came across a foreign organisation that claimed it was providing assistance to OVC. In fact, one of its members was showing pornographic movies to children in the association’s premises. We reported this case to local welfare structures and the GPPC-HIV e SIDA took action to prevent the organisation from operating. It was consequently expelled from the country.

In addition to the GPPC-HIV e SIDA, Members of Parliament regularly visit projects and programmes that care for OVC in order to verify the level of commitment of the government and level of compliance with the PACOV, as well as monitor the provision of essential goods and the promotion and protection of children’s rights by the government and civil society. In visits to host families, MPs seek information about the child’s and the family’s socioeconomic conditions and verify to what extent children feel effectively integrated into the family. We talk directly to children to find out their level of satisfaction with both material and psycho-social support, as well as the extent to which they are accepted within the household and the quality of the relationship between children and the broader extended family.

In this process we have found that in many cases poor families are faced with a dilemma: to provide for other vulnerable children and feel satisfied from a philanthropic point of view, or to focus on socioeconomic stability, to the detriment of altruism, since they already have a large number of children and other relatives in their family unit. In order to address some of the challenges posed by this dilemma, the implementation of the third objective of the National Plan for OVC (“to strengthen the capacity of families and communities to find local solutions to protect and care for orphaned children who have been made vulnerable by HIV and AIDS”) has been a breath of fresh air. However, the government and its partners have not had sufficient financial capacity to respond adequately in accordance with the severity of the problem. Allocation of resources for children is low. For example, the health budget is 14% of the



national state budget whereas the MMAS has a mere 0,9% to deal with every aspect of social welfare, including vulnerable children. To address this problem, members of the GPPC-HIV e SIDA and other sympathetic MPs have routinely raised the lack of budget allocation in plenary briefings presented to the Assembly. The current budget had already been increased from the 0,3% of approximately five years ago.

Because of the limited national budget, various social solidarity initiatives have emerged, including the establishment of institutions where children are placed. This raises complex issues because the national policy is based on the principle of ‘non-institutionalisation’, that is, not taking care of vulnerable children in residential institutions. However, neither governments nor its partners have had the heart or the courage to censure many of these initiatives because of the lack of capacity to provide more appropriate options. In this context it is paramount to start a broader reflection on the national welfare policy.

Another issue detected in almost all visits made is the need to update statistics on OVC. The data is often inaccurate since statistics are usually obtained individually by various organisations using different and sometimes unreliable methodologies. Such data has not yet been included in the official statistical system spearheaded by the National Statistical Institute, although in the last census (2007), there were signs of some progress in that area. In our opinion, the improvement of data collection and statistics should be one of the base indicators that would show that planning is increasingly closer to reality and is consequently efficient.

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## CONCLUSION

As is evident, the way that we chose to apply our parliamentary oversight function – with an emphasis on going out and talking to people and learning what was happening on the ground – plus the systematic networking between Parliament and civil society both nationally and during provincial visits, has enabled us to get rich information at grassroots level. Exposure to people’s daily lives enabled us to both understand the real dimension of the problem and also learn from the wealth of experiences that exist. The children’s round tables have been one very good example of how we can learn from what is happening on the ground.

As a result of our engagement with the challenge of the growing number of OVC, we are learning that the social welfare policy of non-institutionalisation is being challenged. We have learnt in practical ways how the growing number of children in poverty is a real challenge to the capacity of the government and its partners to integrate children into surrogate families.

However, our hands-on approach has enabled us to identify good practices in this regard, so as to ensure that Parliament does not bring or cause divisions, communication breakdowns, conflicts or disagreements that could be interpreted as political bias. It is very important when carrying out an oversight function to be seen to be transparent and impartial and to be as constructive and action-oriented as possible.

In order for parliamentarians to effectively exercise both the role of representation and the authority of overseer, we believe that it is important for Parliament to follow some principles and procedures such as:

**Tacit agreement not to politicise HIV and AIDS issues.** This means that the necessary groundwork needs to be done to ensure that the issue is perceived as a priority within Parliament so that all can comply with and participate in actions. This agreement is the secret of success and should not be broken at any stage, whether collectively or individually in contact with civil society or when undertaking any oversight action. Without such a principle, whenever GPPC-HIV e SIDA members make any findings, whether beneficial or detrimental for any particular constituents, such findings could give rise to controversy or be used for party political ends either to the benefit or detriment of the government, depending on whether the MP is from the ruling party or the opposition party.

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**Continued consistency and faithfulness to our parliamentary function.** In order for citizens to believe in us, they measure our worth in terms of our leadership displayed not only in speeches, but also in our attitudes towards the problem, in our oversight actions ensuring enhanced effective use of public funds for HIV and AIDS, in the manner in which we produce and ensure compliance with laws, and finally in the way in which we listen to the public and bring their problems, anxieties and expectations to the attention of the authorities.

**The work of parliamentarians should not start from the top down but also emerge from the bottom up.** That is where the subject and object of the process of governance and exercise of parliamentary power are based.

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# Improving Public Service Delivery: Kenya's Public Service Reform (2003-2007)

By *Joyce B. Nyamweya CBS*<sup>1</sup>

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Changes in political regimes are often fruitful times for the pursuit of greater accountability measures. Kenya had one of these opportunities in 2003, when a new political leadership came into power and decided to tackle poor service delivery in an attempt to change public perceptions of ineffective and corrupt public institutions. This chapter describes how, by focusing on rapid results and switching to a customer-oriented mindset, Kenya's public servants achieved significant changes in developmental indicators and improved the quality of life for many Kenyans.

## INTRODUCTION

By 2000, public service performance was at its lowest in Kenya's history. It was characterised by rampant corruption, poor service delivery and a lack of responsiveness to public needs. Kenya's citizens were frustrated by this state of affairs as well as with the political class. Predictably, in December 2002, Kenyans voted overwhelmingly for the National Rainbow Coalition (NARC) Government, which campaigned on the platform of enhancing service delivery and transforming public service management and accountability.

Upon inauguration, the new political leadership rallied the Kenyan people around an ambitious socioeconomic reform agenda that envisioned economic recovery and poverty reduction by creating wealth and employment opportunities for Kenyans. That transformational development agenda was articulated in the national Economic Recovery for Wealth and Employment Creation Strategy (ERS), 2003–07. The strategy accorded high priority to the improvement of overall performance, management and accountability of the public service in

<sup>1</sup> United Nations Economic Commission for Africa (UNECA), Addis Ababa, Ethiopia

Editor's note: This chapter is written in the first person as it reflects the author's personal experience.

its role of providing services, and facilitating growth in the other sectors and the private sector in particular.

President Mwai Kibaki had the vision to bring the citizen to the centre of service delivery and to facilitate socioeconomic transformation for Kenyans. He had broadly shared his vision for a 'Working Nation' and was eager to identify an initiative that would facilitate its delivery. In July 2004, he shared his operational vision with the then Minister for Planning and National Development, Prof. Peter Anyang' Nyong'o, his Special Advisor, Mr Stanley Murage, and myself in my capacity as a United Nations (UN) staff member who had worked with the human resources management reform programme for the UN Secretariat.

The ambitious ERS, as well as the prevalent paradigm shift in citizens' expectations of the government's performance, management of public institutions and the role of the public servants in service delivery called for the introduction of a results-oriented management approach. This led to the introduction of results-based management (RBM), including performance contracting in the public service in order to meet and sustain these high expectations. Consequently, in September 2004, the Cabinet established the Public Service Reform & Development Secretariat (PSRDS, also referred to as 'the Secretariat') in the Cabinet Office, Office of the President, with the mandate to institutionalise RBM in the public service and coordinate all public service reforms. Given the anticipated resistance from within the public service, it was envisaged that someone with no vested interests, for a short period of time, would be the most appropriate person to lead the PSRDS and jump-start the process.

Following a request from President Mwai Kibaki to the then Secretary-General of the UN, Kofi Annan, I was released to the Kenyan government on special leave from the UN in October 2004 to take up the position of Permanent Secretary/Secretary for Reforms and Development. This new role presented immeasurable challenges but these were balanced alternatively by the nation's reform mode and the citizens' overwhelming pressure on leadership to deliver on the campaign reform agenda, as well as the political goodwill for the transformation of the public service and for citizen-centred results.

The President was keen to move rapidly but cautiously, so he advised on drawing and benefiting from international best practice. The Canadian Model 'Results for Canada' brand was adapted as a yardstick for the Kenyan programme.

The President identified the following risks facing this initiative:

- Lack of ownership by the public service leadership and staff;
- Public service's poor working culture;
- Weak institutions;
- Weak partnerships between citizens and the government; and
- Funding gaps and weak partnerships with development partners.

He envisioned that the Cabinet would play a critical role in changing the public sector's prevalent culture, and recognised the need to institutionalise a management accountability framework to sustain these values in Kenya's public life. The President created a policy and management unit to track results throughout the public service as well as to provide support to the presidency. He considered the Ministry of Planning and National Development as critical leaders among equals on this journey, and identified Prof. Nyong'o as the best champion of

this concept in government. Similarly, he visualised a central role for the Kenya Institute for Administration (KIA) in the critical capacity of delivering staff development programmes which would support the RBM, later branded the *Results for Kenyans* programme, including change management for public service leaders and staff alike.

Acknowledging that this was a major paradigm shift for the public service and would therefore need focused leadership, he created a Reform Secretariat in the Cabinet Office to steer the process and approached somebody from outside the public service to jump-start the process. We were then challenged to come up with a programme that would help to transform the public service.

Our efforts were indeed recognised internationally, with Kenya’s public service reform programme receiving several international awards including the 2007 UN Public Service Award for enhanced transparency and accountability.<sup>2</sup> The country moved up ten points in the World Bank’s ‘Doing Business’ ranking between 2007 and 2008,<sup>3</sup> and was ranked as one of the top ten performers in simplifying business start-up. Not one individual and/or programme can claim to have solely contributed to these achievements, but it was indeed a phenomenal five-year record performance for Kenya.

## ESTABLISHING THE INSTITUTIONAL FRAMEWORK FOR PUBLIC SERVICE REFORM

It was envisaged that implementing the RBM approach in the public service would require setting up an institutional structure commensurate with the task of transforming the way of doing business in the public service. In order to ensure that the programme enjoyed the political support necessary for its success, the following framework was approved by the Cabinet:

### 1. The Cabinet Standing Committee on Public Sector Reforms

This Committee provided policy direction for the development, implementation and institutionalisation of the results approach in ministries, departments and agencies (MDAs) of government. The committee was composed of key Cabinet ministers from the following ministries: Public Service, Finance, Provincial Administration and Internal Security, Planning and National Development, Education, Science and Technology, Local Government, Justice and Constitutional Affairs, and Labour and Human Resources Development. In addition to the Cabinet ministers the respective permanent secretaries were required to attend meetings. In my capacity as Permanent Secretary/Secretary of PSRDS I undertook the role of Secretary of this committee.

### 2. The National Steering Committee of Permanent Secretaries

This Steering Committee comprised all the permanent secretaries and accounting officers, and was chaired by the Permanent Secretary, Secretary to the Cabinet and Head of Public Service. The committee oversaw the implementation of all reform programmes/initiatives, including RBM, in the public service.

<sup>2</sup> UN Report of the Fifth United Nations Public Service Day and Awards Ceremony, 26 June 2007, United Nations Office Vienna, Austria.

<sup>3</sup> The International Bank for Reconstruction and Development/The World Bank, 2007. *Doing Business 2007*, and 2008, Washington, D.C.

### 3. National Performance Management Steering Committee<sup>4</sup>

A Performance Management Steering Committee had overall responsibility for public service performance. It provided policy direction and strategic leadership in the improvement of performance in the public service. It was conceived that permanent secretaries from the central supporting ministries with representation from the service delivery ministries and public sector stakeholders (private sector, the media and civil society) would constitute the membership of this committee.

### 4. Ministerial Management Units (MMUs)/Central Planning Units (CPUs)

These were part of the Permanent Secretary/Accounting Officer's Unit. They were responsible for implementing the reforms within ministries, including the implementation of new performance management systems; the tracking and monitoring of public service reform; championing the transition from manual systems to information technology (IT)-based processes for enhanced service delivery; and the implementation of service delivery initiatives such as service charters at service delivery points and 100-days Rapid Results Initiatives. The purpose of bringing these coordinating units within the ministries was to ensure that Rapid Results Initiatives were launched in accordance with the ministries' reform objectives so that the initiatives were not implemented as stand alone plans but as part of an integrated reform initiative.

### 5. Performance Contracting Steering Committee

This committee, comprised of permanent secretaries, spearheaded the performance contracting development and implementation processes in the public service.

### 6. Public Service Reform and Development Secretariat

The Secretariat led on the institutionalisation of RBM in the public service as well as the coordination of all public service reforms. It played a central role in instigating direction, leadership and pace-setting.

## THE PUBLIC SERVICE REFORM AND DEVELOPMENT SECRETARIAT

The Secretariat's primary mandate was to translate the President's vision and Cabinet decisions into demonstrable results. From the outset, it was intended that the Secretariat would serve as a catalyst for a citizen-focused, results-oriented public service that provided a favourable environment necessary for the achievement of national goals, priorities and objectives as well as for enhanced service delivery. To achieve this, the small dedicated team of the PSRDS members did the following:

- Designed and branded the Results for Kenyans Programme based on the Secretariat mandate, vision, mission and values and the premise that Kenyans have a right and need to know the reform programme and their rights

<sup>4</sup> Gazetted later by the Minister of State for Public Service and breached by the centre, which did not operationalise it. As used in this chapter, the 'centre' is loosely used and understood by public sector practitioners to mean the 'operational area' around the Office of the President, the Cabinet Office and activities around the head of the civil service.

to quality service delivery – hence the programme motto: “*Huduma Bora ni Haki Yako*”;<sup>5</sup>

- Established a responsive PSRDS organisational structure, recruitment process and placement of staff with skills and competencies, which cut the use of consultancies to the bare minimum and built capacity of the public servants, training institutions throughout the country and in particular the KIA;
- Established and utilised Inter-Ministerial Policy and Technical Teams in PSRDS programme design, implementation, evaluation and reporting;
- Strategically selected criteria for countries and governments for benchmarking international best practice, peer review and ‘call-down agreements’ for timely technical assistance;
- Engaged with non-state actors to ensure the Results for Kenyans Programme remained ‘outside-in’ and citizen focused at all levels of programme design, implementation, evaluation and reporting;
- Upheld the notion that the primary responsibility, authority and accountability for the containment of the wage bill as a shared responsibility and implementation of the performance management system (including the achievement of annual work plan targets, the performance contract, staff performance appraisal system and other agreed targets) rests with Permanent Secretaries, Accounting Officers and Chief Operating Officers of public institutions;
- Partnered with the KIA and developed a RBM curriculum that aligned mainstreaming of results, transformative leadership, cultural and attitudinal programmes for transforming the public service and the citizenry values into the Institute’s core training and learning; and
- Developed and implemented the Rapid Results Approach (RRA) for the rollout of the public service’s capacity-building programme including transformative leadership and institutional capacity-building programmes for the achievement of visible and sustainable targeted results for Kenyans.

## ENHANCING THE INSTITUTIONAL CAPACITY FOR DELIVERY

Staffing the PSRDS presented one of the earliest challenges. Staff members were reluctant to move to the Cabinet Office from their parent departments. In order to enhance PSRDS’s immediate capacity, project personnel were recruited through the United Nations Development Programme (UNDP) and bi-lateral development partners<sup>6</sup> whilst concurrently civil servants were being recruited through the Public Service Commission of Kenya (the government recruiting agency). With the support of the World Bank, Rapid Results Coaches came on board. This recruitment strategy, however, generated some friction between the two categories of staff (the UNDP/ World Bank-paid staff and government-paid staff), which sometimes caused distraction from the work at hand. Towards the

<sup>5</sup> *Huduma Bora ni Haki Yako* in Swahili translates to “Quality, ethical & efficient service is your right”.

<sup>6</sup> Bi-lateral development partners included the Department for International Development (DfID), the Swedish International Cooperation Development Agency (SIDA), the Canadian International Development Agency (CIDA,) and the Danish International Development Agency (DANIDA).



end of 2007 this situation was accentuated by the national political divisions which unfortunately penetrated into the public service.

From the outset it was essential to develop partnerships with the inter-ministerial policy and technical teams, other African governments, the private sector, civil society and the media.

The PSRDS adopted a strategy of building broader ownership of the work by engaging inter-ministerial policy and technical teams from the central support ministries i.e. Cabinet Office, Ministries of Finance, Provincial Administration and Internal Security, Public Service, Local Government as well as the Kenya Institute of Public Administration (Kenya's Civil Service Training Institution). These were identified because their core business included providing support to other MDAs in fulfilling their respective mandates in service delivery.

To fast-track learning and peer review of the PSRDS's programme of work, policy and technical teams undertook benchmark missions to Canada (the Treasury Board and Government of Ontario), Sweden and the United Kingdom (Cabinet Office and in particular the Prime Minister's Delivery Unit). With the support of the UNDP's Regional Office, Southern Africa Capacity Initiative (SACI) Programme and the World Bank, the PSRDS was able to leverage emerging best practice from other African public service reform programmes, including Namibia and other Southern African Development Community (SADC) countries. In addition, the PSRDS established 'Call Down' agreements with institutions from partnering countries (such as the Institute of Public Administration of Canada and the United Kingdom (UK) School of Government) to ensure rapid response when support was required.

In light of intense internal opposition from the centre and in order to ensure programme sustainability, it was imperative to adopt an 'outside-in' approach to the development and delivery of the Results for Kenyans Programme. To this end, we worked closely with the Kenya Private Sector Alliance (KEPSA), other stakeholders including the Civil Service Union,<sup>7</sup> development partners and MDAs. The contribution of these stakeholders was extremely valuable in validating and supporting PSRDS programmes and approaches. Of special interest was the work undertaken with KEPSA, which played a critical role in applying pressure on the executive. A series of working sessions was held as well as a Private Sector/Government Symposium, a first of its kind and the genesis of the current Prime Minister Round Table. In addition, all the Rapid Results Initiatives incorporated internal and external stakeholders' participation and engagement with the media.

The PSRDS also invested substantial efforts in engaging with development partners. This move was essential given that by 2002, few of the development partners were keen to participate in Kenya's public service reform programme based on perceptions of mismanagement of donor funding and ineffective programme delivery. In 2005, we formed and enacted a new strategic partnership to deepen the Results for Kenyans Programme which the World Bank would support. Concurrently, the World Bank maintained other smaller but catalytic pilots on mainstreaming values and ethics in public service as well as in gathering best practice from other African countries.

<sup>7</sup> Unfortunately the Non-governmental organisation (NGO) Council of Kenya was in a moribund state and thus made it difficult to engage civil society at the policy and strategic level. However, the NGO networks provided valuable input at the technical and service level.

During one meeting with UNDP (which was working on e-Governance issues), I shared my vision on how to shape Kenya’s public service reform programme and a partnership seed was planted. In response, UNDP facilitated meetings with the Swedish International Development Cooperation Agency (SIDA), the UK Department for International Development (DfID), and the Danish International Development Agency (DANIDA). The initial contributions were a token to demonstrate a willingness to bolster the initiative if the values and deliverables were right. The government had formally approached Canada for government-to-government learning and peer review support. The group evolved to form and provide the funding to support the PSRDS’s three-year strategic and annual work plans.

The Results for Kenyans Programme mobilised sufficient funds, the majority of which came from the development partners and the rest from the government budget. What was even more remarkable was the synergy between the PSRDS and the Kenyan public sector donor group. The World Bank served as the lead donor, deputised by DfID. There were regular quarterly meetings to review progress and chart the way forward. A joint statement of intent facilitated a common strategic plan, annual work plan and joint review and reporting missions.

## THE RESULTS FOR KENYANS PROGRAMME

The Results for Kenyans Programme aimed at focusing public servants’ mindsets on results and citizen-centred service delivery. The programme targeted institutional as well as individual performance, both in quality and quantity. In addition, the programme focused its attention, efforts and resources on the achievement of definite objectives and the targets prescribed in the ERS. The paradigm shift from process to results orientation and from compliance to ownership entailed a transformation of processes and procedures to focus on achieving targeted ‘Results for Kenyans’. In order to ensure successful implementation of this paradigm shift in the public service the PSRDS provided the following strategic support to Ministries/Departments and other public institutions:

- Built leadership, technical and professional capacity within ministries and public institutions to own and effectively apply current public management policies, systems, interventions and tools, including performance contracting and a newly introduced workplan-based staff appraisal system;
- Built the capacity of MMUs’ members to ensure consistency in implementation and application of RBM principles;
- Mobilised resources to supplement line ministries’ programme resources to support programme implementation;
- Facilitated the application of the RRA in implementation of ministerial strategic plans and performance contracts;
- Developed and in some instances implemented the Results for Kenyans Programme’s immediate- and medium-term strategies;
- Built capacity of the Secretariat to deliver on its mandate, including: establishment of appropriate staffing levels, developing policies and system frameworks, mobilising resources, etc; and

- Developed and worked towards the implementation of integrated national performance management and accountability frameworks.

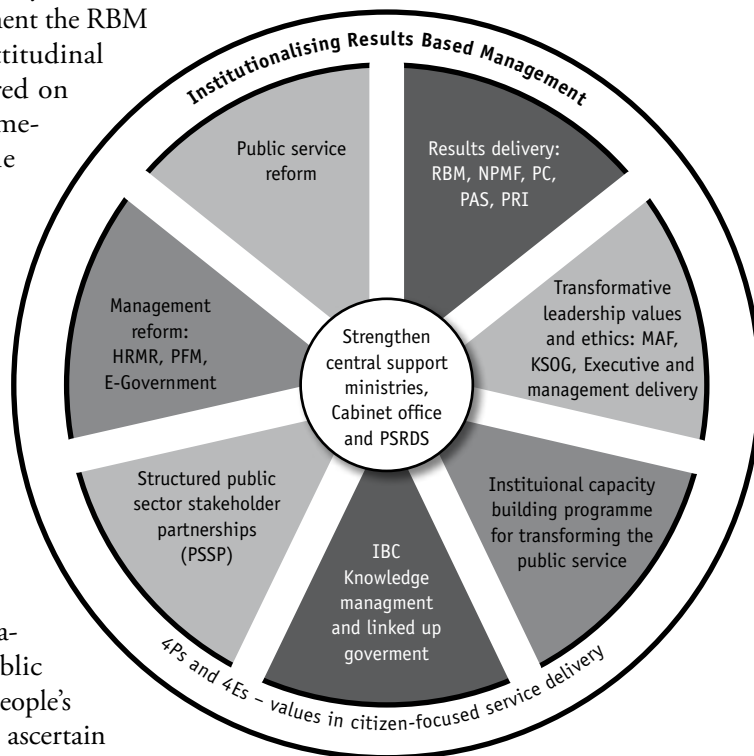
In addition, the PSRDS contributed to strengthening MDA strategic planning and annual work planning formats, finalised and signed into force a Ministerial Code of Conduct in 2006, and developed a National Integrated Monitoring and Evaluation System (NIMES).

The programme had the following components:

**Results and service delivery:** This component focused on ensuring that the citizen was at the centre of service delivery through implementation of results-based management approaches including: a) a cohesive strategic approach for results definition and delivery i.e. the National Performance Management Framework. This was extensively discussed but unfortunately it was not adopted as an integral whole – a step which would have enhanced integration between national strategic medium- and long-term planning; b) a medium-term expenditure framework i.e. resource mobilisation and allocations; c) a national integrated monitoring and evaluation system; d) annual work planning and performance contracting; and e) an individual staff performance appraisal system.

**Transformative leadership values and ethics for results and accountability:** This component included building the capacity of leaders to be able to institutionalise a competency-based human resources management system, implement the RBM approach, and facilitate officials' attitudinal change. The programme was anchored on the management accountability framework which was modelled on the Canadian Treasury Board approach as well as on the spirit of the new Ministerial Code of Conduct. It was envisaged that a Kenya School of Government (to be established) would facilitate the development of leadership/managerial and core competencies for results and accountability across the government and public life in general.

**Institutional capacity-building programme for transforming the public service:** This consisted of capability reviews, i.e. reviews of the public service institution's strategy, delivery, people's competencies and leadership skills to ascertain gaps in its capacity to deliver on national development goals and priorities. This component was very much informed by the work of the UK Prime Minister's Delivery Unit and the UK School of Government.



**Knowledge management and government-to-government learning:** This component focused on ‘harvesting knowledge’ to support evidence-based decision making and programme implementation. In addition, this component endeavoured to translate South-to-South and North-to-South cooperation efforts into tangible learning programmes that also provided a platform for practical knowledge exchange. We envisaged that this would be the genesis of a community of practice for citizen-centred results-oriented service delivery in Africa.

**Information education & communication:** On the basis of citizens’ right to know, the programme included engaging with non-state actors to demand quality and efficient service delivery. In addition, the component addressed the information and communication initiatives that were necessary throughout the PSRDS strategy implementation to ensure that both the government and citizens were well informed about what was achieved, the challenges faced and the support required.

**Structured public sector stakeholder partnerships:** This component targeted partnerships with non-state actors for policy development, service delivery as well as monitoring, evaluation and reporting. These partnerships were developed to ensure that services were delivered in the most appropriate way to meet the needs of the citizens and the private sector. In this respect, the Service Charter at the service delivery point was an important performance management tool.

**Facilitation and coordination of management reforms:** This involved drafting public service reform strategies to address a number of management challenges that compromised the achievement of desired outcomes. The challenges these strategies targeted included: weak coordination between government departments, poor human resources and financial management practices, and inadequate public service infrastructure and performance management. The overall strategy aimed to support inter-agency collaboration and coordination, promote shared and continuous learning, and modernising human resources management and public financial management and accountability (introducing initiatives such as performance-based budgeting, value for money and performance audits).

## USING THE RAPID RESULTS APPROACH FOR PROGRAMME IMPLEMENTATION

The Results for Kenyans Programme facilitated cultural and attitudinal change in the public sector and citizens. It enhanced service accessibility and client service orientation. The Kenya Anti-Corruption Commission Survey 2006 showed that 95% of Kenyans interviewed had heard of “*Huduma Bora ni Haki Yako*”<sup>8</sup>, the campaign slogan of the programme. In 2007, the Results for Kenyans Programme hosted the countrywide Public Service Week to promote programme awareness, and supported the posting of Service Charters and Customer Care Desks at service delivery points.

<sup>8</sup> This message was reinforced by introduction of customer care desks and service charters at service delivery points.

The pressure to deliver on results was immense, but even more so was the pressure to prove the innovative aspects of the programme to the executive. In this regard, the need for champions and pilots to demonstrate quick-wins was a 'must'. As discussed earlier, the programme vision from the outset was that the primary responsibility for enhanced service delivery and achievement of targeted results rested with the line management of the respective MDAs. The PSRDS's role was to serve as a catalyst, results coach and mentor in this process of public service transformation.

Although transforming the public sector is a long-term objective, the urgency in ensuring service delivery led the government to adapt the RRA as one of the implementation tools to jump-start the major change effort.

RRA is a result-focused learning process aimed at enhancing implementation capacity. It tackles large-scale medium- and long-term change efforts through a series of small-scale, results-producing and momentum-building initiatives. The premise of the RRA is to create a context for learning and for enhancing implementation capacity, by helping ministries work on sharply defined initiatives that will ensure delivery of the ERS targets. The government's adoption of the RRA as one of the tools for implementing RBM in the public service was therefore consistent with the focus on results, capacity enhancement and client ownership.

The approach provided a structured methodology for building and practising RBM which was required for the successful implementation of the ERS. Whereas the ERS included a number of elements such as training and new policies and procedures which aimed at enhancing the performance of the public service, these, although necessary, were not sufficient in overcoming group inertia. The strategies lacked the urgency and excitement that comes from working on the achievement of short-term goals that have an immediate impact on development. RRA, on the other hand, created a sense of urgency, clearly defined challenges and successes, and raised the stakes and visibility for success or failure and therefore created a sense of excitement. It enabled people to collaborate in a new team spirit and let them tap into their full potential of energy and creativity.

RRA had the following distinct benefits:

- It created momentum in a critical area of strategic importance;
- It stimulated new insights on implementation challenges and risks;
- It achieved visible and sustainable programme results within 100 days or less;
- It set challenging but achievable targets;
- It induced accelerated implementation of plans and priorities;
- It built support for large-scale change efforts;
- It helped leaders adapt and refine implementation strategies;
- It accelerated learning and discovery; and
- It reduced hidden risks inherent in long-term strategies.

The Rapid Results Initiatives created a buzz within the ministries where they had been implemented and anxiety in other ministries where they had yet to be launched. The scale of implementation and the impact increased tremendously after a policy was introduced by the Permanent Secretary, Head of Public Service and Secretary to the Cabinet that all public sector institutions be put on RRA. From a pilot wave of six ministries in 2005/06, 68 institutions implemented

RRA initiatives in the 2006/07 financial year. This number jumped to over 150 institutions in the 2008/09 financial year.

Central government ministries, local authorities, state corporations, state universities and regional development authorities all implemented RRA initiatives. With the involvement of all institutions across the public sector, the impact of the RRA gained in depth and breadth and was felt right across the entire Republic.

Originally conceived as a project management tool, RRA is now being applied widely in various areas of service delivery in the public sector. The tool is extremely robust and versatile and has been proven to lead to improved performance in service delivery, skills and confidence building, strengthening the capability to achieve targeted results, as well as enhancing creativity.

## EXAMPLES OF RAPID RESULTS ACHIEVED IN SELECTED AREAS:

- Increase in the number of patients on antiretrovirals in Western Province from 2 580 to 5 835 within 100 days, a 150% increase;
- Increase in the percentage of fully immunised children in Nairobi from 75% to 88% (of eligible population of 102 992) within 100 days, i.e. 6 915 more children immunised;
- Increase in the number of irrigating farmers from 117 to 203 within 100 days in Nkando Irrigation scheme of Laikipia District;



Chairman of the Nkando Irrigation Scheme inspecting progress

- Reduction in the time taken to register a business in the State Law Office from over one month to two working days;
- Reduction in the number of days taken to issue a passport from over three months to 20 days at Nairobi Passport Issuance Office;
- Increase of 35% in 100 days of the earnings of coffee growers from the Kia-mariga Farmers Cooperative Society; and
- Increase in tea consumption in the domestic market of 5%.

## FURTHER PROGRAMME DEVELOPMENT (2008-2012)<sup>9</sup>

To ensure that the reforms could withstand regime change, remain citizen-focused, integrated and sequential, and provide value for money in terms of results and impact, the following policy frameworks and strategies were developed:

- A public service reform strategy (2007-2012) was established, called Transforming the Public Service for Results. This facilitates a linked-up government which is fit for purpose, in particular to ensure that the new medium-term plan was aligned to Vision 2030<sup>10</sup> and public service reform envisioned and documented in the political manifestos of Kenya's Coalition Government with an eye on the constitutional reform debate;
- A Public Sector Stakeholder Partnerships Policy;
- A Human Resources Management Reform and Development Strategy – Linking People, Strategy and Performance;
- An Integrated National Performance Management Framework;
- A Public Service Performance and Results Bill, 2007;
- A Strategy for Transforming the Local Government Sector;
- An Information, Education and Communication Strategy – Kenyans have a right and need to know – “*Huduma Bora ni Haki Yako!*”; and
- An e-System for monitoring economy-wide reforms.

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## CHALLENGES

Kenya's GDP grew from -2% in 2002 to 7% in 2007. The budget was 95% domestically funded. Free primary education was offered and a plan for free high school education was underway. Health care services were improving. The number of international awards was growing, the country's infrastructure was expanding, and the general outlook was positive.

With the political aftermath of the December 2007 general elections, a year later the economy was down to 3% growth. This highlighted the need for the creation of strong institutions and policy frameworks to govern elections, sustain public service delivery and the achievement of targeted results in the development and maintenance of a capable state.

At the end of 2007 Kenya was extremely polarised and there was every need to try to keep normalcy in programme and service delivery. This was very challenging to do when the development partners suspended programme funding.

The government urgently needed to start assisting Kenyan citizens to engage with the political challenges facing the country. I was appointed to the government's Humanitarian Committee and I chaired the Peace and Nation Building Sub-Committee. In this committee I learned of the need for transformative leadership, values and ethics in public life and for a citizen-centred centre. Above all, I found that while development is often defined to mean roads, bridges

<sup>9</sup> These policy frameworks and public service reform strategies were developed and ready for validation by the Coalition Government at the time of my return to the United Nations.

<sup>10</sup> Vision 2030 is Kenya's national long-term growth plan that aims to transform the country into a globally competitive and prosperous nation offering a high quality of life for all its citizens by 2030 in a clean and healthy environment. (For more information regarding Vision 2030 visit the website of the Ministry of Planning and National Development at [www.nesc.go.ke](http://www.nesc.go.ke).)

and health care, we have to define nationhood and that is what should really constitute the foundation of the national development agenda, and in addition recognise the integral role that the public sector plays in this regard.

While the current reforms were driven by Kenyans, the centre should not have marginalised the politicians, the private sector, the media and civil society in the reform process. Space should be created for all stakeholders. There should be an understanding of RBM’s institutional arrangements, tools and instruments for results and accountability. The role of Parliament and other oversight bodies in results and accountability must also be emphasised and continually developed in order to enhance their capacity to serve as watchdogs not only of the public sector expenditure process but also of the results achieved.

## LESSONS

### *1. Reforming the executive*

Kenya’s public service reform is not held back because of the hyped need for constitutional reforms, but by the structural and staffing reforms which clearly define the roles, responsibilities, authority and accountability for results set by the bureaucracy of the Cabinet Office and Office of the President. Given recent developments in the country, how these two offices are harmonised and structured to work with the newly established Office of the Prime Minister will determine the success of Kenya’s current and future public service reform and development programmes.

The powers of these offices need to be balanced, and without this, it does not matter how well the political leadership intended it – the political leadership of whichever party will be held captive by these ‘power bearers’. The political leadership will continue to be blamed by the Kenyan public for poor performance and incapacity to deliver on political manifestos.

### *2. Cross-cutting issues*

In hindsight, we found it important to listen to and mainstream the results of the African Peer Review Mechanism (APRM). This highlighted emerging cross-cutting issues in such a programme with a view to leveraging the PSRDS’s catalytic role at the centre and at policy level to ‘troubleshoot’ for programmes which would provide appropriate interventions, and link their indicators to the national integrated monitoring and evaluation system to avoid situations such as the 2007 post-election violence experience.

### *3. Programme monitoring and evaluation*

Given our experience, in retrospect the programme should have, during the conceptual stage, developed a strong monitoring and evaluation mechanism to ensure that the programme stayed focused on its core objectives so that it could have stayed on course despite the political instability. This should have included:



- Consistent tracking of the usage and application of the newly introduced RBM tools (i.e. performance contracting, Medium Term Expenditure Framework, strategic planning, etc);
- Institutional and staff rewards and sanctions incorporated at the pilot and early stages of performance contracting; and
- Mechanisms to continually review, track and ensure that RBM tools such as performance contracting are not mistaken for results (e.g. reporting on numbers of MDAs on performance contracting, or the number complied and operating within the Results for Kenyans Programme, when the focus should have been on results impacting on the citizens of Kenya). This was summed up by the President's remarks when Kenya won the 2007 UN Public Service Award: "When we began this journey at the end of 2002, 56% of Kenyans lived below poverty line. Today 46% of Kenyans continue to live below this line; it is their Award we must seek."

This was echoed by the Prime Minister, Right Hon. Raila Odinga in 2008. Upon being briefed on how well we were doing with performance contracting, he retorted, "Kenyans will not agree with your ranking of ministry's performance!"

What is being measured should respond to the political leadership questions and assessment of our performance as well as the citizens' affirmation.

#### **4. Programme sustainability**

Support for the 'centre' is needed to allow sufficient time to roll out programmes effectively, to determine critical paths and enhance the programme's capacity to deal with unforeseen circumstances that may interrupt the intended programme course. Paramount to the sustainability of the programme is the need for sustainable structures to be institutionalised, and the inculcation of the National Performance Management Framework (NPMF) and the Management and Accountability Framework (MAF) for outcomes and accountability that deliver continuous and consistent results.

#### **5. Development partners and programme funding**

Donor funding contributions to public sector reforms and development programmes are most effective when there is commitment and leadership established at senior levels of the recipient government and in particular at the centre of the executive. This strengthens the formulation of strategic planning, development of common indicators, joint annual work plans, budgets and programme reviews. Substantial efforts have to go into getting buy-in from the centre.

In addition, the importance of having tangible results cannot be underestimated. A new turning point in our partnership with development partners emerged when they gathered evidence on how effective the Results for Kenyans Programme had become in terms of enhancing service delivery in the field and in particular in the provincial administration. Well-manned customer care desks and service charters had been developed and displayed for the citizens to know and claim their rights to efficient and effective service delivery – and "*Huduma Bora Ni Haki Yako*", the motto of the reform programme, was proudly displayed throughout the country at service delivery points.

Our campaign and capacity-building programme for transforming the public service delivered tangible and visible targeted results for Kenyans. As the RRA initiatives pilots yielded results which were efficient, effective and ethical, the development partners were willing to commit more resources to the programme.

### **6. Foundations for Success of the Results for Kenyans Programme (September 2004 – April 2008)**

The success of this programme was a result of the following:

- An ‘outside-in’ approach that focused on the organisation mandate, improving service delivery and provision to drive institutional reforms;
- Structured stakeholder engagement and citizen-focus to mitigate public service reform resistance by the ‘centre’ and power bearers;
- Within ministries, capacity development approach that spread ownership and risk;
- Building capacity and partnership with the demand side (private sector, media and civil society) to engage in a different yet critical stance that focused on results rather than personalities; and
- Mainstreaming of values and ethics including successfully advocating and contributing to the development and assessment by the President of the 2006 Ministerial Code of Conduct, which to date forms part of the orientation programme for newly appointed Ministers, Assistant Ministers and Permanent Secretaries.

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## **CONCLUSION**

My experience with the Results for Kenyans Programme highlights the importance of broader consultation within the government and the demand side (private sector, media, civil society and faith-based organisations); consultations with the latter constituency become critical in situations where there is widespread resistance to public service reform by the centre.

The chapter also emphasises the important role that the centre can play in terms of enhancing buy-in of the centre, and demonstrating leadership. In the Kenyan case, a structural and functional review is needed of the Cabinet Office, Office of the President, and a productive working relationship needs to be forged with the Prime Minister’s Office if public service reform is to be successful. This will require both administrative and constitutional reforms.

There needs to be a modernisation of human resources management so that it effectively tackles the issue of delegated authority, responsibility and accountability of human resources management (HRM) at all levels in the public sector. Relevant initiatives in this area include the introduction of competencies for the government, linking staff with strategies and performance, as well as the introduction of HRM standards and oversight mechanisms.

Lastly, there is a need for the government to adopt and institutionalise a national performance management framework for results and accountability to ensure that the country moves in a cohesive manner towards a shared vision and with a sense of nationhood that can withstand politics.

# Leveraging State Accountability: The South African Commission for Gender Equality

By *Janine Hicks*<sup>1</sup>

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Women in South Africa face discriminatory attitudes and practices within family, community and government. There are unacceptably high levels of physical abuse and sexual violence against women. In this context, South Africa chose to establish the Commission for Gender Equality as a distinct body whose role is to leverage state accountability on gender equality obligations and commitments, unlike most countries where gender falls into generic human rights bodies. This chapter discusses the challenges that this institution has encountered and shows how, by working in partnership with civil society organisations, the effectiveness of campaigns that seek to redress gender inequity can be greatly enhanced.

## INTRODUCTION

This chapter describes the work of the South African Commission for Gender Equality (CGE), the opportunities it presents to leverage state accountability on gender equality obligations and commitments, and the challenges and successes faced in this regard in enhancing women's access to justice and rights. In South Africa, women form the majority of marginalised, vulnerable and socially excluded individuals. This is brought about by discriminatory attitudes and practices in family, community and the government, and unacceptably high levels of physical abuse and sexual violence against women. Undeniably, South Africa's history of apartheid and patriarchy has had a profound impact on both women and men.

<sup>1</sup> Commission for Gender Equality (CGE), South Africa. I wish to express my appreciation and gratitude for the research assistance rendered by Tshipinare Marumo, CGE Information and Resource Centre Manager, which contributed greatly to the compilation of this chapter.

The CGE vision is a society free from gender oppression and all forms of inequality.

The CGE’s mission is to advance, promote and protect gender equality in South Africa through undertaking research, public education, policy development, legislative initiatives, effective monitoring and litigation.

The CGE 2008-2013 strategic plan has developed a range of research, outreach, public education and advocacy interventions around six focal areas: Gender and poverty; Gender, HIV and AIDS; Gender-based violence; Gender, democracy and good governance; Gender, cultures, religions and traditions; and the National Gender Machinery. These outline the particular programme interventions developed to address priority areas, in accordance with the CGE mandate and obligations.

The Constitution recognises this gender inequality and guarantees, in principle, access to equality and justice, and freedom from discrimination. Legislative provisions have been developed to address and promote gender and racial equality and non-discrimination. However, access to rights and protection from discrimination remain a pipe dream for the majority of people, and gender inequality, discrimination and oppression continue to shape inequality in our society.

As part of its recognition of the need to address inequality, South Africa created a particular set of state institutions to ensure that despite an unequal society marked by discrimination, citizens could access and leverage the political, civil and socioeconomic rights outlined in the Constitution. The authors of the Constitution realised that “though guaranteed by the Constitution, such rights would not necessarily translate into a lived reality”. Six independent, statutory bodies were provided for in Chapter 9 of the Constitution as safeguards for South Africa’s new democracy, with the specific role to ensure that “these rights are realised, especially by vulnerable groups in society”.<sup>2</sup>

These institutions, referred to as the ‘Chapter 9 institutions’, form a ‘bridge’ between the state and civil society. Their role broadly is to fulfil a monitoring, reporting, research and activism function,<sup>3</sup> with the purpose of “protecting and promoting human rights, and thereby advancing democratic practice”.<sup>4</sup> Overall they are responsible for holding the state accountable, “by ensuring the consistent adherence by public institutions to the rule of law as well as inculcating a culture of respect for human rights by both the state and all members of civil society”.<sup>5</sup>

Chapter 9 institutions are accountable to Parliament, which has oversight powers over the functioning of these entities, approving their budgets and assessing whether constitutional and legislative functions and mandates have been complied with. This oversight function is:

*informed by the provision that these institutions are independent, and subject only to the Constitution and the law, and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice (section 181(2)). Furthermore, the Constitution requires other organs of state, through legislative and other measures, to assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions (section 181(3)). No person or institution may interfere with the functioning of these institutions (section 181(4)) (Ad Hoc Joint Sub-Committee on Oversight and Accountability, 2005, p. 7).*

The CGE is one of these Chapter 9 institutions. It is important to note that within a particular context of patriarchy and gender discrimination, an advised position was taken to create the CGE distinct from a generic human rights protection agency. In the early 1990s, before the establishment of the CGE, there were rich and complex deliberations that took place around the country. In that debate, South Africans looked at the best mechanisms, institutions and processes that would promote the quality of life and status of women and gender

<sup>2</sup> Human Sciences Research Council (HSRC), 2007, vii

<sup>3</sup> Bentley, 2006

<sup>4</sup> Human Rights Institute of South Africa (HURISA), 2007

<sup>5</sup> *ibid.*, p. 28-29

equality in the future society. A decision was taken by these stakeholders to create separate constitutional bodies to safeguard these human rights components, because they were adamant that issues of gender should not become second-class issues.<sup>6</sup> This is quite distinct from approaches adopted internationally, since “there are very few similar commissions such as the CGE elsewhere in the world. Instead, women’s rights (and often children’s rights) are usually included within the scope of work of human rights commissions or government departments”.<sup>7</sup>

Accordingly, the CGE, as a component of a broader National Machinery for Gender Equality, resulted from these deliberations. After careful comparative analysis, it was decided that South Africa needed a complex but connective nerve-tissue of structures that are aimed at addressing historical and structural inequalities and marginalisation of women in society.<sup>8</sup> The National Machinery for Gender Equality is provided for in South Africa’s National Policy Framework for Gender Equality, and is based on the need to balance mainstreaming of gender equality processes, ensuring that society broadly takes on the responsibility of redressing women’s oppression and patriarchal domination, as well as building gender equality.

It is against this background that today in South Africa we have structures located in the government, headed by the newly created Ministry for Women, Children, Youth and People with Disabilities (formerly the Office on the Status Of Women, based in the Presidency, with Gender Focal Points at departmental levels), the Joint Monitoring Committee on the Quality of Life and Status of Women (JMC) in Parliament, as well as the CGE.

The powers and functions of the CGE are set out in section 11 of the Commission on Gender Equality Act, Act 39 of 1996, and address its mandate to:

- Monitor and evaluate policies and practices of state organs, statutory and public bodies, and private institutions;
- Conduct education and awareness programmes;
- Evaluate laws of Parliament and systems and practices of personal and family law or custom;
- Conduct research and make recommendations about new laws and policies;
- Investigate any gender-related issues and make recommendations;
- Monitor compliance with international conventions, covenants and charters ratified by government; and
- Liaise and interact with organisations promoting gender equality.

## LEVERAGING STATE ACCOUNTABILITY

The constitutional guarantees, backed up by the Chapter 9 institutions, “lay the groundwork for improving government accountability”<sup>9</sup> for delivering on constitutional rights, as well as the significant commitments outlined in regional and international treaties and conventions. As a result, South Africa, like a number of African countries, has witnessed substantive legislative reform advancing gender equality and women’s rights. These have included the removal of discriminatory provisions in national and local legislation in areas such as

<sup>6</sup> CGE, 2007

<sup>7</sup> Foundation for Human Rights (FHR), 2007

<sup>8</sup> CGE, *op. cit.*

<sup>9</sup> *ibid*

employment, property ownership and inheritance, and the incorporation of new gender equality provisions into national constitutions. There have also been some significant successes in efforts to integrate gender equality goals into national development plans and strategies, including poverty reduction strategies.<sup>10</sup>

Particular victories for women and girl children in South Africa include the introduction of the following legislation, policy and implementation institutions: Domestic Violence Act; Child Maintenance Act; Recognition of Customary Marriages Act; Sexual Offences Act; Customary Law of Inheritance and Succession; Children’s Act; Promotion of Equality and Prevention of Unfair Discrimination Act and the creation of Equality Courts; Employment Equity Act and the creation of the Employment Equity Commission; National Gender Policy Framework for Women’s Empowerment and Gender Equality; and the former Department of Provincial and Local Government’s Gender Policy Framework for Local Government, to guide the mainstreaming of gender into local development planning and service delivery.

Yet despite these gains, a profound concern remains about the slow pace of implementation. Legislative frameworks still include gender-discriminatory provisions, and have serious gaps in their protection of women’s rights. Where new laws have been adopted, they often provide little or no enforcement measures and include no provisions for redress. This is often the case, for example with laws prohibiting violence against women.<sup>11</sup>

In addition to this gap between progressive legislation and its implementation or enforcement, the state system does not place people at the centre of its services and does not prioritise the poor, further impacting on these citizens’ access to rights and service delivery, and overall quality of life. For instance, the public service ethic does not measure up to the principles of the Constitution and *Batho Pele* (“People First”), in the words of the policy, “a simple and transparent mechanism, which allows citizens to hold public servants accountable for the level of services they deliver”. The general impression created is that public servants typically are not service oriented, nor are they committed to or strive towards excellence in service delivery. In a context marked by overwhelming challenges in accessing state information and unequal service delivery between urban and rural areas, this is evidenced in accounts of rural women struggling to access a child support grant, or the treatment of immigrants attempting to secure identity documentation. As a result, the state system fails to respond adequately to the needs of the most marginalised of its citizens. This particularly impedes women’s access to justice and constitutionally guaranteed rights, and prejudices their dignity and survival.

The CGE therefore occupies a vital role in the state architecture, within the context of the National Gender Machinery, with the potential to leverage and ensure state accountability and delivery on international, constitutional and legislative commitments to promote gender equality and enhance the status of women. The CGE occupies a central role in ensuring that the political, civil and socioeconomic rights and freedoms outlined in the Constitution become a lived reality, particularly for marginalised women. A further critical role, particularly for the CGE, is to monitor and assess if the state is complying with its

<sup>10</sup> Alberdi, 2008

<sup>11</sup> POWA, 2007, p. 27-28

international obligations, including exercising due diligence to prevent violence against women.<sup>12</sup>

This unique location and set of powers position the CGE as a powerful actor to track state implementation of policies, programmes and commitments, gather evidence of shortcomings and make recommendations to Parliament. With substantive powers of subpoena and litigation, this creates a significant ally for civil society and communities to act against abuse of rights and call for appropriate state response to address failures to deliver on political, civil and socioeconomic rights.

The CGE Act calls upon the CGE to liaise and interact with organisations promoting gender equality, and other sectors of civil society, to further the object of the Commission (section 11). Civil society has been described as the ‘third sector’, following the public sector (government) and private sector (business). However, this in no way describes the relationships of power between these three stakeholders. While we have seen close collaboration between government and business, and a significantly increased influence of business on the policy formulation process, the converse has happened with the civil society sector’s relationship with the government.

Significant forums have been established to solicit business’s buy-in to and participation in policy processes, yet civil society has had to scramble and use strategic means to attempt to influence the policy agenda. What appears common among civil society organisations (CSOs) in general, as illustrated below, is the position they occupy in relation to the government, the powers that they have to raise policy issues with the government, and the manner in which they are perceived by the government. These three factors further illustrate the significance of the location and powers of an institution such as the CGE, as well as the importance of its engagement with CSOs.

The government leans heavily on civil society to address gaps in service delivery and fundamental inequalities in access to a range of social goods, such as paralegal services, support for children affected by HIV, skills empowerment processes and social grants. However, at a political level, the government tends to be scornful and disparaging of CSOs, and the more formalised and well-resourced non-governmental organisations (NGOs) in particular, questioning their legitimacy, connection with real communities and therefore mandate to offer critique of and make input into government policy. While some of the allegations with regard to inadequate accountability to communities and issues of representation are valid, this in no way justifies the derision with which this sector is viewed and treated.

The overwhelming sense is that apart from a few elite and well-resourced and connected organisations, CSOs are marginalised out of policy processes. While able to make formal submissions in public hearings processes on legislative developments, which have questionable impact, often the only recourse available to CSOs wishing to influence the policy agenda is through mass protest and legal action, as evidenced by recent service delivery protests by township residents in various parts of South Africa, resistance to forced removal and apartheid-style planning and service delivery in informal settlements, championed by *Abahlali baseMjondolo* (Shack-dwellers Association), and the Treatment Action Campaign’s (TAC’s) attempts to secure government implementation of antiretroviral programmes.

12 POWA, *op. cit*

## SUCCESSES AND GAINS

This demonstrates a vital space and opportunity for CGE interaction and engagement with civil society. By virtue of the legal mandate and very clear powers allocated by the CGE Act, by bringing its influence to bear on advocacy interventions and strategic issues that fall within its mandate and are being taken up by civil society, the CGE can elevate campaigns and advocacy interventions to ensure that they receive the attention of policy-makers, and that they are adequately responded to. While the CGE cannot force the government to take on many of its recommendations, it does have legal clout to draw upon when government action is in contravention of its obligations with regard to gender equality.

For instance, the CGE is collaborating on an emerging civil society campaign to address the gap in state and private insurance entity provision for maternity benefits for working women. An assumption has been made that women who run their own businesses, whether within the formal economy or informal economy, can afford to take time off from work upon the birth of a child. The reality is that the majority of women – even middle-class businesswomen – can’t. As a result, this either impacts on their reproductive choices, or forces them into a situation where they cannot afford to leave or take time off from their business – whether as an attorney or a street trader – to recover from birth or spend time with a new infant.

This affects a broad range of women workers, from businesswomen, consultants, medical practitioners, attorneys, actors, models and sportswomen, to women in the informal economy, such as street traders, cooperatives, caterers, hair and beauty salon owners. There is, however, blindness to how this affects women and the sustainability of their businesses – and their contribution to the economy, whether supporting themselves, their own families, or employing others.

In addition, the campaign seeks to address access to maternity benefits by farm and domestic workers. Although domestic and farm workers qualify for four months’ maternity leave, this is on an unpaid basis. Essentially, working women are obliged to draw on their contributions to the state’s Unemployment Insurance Fund (UIF) to cover maternity leave. Should they at a later stage become unemployed, their ‘pot’ of unemployment funds on which they can draw, has been diminished.

The sense is that it is discriminatory to force women to draw on unemployment funds to cover maternity leave – this is in effect penalising these women for giving birth. Since one of the desired outcomes of the campaign is to oblige the state to create a maternity fund under the UIF, both self-employed women who elect to contribute to this fund, as well as working women already covered by the UIF, could draw on and benefit from this fund.

This multi-faceted campaign, initiated by Gina Barbieri Associates, is being undertaken by the CGE in partnership with the South African Self-Employed Women’s Association (SASEWA), the Businesswomen’s Association and the Legal Resources Centre. The campaign is geared towards bringing about changes to unemployment fund legislation and structure to enable working women to contribute to state unemployment and private insurance funds, to access maternity benefits, and prevent working women from being forced to draw on



limited unemployment benefits to cover unpaid maternity leave. The campaign essentially comprises the following two phases:

- ***Policy intervention*** – engaging with the state to bring about necessary changes to the UIF, Basic Conditions of Employment, and Insurance Acts. This will include lobbying targeted individuals within the South African Law Reform Commission to take up legal research and drafting of legislation, and making presentations and formal submissions to Parliament, supported by petitions signed by organised groups of women. Meetings with senior officials within the Department of Labour will also be required, as this department will be key to promoting the adoption and enacting provisions necessary for the implementation of this legislation. There may be the possibility of an Equality Court challenge, using the Promotion of Equality and Prevention of Unfair Discrimination Act, which would need to be investigated. Simultaneously, the campaign will engage with private insurers to ensure that they see the business sense of designing appropriate products to provide women with the option to contribute to and draw on this form of support. This will include meetings with and petitioning key stakeholders in this sector, providing research findings and possibly assisting in designing an appropriate product.
- ***Engaging with women*** – identifying affected stakeholders and engaging with them on this issue – both from an educational and awareness-raising perspective. The purpose would be to draw them into the campaign from a consultative perspective, to involve them in campaign planning and action, and seek their opinion. This has seen the convening of consultative workshops with diverse groups of working women, to test the issue with them, gather additional information about how this affects them and what priority solutions are required, and build support for the campaign. This has been supplemented by a media campaign comprising newspaper articles and radio interviews, the distribution of a pamphlet in local languages, as well as a questionnaire shared with relevant CSOs. To assist in growing the campaign and ensuring it gains sufficient momentum and weight to receive a supportive response from the government to the proposed legislative reform, the campaign envisages meeting with key stakeholders within the organised labour sector, to bring them on board in raising awareness, supporting petitioning of the state and raising the political profile of the campaign.

The campaign is currently in the consultative and legal research phase. The CGE is participating in pilot consultative workshops to gather information and build the campaign, and has planned for broader research and consultative interventions in the next financial year. The CGE will undertake a significant role in the envisaged advocacy interventions, by leveraging legislative reform recommendations to Parliament, initiating any necessary litigation, and drawing relevant stakeholders around the table to dialogue proposals.

In this manner, by collaborating jointly with relevant CSOs on particular issues, the CGE is able to generate sufficient critical mass and political attention for an issue such as access to maternity benefits to get onto the policy agenda. Likewise, by aligning itself with civil society struggles and taking up issues that are of common interest, the CGE can lend its investigative powers to ensure that critical information, and responses, are obtained from the government. In this way, the CGE can ensure that it enables “vulnerable groups (women,

children, black and rural South Africans) to access and realise their constitutionally enshrined human rights”.<sup>13</sup>

As an example in this regard, the CGE has responded to a complaint from a community development association in Manyiseni, a remote community in northern KwaZulu-Natal, on the border of Swaziland. This complaint centres on the lack of access to socioeconomic rights, impacting most brutally on women and the elderly. Lacking in basic infrastructure, the community is plagued by its lack of access to clinic and social grant services, rudimentary schooling facilities, and a crude, barely navigable road built by community members themselves over the past 70 years. Community members are forced to travel by donkey down a treacherously steep cliff to neighbouring Swaziland to give birth, shop for food, collect water and carry and bury their dead.

The CGE initiated a community hearing process, requesting officials from relevant state departments and the local municipality to attend and hear testimonies from community members. Clearly shocked, officials committed their departments to address the numerous grievances raised. However, in the ten months since this hearing, despite extensive communication by the CGE with the various departments, not one has delivered its commitments. The CGE is at this stage setting up a meeting with the premier of the province and provincial ministers to bring this matter to the attention of the political leadership of this province, imposing time-frames for an appropriate response. Should these stakeholders fail to deliver, the CGE is prepared to initiate a class action suit together with community stakeholders, to enforce delivery of socioeconomic rights vital to predominantly women’s dignity and survival.

This accountability function can be leveraged internationally too, in that the CGE is obliged to monitor state compliance with international and regional covenants and agreements, and through its independent commentary and reports, can ensure state accountability to regional and international bodies such as the African Union (AU), Southern African Development Community (SADC) and the United Nations (UN) on gender commitments. In this regard, the CGE is in the process of assessing the South Africa country report on implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The CGE is initiating research with relevant national and provincial departments, supported by a series of provincial consultative interviews and focus group discussions with CSOs and community stakeholders, to inform the drafting of a shadow report to compare with the state’s representation of progress.

Likewise, with its powers to monitor private institutions’ compliance with equality and non-discrimination provisions and legislation, the CGE has served as a useful tool to civil society seeking to ensure accountability of political parties to gender equality principles. For example, the CGE has bolstered efforts of civil society groups in the Western Cape province to challenge the appointment of an all-male provincial cabinet by Premier Helen Zille, following the 2009 national and provincial elections. Working through an alliance of civil society gender institutions in the Western Cape province, the CGE at the time of writing had sent a communication to Helen Zille and her party, the Democratic Alliance (DA), lodging its objection to this move, and requesting an audience to discuss this. Should Helen Zille refuse to engage with the CGE on this matter,

<sup>13</sup> HSRC, 2007, p vii

the CGE is considering a legal challenge, together with a body of independent democratic attorneys wishing to take up this issue.

Through its location as a constitutional body, the CGE has secured the adoption of a pledge to gender equality by the key political parties in South Africa, which it is using to challenge patriarchal attitudes and statements displayed and uttered by party leaders. On this basis, the CGE challenged various leaders' statements demeaning to women uttered during party campaigning in the build-up to the 2009 national and provincial elections. For example, some statements inferred that opposition parties made use of witchcraft to lure women elders from among party ranks, who were then paraded as party supporters, as if these women had no political agency and will of their own. In a context where accusations of witchcraft levelled predominantly at elderly women often result in their brutal deaths, these statements were extremely reckless and irresponsible. The CGE noted its objection with the parties concerned and in the media, and referred these instances to the Independent Electoral Commission (IEC) for investigation, as a violation of the Electoral Code of Conduct. The CGE will assess party delivery on gender equality commitments outlined in the pledge and campaign manifestos, and utilise these to demand accountability of political parties in the build-up to 2011 local government elections.

Apart from the positive impact the CGE's engagement with civil society on critical issues is likely to have in terms of raising the profile of issues and obtaining an appropriate policy response, there are additional positive spin-offs for the CGE that flow from this kind of engagement, which can only be of benefit to the institution:

***Generate a better product:*** Firstly, by drawing other stakeholders into the planning and implementation of key initiatives, whether a dialogue, research project or advocacy campaign, the CGE will undoubtedly raise the standard of its work and enhance the quality of the product. The CGE cannot claim to be an expert on all matters relating to gender, or have all the up-to-date information on developments in the sector, or have efficient networks to draw in significant speakers and participants. For example, the CGE's consultative dialogues to inform a shadow report on the implementation of CEDAW should yield a substantive reflection of state achievements and shortcomings.

***Maximise outreach:*** Secondly, by drawing in civil society stakeholders and their networks, together with the improved quality of our output, the CGE also maximises its outreach and interventions, enabling it to come closer to achieving its mandate and object. By collaborating with diverse CSOs, the CGE is able to reach into remote parts of South Africa's provinces, reach marginalised groups far more effectively, and have far deeper knowledge and understanding of the issues they face. The alliance with SASEWA on the maternity benefits campaign will enable the CGE to consult with stakeholders in this sector in each province, draw them into the campaign and elicit their input into campaign proposals and recommendations. Drawing on their experiences and expectations will serve to enrich proposals and develop an implementable product.

***Maximise impact:*** Thirdly, the kind of joint interventions outlined above generate far greater impact than if the CGE were to act alone. For instance, forming part of a joint civil society advocacy campaign calling for a response from the

government on maternity benefit issues is likely to have far greater impact than if the CGE were merely to make a parliamentary submission on the issue. If the issues identified by the CGE as priority issues are echoed by diverse CSOs, who add their critical mass to the CGE’s particular position and powers, the CGE is far more likely to have a greater impact on the policy agenda, and is less likely to be ignored by the state. The particular combination of CGE policy input and leveraging of key state stakeholders around the table to deliberate on these acquires particular significance and weight against the backdrop of mobilised affected sectors demanding a response from the state. In this regard, the CGE’s constitutional position and legislated powers are strategically supplemented by the critical power of mass mobilisation, and vice versa.

## CHALLENGES AND CRITIQUE – IMPLICATIONS FOR STATE INSTITUTIONS

The GCE has faced challenges in delivering on its constitutional and legal mandate to leverage state accountability and deliver on gender equality. Some of these challenges were highlighted in a review undertaken by Parliament in 2007 that aimed to measure the extent to which the Chapter 9 institutions have transformed society and entrenched human rights. This followed criticism by politicians and the media, and several reviews by civil society and donor institutions.

Some of the critiques raised and challenges faced include the following:

### **1. *Insufficient collaboration with and awareness among CSOs***

From these reviews emerges a consistent call for the CGE to work more effectively with its sister Chapter 9 institutions and CSOs to take up issues through advocacy and apply pressure on the government to respond to its obligations. The overall impression was that such collaboration is inadequate and ad hoc in nature, and in breach of the CGE’s legal obligations. Civil society organisations called for a more formalised and regular interaction with the CGE, such as the adoption of civil society advisory boards, or annual consultative forums. The CGE was advised to take proactive steps to formalise interaction with civil society bodies and build structured relationships. This would support consultation to feed into strategic planning, and ensure the relevance of its work to its constituency.

It is worth noting, that as pointed out in one of the civil society reviews of the Chapter 9 institutions:

*the key ingredient of the success of the relationship between the studied Chapter 9 institutions and CSOs is the public’s knowledge of their rights and how to act upon any violation of these rights. Thus, popularity of the Chapter 9 institutions amongst CSOs is imperative for a functional collaboration between the two. It is the acknowledged*

*responsibility of both the Chapter 9 institutions and CSOs to educate the public about human rights. Although each of the parties may do this differently, a sustained structured relationship between the two is crucial. This means that the meetings should be mandatory and regular, inclusive of all CSOs, and should prioritise human rights issues of the day. Indeed, both the Chapter 9 institutions and CSOs value this kind of relationship as important for the achievement of human rights and administrative justice.<sup>14</sup>*

The CGE has addressed this shortcoming in a significant manner, which has brought about the partnerships, collaborations and consultations identified above. Networking with CSOs has been transformed through, for example, the formalisation of a provincial gender machinery in the Western Cape, comprising the CGE and gender equality CSOs in the province, and the establishment of project-linked consortiums, such as the recent Gender and Elections Consortium initiated at the request of gender CSOs and led by the CGE, comprising a range of organisations who wished to raise and address issues relating to gender in the 2009 elections. In addition, the CGE has worked to formalise provincial Chapter 9 forums, such as the KwaZulu-Natal Chapter 9 Forum, which sees provincial offices of the CGE, the South African Human Rights Commission, the Office of the Public Protector and the IEC coming together on a quarterly basis to jointly strategise on planning, collaborate on outreach and awareness-raising interventions, enable complaint-referral mechanisms and jointly undertake advocacy interventions together with CSOs in the province.

Similarly, the CGE has networked with a range of community and state stakeholders to generate community awareness around rights violations and how to address these. For instance, informed by its research findings on widowhood practices that discriminate against women, disinherit them and violate their rights to equality and dignity, the CGE convened a series of provincial dialogues with local CSOs and traditional authority structures, officials from local municipalities and the Department of Justice and Constitutional Affairs, and representatives from provincial legislatures, to share its findings and deliberate on recommendations. The CGE's Gauteng office noted that as a result, awareness among community members increased, resulting in an increase in the number of complaints received concerning widowhood cases. Their collaboration with provincial and local government stakeholders strengthened relationships and collaboration with these entities, resulting in further public education campaigns and reporting of cases. These stakeholders have noted that since these interventions, communities have greater awareness of instances of violation of rights, what action to take and how to seek recourse.

## **2. Difficulty in measuring gender equity**

It is clear from the reviews of the CGE conducted by both Parliament and individual CSOs that there is a need to develop a common framework regarding indicators for the monitoring and evaluation of gender equality work. It is the view of the CGE that this process will do much to rationalise the prevalence of unrealistic and sometimes contradictory expectations of the CGE on the part of

<sup>14</sup> *Ibid.*, p. ix

civil society. However, the CGE accepts that the concept of civil society itself is not a unitary concept, and that it is never likely to be able to please everybody.

One of the reviews noted in this regard: The major difficulty in forging this kind of relationship stems from disagreement over the strategies for promoting, monitoring and protecting human rights. These range from issues of priority, different understanding of the roles of Chapter 9 institutions, ideological orientation (as in disagreements over which gender discourse to pursue in the case of CGE) and different conceptions of the independence/autonomy of the organisations. These disagreements often lead to CSOs misinterpreting the role and function of the institutions.<sup>15</sup>

Having said this, the CGE has made strategic decisions around partnering with CSOs in its various dialogues, research and advocacy interventions, and, as highlighted above, has already embarked upon several collaborations in this regard, which have been warmly welcomed by the CGE’s colleagues in civil society. The CGE in the Western Cape has also initiated a dialogue with feminist academics on the issue of monitoring and evaluating gender equality work as a means of building some common ground and developing thinking in this regard.

### ***3. Use of powers and availability of resources***

It is apparent that the effective use of constitutional institutions such as the CGE to leverage state accountability therefore depends on building working relationships between the institution and CSOs, founded on broader public education on rights, and how to recognise and react to their abuse. However, further disadvantages brought about by the location and resourcing of the state institution can diminish the ability of the institution to bring pressure to bear on the state to adequately address shortcomings. This was noted in an additional review, which highlighted the fact that: One of the most striking aspects of the three Chapter Nine institutions is that their recommendations are not binding or enforceable against the state. They are merely advisory. This means that in practice, state departments may choose to either implement or ignore such recommendations in the absence of threats of litigation by the constitutional bodies.<sup>16</sup>

This requires constitutional institutions such as the CGE to be more proactive and make more effective use of its powers of subpoena and litigation, to “put pressure on the state to deliver on its political, social and economic obligations”.<sup>17</sup> This in turn requires agency on the part of the institutions to ensure that adequate financial and human resources are made available for them to pursue programmatic interventions, and where necessary, take up costly litigation measures.

It is imperative to note that the CGE receives significantly less budget allocation than its sister Chapter 9 institutions, which in itself reflects bias in state understanding and appreciation of the nature of gender equality work. This has affected the extent to which the CGE has been able to give effect to its mandate, and critically, to its ability to reach out into remote parts of our country and make a difference in the lives of marginalised communities there. With the

<sup>15</sup> *Ibid.*, p. ix

<sup>16</sup> Human Rights Institute of South Africa (HURISA) 2007

<sup>17</sup> *ibid.*

majority of funds allocated required purely to cover operational costs, this leaves an inadequate pool on which to draw for programme implementation and necessary litigation budgets to enable the CGE to deliver on its mandate. The CGE is pursuing its own advocacy interventions with the relevant state departments and Parliament to ensure its Treasury grading and budget allocation is increased.

#### 4. *Perceived political interference*

The selection and appointment of Commissioners by Parliament and the president, and the channelling of funds through a state department, are also often cause for conjecture that these institutions “are not completely independent of government influence” or that their independence has been compromised.<sup>18</sup> In addition, civil society stakeholders noted a perceived failure on the part of the CGE historically to take a stand on controversial issues, such as service delivery failures, and the impact of poverty and HIV/AIDS on women, further undermining its credibility among these stakeholders as an independent institution.

While this apparent reluctance to be critical of government policies may have arisen more from an inadequate understanding of the advocacy role of the CGE than political influence, the current round of Commissioners has not shied away from taking a stand on controversial issues such as tensions between cultural practice and gender equality, highlighted recently in a successful challenge against a ‘ban’ on women wearing trousers in Umlazi’s T-section in Durban, and a critique of the practice of *ukuthwala* (bride capture) in the Eastern Cape, and virginity testing in the province of KwaZulu-Natal. The current campaigns and legal interventions aimed at segments of the state should further put to rest the sense that the CGE is reluctant to take on controversial issues, or act against ‘comrades’.

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#### 5. *Threats to the CGE’s existence*

Calls by Parliament’s Ad Hoc committee and some in civil society for the creation of an umbrella human rights body,<sup>19</sup> with gender as a subsumed function, have been largely rejected by both civil society and the CGE itself. In defence of the need for a dedicated state institution to address gender equality, major hurdles to be overcome in both the human rights and gender arenas have been identified. This is reflected in the submission by People Opposing Women Abuse (POWA), which stated that “The maintenance of and sustainability, without rationalisation, of the Commission on Human Rights and Commission on Gender Equality are central to the realisation of the State’s duty to protect women from violence – a duty entrenched in the Constitution and international law”.<sup>20</sup>

In its response to the Ad Hoc committee’s proposal, the CGE noted that gender inequality forms part of the South African landscape, as a result of the very gendered nature of apartheid. The CGE expressed the opinion that unless there is a focused institution such as the CGE, issues of gender will be subsumed and not adequately addressed and acknowledged in their own right. The CGE noted that this recommendation conflated issues of current institutional struc-

<sup>18</sup> *ibid*

<sup>19</sup> Parliament, 2007

<sup>20</sup> POWA, *op. cit.*, p20

tural weakness with policy, principle and strategic decisions around location, was premature, and would not adequately address issues related to gender inequality.<sup>21</sup> At the time of writing this matter was due to be debated by Parliament, and the CGE was to defend the rationale for the retention of a separate gender equality entity.

## CONCLUSION AND RECOMMENDATIONS

It is clear from the arguments above that there is great value in an independent, empowered mechanism, such as a gender commission, to hold a state to account for delivery on gender equality commitments and obligations. The interventions and achievements highlighted above reveal the potential and real impact strategic collaboration between the CGE and CSOs that can be brought about in this regard. The joint campaigns and advocacy interventions outlined, supplemented by effective use of the CGE’s legal powers, can serve to ensure that the state responds to gaps in its policy frameworks and implementation, and service delivery shortcomings.

Similarly, what the above challenges and critique of the CGE reveal, is the need for focused and targeted interventions to strengthen linkages between CSOs and such an institution, to ensure that potential leverage of state accountability, and thereby citizen access to rights, is realised. Several recommendations emerge in this regard, for consideration both in the current programme formulation and uptake of issues of the CGE, as well as the design and implementation of such an institution by other states:

1. **The value of creating state institution/civil society forums.** These would enable “structured and continuous relationships” between the institution and civil society.<sup>22</sup> This could be designed as a formal space to share and shape priorities and programmes, deliberate on issues of concern and findings and jointly strategise on advocacy interventions. The purpose of the forum could be multiple: for CSOs to share with the Chapter 9s their strategic issues and advocacy campaigns and request assistance in taking these up; for the deliberation of issues and formulation of joint advocacy campaigns; and to identify potential areas for partnership and collaboration, to strengthen each other’s work. Such a space would also permit broader conversation on gender discourse and facilitate greater understanding on institutional performance, priorities and limitations.
2. **The need for CSOs to formulate strategies to engage with state institutions.**<sup>23</sup> Civil society institutions themselves need to strategise around making use of the location and powers of constitutional institutions such as the CGE to strengthen their own advocacy campaigns and ensure their issues of concern are taken up by policy-makers. As demonstrated in examples cited above, approaches made by CSOs to the CGE to join and strengthen the campaign to address access to maternity benefits for working women, as well as to convene the gender and elections consortium and champion its recommendations to political parties and the state, serve as useful examples in this regard.

<sup>21</sup> CGE, 2007

<sup>22</sup> HSRC, *op. cit.*, p x-xi

<sup>23</sup> *Ibid.*



3. **The need for extensive public awareness and education.**<sup>24</sup> Both constitutional institutions and CSOs need to expand their public education and awareness programmes to accelerate communities' understanding of their rights, and how an institution such as the CGE can be used to address the non-delivery or abuse of these.
4. **The need for tailored outreach strategies.** Institutions such as the CGE would need to craft tailored outreach strategies and programmes to ensure that “the least advantaged (especially in rural areas) are able to take up their services”.<sup>25</sup>
5. **The need for adequate budget and resource allocation.** CGE experience has revealed that when the state budget allocation is required predominantly to cover operational costs, leaving a minimal allocation for programme interventions, this significantly affects the extent and depth of work that can be undertaken.
6. **The need for the institution to make full use of its powers.** As noted, unless an institution such as the CGE makes full use of its powers, including those of subpoena and litigation, in holding the state to account, it is unlikely to achieve its full potential in this regard, and may be disregarded by the state. A negative spin-off is the fuelling of public perception of bias in favour of the state, or the perceived undermining of the institution's independence.

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<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

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SECTION 3

WORKING IN  
PARTNERSHIP



# Developing Civil Society's Budget Monitoring Capacity of HIV and AIDS Resources in Southern and Eastern Africa

By *Teresa Guthrie, Nhlanhla Ndlovu, Rose Wanjiru and Paulina Chiwangu*<sup>1</sup>

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The large allocation of resources from the government and donors to HIV across African countries has not translated into sufficiently effective programmes for HIV prevention, treatment and care. One reason for this is the lack of attention paid to economic governance. This chapter describes the efforts of the Centre for Economic Governance and AIDS in Africa to build up the capacity of civil society organisations to monitor HIV budgets from local up to national level in order to achieve greater accountability within the health sector.

## INTRODUCTION

Large allocations of financial, human and infrastructural resources, both public (domestic) and external (donor), have been invested in the health sector generally, and more specifically for HIV and AIDS. Development aid for health (DAH) grew from US\$5.6 billion in 1990 to US\$21.8 billion in 2007, of which a growing proportion went to HIV and AIDS, from 3.4% of all DAH in 1990 to 23.3% in 2007.<sup>2</sup> In 2008, new aid commitments from the Group of Eight (G8), European Union (EU) and other donor governments for HIV and AIDS totalled US\$ 8.7 billion.<sup>3</sup> However, despite scaled-up efforts and resources to deal with the epidemic, the available funding for HIV and AIDS is still insufficient to achieve universal access to treatment, care and prevention services, with a global shortfall of around US\$8.1 billion in 2007.<sup>4</sup> In addition, there are increasing reports of limited absorptive capacity, the under-utilisation and mispending of funds, with little evidence of the efficacy and efficiency of

<sup>1</sup> Centre for Economic Governance and AIDS in Africa (CEGAA), Cape Town, South Africa

<sup>2</sup> Ravishankar *et al*, 2009

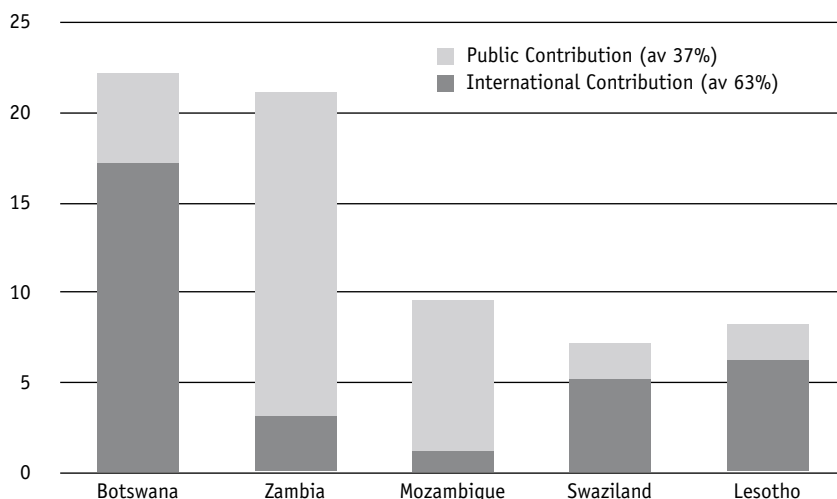
<sup>3</sup> Kates, Lief & Avila, 2009

<sup>4</sup> According to the United Nations Joint Programme on HIV/AIDS (UNAIDS), 2007

spending. Countries are reporting fragmentation and non-alignment of donor aid,<sup>5</sup> as well as strict donor conditionalities and reporting requirements, which undermine absorptive capacity and technical efficiency of spending.

Further, the dependency on external aid for health and the HIV and AIDS response deepens as the public contributions do not grow in proportion to the external sources. For example, the African governments committed to allocate 15% of their total budgets to health.<sup>6</sup> Yet most are falling far short of this target. For the Southern African countries that have undertaken comprehensive National AIDS Spending Assessments, the average contribution of local revenue was 37% in 2006, which dropped to 26% with Botswana removed, whose public contribution was 80% of the total spending on HIV and AIDS.<sup>7</sup>

HIV/AIDS spending – Public and International sources (2006)



Source: Guthrie & Kioko, 2009. (Note, Botswana is 2005 data)

“Monitoring and measuring performance enhances better budgeting and service delivery as ‘what gets measured gets done’. Performance information is not an end in itself – it is intended to ensure transparency and accountability for the use of public funds, help the government to make the correct budget decisions and contribute to service delivery improvement”, stated the South African National Treasury.<sup>8</sup> This point is extremely important in the field of HIV and AIDS as governments need to account to civil society on how they set priorities, budget for them, and spend the allocations for maximum impact.

In this environment there is growing attention to improving national economic governance so as to improve the rationality, accountability and transparency regarding the resources allocated to, and spent on, health and HIV and AIDS. In particular, there are increasing efforts by governments and civil society to track the resources that are flowing to HIV and AIDS, their utilisation and resultant impact.

5 Guthrie, 2009

6 Abuja Declaration 2001, renewed in 2006

7 Guthrie & Kioko, 2009

8 South African National Treasury, 2004. The Medium Term Expenditure Framework Treasury Guidelines: Preparing Budget Proposals for the 2005 MTEF, Government of South Africa.

## COMMUNITY MONITORING AND PARTICIPATION IN THE HEALTH SECTOR

In 2006 at the Abuja Special Summit of African leaders, Heads of State adopted the Abuja Call for accelerated action towards Universal Access to AIDS, tuberculosis and malaria (ATM) services in Africa, and a resolution to achieve this by 2010. For this call to succeed, Summit participants urged for intensified leadership at all levels, further commitments regarding human rights, increased mobilisation of resources including negotiations for debt cancellation, and collective advocacy with multilateral and bilateral donors.<sup>9</sup> The Summit also called for strengthening of monitoring, evaluation and reporting mechanisms, including more civil society and private sector involvement and partnership.<sup>10</sup>

However, civil society has been sidelined in both active policy-making and resource allocation processes for health and other social services in Africa. This has undermined the capacity and constitutional right of communities to participate in decision-making for the distribution and utilisation of public resources. Health spending is of paramount importance to communities because it assures that health facilities receive the resources required to provide quality health care. Communities should be able to monitor and advocate for increased health spending at local level, allowing them opportunities to participate in setting the agenda for social policy and issues. In an open democratic state the community is able to enforce the principles of transparency and accountability on which good governance and quality health care are built.

In particular, participation of civil society in the budgetary processes is critical for ensuring the achievement of the goals of social policy. It is the budget allocations that make social policy implementable, because without sufficient resources allocated to an issue or service, the policy remains a dream. The budgetary allocations therefore indicate how committed a government is to delivering health and other social services for its citizens, and therefore the citizens should engage in the monitoring of the allocation processes, as they directly impact on their health and wellbeing. The degree of transparency of budgetary processes and their availability of budgetary documentation is used as an indicator of transparency and democratic governance, as shown by the Open Budget Index,<sup>11</sup> which has graded 72 countries in this manner.

Unfortunately, communities and civil society organisations (CSOs) have not adequately participated in budget process issues affecting HIV and AIDS issues. The citizens' voice has not been heard and there are insufficient monitoring processes at community level for social accountability. Real participation is required at community level where public services are delivered in line with community needs and available resources. Thus, communities need to be capacitated at local level to track expenditures and their outcomes on HIV and AIDS for their ongoing empowerment in holding different levels of government, including local authorities, accountable. For example, if community members know where to find the allocations that have been made to their district, and can monitor the process of the utilisation of these funds (some of which will occur

9 Joint United Nations Programme on AIDS (UNAIDS), May 2006. Available from <http://www.unAIDS.org/en/KnowledgeCentre/Resources/FeatureStories/archive/2006/20060503-Abuja.asp>.

10 World Health Organisation Regional Office for Africa (AFRO), May 2006. <http://www.afro.who.int/press/2006/pr20060505.htm>.

11 Open Budget Index: [www.openbudgetindex.org](http://www.openbudgetindex.org).

at the national or sub-regional levels through the procurement of drugs and supplies, as well as payment of public salaries), then they can hold their local authorities accountable for the amount and quantity of services that should have been provided. They can also influence the agenda-setting process at district level, and ensure that the allocations of district funds reflect this prioritisation.

Thus, the use of public and donor aid for health and HIV, AIDS, TB and malaria should be monitored to ensure that the spending benefits the community, especially for persons made vulnerable by poverty, underdevelopment, HIV and AIDS, and other health conditions. Further, civil society is a necessary component in a transparent and accountable state. There are important examples of civil society monitoring of public finance utilisation to advance human rights and development and to reduce poverty and poor health. However, these experiences need to be expanded, strategically documented for widespread dissemination of experiences, skills gained, tools and lessons learnt. The Centre for Economic Governance and AIDS in Africa (CEGAA) attempts to support these important initiatives.

For example, the Treatment Action Campaign (TAC) in partnership with the AIDS Law Project (ALP) in South Africa focused on fighting for the rights of people living with HIV and AIDS, with special emphasis on development of policies and budgets for provision of HIV treatment in the public sector. Their advocacy efforts have demonstrated quite clearly how citizens and civil society organisations can alter inefficient policy-making and budgeting for the benefit of citizens needing services. Now South Africa provides free AIDS treatment to about 60% (700 000 of approximately 1 100 000) of people needing it and is regarded as the largest public sector provider of antiretrovirals globally.<sup>12</sup> CEGAA with TAC and the ALP are building the capacity of district-level community members to monitor the roll-out of the antiretroviral programme, the quality of service delivered, and the efficiency of the spending at local authority level.

## THE CENTRE FOR ECONOMIC GOVERNANCE AND AIDS IN AFRICA

CEGAA was established in 2006 in order to contribute to improved economic governance, fiscal policy and financial management and accountability, with specific attention to improving the response to HIV and AIDS, malaria and TB and for strengthening health financing and information systems. It does this primarily through direct work and capacity building with National AIDS Councils (NACs), with CSOs, and with parliamentarians, and attempts to facilitate dialogue and interaction between these actors, so as to enhance overall sound economic governance.

CEGAA has developed a number of approaches in order to fulfil its mandate of capacity building to CSOs. These approaches are elaborated through the principles of participatory research, community monitoring, advocacy, and where possible, through constructive partnerships with governments. The

<sup>12</sup> Plus News, 23 June 2009. SOUTH AFRICA: Serious shortage in ARV funding. Accessed on 28 July 2009, from <http://www.safAIDS.net/?q=node/979>.



principle of participatory research and monitoring focuses on empowerment through the research process, and full ownership by civil society and governments of the entire process, especially of the outputs and outcomes, for use in relevant advocacy campaigns. The principle of partnership with the government is done through CEGAA's support to National AIDS Councils and Ministries of Health, which is discussed later.

Through the experience of managing multi-country projects that have aimed to build the capacity of in-country partners from civil society, NACs and parliaments, CEGAA has developed an approach that has proven effective in developing sound partnerships, in building awareness of and support for budget monitoring and expenditure tracking (BMET) at all levels, and in transferring skills and providing technical support to CSOs, NACs, Ministers of Health (MOHs), and parliamentarians to improve economic governance generally. The first section below presents CEGAA's approach to capacity building with CSOs, followed by a description of our efforts to improve public financial accounting and monitoring systems, and finally considers the intersection of the two.

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## **BUILDING THE CAPACITY OF CSOS TO ENGAGE IN BUDGET MONITORING**

It is important to recognise that the process of building the capacity of CSOs to engage in budget monitoring and advocacy is a long one requiring careful preparation and selection of partners, situational analysis at country level, addressing their specific learning and capacity needs, supporting them through the long and challenging process of data collection, verification and presentation in a powerful manner, and finally in the roll-out of an evidence-based effective advocacy strategy. In the experience of CEGAA, this all takes at least three years, and results in terms of policy and budgetary changes can only be seen after three or four years, and even then requires continuing pressure from civil society to achieve the longer-term outcomes. The project described below commenced in late 2008, and currently the country teams are undertaking their research, thus tangible outputs and outcomes have as yet not been realised. However, interim achievements include the capacity building and learning of CSOs that has enhanced their understanding of government budget processes and has empowered them to have greater demands for public accountability. It is important for all partners, especially those funding these activities, to be committed to this long-term process for more than two or three years.

### ***CEGAA's situation analysis in four Southern African countries***

Prior to commencing any work, CEGAA with key partners in the particular countries undertakes a comprehensive analysis in each country. The situational analyses include descriptions of the national and sub-national budgetary processes and actors, assessment of the degree of civil society participation in these processes, and of the quality of budget information and engagement in health allocative processes, both national and international, such as the International

Health Partnership (IHP) which is a relatively new structure for development partners (mainly bilateral) to pool funding directly to MOHs for the achievement of their national health priorities. It is also the oversight responsibility of parliaments to monitor the governments’ allocation of public resources, but the ability of the Members of Parliament (MPs) to do so is often limited. Therefore the current roles and activities of CSOs and MPs in budget analysis, monitoring and expenditure-tracking activities are identified, as well as identification of any gaps in the capacity to undertake these activities, which then informs the development of a capacity-building plan. The findings of the situational analyses are then presented, discussed and validated at stakeholder meetings in each country, and inform the capacity-building plan and the potential focus of the project. The situation analyses have indicated that CSOs in most Southern Africa countries are engaging in budget monitoring and expenditure tracking, albeit with varied approaches, capacities and outcomes.

For example, one of our multi-country projects in Southern Africa began with a situational analysis in Malawi, Zambia, Mozambique and Zimbabwe. The results revealed some similarity in context and implementation of budget-monitoring activities by the CSOs, as well as the uniqueness of each country response:

- There are varied but somewhat ad hoc budgetary-monitoring and advocacy activities by the CSOs in these Southern African countries that could be strengthened and better coordinated for greater impact.
- Organisations involved in some form of budget monitoring appear to be overstretched, and the impact of their efforts has been undermined, primarily due to sustainability issues from both human and financial constraints.
- There is need for, and CSO interest in, evidence-based and well-strategised advocacy campaigns that will significantly influence the budgetary processes to make them more pro-poor, accessible, participatory and transparent, which will lead to effective utilisation of resources and the establishment of accountability systems.
- Each country stressed the need for more district-level monitoring of budgets and expenditure by community groups and by the persons most affected by underdevelopment and ill-health. While some national analysis has occurred of health budgets, there has been little monitoring at the local level, with almost none of HIV and AIDS services specifically.
- For effective district-level monitoring, there needs to be capacity building among a far greater group of community-level people interested in the budget issues, such as mothers interested in educational services for their children, pregnant women interested in the maternal health facilities, district AIDS coordinators trying to ensure access to treatment for all people living with HIV and AIDS (PLWHA) in their districts, district clinic pharmacists trying to meet the demands of all their patients, district-level accountants who often are not in touch with the community needs yet have to make critical allocative decisions, and so on. This requires significant and sustained investments in time, effort and resources, both human and financial.

The situational analysis revealed the importance of not only building capacity but also the need to provide opportunity for the various CSOs to work together in a coordinated manner. This implies the need for partnerships to carry out the BMET work. After having completed such analyses, and identified the

organisational capacity needs, CEGAA then plans the capacity-building phase with interested CSOs in each country.

### ***Planning and developing the capacity-building programmes***

The steps that CEGAA undertakes in the planning and implementation of its civil society capacity-building programmes entail the following generic activities:

1. Identification and partnership with civil society representatives who are interested in participating in budget monitoring and expenditure tracking for health care in HIV and AIDS in participating Southern and Eastern African countries. These often include associations of PLWHA, coalitions interested in health issues, research organisations who wish to get involved in budget monitoring and expenditure tracking, and any others who have an interest in social spending.
2. Assessment of the current levels of civil society participation in budgeting and budget monitoring in the participating countries, including aspects of transparency, accountability and accessibility of information. We look for opportunities in the budget process which will allow for greater civil society participation.
3. Based on the findings of the above objective, and through extensive stakeholder discussion, we then identify the learning needs of civil society representatives in relation to participatory budgeting, budget monitoring and resource tracking. These usually include the need to be informed of the budget process, the key actors, opportunities for participation, where to find information in the budget documents, how to do a basic analysis using the available data so as to create a picture of the situation with regards to their area of interest, and most importantly, how to develop advocacy evidence-based campaigns that present their findings in a powerful way and make their demands in an effective and sustained way, targeted at the correct players, that will bring about the change required.
4. We then develop and implement the programme of knowledge and skills transfer that addresses the needs identified above, so as to enable our civil society partners to participate in budgeting, budget monitoring and resource tracking in-country. The implementation usually begins with an introductory workshop that covers the basic aspects, but the main learning occurs through ongoing technical support and in-country visits, where in-situ troubleshooting and advanced skills transfer occurs.
5. At the beginning of the process, and again when they have some preliminary findings from their research phase, we assist the country teams to identify their advocacy issues and to develop their advocacy strategies, with strong recommendations that are realistic and evidence-based. We provide them with ongoing support in the implementation of their advocacy plans, and begin to plan the next phase of their research, depending on the evolving nature of their issues and needs.
6. Finally, CEGAA seeks to provide the technical support required for the development of a regional network of budget-monitoring activities in Africa, which would greatly strengthen and enhance the country-level activities and successes.

### ***Partners’ selection, memorandum of understanding and terms of reference development phase***

CEGAA’s experience has shown that the partnering of a CSO that is more advocacy oriented with an organisation with more research skills is most productive and ensures a transfer of skills between these two groups and enhances dialogue between various partners with different competencies. In addition, there should be a reference group of interested stakeholders, including other CSOs, networks, development partners and if possible, relevant persons from within the NACs. In Zambia, the partnership of the Centre for Health and Social Services Research (CHESSORE) which is largely a research organisation in health financing at the community level, with organisations such as Treatment Advocacy and Literacy Campaign (TALC) has enabled exchange of information, knowledge and skills with the Street Kids, Orphans and Widows Association (SKOWA), a community group that was involved in demanding antiretroviral treatment.

SKOWA members were surprised to realise that research on ‘equity gauge’ done by CHESSORE had revealed that a significant amount of funds of the health centre are designated for community health activities and they should have been involved in deciding on how best the funds would support their health initiatives through their health village committees. It was clear that this provision is not disclosed to many and therefore the community representatives misuse the funds and a significant amount was spent on ‘sitting allowances’. While this information should have been shared widely and communities mobilised by an advocacy agency, the research institution had no mechanisms and links with the community groups and therefore it largely remained ‘on the shelf’.

### ***Coalition and capacity building for effective monitoring***

A strong coalition of CSOs at community/district level is necessary to partake in budget processes pertaining to HIV and AIDS and other health services. This is necessary to ensure that these organisations and communities hold government accountable for budgets and implementation activities. As part of community empowerment, relevant organisations and interest groups have been mobilised to initiate community engagement forums and meetings to raise awareness of the importance of the issues affecting the community, and to motivate for a participatory programme of monitoring involving the community. The partners have been mobilised to form a coalition ensuring that community monitoring is not a single organisation’s responsibility. An average of seven national organisations together with other community organisations have been mobilised and coordinated to increase the influence on budgeting and service delivery in each country where CEGAA is building the capacity of CSOs for BMET.

Based on the assessment of the capacity-building and learning needs of the partners, a programme for capacity building is developed which includes an initial technical training followed by Training of Trainers (TOTs) workshops and then continued through technical support and site visits. The capacity-building programme seeks to address each country’s and partner’s particular needs, and covers a range of topics including general budgeting systems, actors

in the budget process and budgetary documentation, health systems, health financing issues, policy analysis, budget-monitoring and expenditure-tracking techniques, simple costing methodologies, as well as methods for monitoring outputs of spending at community level – social auditing, citizen scorecards, service satisfaction surveys, etc. These are described in more detail below.

Importantly, advocacy strategy development and implementation and effective communication strategies are also covered, so as to ensure the evidence has its greatest impact and positive change outcomes. Following a TOT workshop in Zambia a local organisation, Chipulumutso, working on supporting orphans and PLWHA, has taken up monitoring of the health and HIV and AIDS budget to expand their prevention, treatment, care and support work. Their being connected to the SKOWA during the workshop enabled them to expand their beneficiary groups and to have an already trained partner in BMET, the results of which will be seen after they have finalised their research and begun their advocacy activities.

### ***In-country research/monitoring phase***

This phase covers the identification of appropriate methodologies, development of research tools, pre-testing of tools, data collection, data capturing, cleaning, analysis and report writing. The identification of appropriate methodology is determined by the level (national, provincial, district) or the phases of budget cycle to be monitored (formulation, legislative, implementation and audit phases) and the scope of the research (local, national, international governments' commitments and resources allocations). Through various country-level discussions, the partner organisations have identified the research area as 'Universal Access to Treatment for HIV and AIDS, malaria and TB' and various methodologies, particularly the community-level monitoring tools (such as social audits, citizen report cards, patient satisfaction surveys, etc) are employed to carry out research at the community level, while analysis is also undertaken at the national level. For example, some partner organisations have been monitoring the Abuja Declaration on public health allocations which were targeted at 15% of the total state budget, but as yet, there has been limited achievement of this target in Africa, and even less evidence of the allocations benefiting the community level. The combination of national- and district-level monitoring becomes imperative, leading to evidence-based, well-planned advocacy campaigns. The example of the TAC-CEGAA collaboration in South Africa described earlier provides an example of the importance of national-level advocacy that is complemented by district-level monitoring and mobilisation, using community monitoring tools, described further below.

### ***Specific community monitoring tools***

Various civil society organisations have adopted innovative community monitoring tools developed by the World Bank and its partners to facilitate community participation in budget and policy-making issues affecting communities and special population groups such as people living in poverty. These key tools include community score cards, citizen report cards and social auditing.<sup>13</sup>

<sup>13</sup> Nair, M. (Undated); Paul, S. (Undated); Ramkumar, V. (2008); Singh, J. and Shah, P., (Undated).

Community score cards are qualitative monitoring tools that are used for local-level monitoring and performance evaluation of services, projects and even government administrative units by the communities themselves. Singh describes the process as “a hybrid of the techniques of social audit, community monitoring and citizen report cards... [used] to exact social and public *accountability* and responsiveness from service providers”.<sup>14</sup>

Citizen report cards are defined as “participatory surveys that provide quantitative feedback on user perceptions on the quality, adequacy and efficiency of public services”. These go beyond just being a data collection exercise to being an instrument to exact public accountability through the extensive media coverage and civil society advocacy that accompanies the process.

A social audit is then defined as a community-driven participatory auditing of government implementation of programmes. It complements financial audits performed by government agencies by verifying the quality of service provided, performance of the state in achieving its goals and targets, and strengthening the financial audits usually performed by the Supreme Auditing Institution or the Office of the Auditor-General, and departmental internal auditing units. It seeks to promote citizen participation in governance issues, resulting in better transparency and accountability.

Examples of CSOs effectively utilising community monitoring tools in their work include the Mazdoor Kisan Shakti Sangathan (MKSS) in Pakistan and Muslims for Human Rights (MUHURI) in Kenya, who both have extensive experience in the application of social auditing in community-level monitoring efforts. The Public Affairs Centre (PAC) in Bangalore, India has a good reputation of using citizen report cards in getting citizen satisfaction perceptions of government services. The public procurement monitoring is a tool used by Procurement Watch Incorporated (PWI) in the Philippines to reduce corruption and to improve time and cost efficiency in procurement activities. Last, but not least, the infrastructural development monitoring approach is used by the Concerned Citizens of Abra for Good Governance (CCAGG) of the Abra Province of the Philippines, who specialise in physical verification as a community role in ensuring quality infrastructural programmes and reduction of corruption in public works.

### ***Dissemination and advocacy phase***

Research evidence has to reach and empower the affected communities, and be targeted strategically at key decision-makers who can bring about the change required. Dissemination of the findings is done through workshops and distribution of findings in suitable formats to the communities and other stakeholders. Carefully constructed advocacy campaigns and activities are rolled out, using creative and high-impact techniques. For example, the worldwide call for Universal Access to HIV Treatment and Care by 2010 is currently targeting the governments and donors, since it is not only public allocations but also the sustained commitment of external aid that will be required to achieve this target. For donors, increased, sustainable commitments and disbursements are key issues, while for the government, there is need to ensure increasing strengthening of public allocations and health systems while also ensuring adequate

<sup>14</sup> Singh, J. and Shah, P. (Undated).

and efficient spending on HIV and AIDS treatment and prevention activities. CEGAA's partners are engaging with these issues, and are now able to hold both their governments and the development partners accountable.

Another example of strategic advocacy strategies is CEGAA partners in Zambia, Kenya and Tanzania addressing the issue of the strict conditionalities of the International Monetary Fund (IMF) loans in terms of limiting social sector spending in their countries, and the impacts on the budgets and personnel for HIV/AIDS, TB and malaria. After undertaking their research, they firstly presented the findings at parliamentary hearings, on local radios, at meetings with their MOHs, at international conferences, at press conferences both locally and in the USA at the time of the congressional activity, and at the IMF spring meetings in Washington. They then continued to raise awareness of the negative effects and engaged senior IMF personnel in their countries and in Washington. An important effect was the feedback that the personnel of their MOH felt they now had the support of their citizens in entering tough negotiations with the IMF.

Obviously the IMF approach is going to take some time to change, but an important achievement has been the addition to the USA's Supplemental Appropriations Bill (2009) that now instructs the US representative to the IMF to oppose any IMF loan or agreement "that would not exempt increased government spending on health care or education from national budget caps or restraints, hiring or wage bill ceilings or other limits imposed by the International Monetary Fund in Heavily Indebted Poor Countries (HIPC)". Although this is initially limited to only HIPC countries, it is hoped that the logic will be applied to other poor countries feeling the burden of the IMF conditionalities. This project shows the importance of local-level research and advocacy linking with international efforts, as well as developing a regional voice on the issue. All this was possible through CEGAA's partnerships with in-country CSOs and researchers, as well as with Results for Education, a highly effective international advocacy organisation.

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### *Sustaining community level monitoring activities*

Community-level budget monitoring and expenditure tracking and advocacy activities require long-term commitments of human capital, financial resources and strategic, timely interventions. Bringing about changes to budget allocations, expenditure patterns and funding mechanisms is a slow process and results are not experienced within one or two, or even three, years. Therefore communities need to be able to sustain their monitoring and advocacy efforts, and organisations providing technical and financial support need to commit these resources to those communities for periods of at least three to five years.

In addition to undertaking capacity building and providing technical support to CSOs over the long-term, CEGAA also seeks to strengthen the capacity of public institutions to manage their health finances more efficiently, and to improve their overall economic accountability. These activities are described below.

## PUBLIC FINANCIAL SYSTEMS FOR HEALTH, HIV AND AIDS

Public accountability relies not only upon strict accounting and auditing procedures, but also upon robust monitoring and evaluation systems that collect comprehensive and accurate financial data on a routine basis. These information systems are often lacking in many African countries, and recognising this, governments have undertaken National Health Accounts (NHAs) to track their spending on health, and National AIDS Spending Assessments (NASAs) to track their spending on HIV and AIDS. The NHA approach provides evidence to monitor trends in health spending for all sectors – public and private, different health care activities, providers, diseases, population groups and regions in a country. It is not an audit process, but rather an attempt to ascertain the health spending priorities so as to realign these if necessary. The NHA data also helps in developing national strategies for effective health financing and in raising additional funds for health. The NHA information can be used to make financial projections of a country’s health system requirements and compare their own experiences with the past or with those of other countries.<sup>15</sup> The NASA approach is described below in more detail. In addition, greater efforts have been made to cost National AIDS Strategic Plans (NSPs) which represent the countries’ response to HIV and AIDS, so as to inform results-based budgets, and to enable more efficient spending of limited resources. CEGAA has assisted and built in-country capacity in these various activities in several east and Southern African countries, as they are necessary for the availability of data for planning and spending on HIV and AIDS, and thus for improved efficiency and accountability. These efforts are briefly described below.

### *Costing national strategic plans and preparing result-based budgets*

Many of the first generation of NSPs for HIV and AIDS were not costed at all, and were simply policy guidelines without any concomitant operational plans or resource allocation. Of those NSPs that were costed, many underestimated the real cost of a comprehensive and integrated strategic response, since they were often working within a predetermined resource cap, and thus either the activities are scaled down, or their rate of achievement slowed, or the unit costs reduced, so that the cost estimates can be reduced to fit within that limit. In addition, the cost estimates often did not actually feed into the budgets for the implementing ministries, and again, there was not the required commitment of resources in budget line-items. Some of the MOHs have embarked upon the provision of antiretrovirals free to the patient, without fully understanding the longer-term implications, without sufficient and sustainable funds dedicated not only to the drugs, but also to their delivery through strengthened health systems and increased human resource capacity, and thus have found themselves facing stock-outs, long patient waiting lists, and increasing demand without the adequate resources to meet that demand.

<sup>15</sup> World Health Organisation (WHO) website, 2009



In the last few years, many countries have undertaken mid-term reviews of their NSPs, some of which included a NASA, and have improved their collection and management of output data in monitoring and evaluation systems. These processes have led to improved, evidence-based second generation NSPs. In addition, greater effort is being placed on costing these NSPs more accurately, with more realistic coverage targets applying the Activity Based Costing (ABC) methods, which means that for every goal in the plan, there is a clear link to the programme activities, and each of these are costed, usually applying ingredient costing, which identifies all the ingredients/resources required to undertake the activity and multiplying their costs by the quantity required of each. Unfortunately, these efforts are often undermined by the lack of credible unit costs for the various interventions which are based on accurate costings of existing programmes, making it difficult for countries to undertake their costings and to make submissions to the Global Fund and other development partners. Nevertheless, the cost estimates are now informing budgets and the results-based budget (RBB) approach has proven popular.

RBB is about “formulating programme budgets that are driven by a number of desired results which are articulated at the outset of the budgetary process, and against which actual performance is measured at the end of a biennium”, according to the United Nations Secretariat.<sup>16</sup> This approach ensures that the budgets are based on accurate estimations of what actual services will be delivered and their ingredients, as well as being linked to outputs that can therefore be measured (as results of the inputs). These have enabled ministries and their relevant departments to plan for the execution of their budgets, according to the agreed plan, and to achieve the required results.

At the same time, these efforts as well as economic evaluations (cost-effectiveness, cost-utility and cost-benefit studies) have informed resource allocation within resource constraints, so as to ensure the best use of the limited resources, although the evidence is still scanty in terms of the relative effectiveness of spending on some interventions, primarily due to the nature of their outputs which may not be easily identified, measured and compared in a cost-effectiveness ratio.

### ***National AIDS spending assessments***

The NASA resource tracking methodology is designed to describe the financial flows and expenditures for HIV and AIDS interventions in a country. It uses the same categories as the globally estimated resource needs,<sup>17</sup> and thus provides indicators of the country's financial response to AIDS and identifies priorities and gaps in spending, so as to support resource mobilisation. Thus, NASA is a tool to install a continuous financial information system within the national monitoring and evaluation framework, and tracks funds from all sources: public, external and private, to service providers, and identifies the services they deliver and the beneficiaries of those services. The AIDS spending is structured into eight categories: prevention, treatment and care, orphans and vulnerable children, programme management and administration, human resources, social protection, enabling environment, and research, with several

<sup>16</sup> Reported in Abraszewski *et al.*, 1999:3

<sup>17</sup> UNAIDS website, 2009

sub-categories under each, allowing for detailed disaggregation of activities. The NASA approach verifies the expenditure reported, using data triangulation methods, and applies a matrix system to aggregate all the data.<sup>18</sup> These are captured and analysed in the Resource Tracking Software developed by the United Nations Joint Programme on HIV/AIDS (UNAIDS).

Through the process and institutionalisation of NASA, routine expenditure data is being collected and made available to all players in a country, allowing informed allocative decision-making, ensuring alignment of all efforts with the national strategic priorities, and improving the overall transparency and accountability. CEGAA has provided technical support, through the UNAIDS Regional Support Team, to the NACs of Botswana, Swaziland, Lesotho, Zambia, Swaziland, Kenya, Ghana, and Zimbabwe.

### *Civil society engagement with NASAs*

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Not only do the NASAs provide data on all spending by government, by donors and by NGOs, but the process itself also allows for the participation of all players. Thus donors and NGOs also participate in the provision of data on their own spending, and can be involved in the data collection process as well, with the necessary skills transfer and technical support. An example of this has been the Zimbabwean NASA, where the NAC invited CSOs to become engaged in the initial discussions and conceptualisation of the NASA process. Through the situational analysis undertaken by CEGAA (mentioned earlier), connections had already been made with CSOs engaged in health monitoring and budget monitoring, and two particular organisations indicated their willingness to participate in the process further, and were participants in the NASA training provided by CEGAA. CEGAA played a facilitative role between the NAC and the CSOs, and encouraged their participation in the data collection process, and thus they were able to collect the spending data from the NGO sector. They faced the challenges of explaining the purpose of the process to other NGOs, and of overcoming their suspicions and unwillingness to share their data. Not all agreed to participate, but for an initial NASA the response rate was relatively good, especially given the difficult political environment in the country at the time. Currently (June 2009), the Zimbabwe NASA team are still in the data-capturing phase, and it is envisaged that CSOs will be critical in the validation of the preliminary findings, critiquing the findings and contributing to the final report. They can then mobilise and advocate around the specific issues or problems highlighted, and can monitor government’s progress from here onwards. Thus the NASA in Zimbabwe and other countries has provided an important point of intersection and interaction between all players, in efforts to improve overall national economic governance.

## CONCLUSION

This chapter has attempted to provide an overview of CEGAA’s work in increasing governments’ accountability and transparency regarding public and external

<sup>18</sup> UNAIDS. [www.unaids.org/en/KnowledgeCentre/ResourceTracking/NASA](http://www.unaids.org/en/KnowledgeCentre/ResourceTracking/NASA).

funds. The discussion has elaborated on why and how communities monitor government processes within the notion of accountability. It is apparent that governments have to account to communities and to all citizens for the public services they are mandated to deliver, and for the accompanying spending of public finances. However it is clear that government's accountability should be enforced by not only improving their own financial management systems, but also through building community capacity to monitor government processes, i.e. planning, budgeting and implementing services responding to the needs of the citizens, especially the poor. Such community monitoring can be achieved through the use of different monitoring methods including inter alia, community score cards, citizen report cards and social auditing. Despite the opportunities offered by these methods in monitoring, communities and governments still need to find ways to work together to ensure that the principles of good budgeting and planning, namely participation, transparency and accountability, are enhanced. After all, government and civil society are partners in an open, democratic state and need to work together and with other systems and structures for good governance.

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# The Local Governance Barometer - Measuring Governance in Madagascar

By *Jean-Michel Dufils*<sup>1</sup>

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The tourism potential of Nosy Be, a pristine island located off the north-western coast of Madagascar, was targeted for development in the mid-2000s. Large investments were made in physical infrastructure in this remote region, including roads and telecommunication, to create an enabling environment to attract further investment by the private sector. Yet unanticipated social tensions – especially between different levels of the government and the local community – meant that the project's results proved disappointing. This chapter describes how Pact Madagascar, drawing on local know-how and discussions with key stakeholders, successfully used the Local Governance Barometer, a customisable social accountability tool, to identify the blockages and include everyone in designing a practical way forward.

## INTRODUCTION

Madagascar, located off the south-east coast of Africa in the Indian Ocean, is one of the largest islands in the world, covering around 600 000 km<sup>2</sup>. Madagascar is also one of the world's poorest countries, with more than 60% of its 20 million inhabitants living on less than US\$1 a day. The tourism potential of Nosy Be, a pristine island located off the north-western coast of Madagascar, was targeted for development in the mid-2000s. In 2004-2005, large investments of over US\$100 million were made by the World Bank and the government of Madagascar in physical infrastructure in this remote region.

<sup>1</sup> Pact (Private Agencies Cooperating Together) Madagascar

Malagasy territorial administration today comprises four main levels: regions, districts, communes and fokontany (villages). Recent reforms established decentralised structures, particularly at the commune (1995) and regional levels (2004). However, these multiple layers of authority have complicated the role of the central administration in local governance, with some officials still being appointed by the capital and others chosen at local level. Although these different levels have been defined in broad terms, the exact extent of their competencies, jurisdiction and the nature of their interrelation remain uncertain, and can cause conflict.

Faced with poorer than expected benefits from the infrastructure investments in Nosy Be, in early 2008 the National Governance and Institutional Development Programme (*Programme de Gouvernance et Développement Institutionnel* – PGDI), a national programme financed by the World Bank and aimed at strengthening governance frameworks at central and decentralised levels) decided to analyse the local governance framework of the urban commune of Nosy Be in order to improve the quality of life of its inhabitants. Private Agencies Cooperating Together (Pact) Madagascar<sup>2</sup> was contracted by the PGDI to conduct this analysis in an inclusive and participatory manner. The principal expectation was to obtain a better understanding of the strengths and weaknesses of the local governance situation that would help to monitor appropriate actions aimed to reduce existing social tensions and improve social accountability. Pact used a new social accountability tool, the Local Governance Barometer (LGB), to conduct the exercise in Nosy Be.

After briefly describing the LGB and explaining how it works, we will examine how it was applied in Nosy Be, and what lessons it holds for social accountability in Africa.

## THE LOCAL GOVERNANCE BAROMETER

Many countries are shifting power from the capital to regional and local administrations, but many of these new administrations lack the experience and capacity to carry out their increased responsibilities and to respond to citizen expectations and demands. Their immediate challenge is to improve their effectiveness and strengthen service delivery and social accountability. A first condition for improving local governance is to be able to measure its performance.

To respond to this key challenge, three non-governmental organisations (NGOs) – Pact<sup>3</sup>, Idasa<sup>4</sup> and the Netherlands Development Organisation (SNV)<sup>5</sup> – created the LGB in 2006, convening a team of local governance experts to design and test the LGB under varying conditions. To date, it has been applied in nine countries.

The LGB subscribes to the belief that governance works only when it is owned and driven by those whom it benefits. Its basic principle is that local

<sup>2</sup> Pact is a US-based NGO currently implementing over 100 projects in 46 countries. Pact’s mission is to build empowered communities, effective governments and responsible private institutions to provide people with an opportunity for a better life. Since 1991, Pact Madagascar has implemented programmes in a wide variety of sectors, using an ‘applied governance approach’ that aims to promote and mainstream governance across sectors.

<sup>3</sup> <http://www.pactworld.org>.

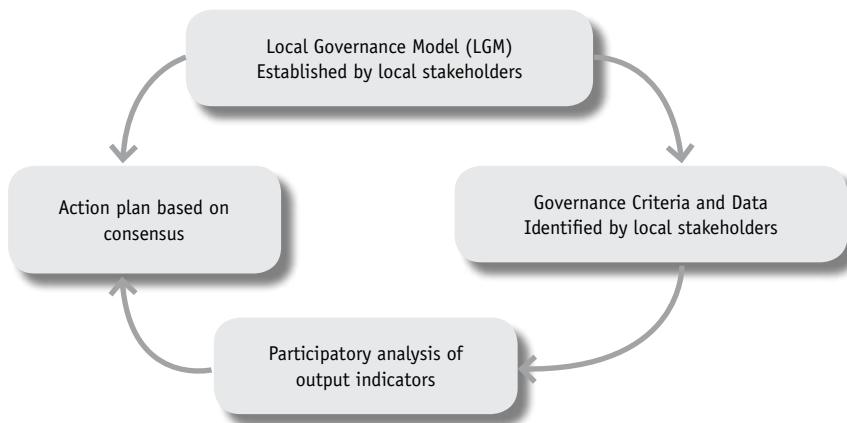
<sup>4</sup> <http://www.idasa.org.za>.

<sup>5</sup> <http://www.snvworld.org>.

stakeholders should participate in developing a local governance model (LGM), and should identify data to be collected to service the model and maintain its integrity. All data is then processed through the LGM to produce a set of indicators showing strengths and weaknesses. By analysing these indicators together, all parties are able to come up with a practical action plan to improve local governance. With the first set of indicators as a baseline, the LGM is then updated from time to time to measure progress.

The participatory approach – involving local government, the private sector, civil society organisations (CSOs) and others – promotes ownership of the results. The process builds and measures local government capacity while simultaneously achieving consensus in situations where alternative interventions have to be considered. In assessing the quality of local governance, the LGB puts a premium on participation by local communities and does not rely on local government’s perspective alone.

**Figure 1:** Principles of LGB application



A standard LGB implementation process follows the steps as summarised in Table 1.

**Table 1:** LGB implementation steps

Phase	Key activities
1. Understanding the context	<ul style="list-style-type: none"> <li>● Definition of the main objective of the model: drafting the core question</li> <li>● Identification of the issues and problems</li> <li>● Identification of the client’s expectations</li> <li>● Evaluation of other existing tools</li> </ul>
2. Preliminary operations	<ul style="list-style-type: none"> <li>● Identification, selection and training of local technical partners</li> <li>● Identification of local ‘subject matter experts’</li> <li>● Identification and sensitisation of stakeholders</li> </ul>
3. Modelling & scoring	<ul style="list-style-type: none"> <li>● Drafting of the methodology: bibliography, series of workshops</li> <li>● Definition of criteria and data selection</li> <li>● Data collection: bibliography, surveys, focus group discussions</li> <li>● Data processing</li> </ul>
4. Analysis & reporting	<ul style="list-style-type: none"> <li>● Giving out the first results</li> <li>● Discussions and validation</li> <li>● Review of data and re-processing</li> <li>● Giving out final results</li> <li>● Identification of the axes of intervention to improve governance</li> </ul>

The LGB measures a combination of ‘core’ and ‘local’ governance criteria. The following five core criteria are critical, and should be measured in any type of governance assessment: Participation, Rule of Law, Accountability, Effectiveness and Equity. These criteria were identified and developed using international standards and best practices and validated by international experts supervised by a core development team (CDT). This team reviews LGB applications annually to ensure criteria are still appropriate and to consider proposed modifications.

Each criterion is briefly described and stored in a computer application called the ‘core knowledge base’ to ensure a common understanding of criteria significance in all LGB applications. This software and other resources are internet accessible<sup>6</sup> to registered members of the LGB community of practice. Any expert can propose more appropriate definitions or additional sources. All suggestions are reviewed during the annual CDT meeting and the knowledge base is updated.

The core criteria are adapted to local situations by adding secondary criteria validated by local stakeholders. The core and secondary governance criteria are regrouped and organised in an LGM. Simple models can be built using MS Excel templates. Pact Madagascar developed ‘modelling & scoring’ software to construct complex governance models and to document all criteria. This software can operate over the internet or stand alone on a personal computer.

All data to be collected is identified and validated by local stakeholders. Once collected, data is processed through the LGM. Outputs indicators, expressed through a standard 0-100 scoring scale (Table 2), represent the performance of the governance situation.

**Table 2:** Standard scoring scale

Score	Qualitative
80-100	Very Good
60-80	Good
40-60	Fair
20-40	Poor
0-20	Very Poor

## APPLYING THE LGB IN NOSY BE

A 13-week time frame, from June to August 2008, was agreed between Pact and PGDI to implement the LGB process within technical and financial constraints.

### *Phase 1: Understanding the context*

Pact Madagascar met PGDI managers and Nosy Be City Council members (considered to be the main local partners or ‘client’) to understand their expectations, obtain their full support and define the best approach to the study. Primarily, the participants wanted a clear understanding of governance strengths and weaknesses to guide investment decisions in a socially responsible manner.

<sup>6</sup> [www.pact.mg/scoring\\_system](http://www.pact.mg/scoring_system).



LGB outcomes – with indicators quantified and understood by stakeholders – would serve as a baseline to measure the impact of future interventions.

The City Council also wanted the LGB to provide a tool to help it address social tensions, stabilise social conditions and attract investors. The council was struggling to assert its authority, and was routinely blamed for everything from weak management to corruption to poor communication. It was agreed that the LGM should be built around the core question: “What is the level of good governance in the urban commune of Nosy Be?” A desk review identified past and current governance-related initiatives, data availability and key stakeholders.

In Madagascar in general, CSOs are fairly weak. Despite their essential roles of creating awareness and policy advocacy in the sphere of public accountability, CSOs in Madagascar are beset by capacity constraints. Notably, they have limited experience in policy engagement or advocacy compared with CSOs in many other countries in Africa or elsewhere. Despite several attempts since the early 1990s to put in place a national coalition of CSOs, Malagasy CSOs have failed to collaborate and collectively engage with the central government on major issues such as administrative decentralisation, itself the subject of many governance and sectoral projects implemented by the central administration in recent years. This limited level of engagement by Malagasy CSOs correlates to their limited ability to influence and respond to the government, and to improve transparency and good governance practices at the level of decentralised structures such as regions and communes. This pattern is replicated in Nosy Be, where there are few CSOs. There appears to be no effective mechanism that fosters constructive dialogue between government authorities and civil society.<sup>7</sup> Nevertheless, a list of existing CSOs and networks was established, and lessons learned from previous projects aimed at reinforcing civil society were considered.

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## ***Phase 2: Preliminary operations: Selecting partners and participants***

Pact identified and hired three experienced local consultants as technical partners to facilitate workshops, conduct focus group discussions and help collect data. The following skills were required: an understanding of the local governance situation, an ability to understand the LGB process, and the skill to raise awareness, facilitate group discussions and conduct surveys. The facilitators must be neutral, having no bias on the issues involved. These local consultants received two days of training to enable them to participate in the process while observing scientific standards. Socially integrated and speaking the local language, they participated efficiently in activities like awareness raising with stakeholders, leading workshops and focus groups and gathering data.

Members of the City Council and the local consultants helped to identify and select individuals and organisations to involve based on factors such as institutional, geographical, and sector-based representation. The total number of participants was limited to 50 to facilitate break-out group discussions and financial constraints. Special attention was paid to obtaining a significant representation of local communities organised in the fokontany, the smallest

<sup>7</sup> Furthermore, there are structural challenges within the public sector. For instance, there is ambiguity between the mandate and powers of the elected Mayor of Nosy Be and the bureaucratically appointed Head of the District and President of the Fokontany. This lack of clarity and role definition remains a major stumbling block to facilitating development.

administrative unit in Madagascar. Representatives of dominant economic sectors were chosen, as were resourceful individuals. The Platform for Environment and Development (PFED) – a group promoting municipal development and drawn from civil society, the private sector and local government – helped mobilise stakeholders.

At a briefing meeting the mayor explained why the municipality supported the initiative and urged stakeholders to participate fully. The LGB application agenda was discussed and validated.

### ***Phase 3: Modelling & scoring***

During several workshops held in the second month, participants broke into smaller groups to discuss the construction of the LGM. Facilitators played an important role in achieving consensus on core governance and locally specific criteria and in selecting data to be collected. Reaching consensus was important to ensure that all stakeholders have the same understanding of the criteria. Group discussions identified what data exists, what has to be found, and what can be excluded as unreliable or irrelevant. People considered to be local experts were interviewed separately and took part in focus group discussions to capture their perceptions of governance issues and to add or modify core criteria. Based on their interests and experience, all selected participants were allocated to one of five focus groups, each discussing core criteria as described in Table 3.

**Table 3:** Focus groups

<b>Focus group</b>	<b>Core criteria</b>
1. Effectiveness	1.1 Vision and plan
	1.2 Financial management
	1.3 Decision and information
	1.4 Satisfaction with services
	1.5 Leadership
2. Rule of Law	2.1 Existence of legal framework
	2.2 Effectiveness of legal framework
	2.3 Citizens’ access to justice
	2.4 Incidence of corruption
3. Accountability	3.1 Transparency
	3.2 Checks and balances
	3.3 Recourse
	3.4 Government’s responsiveness
	3.5 Integrity
4. Participation	4.1 Institutional framework
	4.2 Citizen engagement
	4.3 Civic engagement
5. Equity	5.1 Legal framework
	5.2 Access to basic services
	5.3 Access to power
	5.4 Access to resources
	5.5 Opportunity for livelihoods

Each group came up with elements contributing to building the LGM that were relevant to the situation in Nosy Be, which were incorporated. Final choices were reached by consensus to avoid subsequent challenges. For example, the group dealing with ‘Effectiveness’ added questions designed to measure views on the fokontany, coherence between urban and rural planning, and the level of satisfaction with public taps, among some 30 additional questions.

The participants of each focus group also identified existing data and what needed to be collected. The Pact team captured all outcomes using the ‘modelling and scoring’ software. The final version, containing 84 criteria was discussed, amended and validated during a two-day workshop. Because of time and financial constraints, priority was given to identify and collect secondary data such as people’s degree of satisfaction with education. Other missing data was collected through interviews with focus groups. Questionnaires (Table 4) were prepared and filled in. Then all data was entered and processed using the modelling and scoring software to automatically calculate the scores.

**Table 4:** Example of questionnaire

Indicator	Questions	Reference value	Source	Data
1. Effectiveness and efficiency	What is the level of effectiveness for the urban commune of Nosy Be?			
1.1 Vision and plan				
1.1.1 Existence of communal vision	Does the urban commune of Nosy Be have a clear vision?	[0-100]: 0 = vision nonexistent 100 = clear vision		
1.1.2 Existence of vision for the fokontany	Do the residents of the fokontany in the urban commune of Nosy Be have a clear vision?	[0-100]: 0 = vision nonexistent 100 = clear vision		
1.1.3 Communal planning	Does the urban commune of Nosy Be have a Communal Plan Development?			
1.1.3.1 Urban planning				
1.1.3.1.1 Existence of urban plan	Does the urban commune of Nosy Be have an urban plan?	[0-100]: 0 = no urban plan 100 = urban plan exists		
1.1.3.1.2 Realisation rate of urban plan	What is the realisation rate of the urban plan, as a percentage?	[0-100]: % of realisation of the urban plan		
1.1.3.1.3 Coherence PDU and PRD	Is there coherence between the Urban Development Plan and Regional Development Plan?	[0-100]: 0 = no coherence 100 = totally coherent		

### ***Phase 4: Analysis, reporting and action plan***

Stakeholders who participated in the construction of the model were presented with the results – firstly, the performance values of the core criteria, and secondly, the performance of the locally defined criteria.

The overall local governance index (LGI) for the urban municipality of Nosy Be scored 59/100. The core governance criteria scored: participation (75), effectiveness (66), equity (63), rule of law (60) and accountability (32). Local stakeholders discussed the different levels of performance and highlighted areas of poor performance that need to be addressed if governance is to be improved. These scores, obtained from data collected and processed through the LGM, were presented to all participants who discussed their interpretation during a two-day workshop.

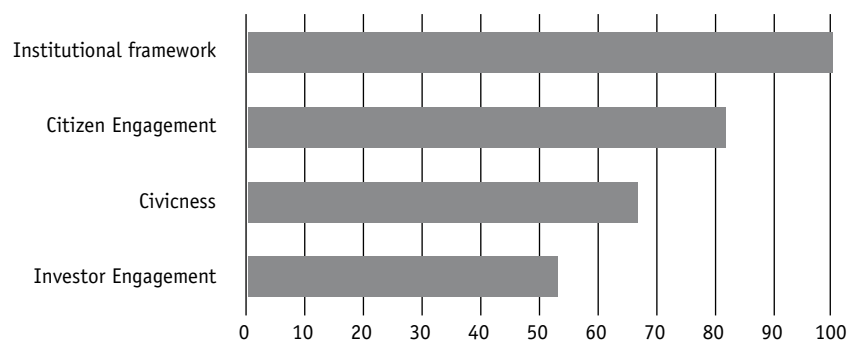
The participants were divided into five groups. Each group was asked to comment on the results of the core criteria, to use the scoring of the sub-criteria to identify the causes, and to propose action to improve current performance.

Examples of scores and groups’ comments are summarised below.

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#### ***Group Participation (75/100)***

Urban commune of Nosy Be: Participation and citizen engagement criteria



According to participants:

The PFED and the municipality collaborated in refining the municipal development plan and the environmental management plan – an important achievement in citizen participation.

The municipality also involves citizens and local businesses in implementing projects, but not in monitoring or controlling them. The monitoring committee does not systematically include citizens’ representation and the private sector’s social responsibility is limited.

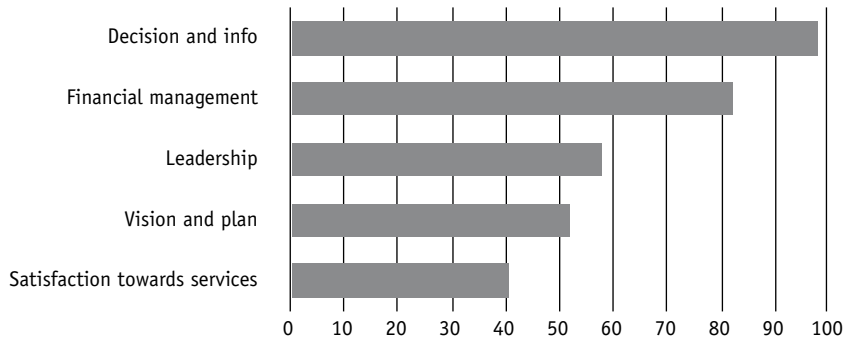
Private operators generally do not respect their social and environmental obligations, and there is no control from local authorities. Citizens lack the information needed to react to such situations.

Civic engagement has improved. For example, there is more compliance over garbage collection and payment of taxes. Nevertheless, lack of hygiene in public areas and tax compliance are issues that still need to be addressed.

When politicians break their election promises, in so doing they discourage citizens from participating in local development.

### Group: Effectiveness (66/100)

Urban commune of Nosy Be: Effectiveness criteria



According to participants:

The municipality has a clear vision for development based on a sound plan. However, performance level is very low due to lack of funding and technical expertise, and poor communication and partnerships with donors.

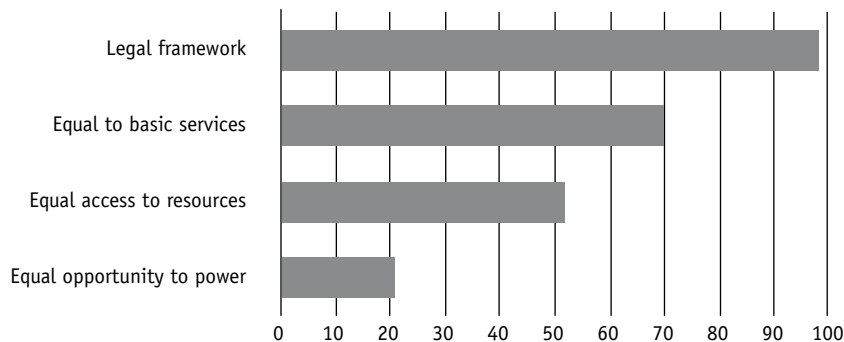
Significant efforts are being made to pay off municipal debt and the tax-collection rate has improved, but the government's financial management system is still too weak and public funds are not used transparently. The group noted that many people had difficulty paying taxes because they fell due between January and May, when money was short. A better period would be June to August, when crops are harvested and sold.

Basic services like education and health do not meet citizens' needs. Municipal agents are ineffective because nepotism and political payoffs – not competence – are the main criteria for hiring. There is a lack of continuity and a loss in the credibility of the 32 presidents of the fokontany because they are frequently changed by the municipality (as they are not elected, but appointed). There is no communication between the presidents and the municipal authorities under whom they fall.

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### Group: Equity (Score 63/100)

Urban commune of Nosy Be: Equity criteria



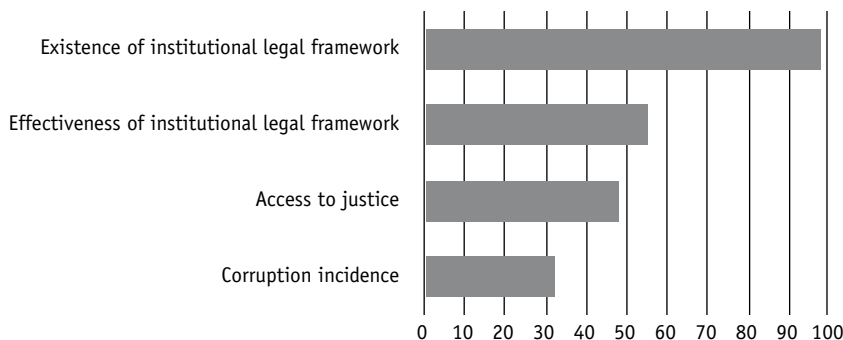
According to participants:

A legal framework guarantees equal opportunities for all citizens and equal access to basic services. The commune is fairly well served by primary schools and health centres and the school enrolment rate of about 98% is high.

However, fast-growing sex tourism impacts on school attendance for girls, and tradition and religious beliefs deny women access to land ownership and political power. All city council members and presidents of the fokontany are men.

**Group: Rule of Law (Score: 60/100)**

Urban commune of Nosy Be: rule of law criteria



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According to participants:

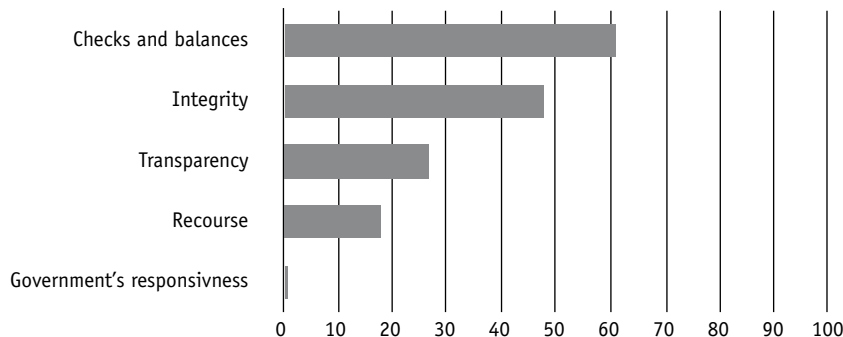
Lack of awareness and communication result in poor understanding by citizens of their legal rights, and how to access judicial services.

Meagre budget resources block administrative procedures and breed a high level of corruption. There is no particular plan to fight corruption.

Penalties and sanctions are neither applied nor sufficiently punitive, and people re-offend. There is not enough law enforcement to protect the population.

**Group: Accountability (Score: 32/100)**

Urban commune of Nosy Be: Accountability criteria



According to participants:

There is no effective mechanism for citizens to raise their concerns with municipal authorities. Complaint boxes exist at municipal offices, but people are either unaware of them or don’t use them for fear of reprisals or because they believe them to be useless.

Officials are not obliged to respond to complaints. Local authorities are perceived as unresponsive.

The council does not keep the public regularly informed. When it does give information, it uses channels that do not reach most of the population. Citizens

are unaware of municipal projects, annual budgets, or government achievements. Most don't even know what services the municipality offers, fostering corruption.

## **ACTION PLAN**

After the results were validated, all recommendations were incorporated into an action plan. The recommendations from all groups were analysed by the facilitators and grouped under component headings used as the framework of the action plan. Each component had a list of the most urgent actions to contribute to reinforce the local governance framework such as:

### ***Reinforcing the municipality's accountability:***

- Conduct an audit on the consistency of the profiles of each staff with the responsibilities attributed and take appropriate action. Each position should have clear profile requirements;
- Improve communication channels with the population, especially about the role and responsibilities of the technical services and the procedures to benefit from available services;
- Create and implement a 'complaints office' easy to access by the population, that will gather and communicate to officials any complaint of citizens in relation to municipal services;
- Progressively implement balanced gender representation in city's staff. Appoint someone to facilitate the recruitment of women at all levels of decision-making;
- Decentralise administrative affairs at the fokontany level, for example, the issuance of certificates of residence and the collection of certain taxes;
- Train the presidents of the fokontany in planning, leadership and advocacy in order to be able to develop local plans that will be integrated in the planning process of the municipality; and
- Organise monthly meetings between the municipality and representatives of the fokontany. The presidents of the fokontany will have monthly meetings with the local communities.

### ***Improving civil society and private sector involvement in municipal development:***

- The current PFED will serve as a basis to regroup CSOs and private sector representatives.
- The municipality will consult the PFED during the initial phase of any project to get input and discuss potential involvement of CSOs and the private sector in targeted activities.
- A monitoring committee will be established to monitor implementation of each project in a participatory manner and ensure transparent communication about all aspect of projects (content, budget, etc.)
- Training sessions will be organised to build the capacity of CSOs on participatory budgeting.

- The municipality will propose strategies to mobilise investors to participate in social and economic development on a sectoral basis (tourism, fishery, agriculture).

### **Improving law awareness and enforcement:**

- The municipality will work closely with CSOs, traditional and religious leaders and relevant ministries to conduct awareness campaigns on existing legal texts corruption, land legislation and women’s rights. The campaigns will be through meetings with community, newspapers and radio/television broadcasts.
- The themes ‘gender’ and ‘fighting against corruption’ will be integrated into education programmes in primary schools.
- The municipality will develop and implement an action plan to fight corruption and will report regularly on status and impact.
- The fokontany will undertake awareness raising and involve local communities about the respect of laws through traditional social contracts (dina).

The participants recommended carrying out another LGB application in one or two years in order to measure the impact of the implementation of the action plan and the positive (or negative) evolution of the local governance situation. The local authorities responded positively to this recommendation, subject to availability of funds. A nine-member committee – three each from civil society, the private sector and the public sector – was appointed to monitor implementation of the plans. A half-day workshop was organised with central ministries and donor organisations in the capital city, Antananarivo, to present their plans and advocate for national support.

## **KEY CHALLENGES**

### ***Setting an appropriate time frame***

The period and the duration should be carefully considered when initiating a LGB application. Previous experience shows that it can take between one and six months to complete, depending on the complexity of the situation, the availability of the actors and the existence of relevant data. A maximum of four months is recommended to avoid fatigue among local stakeholders and maintain momentum. The LGB process is based on participation, dialogue and consensus. To avoid tensions among stakeholders, it should not be applied in sensitive periods such as elections or civil unrest situations. The work in Nosy Be was completed within three months, and cost between US\$15 000 and \$20 000, mainly due to the distance from the capital.

### ***Understanding the context***

The phase of ‘understanding the context’ was critical. Local authorities originally perceived this governance assessment as a threat, with a concern that they would be personally evaluated. Pact took the time to communicate and to present the



LGB as using a non-threatening and consultative approach that would benefit them and help to identify and resolve problems. It was also essential to clearly understand from the start their expectations and obtain their full commitment. They, in turn, greatly facilitated access to documentation and contacts with stakeholders such as CSOs, technical services and the private sector. A thorough review of all literature and previous studies was necessary to uncover specific issues to be addressed.

The recruitment of ‘local technical partners’ was challenging. Pact did not find any local organisation meeting the minimum technical capacity requirements. The decision was made to recruit and train individuals as consultants able to understand local governance matters, facilitate group discussions and conduct surveys. Having local people who knew the language and local issues was imperative.

### ***Private sector representation***

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The quality and impact of the end result depended on the representation and active participation of local stakeholders. Ideally, the process should include representatives from local government, civil society, public and private sectors, and community or traditional leaders. Most of the private companies that were contacted did not conceive of the process as being in their interest, and declined to participate. Although not ideal, there was at least some business voice represented through sectoral structures such as the ‘*Office du Tourisme*’.

### ***Data identification and collection***

The initial objective was to obtain a qualitative data set supported by quantitative data that should fully respect scientific quality and statistical validity (accuracy, reliability). However, there was a lack of reliable data. The only available secondary data was on finance (tax revenue), education and gender matters. On the request of the PDGI, Pact carried out a separate survey on the satisfaction toward health services to complete an acceptable data set. The depth of the qualitative data obtained through focus group or individual interviews was influenced by the quality of the questionnaire. It is important to use simple questions expressed in a clear local language that everybody can understand.

### ***Managing large sets of indicators and data***

The management of a large number of criteria, in this case 84 criteria in total, can be a challenge. The LGB software, with its user-friendly interface, was very helpful, making it easy to capture data, calculate performance scores and organise the results in a comprehensive way.

### ***Need for comparative analysis***

Using a standardised set of core governance criteria, the LGB potentially allows comparison of different situations over time and location. It was not yet possible to compare the governance situation of Nosy Be with other places in the country as Nosy Be was the first application of the LGB in Madagascar. Pact Madagascar will develop a standardised reporting format based on the successful Nosy Be

experience to facilitate comparative analysis between different areas. Pact Madagascar will post outputs and results of LGB applications to a dedicated website to promote wider dissemination.

## LESSONS

### *Improved communication among stakeholders*

At the end of the LGB application, participants acknowledged better communication between organisations. Applying the LGB contributed to constructing a new vision and relationship between social players and local authorities beyond the formal institutional structures. It generated timely and positive encounters between different actors, linked them, and clearly established the role of each group in community development. For example, CSOs are now involved in the design, the planning and the monitoring phases of projects initiated by the municipality and in taxation-related policy.

An ongoing dialogue was established among stakeholders through more appropriate mechanisms and a better understanding of the respective role and responsibilities. The LGB implementation process initiated and strengthened social networks. For example, it created an interface between the commune authorities and the traditional leaders at the level of the fokontany, between whom there had been little previous interaction. The role of local fokontany was reinforced to facilitate communication with the population who can now better understand the decisions made by the City Council.

### *Effective action plan*

Within a few months after the completion of this LGB, positive changes were noticed by the City Council and local stakeholders as many activities from the action plan were ongoing. Examples include:

- The City Council began to effectively communicate its services on a wider scale.
- Collaboration and communication channels were created between the municipality and the local fokontany.
- Outreach activities were conducted to encourage better use of complaint boxes.
- Recruitment procedures for municipal staff were improved, with an emphasis on competency, and more women are being hired for senior positions.

The Nosy Be experience demonstrates that measures to improve governance are not necessarily costly. Some may be implemented in the short term with very limited financial, material or human resources. However, when more resources are needed, the LGB becomes an excellent advocacy tool to raise funds and develop partnerships. Most of the activities recommended in Nosy Be’s action plan have been rapidly ‘adopted’ by projects and donors in the region.

## CONCLUSION

The Nosy Be experience shows that the LGB can contribute to improved governance by encouraging dialogue and consultation among stakeholders. Improving stakeholder knowledge of governance concepts leads them to be more aware of their responsibility to make improvements. The LGB capacitates them to make decisions on the basis of reliable information and objective analysis.

The process motivated citizens to participate with commitment. It enabled them to contribute ideas and efforts in constructing their socio-political environment. The authorities and the population together established their own concept of governance, and designed a development model that includes its principal attributes. The inclusive process valued the diversity of participating social groups, including marginalised communities. The LGB application deepened the understanding of strengths and weaknesses of the governance situation, strengthened local government capacity, and facilitated greater civic participation and social cohesion.

The LGB therefore holds potential to be a useful social accountability tool around the continent of Africa.

# Activating Citizens through Community-Based Planning: The Case of Johannesburg

By Lesley Hudson and Khadija Richards<sup>1</sup>

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Community-based planning as implemented by the City of Johannesburg was the vision of the incumbent Mayor, Councillor Amos Masondo. His vision of empowering communities through planning processes and instruments offered an alternative to the commonly implemented planning and community engagement techniques used in the past. The chapter describes how Cut to Black designed and implemented this vision.

## INTRODUCTION: CITIZENSHIP IN A WORLD-CLASS AFRICAN CITY

It is widely accepted that there are different perceptions of the nature of democracy and citizenship. In this paper we defend a perception of citizenship in which it<sup>2</sup> is both *active* – i.e. the citizen is more than just ‘rights-bearer’,<sup>3</sup> and located at the ‘*nerve-centre*’ of democratic experience. We explore the notion of active citizenship and its implications for the municipal strategic planning process. The essence of our argument is that strategic planning is greatly advanced when active citizenship is allowed to flourish and is formalised into the technical municipal planning and budget allocation process. This dynamism ensures citizens feel a sense of contentment with their political, social and economic surrounds, and that the government is able to deliver services that promote communities that thrive in a sustainable and growth-directed manner.

<sup>1</sup> Cut to Black, Johannesburg, South Africa. This paper emanates from our privileged participation in the Central Strategy Unit (CSU) at the City of Johannesburg. The strategic guidance and intellectual rigour of the Community Based Planning process outlined in this paper are results of the leadership of the City both politically through the Office of the Executive Mayor and the Office of the Speaker, and administratively through the Office of the City Manager and the CSU.

<sup>2</sup> Kymlicka, Will and Norman; Wayne, 1994

<sup>3</sup> Heller et al, 2009

The City of Johannesburg defines citizenship in a particular way leading from both national policy and strategy requirements and their own experience with public participation.

Chapter 7 of the Constitution says that local government, must, *inter alia*:

- Provide democratic and accountable government for local communities; and
- Encourage the involvement of communities and community organisations in the matters of local government.

The Municipal Systems Act (MSA) 2000 (Chapter 4) requires all municipalities to develop mechanisms to consult and involve communities.

So at one level there is a statutory requirement to involve citizens in planning, and so defining *The Citizen* and *Citizenship* in order to report on compliance is necessary. But there is more to the City's approach than meeting national statutory requirements.

The City of Johannesburg has an expressed political interest in citizens participating in its planning process because it believes this will entrench its Africanness and steer it towards a world-class benchmark.<sup>4</sup> Therefore qualifying *The Citizen* and *Citizenship* is necessary in order to measure these achievements.

Johannesburg's Integrated Development Plan (IDP) (2007/08)<sup>5</sup> states: "Citizenship is critical to making the city work and the City looks forward to leveraging this social capital for the achievement of the goal of being a world-class African city." But beyond these somewhat crude and instrumental motivations, it is our assertion all public planning, resource allocation and management has inherent in it a concept of the 'average citizen'. This concept is, for the most part, implicit, but there are occasions when the tacit characteristics of 'Josephine Average' need to be articulated. While Josephine Average is a normative model, in the context of a legal, political and social framework which is by design and desire democratic, the model is inclusionary, evolutionary and in the best interests of participatory society which favours the good of all over the interests of the few.

A fundamental principle of all City work is that planning, processes and service delivery are greatly enhanced, are more relevant, more developmental and more pro-growth, if the community (both organised and individuals) participate.

In the Executive Mayor's speech to the National Council of Provinces' visit to Sebokeng on 12 March 2007, the Mayor argued that the City "engages in participatory processes aimed at deepening democracy – not merely token consultation or manipulation".

He also answered the question of why the City engages in public participation:

- To sensitise the elected public representatives, managers and officials to key concerns of communities at the particular point in time;
- To enable people to get an understanding of what government is;
- To promote the values of good governance and human rights;

<sup>4</sup> A core element in the City of Johannesburg's strategic perspective is its centrality in Africa – as a transport node, tourist destination, business centre, and educational centre, as well as its aspiration to world-class status in governance, economic and social dimensions.

<sup>5</sup> An Integrated Development Plan (IDP) is a five-year strategic development plan for a municipality. It is legislated by the MSA and supersedes all other plans that guide development at a local level. Its methodological principles are outlined by the National Department of Provincial and Local Government (DPLG) and contained in the MSA.

- To narrow the social distance between electorate (citizens) and those elected (belonging to an elected institution); and
- To amplify the voice of ordinary citizens in local politics (to influence those informal political institutions).

## DEFINING CITIZENSHIP

This chapter proposes a *formula* for citizenship rather than a definition.

$$[\text{legal component}]^x + [\text{political component}]^x + [\text{social component}]^x = \text{active citizen}$$

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**Legal component:** This includes the statutory requirements that any resident of a country must comply with in order to become a citizen, such as birthplace, residence, marriage.

It may also include those who reside legally in the country without necessarily currently having full citizen status.

But, this is not the full extent of the legal component. The legal component also refers to the adherence to the rule of law. In other words, a citizen must comply with the laws of the land, criminal and civil. This will oblige the citizen, for example, to pay taxes, follow certain road safety rules, not steal or murder and pay alimony.

This component also obliges a citizen to be loyal to the Constitution and to conform to the rights and obligations outlined in it.

**Political component:** This refers to active participation in the institutions of a participatory democracy. In other words, a citizen ensures that his or her voice is heard and considered by voting in elections, participating in public forums which are established and which encourage opinion, using public hearings, petitions and other gatherings, writing to the newspaper and joining lobby groups or social movements intended to bring to the attention of those in authority particular issues, conditions and opinions.

**Social component:** This component refers to your responsibilities to respect others, embrace diversity, view yourself as part of a broader community and actively contribute to a functioning and tolerant society. Identity, culture and social inclusion all form part of the social component of citizenship.

### In essence, citizenship is about:

Commonly identified citizenship definition	Component
Belonging/ownership	Social
Cosmopolitan/diversity	Social
Geographic space	Legal
Active participation/participatory democracy/voices to be heard	Political
Rights and obligations	Legal and social
Resident vs citizen	Legal

Commonly identified citizenship definition	Component
Adherence to rule of law	Legal
Strategic community (live in an area by choice)	Social
Allegiance/loyalty to the Constitution	Legal and social
Think globally, act locally	Social
Earn the right to be a productive citizen	Legal, social, political
Contributing constructively to the environment	Social

**Weighting the components:** the weighting of each component in the above formula is completely arbitrary. However, the figures are intended to demonstrate that:

- at any given point in time, each component does not have to have equal value or emphasis placed on it; and
- the particular weighting given in this formula indicates that in 2009 we may, for many contextual reasons, wish to place more attention on the social and political components than on legal compliance issues, for example.

**About the timeline:** the timeline indicates that citizenship is an evolving concept, that it is over a period of time that we come closer to the average citizen, and over a period of time the definition of ‘Josephine Average’ may change. The end point of 2030 is also arbitrary. The reason 2030 has been suggested is that the City of Johannesburg’s strategy of becoming a world-class, African city is based on a 2030 timeframe.

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## PUBLIC PARTICIPATION GIVES A VOICE, INTEGRATED DEVELOPMENT PLANS REFLECT THE VOICE

The White Paper on Local Government and the MSA are clear about the need for municipal planning to be “strategic”.<sup>6</sup> Planning should have a long-term horizon, and be focused on those prioritised interventions that will have maximum impact on the development. Strategic planning recognises that resources are limited and that not all problems can be resolved in the short or medium term. The current South African focus on strategic planning is also informed by an international shift away from comprehensive planning, in which an attempt is made to “understand everything and to intervene in everything”, to more targeted, realistic, action-oriented and outcomes-focused forms of planning.<sup>7</sup>

A key component of ensuring resource efficiency is providing a platform for public engagement and a process for digesting the input of this consultation. Active citizenship and public participation are therefore cornerstones of strategic planning and thus of IDPs.

The purpose of an IDP is to provide a framework for integrated service delivery – economic and social development – within the municipality. It is important to recognise that the responsibilities for local government have

<sup>6</sup> Oranje, Harrison, van Huyssteen and Meyer, 2000:15

<sup>7</sup> *ibid*

increasingly broadened from service delivery to include long-term strategic objectives such as poverty reduction, social and economic development rather than simply a transmitter and receiver of resources and information between national and provincial government and citizens. In the MSA, local government’s ‘post office’ role has been transformed into one of developmental facilitator or as it is termed in the Act, ‘developmental local government’. As the role has widened so too has the importance of public citizen participation.<sup>8</sup> Municipal IDPs must not only consider this expanded mandate, but reflect such processes.

In doing so, the IDPs play an important role in redressing inequalities, as well as prioritising a developmental agenda and emphasising the importance of co-operative governance.<sup>9</sup>

The title of this section implies a nuanced distinction between IDPs and public participation. And intentionally so. In the public domain we have come across an embedded interpretation of the IDP document as being *the* evidence of public participation. IDPs may attest to a municipality’s efforts to elicit public engagement on a number of development issues. But nothing in the technical document reflects the integrity, quality and sustainability of that process. However, in our usage of the words ‘public participation’ we intentionally argue for robust policy-influencing dialogue where the consensus on city plans and budgets is negotiated between politicians, officials, organised stakeholder groups and average citizens and by no means predetermined and imposed on an unsuspecting public. Secondly, public participation in our sense of the word also speaks to the cultivation of an accounting culture amongst municipal officials and politicians and conversely a citizenry that activates its power through account holding and all the responsibilities that go with that.

Our case study below hopes to uncover this nuance.

## ACTIVE CITIZENSHIP IN PRACTICE

Historically ‘participatory planning’ has typically involved two kinds of approaches. The first is ‘consultation’ where the public agency presents a *fait accompli* to a group of stakeholders who are expected to tweak it but eventually sign off. Some variations have included degrees of influence by the stakeholder groupings about timing of development, frequency of processes, and cosmetic devices that flavour the developments with local content. But in the end, the technocrats have characterised the developmental issue, determined its features, devised an intervention and packaged a solution. Now all they need is that crucial sign-off from ‘the community’ and they hold a sign-off event to mark the occasion. Implicit in this approach is a solution devoid of local content and real context, making it likely to fail in implementation not to mention lose democratic credibility.<sup>10</sup>

The second approach involves a more reflexive style in that it initially undertakes a needs assessment, generally speaking with the involvement of the community (to a lesser or greater degree, of a poorer or better quality), designs

8 Marais, Everatt and Dube, 2007

9 Department of Provincial and Local Government, undated

10 Barbeton *et al.*, 1998



a solution and then presents it back to the community to sign off. While this approach does not suffer from the technocratic chauvinism of the former, it still keeps the power of influence and action in the hands of the municipal institution.

While these formulations are rather crude, most agencies of the government have grown on the continuum of development through both approaches and have nuanced their styles according to their context for better or worse. But for the purpose of discussion, this crude depiction demonstrates our point that a public event does not equate to participatory planning.

The City of Johannesburg has itself transformed through its various planning approaches over the years since the evolution of developmental local government. Until 2007, the City based its approach on a stakeholder management model. Essentially, the city population of approximately four million people prevented the kinds of direct engagement cited in other South African cities, most notably Mangaung in the Free State Province who initiated the first version of community-based planning. Secondly the complexity of the city and its significance in South Africa's economy genuinely limited officials to city-wide macro interventions, typically highly technical in nature, and limited the impetus of local initiatives whose impact could only be felt locally. For some years this model sufficed, not surprisingly because the city-wide macro strategies were indeed critical and necessary for the city to function and function effectively in its national and regional context. This produced an effective IDP that met all the content needs of the national government and which modernised the city, as well as transformed critical challenge areas and leveraged city capabilities.

But after a period, when the strategic leaders of the city familiarly implemented these macro-wide strategies and saw their rightful impact in transforming the urban form as well as leveraging Johannesburg outputs for more sustained city and national growth, the community voice was deafening in its silence.

Increasingly local ward politicians could not tangibly grasp the much-spoken concepts of growth and transformation the city was achieving and average citizens had not yet experienced, or could not appreciate the longer-term impacts of the city-wide projects, or the impact was uneven depending on where in the distorted urban form your Josephine Average resided, worked or socialised.

So there was pressure to 'democratise' and 'de-technify' the planning process. But a dilemma prevailed: Johannesburg was not out of the woods yet. Substantial urban re-engineering was still required to keep Johannesburg on its growth path but the City needed to include micro- and community-based initiatives in its planning repertoire so that citizens had a tangible site of engagement, and the City could begin to systematically weave localised transformations of the urban form into the scale plans, but also mitigate local phenomena that threatened the very cohesion of the social fabric – the isolation of foreign nationals in particular urban enclaves predicted xenophobic incidents for example – or digressed from the strategic programme of the City.

This was the first sign of the need for both macro and micro processes to lead transformation at municipal level. But for a few more years the City continued to implement macro-level strategies, called Sector Plans, and assess the progress of these with organised city stakeholders on an annual basis in their regional locations/regional summits – and at one massive annual city-wide event – the Stakeholder Summit.

Only when the deafening silence threatened the current leadership politically did community-based planning (CBP) as a methodology begin to take root.

## COMMUNITY-BASED PLANNING: THE APPROACH

When the process facilitators (and the authors of this paper) entered the fray it was clear that there was a critical need to re-orient politicians and officials to think in micro-developmental and community-based terms, as well as positively manage community activists to engage in the process in a meaningful and structured way.

The process comprised four phases over a period of 13 months, beginning in March 2008 and ending in May 2009: the internal phase, the outreach phase, the iteration phase and the negotiation phase. The phases were centred around a facilitated and focused negotiation between councillors and officials on the one hand and community members – both individual and organised – on the other around the collaborative design of a ward plan. This methodology was adopted because of the nature of the polity at local government level. On the one hand, in theory at least, the councillors are the elected representatives of the people. Electoral representation however, is not sufficient for developmental local government. The strategic approach of ‘developmental local government’ argues that the process of governance is as important as the content and as such requires politicians to enhance their mandates through specific engagement with their constituencies. This process of community dialogue and engagement, commonly referred to as public participation, is both a legal obligation and a political commitment. And these constituencies, with limited experience of local governance, tend not to appreciate the challenges faced by the City.

On the other hand, local government officials strain under enormous political pressure to deliver within the confines of budgets and operational limitations, while keeping their teams focused on sustainability and fiduciary responsibilities.

In addition, local administrations are required to balance the need to plan with a city-wide perspective, with the particular requirements and challenges of micro-localities. At times, meeting these demands appears to be contradictory. And the reverse is true; local communities don’t always appreciate the ‘bigger picture’ as most members of communities experience their lives most immediately in the areas in which they live. Marrying these two perspectives requires conversation, negotiation and appreciation.

These two poles have at times been at odds with each other and therefore a problem-solving conversational technique was deemed most appropriate.

At implementation, the methodology involved entering communities at ward level with a blank slate and engaging members of wards on their local developmental priorities. What was different about our entry and critical to that initial engagement were two factors: (1) the process of engagement between political representatives, technical officials and community members was independently facilitated to give all the parties an equal status in the discussion; (2) the focus was on the parties, not on a long list of service-delivery breakdowns<sup>11</sup>

<sup>11</sup> Although we discouraged communities from raising service delivery issues such as faulty infrastructure, incomplete projects or unresolved complaints, we provided for their recording in the process and ensured their escalation to the relevant service departments. The logic behind this is that service delivery issues are the ordinary course of business in the city and officials must undertake the activities as daily business. The ward priorities are developmental and proactive in nature and each ward community should use the opportunity to impact on the urban form and/or socioeconomic profile in their community in terms of more long-term objectives rather than immediate or short-term service delivery issues.

or an interminable wish-list of development projects, disassociated from macro-phenomena. Rather we sought to focus participants on three critical ward-based issues that directly correlated to a set of strategic objectives for their ward (three-year objectives) further correlated to a five-year vision for their ward.

The three priorities selected needed to stand up to the test of reasonableness – in this context this meant whether the priority (1) made sense in terms of the city’s macro-planning framework, (2) whether the objective would be best achieved through the specific priority proposed and (3) whether the priority is cost-effective and implementable.

So although we consciously used planning language, we took the time to engender the principles of planning – not contested here – in the mindset of the participants. The most important principles we sought to focus on were:

- Reasonable demands should manage all parties’ expectations.
- Meaningful development is only possible in the context of a vision (and end-state) and strategic objectives (milestones towards the end-state).
- The 80/20 principle.
- Budget and capacity limitations require ingenuity.
- The utility of infrastructure only extends to its ability to transform social realities.
- Prioritisation supports the decision framework.

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### ***Phase 1: Internal commitment and capacity building***

This phase sought to build internal commitment among political principals and senior officials. The buy-in process commenced with the Mayor briefing the political and administrative leadership structures in the City. The methodology was then pitched to ward councillors and administration officials ensuring they fully expected to receive a certain product – the ward plan – through the process, and that these were legitimate planning tools to incorporate local-level needs and issues into the planning framework.

This aspect of internal commitment is critical to the success of the participatory project: without it the officials may proceed with their technical plans to meet the demands of their scorecards. While these technocratic approaches still deliver, they do so potentially at the cost of credibility among beneficiaries, risking the sustainability of the investment or programme.

Traditionally, administrators are driven by internal performance management systems that often determine what needs to be delivered and by when. City officials perceive the consultation process as a delay in delivery. This perception requires negotiation and persuasion, which is beneficial in the long run.

Secondly we trained independent community facilitators to support the engagement between officials, politicians and community members. The training was an intensive process over two days and focused on simplifying the ‘science’ behind participatory planning, the methodology to be deployed in the community and technical skills such as problem-solving, conflict transformation and facilitation techniques. The community facilitators were drawn from officially employed community development workers based in each ward.<sup>12</sup>

<sup>12</sup> Community Development Workers (CDWs) form part of an initiative by former president Thabo Mbeki to assist with mediating the needs of the community with the plans of the government. CDWs work with communities and local councillors. As such the City of Johannesburg felt that they were best placed to facilitate the sessions because of their familiarity with ward issues, and their understanding of how government works.

The training assisted the facilitators to create evenness in the power in the room during the engagement. The brief to the facilitators was to specifically keep the process tight – to focus on the deliverables and ensure that both city officials and politicians and community members were able to engage in the discussion on an equal level. The following case reflects a commonly repeated experience across the regions.

In one case, a councillor attempted to both frame the description of the community need and the response required, dominating and intimidating community participants and the facilitator into accepting her ‘view of the world’. In this case the facilitator was required to delicately balance the councillor’s obviously more informed position with the need for baseline engagement with community stakeholders. The annoyance of the councillor with the elementary nature of the conversation initially was process-managed through the skills of the facilitator who ultimately addressed her need to ‘resolve’ issues with the community’s need to express themselves.

### ***Phase 2: The outreach phase***

This is the crux of the strategy we employed and produced the product sought – a credible ward plan. We initiated this phase through convening regional summits<sup>13</sup> wherein community stakeholder groupings at ward level, individual community members, ward councillors, proportional representation (PR) councillors,<sup>14</sup> regional officials and senior line department officials as well as senior sector-based mayoral committee councillors coalesced in their wards. In these groupings, through tight facilitation by the community facilitator, the parties conducted a Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis, created a vision, designed strategic objectives in service of the vision and then put forward three priorities, in order of priority, of cost-effective, ward-delimited developments, projects or processes to achieve one or more of the strategic objectives.

The process was both challenging and immediately rewarding. Although the debate was robust, sometimes even to be interpreted as conflictual, all the ward participants finally agreed on a set of issues. These were further explored and debated in a peer-review plenary session (which all wards presented at the regional summit) and the final list of issues was recorded for the next phase. To give an example, a ward group insisted on a clinic in their ward despite the existence of one within the standard five-kilometre radius. When explored by the peer group in plenary it emerged that the radius was traversed down the middle by a major arterial making the walk to the clinic dangerous for pedestrians. In this case the peer group plenary suggested the ward revise the priority to a transport intervention, an extra bus stop alongside the settlement, or a pedestrian bridge over the arterial. This balanced the community need with budgetary limitations and standard service levels.

Simply securing three issues agreed to by the stakeholders in each ward – 109 in total – that could be prioritised by the City was just short of a miracle.

<sup>13</sup> The City of Johannesburg is organised into seven administrative regions for ease of implementation and coordination. Each regional centre is capacitated for community outreach and urban management. A People’s Centre is based at each regional office where community members can engage the city on policy, strategy, compliance, service delivery or development information.

<sup>14</sup> South Africa’s electoral system provides for directly elected councillors associated with a ward, and proportional representation councillors installed by the political party that wins each ward.

Until now this had not been nearly possible since the advent of developmental local government in South Africa (wherein it is envisioned), even when it been attempted in small municipalities such as Mangaung and Emahlaleni. On the challenging side, the information management was a mammoth task and required, quite unexpectedly, database technicians and a dedicated data team.

### ***Phase 3: The iteration phase***

This phase involved escalating the ward priorities of 109 ward plans to the departmental officials who considered their possible implementation in terms of strategic weight, budget and capacity. In some cases projects already planned would accommodate the priority; in other cases, the priority conflicted strategically and departments would have to present alternatives to address the strategic objective. In further cases, the priority was accepted or minor alterations proposed for refinement. In some cases a budget was available, in others, no budget was available and would need to be sought. The experience with the officials was varied: Some welcomed real participation and then sought to find a way to meet the needs of the community, whether or not they had planned for it. Some more technocratic types tended to dig in their heels and create barriers to the needs articulated while others simply ignored the process. In terms of the latter, heavyweight officials eventually applied sufficient pressure to adjust their plans and budgets. It remains to be seen whether this political pressure on the officials will have any negative impact on the will and capacity to deliver on the ward plans. Suffice to say, that is a risk.

To give readers a sense of the scale of the engagement, there are 109 wards in the city and so theoretically 327 ward issues were created. Some of these issues were loaded, increasing the number of actual priorities and some issues were cross-departmental and so were raised more than once. So for example, a request for a skills centre would be raised by both the Department of Community Development which is responsible for community infrastructure and the Department of Economic Development which would be involved in developing a skills programme. Furthermore some issues required the comment of provincial government and these were tracked as action items in inter-governmental forums expressly established to coordinate development between the national, provincial and local spheres of government. In total, upwards of 500 issues were individually negotiated with line departments.

Once this mammoth exercise was concluded, we returned to the ward committees to request them to review the departmental feedback and either propose amendments or sign off the agreed-to prioritisation. Many wards further engaged on the alternatives and emerging issues and refined their previous submission. At this point community members also signed off evidence milestones and indicators of success that would assist them monitor the commitments at local level. Community members will in future have an opportunity to demand reports, evidence and action in terms of the evidence and milestones agreed to in the ward plans in the various statutory instruments that protect public participation (section 79 oversight committees, petitions committees and ward committees, for example). The councillors received an official briefing session about the ward plans once they were near completion and in that briefing session ideas were shared about the ways in which they could actively participate

in the monitoring and evaluation of the implementation. This ranged from site-visit evidence and oral testimony to the gathering of more formal documentation through City structures. Figure 1 shows a typical example of the implementation part of a ward plan:

The ‘Ward Implementation Plan’ lists the departmental response to the three issues prioritised by community participants as well as success indicators, community value-add and evidence required for monitoring and evaluation.

After at least three iterations between community members and officials and often with the intervention of senior officials and politicians, all the ward plans were signed off. The signing-off process took up to six months. In a minority of cases, community members refused to sign off their plan and those were still under discussion at the time of writing. For example, of the four outstanding ward plans of the 109 in total, at least one was a matter of protest against the City. Another was the case of a councillor who consciously chose to disengage from the process. Others simply didn’t arrive to participate in the process. The outstanding matters then become political and are dealt with through the regulations of council and party whipper guidance.

This phase culminated in a policy decision to force the three priorities into the system by actually physically placing them as priorities 1, 2 and 3 on the operational information management system. This forced departments to include them in their budgeting process soon to follow.

#### ***Phase 4: The negotiation phase***

This phase was characterised by delicate financial footwork to accommodate the community projects in the budget. The City’s allocation of R100 million to accommodate the CBP projects as they had come to be known, was far short of the now formalised commitments. And so senior politicians and officials needed to negotiate previous budgetary commitments to accommodate the community projects. We are pleased that all commitments were maintained, despite the significant budget shortfall faced.

If one was to describe the outcome of the process, one could argue that the CBP process in the city of Johannesburg pioneered a replicable model of community involvement in complex municipal planning systems that accounted for both local needs and systemic governance requirements.

## **CRITICAL SUCCESS FACTORS**

In reviewing the impact of this exercise there are at least five critical success factors:

1. A culture of robust political engagement ensures that citizens become active and advocate for their needs and interests and politicians are sensitive to these.
2. The empowerment of community members to engage on their own terms equal in power to the state strengthens the political lexicon and the developmental product.
3. Community engagement is less about receiving a list of developmental needs and finding expression in existing programming as it is a dialogue

**Figure 1: WARD 197 IMPLEMENTATION PLAN**

Issues	Dept./ME	What action?	Who & when?	Budget	Community Value Add	Success Factors	Evidence
In terms of safety and security, to construct high mast lights. These are necessary as there is a high crime rate. Identify high risk and propose solutions	City Power	Installation of R17 million	City Power within 2008/09 financial year with the aid of MIG funding	R3 450 000	<ul style="list-style-type: none"> <li>Community build awareness about protecting infrastructure from vandalism and other avoidable damage.</li> <li>Report faults</li> </ul>	<ul style="list-style-type: none"> <li>Budget availability</li> <li>Capacity of department to implement</li> </ul>	<ul style="list-style-type: none"> <li>Departmental Business Plan.</li> <li>Project plans for public view.</li> <li>Monthly site visits to verify installation</li> </ul>
To construct a skills development centre as well as to nurture SMME industries and small business. These will facilitate job creation	Community Development	Three Skills Centres in the Region exist already. Develop a mechanism for enabling people to access these facilities. Expanding services presently offered by Business Place in particular supporting the emerging businesses and job seekers who are hardest to place. Redirect these to labour market database.	Shared responsibility between Community Development and Economic Development. Economic Development will develop the Business Plan to be ready by 2008 for roll out in 2008/09	Expanding services presently offered by Business Place in particular supporting the emerging businesses and job seekers who are hardest to place. Redirect these to labour market database	Community to create awareness about existing facilities and services they offer	<ul style="list-style-type: none"> <li>Development of mechanism to enable cross ward accesses to resources.</li> <li>Budget availability</li> <li>Expansion of services offered by Business Place</li> </ul>	<ul style="list-style-type: none"> <li>Business plan</li> <li>Copies of training materials of public participation process workshops</li> </ul>
To upgrade sewer system as this is presently a health hazard	ISD	Water and sewer upgrading has been identified and through network models	Johannesburg Water, Capital Investment. To be prioritised and included in capital budget	To be included in Johannesburg Water capital plan	Community to build awareness about protecting infrastructure from vandalism and other avoidable damage	<ul style="list-style-type: none"> <li>Budget availability</li> <li>Capacity of department to implement</li> </ul>	<ul style="list-style-type: none"> <li>Departmental Business Plan</li> <li>Project plans for public view</li> <li>Monthly site visits to verify upgrading</li> </ul>

that navigates all the challenges and opportunities of all parties to emerge with an acceptable consensus.

4. Officialdom requires as much direction and support as community groups to reorient their perspective and meaningfully participate in the dialogue.
5. The quality of the outcome has much to do with the strength of the back office, the dedication of facilitators and the tools and techniques employed to manage the record as well as the outcome.

## LESSONS

Throughout the process our approach to the challenges was that they always offered guidance on replicating the model. So in this section, we have collapsed ‘challenges’ with ‘lessons learned’ because invariably the challenges positively influenced the model in the final analysis.

Probably the foremost lesson is that in a big and complex city such as Johannesburg, substantive community participation in planning and budgeting rests on two key factors. The first, almost obvious factor is political will at the highest level. At many junctures in this process, political gravitas was required to shift the process and dismantle barriers, most notably in shifting intransigent politicians and officials. Without active and determined senior political actors this would not have been possible. The second factor is that the complexity of planning and budgeting in a metropolis requires an almost rigid formulaic methodology that balances fluidity and deference with hard-nosed business outcomes such as specific projects within specific timelines and measurable delivery milestones.

The second lesson must be the importance of the social compact: service delivery in a complex democratic and developing context necessarily requires a broad commitment by all stakeholders to the direction and nature of development. In a context of endemic conflict, a ‘negotiated settlement’ seems almost impossible. So in our process, having communities articulate that they would commit to the three projects was critical in cementing the collaboration between the City and the people in delivering a quality of life for all.

The third lesson is that, until a relationship of trust evolves, the process of engagement between City officials, political representatives and community agents must be independently facilitated to ensure equity, openness, evenness and problem-solving.

The fourth lesson is the importance of the process remaining a developmental strategy rather than a customer management channel. Service delivery breakdowns, while important, are a matter of record, remedial action and accountability. But co-designing the developmental trajectory for a community with inimitable needs is a more complex and nuanced process and requires strategic and tactical insight.

The final lesson is the critical role played by information management which cannot be underscored enough. The sheer volume of entries into the ward plans – not only the communities’ demands but all the planning information as well – as well as the escalations to departments and the results of at least five iterations makes a strong case for a customised database and dedicated data team for at least the information-heavy phase of the project.



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# Towards an Enabling Environment for Social Accountability in Kenya

By *Alexander O’Riordan*<sup>1</sup>

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Social accountability is about engaging elites to make them more responsive. Without an enabling environment, activists and civil society institutions are discouraged, and vulnerable to retribution. An enabling environment means providing legal protection, strengthening human and institutional capacities and directing incentives that foster accountability. Donors allocate too great a share of resources to encouraging civil society to partner with elites rather than holding them accountable. This chapter calls for a stronger legal environment to protect critical civil society and whistle-blowers, and for independent grant-makers tasked with building strong, independent social accountability institutions.

## INTRODUCTION

Arriving at Nairobi’s Jomo Kenyatta International Airport, it is easy to be overwhelmed by the number of drivers touting signboards welcoming staff of non-governmental organisations (NGOs). The presence of NGOs in Kenya is so visible that, at first glance, they appear to overshadow Kenya’s vibrant private sector. It is not uncommon to meet young Kenyan professionals who rate an NGO job as more desirable than working in a high-profile private corporation. Kenya hosts a disproportionate concentration of international NGOs partly because it offers access to Somalia, Ethiopia, Eritrea, Sudan, Rwanda and Burundi and partly because of its cold-war importance as a perceived democracy in the region. An additional attraction is that Nairobi hosts the international headquarters of the United Nations Environment Programme (UNEP) and the United Nations Centre for Human Settlements (UNHABITAT).

<sup>1</sup> Consultant, Addis Ababa, Ethiopia

Kenya, and in particular Nairobi, appears to be saturated with the sort of dynamic civil society and agonistic NGOs commonly identified as foundational to nurturing social accountability. Civil society appears to play a strong role in local development and civil society organisation (CSOs) enjoyed exceptional growth between 1997 and 2005, as the following chart shows:

Type of organisation	1997	2005	Percentage change
Self-help groups	16 208	185 722	1145%
NGOs	836	4099	490%
Youth groups	3426	11 083	323%
Women groups	85 205	135 294	159%

Source: K. Kanyinga et al (2007), *The Non-Profit Sector in Kenya*, University of Nairobi, Aga Khan Development Network

However, considerable evidence points to a deeply troubled environment for civic engagement. Civil rights practitioners observe that the ‘official’ role of CSOs and NGOs today is not dissimilar to their role in the 1980s and 1990s when the Moi regime was overwhelmingly dominant and displayed significant distaste for civic criticism. Superficial evidence (such as the proliferation of radio talk shows that openly criticise errant officials) suggests that the space for social accountability has expanded. But civic activists point out the dampening effect of the enormous, and often unchecked, executive powers available to the Kenyan government over NGOs today.

The Centre for Law and Research International (CLARION) is an independent Kenyan NGO that researches rule of law and corruption. It plays a significant role in mobilising and enabling community stakeholders to hold local authorities accountable to their legal obligations. In 1996, it produced a study called *The Anatomy of Corruption in Kenya*, whereupon it was deregistered from the NGO Board. While the political climate has changed considerably since then, the legal environment has not. Kenya’s executive retains the power to intimidate NGOs, just as it did under Daniel Arap Moi. NGOs aside, Kenya is not commonly associated as welcoming critical engagement from the press and media. A book by respected author Michela Wrong, *It’s Our Turn to Eat: The Story of a Kenyan Whistleblower*, reveals widespread corruption and intimidation in Kenya. As of July 2009, the author was still complaining about the reluctance of Kenyan bookstores to stock it.<sup>2</sup> Activists have resorted to circulating illegal copies against the will of the author.

In Kenya, particularly in rural areas, poverty is a constant threat and delivery of social services often tops the agenda for civic engagement. Social accountability is inextricably linked to service delivery. While the formal economy grows steadily, Kenyans living in semi-arid regions like West Pokot and Turkana complain of being systematically excluded from services and say they are watching their communities slide deeper into poverty. For large areas, quality-of-life indicators are not dissimilar to those of significantly poorer neighbours, South Sudan and Ethiopia.<sup>3</sup> Despite a ‘vibrant civil society’, the prevalence of democratic institutions and rapid, visible accumulation of wealth in recent years, quality of life has *deteriorated* for much of the population.

<sup>2</sup> “Stray Questions for Michela Wrong”, *New York Times*, 17 July 2009.

<sup>3</sup> By comparison, in 2009 the CIA World Fact Book put the Kenyan Government Budget at over US\$8 billion for a population of 39 million compared to the Ethiopian Government Budget at less than US\$5 billion for 85 million.

In the decade between 1993 and 2003, Kenya witnessed a worrying and significant decline in key indicators:<sup>4</sup>

- Infant mortality rates increased from 62 to 78 per 100 000.<sup>5</sup>
- Under-five mortality rates increased from 96 to 114 per 100 000.
- Percentage of fully immunised children between 12 and 23 months decreased from 79% to 60%.

The proliferation of civic organisations and the appearance of a functioning democracy are clearly not enough. This chapter discusses the state of social accountability in Kenya at local level and grapples with what needs to be done to foster an enabling environment as Kenya decentralises government.

## ENABLING ENVIRONMENT

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Social accountability depends largely on the extent to which civil society can enable communities to hold authorities and their representatives accountable. CSOs are essential actors in building a consensus for social and economic development. They promote good governance by demanding consultation, representation, transparency and accountability from authorities. In Kenya they also play a significant role by partnering with the government in delivering social services like health and education. And they are often uniquely positioned to advocate for community needs and monitor delivery.

An enabling environment is essential, and this in turn depends on favourable structural conditions. Factors typically associated with an enabling environment are a legal and regulatory framework, political will, accessible government, socio-cultural characteristics of communities and economic conditions.

While the legal and regulatory environment in Kenya is not necessarily antagonistic to social accountability, it is far from being conducive to promoting civic engagement. Two key problems are that legislation is not designed to capacitate CSOs and that legal mechanisms, the judiciary and police services are open to systemic abuse by elites.

The current Constitution supports civic engagement in that it protects freedom of expression, association and assembly. The latest draft of Kenya’s proposed new Constitution (the Bomas draft) adds freedom of trade, occupation and profession and freedom to form, join or participate in trade unions.<sup>6</sup> The draft also recognises the role of civil society in governance and the need for it to be able to ensure government accountability.

But the challenge lies in the legal and regulatory environment. In Kenya, CSOs tend to register as NGOs which makes them subject to oversight by a government structure, the NGO Board. To comply with the law, NGOs must submit audited annual reports within three months of the end of a financial year, detailing all income and expenditures as well as contact addresses and information on board and annual general meetings. The NGO Act and the NGO Coordination Regulations of 1992 allow them to apply to the minister

<sup>4</sup> Kenya Demographic and Health Surveys for 1993, 1998 and 2003.

<sup>5</sup> By comparison, between 2001 and 2005 infant mortality in Ethiopia decreased from 113 to 77 per 100 000 births (Plan for Accelerated and Sustained Development to End Poverty (PASDEP) 2007 Annual Report, Ministry of Finance and Economic Development, Government of Ethiopia).

<sup>6</sup> Article 57 and 59 of the Bomas draft, Government of Kenya.

of finance for exemptions from tax and duty on certain imports. Similar provisions apply to societies. But in practice the ministry uses its administrative powers to ensure that these exemptions are rarely granted. There are countless examples of NGOs having to hire lawyers and endure processes taking up to ten years to get the exemptions that are provided for in law. Furthermore, they need to partner with a line ministry, and be recommended by it, before their applications are even considered. This provides a significant disincentive to be critical of the ministry.

Another problem is that freedoms granted in the Constitution can be circumscribed. The board can refuse registration if the NGO's activities are deemed to not be in the 'national interest'. Registration certificates must be renewed every five years, and renewal is conditional on the NGO not breaching any regulations. They may operate only in districts specified in the application form and need approval from the co-ordination board to change locations. They must notify district commissioners (who report to the security services) and district development officers before implementing projects in their districts. Involving district development officers in project design and delivery translates into the standard practice of 'facilitating' their participation by paying them daily allowances and reimbursing their fuel costs.

The registrar of societies has wide powers to refuse or cancel registration if it considers it necessary in the interests of peace, welfare or good order. A minister can order an incorporated trust to be dissolved if it ceases to exist or cannot achieve its objectives. While these powers are not unusual, the ability of elected officials to abuse their executive authority was perceived to be a tool of intimidation in the 1990s.

Despite public statements to the contrary, it would be a mistake to presume that government officials hold NGOs and CSOs in high regard. Recent interviews with officials<sup>7</sup> demonstrate that – at national, district and local levels – NGOs are largely viewed with suspicion, being regarded as unaccountable, non-transparent, bloated, fiscally irresponsible, corrupt and divisive to nation building. The only positive association is a general official perception that they are effective at organising community consultations. Yet the reality is that in many communities in Kenya, NGOs and CSOs are the exclusive providers of health, education and social services, while the government is perceived as being dismally ineffective. The Kenya National Dialogue and Reconciliation (KNDR) monitoring project<sup>8</sup> reports that in 2009, more than half of respondents rated the following services as poor: central government (52% said poor), members of parliament (MP) service (55%), and local authorities (53%).

Another factor exacerbates the challenge. Apart from the fact that elites can use government structures to coerce NGOs and CSOs within the law, endemic corruption in the judiciary, police services and line ministries makes these organisations vulnerable to intimidation without access to reliable legal protection. The Kenyan police force has recently been implicated in political executions, an activity dating back to the Moi era. Targeting and execution of activists has been well documented and is the subject of a 2009 UN special report on human rights.<sup>9</sup>

7 Danish International Development Agency (DANIDA ) Kenya, 2009. *Public and Non-public Provision of Services: Accountability, Efficiency and Support to Nation Building and Democratic Decentralisation*, Nairobi, Kenya.

8 *National Baseline Survey*, January 2009 from <http://www.dialoguekenya.org/sreport.aspx>.

9 UNCHCR.ORG, 2009. *UN Special Rapporteur on extrajudicial, arbitrary or summary executions Mission to Kenya 16-25 February 2009*.

## GUERRILLA ACTIVISM AND PARTICIPATORY BUDGETING

Lacking a conducive environment to openly critique the government, some social activists have devised innovative mechanisms. One such tool is the social audit. In a social audit, community members use local knowledge to examine the success of a project – typically, by physical inspection, by asking community members about its impact and by assessing how well local public resources are being managed.

Muslims for Human Rights<sup>10</sup> (Muhuri), a Mombasa-based NGO, dismayed by Kenya’s poor ranking on the Open Budget Index, decided to run social audits on constituency development fund (CDF) projects in Changamwe and Bahari. The CDF was established by the government in 2003 and was designed to overcome the frustration of elected officials being blamed for national development processes that were not delivering at the community level and that they had little or no control over. The fund effectively gives elected officials carte blanche to design, manage and implement programmes in their constituencies. Money available is significant. Initially, it started at 2.5% of government revenue and was recently raised to 7.5% in 2009. Wanjiru Gikonyo, coordinator of the CDF accountability project, pointed out that “in the 2009 financial year, each constituency will get about Ksh183 million (US\$2.3 million) through CDF, up from the previous average of Ksh60 million (US\$750,000)”.

Three-quarters of the allocated funds are divided equally among Kenyan constituencies and the remaining quarter goes to specific anti-poverty measures. On the positive side, the CDF is seen as bypassing partisan politics and bringing development directly to constituencies. This earns local support and dampens suspicion of widespread corruption and mismanagement in central government. On the negative side, the CDF is criticised as being non-transparent because it operates independently of district development planning and decentralisation processes. Resources are allocated at the discretion of elected officials who are not required to consult, or be accountable to, local communities. Hence a call by Ms Gikonyo for citizens to get out of their “comfort zones and actively track CDF spending in our constituencies, not to win contracts for our side businesses but to promote development and accountability”.<sup>11</sup>

Another concern is that, because the CDF vests so much decision-making power in elected officials, it effectively enables them to buy the support of their constituencies. However this fear did not materialise in the 2007 elections. The accountability project<sup>12</sup> reported that 60% of officials lost their seats despite having had four years of effective control over CDF resources. It argued that it was the mismanagement of CDF funds that caused the electorate to reject the incumbents.

In reality, CDF projects are not held in high regard at local level. Local authorities and CSOs interviewed in March 2009<sup>13</sup> in Kitui, Karamoja and Kitale districts revealed a perception that these projects happened in parallel with existing activities, often duplicated facilities like schools and clinics and were rarely integrated into district planning. The result was schools without

<sup>10</sup> [www.openbudgetindex.org](http://www.openbudgetindex.org): Social Budgets in Kenya: Budget Transparency and Accountability.

<sup>11</sup> *Ibid.*

<sup>12</sup> [www.cdfproject.org](http://www.cdfproject.org).

<sup>13</sup> DANIDA Kenya, 2009.

teachers and clinics without health workers. A 2008 study argued that “it is virtually impossible to access CDF records on demand from CDF committees” and that this “official secrets mentality” facilitated a culture of corruption and impunity.<sup>14</sup>

These experiences are reinforced by social audits carried out by Muhuri, which struggled unsuccessfully for two years to gain access to CDF documents because officials resisted sharing information. Eventually it resorted to ‘pretending’ to conduct a training exercise to gain permission for a social audit of CDF projects in Changamwe and Bahari. The results were illuminating. Community members reported, among other things, that Bahari projects supposedly completed were not, that a completed road had no gravel, and that labourers had never been paid. A contractor had claimed for new materials for a marketplace supposedly built from materials recovered from the old one.

This sort of guerrilla activism ought to lead to improved social accountability. But it is disappointing to note that when the responsible officials realised that the information gathered was unfavourable they simply refused to participate any more, and declined to respond to community queries. Part of the problem is structural. Kenya’s GDP per capita is just over US\$800 in real terms. A Kenyan police officer starts at under US\$1600<sup>15</sup> a year, while politicians earn a tax-free annual salary of around US\$190 000. CDF projects amount to more than a million dollars a year for each constituency. Corruption or misuse of CDF funds incurs a maximum fine of US\$3000, presuming that a person can be caught and appropriately prosecuted. A combination of low prosecution rates, lack of disincentives, a malleable justice system and the large resources available contribute to a commonly expressed opinion: it is only to be expected that Kenya politicians choose to maximise their compensation in the short term rather than working to serve their constituencies.<sup>16</sup>

## HOW PUBLIC RESOURCES CAN BE SAVED WHILE PROMOTING SOCIAL ACCOUNTABILITY

An alternative initiative is the European Commission’s community development trust fund (CDTF). It has been operating in Kenya since 1996 and uses a relatively sophisticated mechanism to prompt social accountability. It invites local communities to suggest proposals and work with district officials to cost them. Then it sends its own staff into the field to verify the estimates. CDTF claims that in most cases it can cut the original budget by 60-80%. The grant is given to the community directly and technical assistance is provided to ensure the project is managed effectively.

Monitors and researchers have commended the process for contributing to local accountability. But repeated successful examples have not translated into more transparent management practices. Instead, decentralisation has brought more decision-making structures, not fewer. And the growth of parallel decision-making structures at local level has not improved community access to

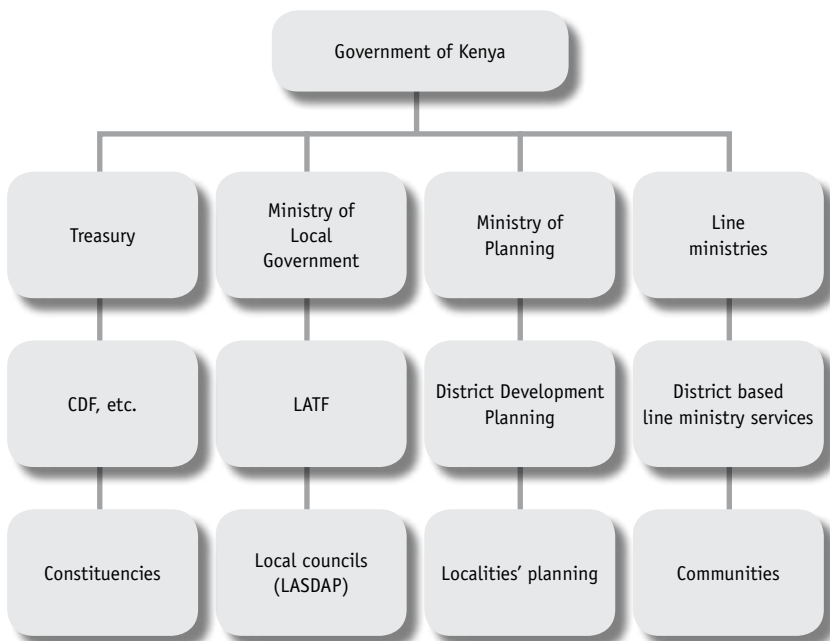
<sup>14</sup> [www.cdfproject.org](http://www.cdfproject.org).

<sup>15</sup> *New Salary Scale for Disciplined Services*, 2008. Office of the Prime Minister, Government of Kenya.

<sup>16</sup> A new bill was presented to the Kenyan Cabinet in July 2009 (reported in *Daily Nation*, 24 July 2009) to improve transparency in the management of CDF resources. It remains to be seen if it will be passed and what effect it may have.

decision-makers. Local development officials complain that too many service mechanisms make co-ordination difficult.<sup>17</sup> Figure 1 illustrates the duplicated structures that deliver the same social services:

**Figure 1:** Points of intervention: Who is accountable?



*Diagram Source: DANIDA Kenya, 2009. Public and Non-public Provision of Services: Accountability, Efficiency and Support to Nation Building and Democratic Decentralisation.*

An obstacle faced by activists, CSOs and NGOs is that district and local mechanisms tend not to have enough resources to meet needs on the ground. Most of the money is used to pay salaries and maintain offices, leaving little to improve services. Decentralisation and political pressure from local officials, the government and donors have encouraged a trend to allocate resources to initiatives developed locally. But the new structures tend to parallel existing local development structures. The CDF and the CDTF are managed by the treasury and bypass district development officers. The local authority transfer fund (LATF) is managed through the ministry of local government and delivered through local councils. The ministry of planning and provincial administration works with district development councils to initiate integrated local planning processes, but these lack significant resources. Roads, health, education, social services and natural resource management are all managed by line ministries that appoint officials who, in most cases, duplicate services offered by district development officers.

To complicate matters, in many communities the bulk of services is provided by NGOs and CSOs that often operate alongside local structures applying district plans piecemeal and with limited accountability. NGOs receive most of their funding from donors and often through their headquarters, which means that agendas are frequently set at levels above that of local communities. Faith-

<sup>17</sup> DANIDA Kenya, 2009.



based organisations frequently provide social services to a wider community but consider themselves accountable only to their own institutions.

The way that the three non-local authority mechanisms are constructed specifically bypasses local authority decision-making and planning. Activists complain that district development planning parallels local authority participation mechanisms.<sup>18</sup> Furthermore, relationships between district development officers, local authorities, line ministry officials and the centrally driven processes (such as CDF) are mostly less than harmonious and often confrontational.

Because of the lack of an integrated legal framework, decentralised decision-making in Kenya is marked by overlaps and duplications in roles, functions and responsibilities. Confusion occurs between central and local government and between local authorities and other decentralised mechanisms (like the CDF). It goes beyond a problem of institutional arrangements. It is often grounded in legislation inherited from colonial structures of community control. Taxation powers and expenditure functions are difficult to understand. At local level the law effectively ensures duplication of planning processes, functions and ultimately resource allocations.<sup>19</sup>

The Kenyan government recognises the problem. It has adopted *Vision 2030* as an integrated development and accountability strategy that must be implemented by line ministries and local authorities. However, complementary legal adjustments have not kept pace. This has resulted in planning activities continuing to be carried out in individual government departments operating independently, making it difficult for CSOs and activists to demand accountability.

Lacking is a regulatory requirement enabling citizens – including CSOs, community representatives and activists – to participate in governance and decision-making. The problem is especially acute at local level, and manifests in low levels of service delivery. The government's role in nation building is, to a large extent, non-existent. The right of citizens to participate in governance is largely absent from Kenyan law. There is no legal framework to guarantee the participation of CSOs, NGOs and community representatives.

#### NGO funding, 2005

Source	Amount in KES	% of funding
External donors	17 893 629 000	88.4
Own sources	1 197 656 000	5.9
Private	819 537 000	4.0
Individuals	331 336 423	1.6
Total	20 242 159 000	100.0

Source: Kanyinga, K. et al, 2007. *The Non-Profit Sector in Kenya*, University of Nairobi, Aga Khan Development Network

On the other hand, NGOs are routinely criticised as being even less transparent than local government on service delivery. Because they are controlled by headquarters remote from community representatives, it is difficult to call them to account. Another widespread problem is the proliferation of so-called

<sup>18</sup> DANIDA Kenya, 2009.

<sup>19</sup> Muia, D.M., 2008. *An Assessment of Roles and Responsibilities of Central and Local Governments in the Management of Public Finances in Kenya*, Institute of Policy Analysis and Research.

‘briefcase NGOs’ – organisations created largely to source funding and having little incentive to encourage participative decision-making. The biggest problem is that communities have little leverage in demanding accountability. Kenyan NGOs sourced 88% of their funding from external donors in 2005. These donors were not answerable to Kenyan taxpayers and were beyond the influence of the electorate.

## CURRENT TRENDS IN SOCIAL ACCOUNTABILITY

The Kenyan government has officially agreed with its 17 development partners to include CSOs and NGOs in development processes and to promote social accountability. This commitment is contained in the 2007-2012 Kenya Joint Assistance Strategy (KJAS). It has led to the creation of ‘basket’ funds including: the national civic education programme, phase II (known as Uraia), the gender and governance programme, elections support facility, civil society democratic governance facility and the democratic governance facility. Bilateral support is also significant with the Danish International Development Agency (DANIDA) funding the Kenya good governance programme and the community development trust fund, the UK’s political empowerment programme and Canada’s Kenya governance support programme. USAID provides technical assistance and funding in partnership with Pact-Kenya through the Kenya Civil Society Strengthening Programme (KCSSP). The European Development Fund (EDF) also offers significant resources through the democratic governance support programme (DGSP) and upcoming non-state actors support programme.

Despite the commitments, civil society representatives complain that donors do not support controversial or critical CSOs. Interviews with CSOs and NGOs in three districts in Kenya (Kitui, Karamoja and Kilifi) reveal that funding does not typically promote the critical engagement essential to building social accountability. To comply with contractual obligations and reduce the risk of incurring ‘ineligible’ expenditure, CSOs and NGOs are under significant pressure to conform their organisational structure and ethos to the strictures implied in their grant agreements.

Recipients claim that donors, with the notable exception of DANIDA, will not pay for core costs. These can include:

- Resource mobilisation and project design (often consuming 50-60% of the working hours of key staff);
- Administrative overheads, which average about 10% of running costs of large CSOs and NGOs, and often more for smaller organisations;
- So-called irregular costs like bribes or ‘facilitation fees’ (widespread, but not easy to quantify);
- Project closing costs. Management can spend up to two days a month responding to queries about closed projects; and
- Ineligible expenditure typically resulting from inflexible or inappropriate donor procedures (estimated at about 5% of procurement budgets).

These costs have to be recouped elsewhere. Donors do not usually allow CSOs and NGOs to accrue surpluses that might offset unexpected losses. Many CSOs and NGOs admit to routinely reallocating costs to inappropriate budget lines

or to ‘creative reporting’, putting them at risk financially and in terms of professional reputation. Because their accounts are scrutinised by the NGO board, which has a reputation for seeking retribution, they have a significant disincentive to hold public officials accountable or to criticise wrongdoing.

Furthermore, it is not clear whether donors are as committed to social accountability as they claim to be. The European Commission (EC) is one of the largest donors internationally and provides significant resources to Kenyan NGOs and CSOs. Its non-state actors (NSA) programmes also fund chambers of commerce, professional associations and labour unions. A study of its manuals and policy and proposal documents<sup>20</sup> reveals an emphasis not on supporting a critical civil society demanding social accountability, but a need for partnerships, cooperation and coordination between the NSA and government institutions.

Donors’ ‘logical framework’ approach and comparable management techniques – such as the strategic framework approach and objectives-oriented project planning – have largely become industry standards in designing development assistance programmes.<sup>21</sup> These approaches emphasise the need for problems to be clearly defined and progress to be measurable. Des Gasper of the Netherlands’ Institute for Social Studies (ISS) identified three limitations in this approach.<sup>22</sup> The first is that, while logical frameworks are intended to allow flexibility, they tend to be implemented inflexibly. Once in place, the framework is rarely amended. The second problem is that poorly researched frameworks do not always correspond to needs on the ground. Finally, logical frameworks are often devoid of logic because they have been manipulated to fit existing actions.

Donors and implementation agencies view the logical framework differently. NGOs and CSOs perceive it as a donor-driven bureaucratic burden and rarely research it thoroughly. Donors, on the other hand, see it as the foundation of their contractual and legal relationship with the beneficiary and the basis for giving the grant. They are reluctant to make later changes – and even when they are willing, the process of change is long and burdensome.

Finally, CSOs and NGOs often find themselves in a position where donors encourage them not to be accountable to their own beneficiaries. Donors need proposals before they make grants. Often, proposals have already been approved – or are in the process of being approved – before local consultation takes place. Many CSOs look for tacit community backing after the event. Because donor procedures are widely perceived to be inflexible, substantive change by communities is almost impossible.

In sum, the lack of resources to design projects carefully and the reluctance to change them after a grant is awarded are effective disincentives to CSOs to be truly accountable to their beneficiaries. It is no wonder, then, that disenchanted development activists question whether CSOs are effective civil society actors or merely protagonists.<sup>23</sup>

20 Accessed at [http://ec.europa.eu/europeaid/where/worldwide/civil-society/index\\_en.htm](http://ec.europa.eu/europeaid/where/worldwide/civil-society/index_en.htm), European Commission Guide on Support to Non-State Actors and NSA LA Strategy Paper 2007-2012.

21 Gasper, D., 1999. *Problems in the Logical Framework Approach and challenges for Project Cycle Management*, Brussels, Belgium: *The Courier*, no 173 and Fitz-Gerald, A. M. and Neal, D. J., 2003. *A Strategic Management Framework for Improved Aid Delivery*, Bedfordshire, United Kingdom: Cranfield University.

22 *Ibid.* Gasper, D.

23 European Commission, 2000. *Evaluation of NGO co-financing Budget Line* (europa.ec.eu).

## CONCLUSION

Policy-makers need to pay more attention to creating an enabling environment for social accountability in Kenya. They must grapple with systemic problems that arise because many of the mechanisms normally available to ensure accountability are either corrupted or inoperable. The political system, for example, appears to encourage elected officials to look after themselves rather than their communities. The temptation to do so may already be too entrenched, given the staggering disparity between per capita GDP and the salaries of MPs. Some actors have given up hope of gaining access to justice to achieve their goals. Worse still, the energy that went into supporting administrative legal reform in the late 1990s has largely dissipated, leaving little hope for significant improvements in the near future. There are few protections for whistle-blowers and, even when there was a will to protect them, security forces have proven to be too beholden to elites to secure their safety. Participatory budgeting and other mechanisms to build transparency, while effective in the short term, do not appear to have resulted in meaningful accountability at senior levels – largely because they are implemented in parallel to central decision-making and partly because they are sporadic and after the fact. Public hearings, improving community transparency and access to information have had some tangible results, but have been less than successful in ensuring accountability and responsiveness from senior officials. In short, in order to address the challenge of fostering social accountability, practitioners need to look beyond the type of activism detailed above and work towards fostering an enabling environment.

Notwithstanding the unfavourable environment, the civil society sector on its own has a wealth of resources and is capable of playing a larger role in demanding accountability. It has depth and is able to partner with communities in a way that agencies and government do not. It has had a fair share of successes and has built considerable technical skills and institutional capacity to play a significant role in strengthening social accountability. But there seems to be an insurmountable obstacle: donors do not seem to fully digest the fact that demanding social accountability is about checking the power of elites. Elites rarely relinquish power gracefully or gently. Unless space and support is made available for civil society to play an agonistic role, one path to social accountability would appear largely blocked.

As a first step, donors should delegate the task of awarding grants to independent grant-makers who can encourage the growth of strong and critical CSOs which demand accountability. Unlike institutional actors and donors that prioritise good relationships with elites, these grant-makers would be answerable primarily to community activists and would have a vested interest in establishing strong and independent institutions that demand accountability. A practical way to achieve this would be to establish a fund that is independent of donors and government structures. It would have an elected board of social accountability activists who are not eligible to receive resources from the fund. Grants should be structured in such a way that civil society recipients are answerable to representatives of excluded beneficiaries and *not* to institutional donors.

While at first glance this concept may seem foreign, establishing independent grant-makers is far from an alien concept to donors. The European Commission (EU) already has a number of such funds including the European Initiative

for Democratisation and Human Rights (EIDHR) which is designed to make grants independently of national political influence. Other examples can be found in the establishment of environment, health and scientific research funding mechanisms which prioritise funding according to objectives identified by sector experts rather than institutional representatives. In apartheid South Africa, for example, donors used independent grant-makers such as Diakonia, Transitional National Development Trust (TNDT) and Kagiso Trust extensively and often exclusively to bypass the government in funding civil society. If donors are to promote social accountability in countries such as Kenya, they need to recognise the need for grants to be free of the influence of elites. This means giving civic activists the independence to create incentives for local activists to hold their authorities accountable. And, this means recognising that donor and national authorities are rarely acting outside of a paradigm that discourages active critical engagement and/or social accountability.

As a complementary step, CSOs need to prioritise legislative and judicial reform to create the proper enabling environment and protect themselves. This requires a strategic reform advocacy programme. Next, CSOs should consult with stakeholders and previously excluded actors to design an action plan that will strengthen social accountability at all levels from local to national. Finally, the political system will have to be reformed. After all, without a system that incentivises responsive representation, the long-term goal of social accountability will not be met.

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# Monitoring Resource Flows in Decentralising African States

By *Sylvain Boko*<sup>1</sup> and *Mary McNeil*<sup>2</sup>

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A lack of monitoring severely inhibits accurate reporting of project success, which in turn hinders the overall pace of development in Africa. To improve aid effectiveness it is imperative that donor states, recipient states and multilateral agencies collaborate to implement decentralisation projects that include strong monitoring components. Such actions would increase transparency and accountability to promote good governance, using reliable data and readily available monitoring tools. What is proposed in this chapter is that the traditional approach to resource monitoring which focuses almost entirely on the accounting side of the issue must be modified so as to emphasise accountability.

## INTRODUCTION

Decentralisation is increasingly being adopted by countries around the world as a mechanism to restructure and reform governance structures in order to enhance grassroots participation in local development activities. A decentralisation process is successful when it reduces the distance between local authorities and local populations. A successful decentralisation process must also result in the devolution of decision-making power and authority, including fiscal and financial authority, to the lower levels of government. When successful, decentralisation can become an effective tool of promoting local economic development and a means to promoting poverty-reduction policies.

<sup>1</sup> Wake Forest University, USA.

<sup>2</sup> World Bank Institute, Washington, USA. Background research for this paper was conducted by John Clayton. The authors benefitted greatly from his efforts. Deborah Osei from the Ghana Ministry of Finance and Economic Planning also contributed to the paper. All errors are the authors' responsibility. Correspondence may be sent to the authors at [Mmcneil@worldbank.org](mailto:Mmcneil@worldbank.org) or [bokosh@wfu.edu](mailto:bokosh@wfu.edu).

The fundamentals of sustainable development include institutional reform, good governance and democracy. Decentralisation is a key element of this process and refers to the transfer of authority from a central government to a sub-national entity and communities. It focuses on the capacity of local communities particularly in developing countries to manage and promote their own development. With decentralisation, individuals and communities enjoy a greater participation in local, national and regional development activities. Communities' participation in identifying, planning and implementing development projects gives them a sense of ownership and provides for an efficient service delivery system to the citizens. Thus, decentralisation empowers the people, and gives them authority and responsibility which are necessary in the development process and to welfare enhancement.

However, none of these objectives can be met without the proper use and monitoring of resource flows. The central thesis of this chapter then is that in a context where elite capture and corruption at the local level can derail the promises of decentralisation, the institution of a robust system of monitoring resource flows becomes an indispensable factor in the implementation of a successful decentralisation programme.

In section 2 we discuss reasons why resource-flow monitoring is necessary in decentralisation. Section 3 explains the sources of resource flows. Section 4 covers some of the main challenges involved in monitoring resource flows and discusses ways in which these challenges can be overcome. Section 5 proposes a participatory model of monitoring of resource flows which is based on the understanding that every stakeholder has a role to play in monitoring resource flows, if the goal of decentralisation is to find ways to utilise resources efficiently in the provision of services to citizens. Section 6 concludes the paper.

## MONITORING RESOURCE FLOWS: WHY IS IT NECESSARY?

Donors and development agencies have become increasingly interested in assessing the outcomes and impacts of decentralisation assistance.<sup>3</sup> Further, the authors indicate that donors' search for appropriate assessment tools is in line with the present concern for aid effectiveness and a more general interest in gauging governance in developing countries. In 2007 for example, total inflows of combined official development assistance and foreign direct investment into Africa reached US\$91 billion.<sup>4</sup> Given this level of official and private flows into the continent, private investors and donor countries have good reasons to require that efficient and transparent monitoring systems be put in place in recipient countries at all levels.

Monitoring resource flows provides for a better mapping of resources to their usage. A more detailed mapping of decentralisation resource flows can help policy-makers and international donors to make better decisions about funding allocations, as funds would then be most likely to be allocated to priority areas.

<sup>3</sup> Loquai, C. and Le Bay, S., 2008

<sup>4</sup> The United Nations Conference on Trade and Development's (UNCTAD) 2008 World Investment Report calculated that in 2007 inflows of foreign direct investment (FDI) into Africa reached US\$53 billion. The African Economic Outlook report notes that in 2007 official development assistance (ODA) to Africa was US\$38.7 billion.

By shedding light on the usage of resource flows, monitoring can also help to increase the level of transparency in local resource utilisation, thereby helping to curb corruption at the local levels of the government.

The monitoring of resource flows has both fiduciary and governance impacts. From a fiduciary point of view, monitoring resource flows provides assurance to development partners that their resources are indeed devoted to the purposes for which they are intended. The governance aspect concerns citizens and development actors in recipient countries who also need reassurance that the resources flowing into their countries are being used as intended. Countries often lack specific mechanisms through which grassroots communities can participate effectively in the decision-making process at the local level. This lack of social accountability creates the conditions for increased corruption at the local and national levels of the government in many decentralising countries. Hence designing and implementing a resource flow monitoring system becomes imperative to ensure efficient and effective service delivery. Some of the questions that must be addressed include whether decentralisation has led to better service delivery at the local level, whether it has created conditions for an efficient utilisation of resources, whether it has created conditions of increased economic growth, and ultimately whether it has led to a decrease in poverty at the local level.

## SOURCES OF RESOURCE FLOWS

Funding for decentralisation projects can come in different forms, including official development assistance, and private or non-governmental sources. As the traditional source of contribution to developing countries, Official Development Assistance (ODA) emanates from donor governments through both bilateral transfers (to states directly) and multilateral transfers (through international organisations or non-profits involving multiple parties). To qualify as ODA, a funding package must include a grant element of at least 25%, to reduce the emphasis on debt repayment. ODA comprises the largest source of resource flows to Africa. In 2006, the continent saw an inflow of approximately US\$26.8 billion, out of a global total of US\$106 billion. Such assistance is not uniformly distributed, however: just five states accounted for over 75% of 2006 ODA donations to fragile states,<sup>5</sup> much of it in debt relief.

Non-governmental organisations (NGOs) constitute another source of funding for decentralisation programmes. Within the past two decades, non-governmental investments jumped from 65% in 1990 to 75-85% in 2006 of all financial flows to developing states. Private flows encompass a variety of sources, including commercial loans, investments and charity. Flows from the private sector are much harder to quantify than public sector flows, which generally originate from regulated government budgets.

<sup>5</sup> Four of the five top recipients were in Africa: Sudan, Cameroon, Nigeria, and Democratic Republic of the Congo; the fifth is Afghanistan.



## MONITORING RESOURCE FLOWS: ISSUES AND CHALLENGES

Decentralisation is based on the assumption that resource allocation and distribution of public services are more effective at the local levels, where governments are more familiar with local needs and more directly accountable to the citizenry. Soliciting citizen input and working with local groups on infrastructure, water, energy and agriculture projects creates opportunities that deliver these services to areas where local communities most need them. While these ideals of decentralisation may be true there are many factors which may constitute impediments to the implementation of a decentralisation programme and reduce the effectiveness of the resources allocated to it. Among these are: the absorptive capacity of sub-national governments, the volatility of aid, leakages of funds available for decentralisation programmes, and weak monitoring processes at all levels.

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### *Decentralisation reforms and absorptive capacity*

The use of resources at the sub-national levels of government depends in part on the capacity of local governments to absorb the resources allocated to them. Even if the appropriate resources are disbursed to sub-national governments, their lack of absorptive capacity can undermine efforts to reduce costs and improve services. Thus, understanding the absorptive capacity of local governments is an important step in being able to monitor their ability to utilise the resources available to them to fund service delivery. Where this capacity is lacking, it is important that all the actors involved in the decentralisation process in a country coordinate their efforts towards building capacity at the local level. Capacity building involves the interplay and complementarity of two factors:

1. **Resources:** Resources are human, physical, financial and technical. Reinforcing the capacity of a municipality, for example, requires making available adequate levels of these various resources so that the municipality will be able to put into practice the skills learned during any given training. In many cases, problems such as poor infrastructure and roads, lack of vehicles and lack of training constitute obstacles that must be overcome in order to better target the available resources for service delivery. However, the availability of qualified and competent human resources may be one of the most important factors that could slow down progress in the implementation of a decentralisation programme.
2. **Management:** The second component of a capacity-building programme is management. This is an *intangible* capacity that consists of leadership training and decision-making capacity building. Management activities include planning, goals setting, attribution of responsibilities, resources allocation, incentives and personnel supervision.

### *The volatility of resource flows*

Resource flows into developing states can fluctuate based on a complex set of factors which create a volatile system of funding for developing states. It is now well established that in development, achieving sustainable success in the

long term requires both forward-thinking and patience. Unfortunately, donors looking to invest resources favour short-term, tangible results, which are difficult to quickly create and then sustain. Given such constraints, projects often face funding withdrawal if they cannot produce quick results, thus creating an environment of short-sightedness and uncertainty. Public opinion indirectly fuels this problem as well: while public awareness campaigns can quickly bring attention and direct funding to problems, the public’s short attention span can undo much of the development work.<sup>6</sup> On a local level in almost all African states, civil society groups are hard-pressed for the resources and skills necessary to effectively attain such short-term results. The lack of monitoring capability or inability to keep up with the monitoring requirements leads to a reluctance to lend funds, which creates a difficult cycle from which to escape. Even if resources are secured for a project, two major problems continue to hamper effective monitoring of resource flows: the issue of leakages, and limited capacity.

1. **Leakages.** Even when resources are earmarked for local distribution, the lack of an effective regulatory system means that much of the original sum may be siphoned off or lost before it reaches citizens. When donors opt to provide basket funding or budget support, money intended for local services is generally allocated at the national level. Four major problems occur here:

- i. *Fungibility of funds.* Many times when funds are allocated through budget support, they are placed in the general government flow, where they can get allocated to uses other than their intended use, and this is usually due to a lack of clearly applied accounting principles. It is said in such instances that development aid is fungible. The remedy for this problem would require governments to put stricter controls in place to regulate fund allocation and ensure money is not put into accounts where it can be sequestered for other purposes. However, it is difficult to find examples where this level of transparency is the preferred option chosen by governments, because once funds have been disbursed it becomes very difficult for donors to properly track the usage of those funds.
- ii. *Corruption.* While the aforementioned problem implies aid loss from ineffective budget policies, funds continue to be siphoned off as a result of corrupt practices. In Nigeria for example, powerful state governors monopolise almost half of the federal budget. While one might think this a good example of decentralisation, Robert Rotberg of Harvard’s Kennedy School of Government estimates that 30 of the 36 state governors are corrupt, which in turn feeds corruption among local officials.<sup>7</sup> Until effective accounting measures are enacted and transparency initiatives are enforced, corruption will continue to plague aid distribution both at the national and the local level.
- iii. *Allocation formulas.* A third difficulty local groups face when securing aid from national governments lies in the formulas, or lack thereof, used to appropriate funds. Allocation formulas, particularly with respect to intergovernmental flows, and sectoral flows, can be an effective way

<sup>6</sup> Given the difficulty of achieving real success in the short term, donors can respond to public pressure to shift support from cause to cause. The LiveAid series of concerts in 1985 shed much-needed public light on famine relief in Ethiopia and generated official estimates of close to US\$150 million in funding support, but funding shifted to other priorities in subsequent years.

<sup>7</sup> Council on Foreign Relations (CFR.com).

to distribute aid from national budgets to local levels. Such formulas should remain consistent and transparent so as to allow insight into the exact level of funding transferred to a local government, and with clear indications of the basis on which performance should be rewarded or punished. Such allocation methods vary from state to state and may depend on donor constraints, but inconsistent formulas from year to year make it extremely difficult for local authorities to count on reliable levels of aid flows.

- iv. *Lack of accountability.* A severe shortage of budget watchdog agencies, in tandem with poor government oversight in budget accounting, creates a recipe for disaster regarding accountability. Often governments lack the resources to effectively check that their budgets are regulated and monitored, and the few budget monitoring groups that exist experience major difficulties in gaining access to reliable budget data. One such group, the International Budget Project, has had some success and promotes budget accountability measures in 85 countries. Their work in Uganda in tandem with the Uganda Debt Network was particularly instrumental in reducing corruption among district-level and local-level officials through enhanced transparency and public access to budgets.<sup>8</sup> Despite such success stories, however, much work and many improvements remain.

2. **Limited capacity at the local level.** In addition to the problems that confront resource distribution at the national level, the local levels are also confronted with limitations to their ability to effectively monitor resource utilisation. Indeed, with few exceptions, African states lack a strong level of citizen participation. In states like Nigeria, where relations between the national ruling party and certain regional parties are tense at best, national governments are reluctant to pass along funds to the local level due to corruption problems at the local level. In general, a vacuum of accountability structures at the grassroots level in many countries explains the weakness of social accountability as a mechanism to monitor resource flows. Without a strong number of local civil society organisations (CSOs), empowered local councils, and local citizen groups, national governments feel little pressure to fuel resource distribution locally. Here international NGOs and CSOs can play an important role in training and developing domestic groups. But they too can be limited in their efforts to monitor resource utilisation at the local level. A Swiss Agency for Development and Cooperation (SDC) study in 2006 in Ghana reveals for example that resource-flow monitoring is a highly politicised process and is generally relegated to Accra-based think-tanks. The study indicates that CSOs are hampered in their monitoring efforts by the lack of information, resources, trained staff and ownership by the populations.<sup>9</sup>

Several solution approaches result from the discussion of resource monitoring at the national and local levels. There is clearly a need to enhance local and national accountability in monitoring resources. First, donors and recipient states should push hard to increase budget transparency by enforcing accounting methods and

<sup>8</sup> See the International Budget Programme website at <http://74.125.47.132/search?q=cache:Vl9Whzf7GIUJ:www.bidpa.bw/documents/AboutIBPEnglish.pdf+international+budget+partnership+%2B+uganda&cd=8&hl=en&ct=clnk&gl=us>

<sup>9</sup> [http://74.125.47.132/search?q=cache:2SarjPJJrF8J:www.alliancesud.ch/english/files/T\\_EgDyCa2.pdf+lack+of+local+monitoring+in+ghana&cd=2&hl=en&ct=clnk&gl=us](http://74.125.47.132/search?q=cache:2SarjPJJrF8J:www.alliancesud.ch/english/files/T_EgDyCa2.pdf+lack+of+local+monitoring+in+ghana&cd=2&hl=en&ct=clnk&gl=us).

abiding by strict and open budgetary practices. Second, CSOs or the private sector could fill an important gap where governments may lack capacity, but they lack both access to reliable data and, in certain cases, government cooperation. Increasing the number of independent budget monitoring groups will enable more resource flows to reach citizens on the local level. Finally, multilateral agencies and CSOs should push to empower local citizens and increase their capacity to demand accountability and monitor budget allocation. Local pressure on national governments to efficiently utilise funds is a key tool to successful resource management. An example of collaboration between a donor nation, the government, and the private sector occurred in 1999 when Belgium offered to pay backlogged salaries to civil servants in Niger to ease the transition into a new democratic government. To carry out this programme, Belgium selected to employ a group of local auditors to sift through government finances and increase transparency in the payments system. Such an effort highlights how donor states can work with the private sector and recipient states to maximise available resources and improve effective monitoring and accountability.

### **LOCAL COUNCIL OVERSIGHT IN AID MONITORING: A SUMMARY FROM A WORLD BANK STUDY ON AFRICAN LOCAL COUNCIL OVERSIGHT AND SOCIAL ACCOUNTABILITY IN EAST AFRICA**

As decentralisation increasingly encourages resource distribution and development at the local level, there remains the question of the capacity of local councils to effectively monitor resource utilisation and service delivery at the local level. This is the premise of a study carried out by the World Bank covering Uganda, Tanzania, Ethiopia and Kenya. Below are some of the findings of the study.

When empowered, locally elected councils can serve a variety of functions: they oversee public services, promote transparency, hold projects and governments accountable, and serve as a conduit between the interests of citizens and donors. Additionally, councils serve as effective long-term overseers once projects are fully implemented. All four countries in the African Local Council Oversight and Social Accountability (ALCOSA) study have implemented a decentralisation system with elected local councils. But the influence of these local councils on local resource utilisation depends on the country. In Uganda for example, local councils are given extensive power to monitor local executives under the Local Governments Act, but still lack the capacity to exercise these powers. The difficulties encountered by local councils in monitoring resource flows include limited educational level, heavy control from the central government, lack of financial resources, lack of human resources, lack of training, etc. These problems cut across all four countries considered in the ALCOSA study.

In states where decentralisation is a relatively recent process, multilateral agencies can provide effective training programmes to ensure that local leaders have the necessary set of skills to carry out their role. Best practice strategies can be effective in employing successful oversight models to different communities, but care must be taken to successfully integrate them into local communities. Communication and cooperation between project leaders, donors and local councils is also an important tool, especially to promote mutual aims and reduce possible friction between the various sets of interests.

In this vein, the next section will propose a model for the monitoring of resource flows which is based on collaborative efforts among the various players in a decentralised system.

## A PROPOSED MODEL FOR RESOURCE-FLOWS MONITORING

### *Steps of resource-flows monitoring*

In general the steps involved in monitoring resource flows in decentralisation are well known<sup>10</sup> (See Table 1). Ideally, a baseline analysis of the recipient community must be carried out in order to establish an understanding of the socioeconomic situation of the recipient community. Access to information and data availability may not facilitate such a baseline study, but even in cases where usable baseline data is non-existent, the monitoring exercise itself could include the establishment of such baseline data. It is important to clearly outline, from the outset, the goals and objectives of the programmes and/or projects being funded, and to establish a framework for expenditure monitoring prior to the disbursement of funds to the recipient community.

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**Table 1:** Steps in monitoring resource flows in decentralisation

<b>Step 1:</b>	Collect baseline data on socioeconomic situation of community prior to disbursement of funds.
<b>Step 2:</b>	Establish the goals and objectives of the programmes being funded and a framework for expenditures monitoring prior to funds disbursement.
<b>Step 3:</b>	Conduct a comprehensive classification of expenditures by function and by programme.
<b>Step 4:</b>	Assess whether funds have been utilised for intended purposes by mapping expenditures to intended utilisation.
<b>Step 5:</b>	Assess the impact of funding on service delivery.

All steps should be conducted jointly with the decentralisation stakeholders.

Once a baseline is established, the next step is to conduct a comprehensive classification of the recipient community's expenditures by function and by programme (for example, within a health programme, funds may be used for the construction and equipment of a specific number of dispensaries throughout the community). This classification is an important component in the process of tracking the use of the resources engaged in the community. This comprehensive classification is also a necessary step in establishing the budget framework for the programmes being funded. The next phase of the monitoring process is to assess whether the resources are used for the purposes for which they were destined. This is where the *ex-ante* baseline data becomes important. Using the baseline information established prior to the engagement of expenditures, and the expenditures classification created at the start of the programme being funded, each expenditure line can then be mapped to its intended use.

<sup>10</sup> European Centre for Development Policy Management (ECDPM) Study.

As discussed in section 1, in the end the success of a decentralisation programme is evaluated in terms of service delivery. Simply making sure that resources are actually spent may not be sufficient. Additionally, the monitoring efforts must also focus on assessing the impact of those expenditures. A simple assessment method is the before-and-after approach, where a comparison of selected socioeconomic indicators can be made in the period after disbursement of funds relative to the period prior to the disbursements. A more comprehensive impact assessment would also include, however, a survey of the intended beneficiaries of services and, if possible, a statistical impact analysis of the effect of the resources made available to the community. While the steps outlined above are in accord with general practice, we believe this methodology is further strengthened when a participatory approach is adopted.

### ***The importance of a participatory approach to resource-flows monitoring***

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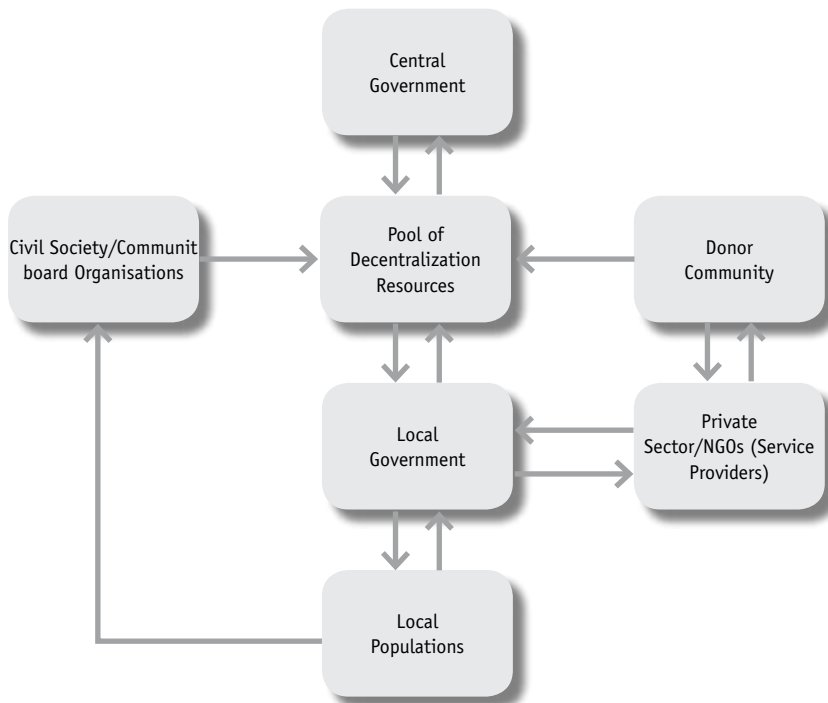
Traditionally, a resource-flows monitoring exercise has been carried out by an external organisation, usually on behalf of the central government or a donor organisation. The process, intended to fulfil the need for information on the part of the donor or the government, usually involves the application of accounting and evaluation procedures developed outside the recipient country or community, with no participation from the national or local actors involved in decentralisation. When carried out this way, the process of monitoring does not serve to build capacity at the national or local levels. For an effective monitoring exercise, a participatory approach is advisable. That is, the institutions or municipalities that are the subjects of the monitoring exercise must take an active role in monitoring the utilisation of resources themselves. For example, the municipality’s human resources, and other stakeholders in the local development process, should participate jointly with the external monitors in each phase of the steps described above.

Figure 1 depicts the interactions between the various stakeholders in decentralisation as far as resource flows are concerned. It is assumed in the figure that central government and the donor community are the main sources of resources for decentralisation programmes and may contribute resources into a pool of resources (such as basket funding) that are used for the implementation of the country’s decentralisation programme. The resources that flow to the local governments are used to provide services as required by the existing decentralisation laws. Some of those resources may also flow to the private sector and specialised NGOs to provide services either directly to the local governments or directly to the local populations, as the case may be. CSOs and community-based organisations play the role of watchdogs to ensure accountability and transparency in the use of decentralisation resources. An interaction between government specialised units and skilled private-sector units (such as local accounting firms), under the watchful eyes of CSOs, will therefore become necessary for the proper implementation of the steps outlined above. Local populations constitute the ultimate beneficiaries of the decentralisation process, therefore they must be empowered to demand accountability and must be an integral component of any resource-flows monitoring system put in place. When the populations do

take ownership of the decentralisation process, the efficacy of resource utilisation is diminished and the effectiveness of monitoring is weakened.

It is important to note that at each level to which resources flow, accountability is demanded and rendered in return. Local governments are accountable both to their citizens and to the central government for the utilisation of resources. Also, in the case where the private sector may be the direct recipients of decentralisation funding, then it is also directly accountable for the utilisation of those resources. Ultimately, citizens must be empowered to demand accountability. Such social accountability pressures can be applied through citizen-based organisations or CSOs, which, as said above, may play a watchdog role for the effective monitoring of resource utilisation at all levels.

**Figure 1:** A Model of Resource Flows and Monitoring in Decentralisation



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Given that each of the depicted stakeholders in Figure 1 forms an important component of the decentralisation process, monitoring should be conducted in a collaborative and transparent manner so as to build the capacity of the various stakeholders. This approach puts a shared responsibility for accountability of the decentralisation resources on the stakeholders first, and it also creates the conditions for the acquisition of strategic planning and budgeting skills which are necessary for monitoring of resources.

### ***What is required for the model to work?***

The model outlined here may not work if the government and the other stakeholders lack a strong political will to adopt an approach to decentralisation that emphasises transparency and accountability. When such a political will exists, the government for example will facilitate access to information and data necessary for monitoring activities to occur. When such political will does not exist, access to important information and data may be deliberately curtailed thereby

damaging the process. The model also assumes that the various actors involved in the decentralisation process will have the capacity to play their roles. When such capacity does not exist, then there is a need to build it at each level. There is also an assumption that the recipient country has in place an institutional setting that clearly spells out the role of each of the players aforementioned in the decentralisation process. In the absence of such an institutional setting, effective monitoring of resource flows may not be realised.

## CONCLUSION

Resource monitoring in Africa, when it occurs at all, is still a very tedious and frustrating process, and nowhere more so than decentralised states. Out of the entire continent and thousands of aid initiatives, only a small number of success stories can be found that demonstrate efficient and effective monitoring of resource flows. A lack of monitoring severely inhibits accurate reporting of project success, which in turn hinders the overall pace of development in Africa. To improve aid effectiveness it is imperative that donor states, recipient states and multilateral agencies collaborate to implement decentralisation projects which include strong monitoring components. This would increase transparency and accountability to promote good governance, using reliable data and readily available monitoring tools. What is proposed in this chapter is that the traditional approach to resource monitoring which focuses almost entirely on the *accounting* side of the issue must be modified to emphasise *accountability*. If such an approach is adopted then the process of monitoring resource flows in decentralisation becomes a participatory and collaborative process, where each of the major stakeholders in the decentralisation process must be empowered to play its role in furthering accountability in general, and social accountability in particular.

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# Conclusion

By *Carmen Alpín Lardiés* and *Mario Claasen*<sup>1</sup>

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The case studies presented in this book have illustrated the diversity and the richness of current initiatives used to improve governments' accountability. Substantial progress has been made since the pioneering initiatives on social accountability: those on participatory budgeting by the municipality of Porto Alegre, Brazil, on budget analysis by Idasa in South Africa, and the report card on pro-poor services by the Philippines' Department of Budget and Management. There is, however, a long way to go before these initiatives become widespread on the African continent, and some of the common challenges that have hindered progress are examined here. Most of these challenges are not, however, unique to the African continent. For a review of these in the Asia and Pacific region, please refer to Arroyo and Sirker.<sup>2</sup>

The bulk of the book has focused on the *application* of social accountability tools in particular contexts, be it at the local, national or continental level. The book, however, also contains chapters aimed at enhancing practitioners' understanding of specific governance contexts. Chapter 2 examined the strategies employed by civil society organisations (CSOs) to improve governance in situations of crisis, whilst Chapter 12 provided a review of CSOs in Kenya. Chapter 3 examined the role of the media in ensuring the government's accountability, whilst two chapters provided continental overviews on governance and accountability. These were the overview chapter, which presented data from Afrobarometer on citizens' views on governance and citizenship in various African countries, and Chapter 4, which described the African Peer Review Mechanism (APRM), which allows African governments and their citizens to assess governance performance in their countries.

Some of the social accountability approaches examined fall under the public expenditure management cycle, such as Johannesburg City Council's participatory budgeting (Chapter 11), the Centre for Economic Governance and AIDS in Africa's (CEGAA) budget-monitoring and budget-expenditure tracking

<sup>1</sup> Idasa, Kutlwanong Democracy Centre, Pretoria, South Africa

<sup>2</sup> Arroyo, D. and Sirker, K., 2005. *Stocktaking of social accountability initiatives in the Asia and Pacific Region*. Washington: The International Bank for Reconstruction and Development/World Bank.

(Chapter 9), and South Africa's Centre for Social Accountability's (CSA) monitoring of provincial government service delivery (Chapter 1).

Most of these initiatives, however, combine a multitude of tools and activities, opening up the options for the social accountability entrepreneur. South Africa's CSA has employed planning and resource allocation tools, expenditure management tools, performance management tools, public integrity tools, accountability to oversight evaluation tools, as well as litigation (under the Promotion of Access to Information Act) (Chapter 1). Sometimes even the *threat* of litigation is valuable as an advocacy tool, as illustrated by the Kenyans for Peace with Truth and Justice's position towards the Electoral Commission's offences and inefficiencies (Chapter 2).

Other tools used elsewhere in Africa in the past have included community scorecards in Ghana,<sup>3</sup> participatory budgeting in Senegal,<sup>4</sup> expenditure tracking in Malawi<sup>5</sup> and budget analysis in South Africa.<sup>6</sup>

Other social accountability instruments that have not been initiated by civil society have also been covered in the book, including independent pro-accountability agencies such as Malawi's Ombudsman (Chapter 5) or South Africa's Commission for Gender Equality (CEG) (Chapter 8). In addition, the roles of the executive and the legislative in ensuring accountability have been examined by focusing on Kenya's public sector reform (Chapter 7) and the parliamentary oversight function in Mozambique (Chapter 6).

A wide variety of approaches has emerged under the rubric of social accountability. For example, the use of citizen report cards (CRCs), a relatively 'friendly' instrument by which citizens 'grade' public servants on their performance in an attempt to encourage them to improve, is on the rise throughout the world. Tougher strategies, such as independent anti-corruption ombudsmen, are also on the increase. The number of independent agencies has increased dramatically in recent years, with examples such as the Public Protector in South Africa (1994), and the Inspector-General of Government in Uganda (1996).<sup>7</sup> The book has a helpful contribution from Malawi's Ombudsman (Chapter 5), which became operational in 1995. This agency does not only act as a watchdog against maladministration but it also investigates human rights abuses. Ackerman<sup>8</sup> argues that the best accountability system is one that combines soft and tough instruments, and as Alexander O'Riordan concludes in his chapter on CSOs in Kenya (Chapter 12), partnerships between civil society and the government are important but there also needs to be space for civil society to play an antagonistic role.

It is hoped that by having this mix of chapters, discussing various approaches and mechanisms, and examining a wide array of countries, practitioners will be able to draw lessons from the experiences reported in the book. The book aims to contribute to south-to-south learning and the authors provide many pointers for the way forward.

3 Claasen, 2008

4 Innovations Environnement Développement (IED-Afrique), 2008

5 Claasen, 2008

6 Hofbauer, 2006

7 Pope, 2000

8 Ackerman, 2005

## WORKING IN PARTNERSHIP

While previous research has focused on the role of citizens and CSOs in promoting accountability, a greater emphasis is being placed on joint state-civil society initiatives, and this book is a step in this direction. The book examines various social accountability mechanisms originating from CSOs and some originating from official state bodies, but also crucially it includes some arising from governments and CSOs working in tandem.

Ackerman<sup>9</sup> distinguishes between three types of mechanisms to improve government’s accountability: social accountability, independent pro-accountability agencies (IPAs), and public sector reform. The book has presented examples of the three.

For Ackerman, social accountability is the only mechanism that relies on civic engagement. Regardless of whether one considers IPAs as part of a social accountability framework, the important fact is that all three mechanisms are complementary. As Ackerman puts it: “Different strategies create synergies which make the whole much more than the sum of its parts.”

The first section of the book has focused on the experiences of CSOs engaged in social accountability as advocates for change from outside public institutions. These initiatives aimed to improve governance at different levels of government, be it at the provincial level such as South Africa’s CSA’s monitoring of provincial government service delivery, or at the national level. The organisations operate at certain levels based on their own analysis of where a government needs support in service delivery and/or to enhance governance.

The second section of the book comprised government-led actions designed to promote social accountability. The section included chapters by IPAs, such as Chapters 5 and 8, as well as a chapter by the executive (Chapter 7) and a chapter by the legislative (Chapter 6).

Social accountability initiatives have tended to be directed to the executive. But since the late 1990s CSOs have been increasingly concerned with strengthening other institutions to hold the executive accountable. These have included the legislature, the judiciary and the press. It is important to work with legislatures, as they are becoming more important in Africa and have started to extend their communication with civil society. The book provides a good example of the useful role that the legislature can play in enhancing social accountability. Chapter 5 illustrates Malawi’s Ombudsman’s use of its good relationship with Parliament to overcome its lack of enforcement powers in order to hold the executive accountable. Respondents’ compliance with determinations is achieved because of their fear of being reported to Parliament.

The third section of the book included partnerships between the government, civil society and/or the private sector created to promote social accountability. These initiatives aimed to improve governance again at different levels of the government, from the local level such as Madagascar’s experience with the Local Governance Barometer (LGB) (Chapter 10) or Johannesburg’s experience with participatory budgeting (Chapter 11), to the national level such as CEGAA’s experience in helping governments to monitor their AIDS budgets (Chapter 9).

<sup>9</sup> Ibid.

## COMMON SUCCESSES

This volume has brought to the fore some common successes from the implementation of social accountability initiatives. These can be categorised as follows:

The social accountability initiatives presented here have shown greater access to government information by citizens. In Madagascar, the partnership between local government and civil society not only resulted in information that was previously not available to the public to be accessible but also resulted in citizens and local government officials being able to share information on their challenges and expectations. This two-way communication and information dissemination at the start of the process assisted in creating mutual trust and ownership of the initiative.

In South Africa, the CSA used a variety of methods to access information from the government in particular. These methods ranged from litigation to using the media to create awareness on specific issues. In this case study, political will on the part of the government to cooperate with civil society was lacking but in most case studies political will was key to the processes reported.

In numerous cases, political will was a pre-condition in order to achieve corrective actions by government officials. The Malawian Ombudsman and the Kenyan public service reform case studies were both born out of a process of first creating political will from leaders inside and outside of the government. The Malawian Ombudsman had a clear mandate for its operations and was able to take corrective action against government officials for their behaviours. The Ombudsman's work led to a reduction of complaints relating to the government's handling of disciplinary cases, a drop in negligence cases and arbitrary decisions, and a greater responsiveness to citizens' queries. The political will to create such an institution was necessary to achieve the above, in spite of continued challenges in terms of enforceability and resources.

The political will for the Kenyan public service reform came from the highest office in the country, that of President Mwai Kibaki. This gave the initiative the necessary legitimacy and support from other government institutions to ensure it was implemented and achieved successes in the health, water and agriculture sectors.

A significant practical outcome as a result of social accountability work is that new legislation was introduced or amended in some countries. In Mozambique, due to the Parliament's oversight role and partnership with CSOs on HIV and AIDS, Parliament passed a law that guarantees the rights and obligations of people living with HIV and AIDS and set up a parliamentary office dedicated to HIV and AIDS.

The work of the Ombudsman in Malawi led to the establishment of a national service charter setting service delivery standards for all government ministries and institutions. As noted above, this has contributed to ensuring that government institutions are more responsive to the needs of the citizens they serve.

Lastly, a common thread throughout all the case studies is the importance of partnerships. In all case studies, partnerships were the key ingredient for the social accountability initiatives being established and achieving the reported results. These partnerships ranged from CSOs working with other like-minded

CSOs, to government partnering with donors and CSOs. These case studies show very little can be achieved by undertaking an initiative alone.

## COMMON CHALLENGES

Whilst there were many positive results, the implementation of social accountability initiatives also faced many challenges.

Political will is still lacking in many contexts across the continent. Civil society groups are often intimidated by government officials and governments distrust civil society as in the case of the National Civil Society Congress (NCSC) in Kenya reported in Chapter 2. Government officials also do not support the role of pro-accountability independent institutions such as Malawi’s Ombudsman and this often leads to resistance by the government. Examples provided in the book included the resistance of officials to public sector reform in Kenya and to the African Peer Review Mechanism (APRM). The key challenge for practitioners is how to create political will in various contexts.

A lack of capacity to sustain and scale up social accountability initiatives was faced by both CSOs and governments. None of the CSOs in the first section of the book had the capacity to sustain and scale up their initiatives beyond the districts or levels where they were already operating. These challenges are not just about having insufficient human and financial resources to build the capacity and size of social accountability interventions but also about not recognising the nuances of these initiatives and adapting them appropriately to new contexts or settings.

A related issue of resources is governments not allocating and prioritising appropriately their pool of resources. The Malawian Ombudsman, the Kenya public service reform and South Africa’s CGE all suffered under-resourcing, despite rhetoric claiming political support for their work. This is a challenge of governments not prioritising their resources towards pro-accountability institutions as their value is often less obvious than other departments such as Ministries of Health or Education, where more tangible results can be potentially seen. These institutions’ role is, however, of utmost importance in enhancing the overall public service capacity to deliver services effectively to citizens through the promotion of good governance and accountability.

Lastly, an additional challenge that pro-accountability institutions and mechanisms such as the APRM and the Gender Commission of South Africa have to face is that they do not have the necessary powers to enforce their recommendations. These institutions play a watchdog and advisory role but lack powers to hold officials accountable through legal procedures. This seriously hampers these institutions’ ability to seek remedial actions on behalf of citizens who suffered some form of injustice.

## COMMON LESSONS

Given the different social, economic and cultural contexts of the countries covered in the book, it is indeed a complex exercise trying to isolate the critical

factors that determined the success of the reported social accountability initiatives. Some common lessons, however, can be extracted from the experiences in the various countries.

One common pattern was the importance of the media and of having a good communication strategy. The cases of South Africa's CSA and Malawi's Ombudsman clearly illustrate this. The media is a necessary ally of civil society in increasing the pressure on governments and mobilising public support behind issues. South Africa's CSA provides an example of media-based advocacy using community media. They also engaged in capacity building of journalists. The media played a crucial role in legitimising civil society in the mediation process following the post-election crisis in Kenya and in disseminating information to citizens. The media was also used by Malawi's Ombudsman in order to change the government's negative attitudes about the figure of the Ombudsman.

Many lessons for CSOs can be drawn from Juliet Nakato's chapter on investigative journalism. Amongst these is the need to choose topical issues for media advocacy, to adapt the language for public consumption, the need for quality research, of working in partnerships, and of identifying champions. There are risks too, as the media has its own agenda and sometimes journalists are misinformed. Hence the importance of training journalists and of undertaking tracking analyses (to check on the objectivity in reporting).

Secondly, the need for robust research to back up arguments was highlighted in various initiatives, including South Africa's CSA, the NCSC in Kenya, and Mozambique's parliamentary oversight initiative. Improved statistics to inform government planning were also emphasised in the chapters describing Mozambique's parliamentary oversight function.

CSOs' insufficient capacity to meaningfully participate in accountability mechanisms was noted in various chapters, and therefore the importance of developing CSOs' capacities cannot be underestimated. A good example provided in this book of this area of work is CEGAA.

The need for good leadership was particularly highlighted by Cyprian Nyamwamu when reporting on the NCSC in Kenya. Good leadership was a key factor in facilitating the articulation of civil society inputs into the peace agreement negotiations after the 2008 election.

Lobbying and social mobilisation was regarded as essential by many authors, such as Derek Luyt of South Africa's CSA. In almost all the case studies included in this book, individuals were critical in moving the issues forward. For example, the work of Kenya's Public Service Reform and Development Secretariat (PSRDS) required champions to give support to the reform process. Getting support from the international community was considered essential in times of crisis (e.g. the NCSC in Kenya).

Finally, the need for coordinated actions or partnerships cannot be overstated. South Africa's CSA engaged with the government (whilst maintaining independence), CSOs, IPA institutions and with joint government-civil society bodies. Kenya's PSRDS, Mozambique's parliamentary oversight and South Africa's CEG all engaged with non-state actors.

## A FUTURE ROADMAP FOR SOCIAL ACCOUNTABILITY INITIATIVES IN AFRICA

We and the contributors could not have emphasised more that context is essential to understanding social accountability. What works in one community might not work in another for a variety of reasons. Notwithstanding this, we have attempted above to draw upon the broad commonalities of results, challenges and lessons that these case studies have presented. These commonalities have also brought to the fore future themes we need to engage with more fully.

In the beginning the authors indicated that this is not a definitive or comprehensive source of knowledge of current social accountability initiatives on the continent. This collection of case studies has provided the reader with a snapshot of what is currently happening in this field. Below are some key themes that we believe need deeper analysis in theory and practice.

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### *Political will or buy-in*

Political leaders act as gatekeepers to key institutions and can stall any process from moving forward. So how do practitioners of social accountability in and outside of the government garner their support? What is the key message they send to these leaders? Is the message different for political leaders and technocrats? What about religious and traditional leaders? These leaders might not have formal powers as political leaders but they act as important gatekeepers to citizens and have substantial influence over their constituencies’ lives. Is the message the same for the political, religious and traditional leaders? How does one tap into their vested interests and turn these into positives for the social accountability initiatives?

### *Citizen engagement versus influence*

Citizen engagement with government institutions is well documented and takes many forms as highlighted by these case studies. But citizen engagement is the process while citizen influence is a result for transformation. There seems to be a knowledge gap on the continent in understanding the variables that shape citizen influence on governance. How do citizens not only ‘infiltrate’ national or local processes but go a step further to lobby and advocate for their interests to be reflected in policies and implementation plans? In other words, how do citizens ensure they have a seat at the negotiating table with the power to set the agenda?

### *Bridging gaps between the government and civil society actors*

On the one hand, government officials need to be trained to work with CSOs, to understand who they represent, how they govern themselves and make decisions. On the other hand, CSOs need to be trained to work with the government and to increase their knowledge of the policy process. There is still a lack of understanding by citizens and the government on how the two should interact with each other in a non-confrontational manner. We must learn how



to not only bring these two actors together but also to allow them the opportunity to voice their grievances in a process that is mutually constructive.

### ***Engaging with private sector actors***

This book has focused only on government institutions and civil society actors. The book has not addressed how citizens can demand accountability from private sector actors or how private sector actors can enhance their accountability mechanisms towards citizens. In sectors such as extractive industries there needs to be greater understanding of how civil society and citizens can hold not only the government but also private mining or oil companies accountable to local communities for the impact of their activities on, for example, the environment. There is a huge potential for social accountability to unlock the citizens' role in this sector which is currently missing in many of the national and international processes like the Extractive Industries and Transparency Initiatives.

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### ***Sustainability and scaling up***

Many social accountability initiatives are piloted or implemented in just a few districts due to limited human and financial resources. It will be important to explore how to scale up successful initiatives at a country level, and how to institutionalise these in both the government and civil society in order to ensure the sustainability of the initiatives. Cross-learning can play a crucial role in this area but this is only a small component of the larger agenda of scaling up and sustaining the gains made.

### ***Capacity building of social accountability practitioners***

It is hoped that this book will be a step forward in assisting practitioners to understand and increase their knowledge on social accountability, but more needs to be done to fill the knowledge gaps of practitioners. The continent is divided between Francophone, Lusophone and Anglophone regions and often language and cultural barriers prevent practitioners in these sub-regions from learning from each other, sharing information and building upon their existing knowledge. A programme dedicated to practitioners, in CSOs and the government, is needed to not only transfer skills but also to enable practitioners to connect with others across the continent.

### ***Longitudinal evidence on service delivery and governance***

Those working in the area of social accountability have long provided evidence of the linkages between budget inputs and budget *outputs*, but there is lack of information on budget *outcomes*. For example, there is little evidence on how the government's increased allocation of resources for roads infrastructure contributes to developmental outcomes for citizens. Key questions that often go unanswered are whether the roads result in farmers having better access to markets, or whether children's attendance in schools increases. This evidence is necessary to enable the government, donors and citizens to improve services, enhance governance and ultimately uplift the lives of the poor.

These case studies have shown the potential of social accountability initiatives. Social accountability not only has the potential to improve governance but ultimately contributes to democracy, citizen empowerment and the alleviation of poverty and injustices upon the marginalised of this continent. It is a long journey but this is just a small but necessary step towards those goals.

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# Contributors

## **Introduction**

**Authors:** Mario Claasen and Carmen Alpín Lardiés, Idasa, Kutlwanong Democracy Centre, Pretoria, South Africa

Mario Claasen and Carmen Alpín Lardiés are joint co-project managers of the Affiliated Network for Social Accountability (ANSA) in Africa. Mario Claasen is also a Senior Specialist in Networking and Training in the Economic Governance Programme at Idasa. Previously, he was with the Treatment Action Campaign as the Clinics Coordinator working with communities in improving and monitoring health services.

Carmen Alpín Lardiés joined Idasa in April 2009 as a Senior Researcher. Prior to joining Idasa, she was the Deputy Head of Research at the former Department of Trade and Industry in the UK, where she managed a portfolio of multi-sponsored large research projects, including the highly regarded Workplace Employment Relations Survey, and was one of the co-authors of the book of findings from this survey.

## **Overview: Controlling Power – African’s Views on Governance, Citizenship and Accountability**

**Author:** Robert Mattes, University of Cape Town, South Africa

Professor Mattes is Director of the Democracy in Africa Research Unit at the University of Cape Town. He is co-founder and Senior Advisor to the Afrobarometer, a regular survey of Africans’ attitudes towards democracy, and Principal Investigator in the African Legislatures Project which aims to collect systematic data on the powers, resources, attitudes and values of MPs in Africa.

### **Chapter 1: Seeking Social Accountability from Provincial Government in South Africa**

**Author:** Derek Luyt, Public Service Accountability Monitor (PSAM), Centre for Social Accountability, Grahamstown, South Africa

Derek Luyt has worked as a journalist and editor and taught sociology and investigative journalism. He currently serves on the Law and Human Rights Working Group of the South African National AIDS Council (SANAC) and is a member of the National Working Group on Sexual Offences and the Eastern Cape Victim Empowerment Forum. He joined PSAM as Head of Media and Advocacy in July 2007.

### **Chapter 2: Ensuring Social Accountability in Times of Political Crisis in Kenya**

**Author:** Cyprian Nyamwamu, National Convention Executive Council (NCEC), Nairobi, Kenya

Cyprian Nyamwamu is Director of the NCEC in Kenya. He leads various civil society coalitions and initiatives advocating for democratic accountability, comprehensive constitutional and institutional reforms and communities’ access to rights. Currently, Nyamwamu is researching and supporting national initiatives aimed at delivering the Kofi Annan-facilitated National Accord agreements, which have as their main objective the establishment of a democratic, open government in Kenya.

### **Chapter 3: Using the Media to Advance Social Accountability in Uganda**

**Author:** Juliet Nakato Odoi, Agency for Cooperation and Research in Development (ACORD), Kampala, Uganda

Juliet Nakato’s expertise is in advocacy, minority rights and working effectively with the media to ensure government accountability. She was instrumental in creating sections of civil society’s submission to Uganda’s African Peer Review Mechanism (APRM). Previously, at Minority Rights Group International (MRGI), she led a successful advocacy campaign that resulted in increased awareness of the needs of the Batwa and resulted in the inclusion of Batwa-specific policies in Uganda’s Poverty Reduction Strategy Paper (PRSP).

### **Chapter 4: Monitoring Ourselves – The African Peer Review Mechanism (APRM) as a catalyst for Accountability**

**Authors:** Terence Corrigan and Steven Gruzd, South African Institute of International Affairs (SAIIA), Johannesburg, South Africa

Terence Corrigan is a researcher and analyst employed until recently by the Governance and APRM Programme at SAIIA. His interests and expertise include foreign policy (in particular, its relationship with human rights), governance, accountability and development, and the interaction of politics, culture and religion. He has published widely on matters related to governance and development.

Steven Gruzd is Head of the Governance and APRM Programme at SAIIA. His research interests include governance, the APRM, South Africa's international relations, African affairs, and sport and politics. He is the co-author with Ross Herbert of *The African Peer Review Mechanism: Lessons from the Pioneers (2008)*, and numerous other chapters and articles on the APRM and governance-related issues.

#### **Chapter 5: The Role of the Ombudsman in Ensuring an Accountable Public Service – Malawi's Experience**

**Author:** Honourable E. Chibwana, Ombudsman's Office, Malawi

Honourable Chibwana is the current Ombudsman for Malawi. His office investigates citizen complaints of civil rights abuses by the government. This is his second term as Ombudsman. He is the First Vice President for the African Ombudsman and Mediators Association and also Vice President for the International Ombudsman Institute responsible for the African region. Prior to becoming Ombudsman, he served in the Ministry of Justice in various capacities and retired as a Chief State Attorney.

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#### **Chapter 6: Parliamentary Oversight of the HIV and AIDS Pandemic – The Case of Mozambique**

**Author:** Honourable Isau Joaquim Meneses, Member of Parliament, Mozambique

As chair of the Committee for Social Affairs, Gender and Environment, Honourable Meneses has played a leading role in increasing Parliament's oversight of the Executive branch and improving its consultative process in developing new legislation to combat HIV/AIDS. He is a sociologist and a lecturer in Urban Sociology at the Higher Institute of Science and Technology.

#### **Chapter 7: Improving Public Service Delivery: Kenya's Public Service Reform (2003-2007)**

**Author:** Joyce Nyamweya, Governance and Public Administration, United Nations Economic Commission for Africa (UNECA), Addis Ababa, Ethiopia

For 25 years Joyce Nyamweya has held senior leadership and management positions related to institutional transformation and strengthening. In recognition of her contributions to public service reform in Kenya, she was awarded the highest national commendation, Chief of the Burning Spear (CBS), by the President of Kenya, for advancing the government's public service reform agenda. She currently works as a Senior Regional Advisor at UNECA, focusing on public sector reform and development in African member states as well as the supranational organisations such as the African Union, the Regional Economic Communities and Inter-Government Organisations.

#### **Chapter 8: Leveraging State Accountability: The South African Commission for Gender Equality**

**Author:** Janine Hicks, Commission for Gender Equality (CGE), South Africa

As the former director of the non-profit organisation, the Centre for Public Participation, Janine Hicks is a recognised advocate for increased citizen participation in the policy-making process. She has served as a Commissioner with the CGE since 2007. The CGE is an independent state institution established to promote gender equality and the enhancement of the quality of life and status of women.

### **Chapter 9: Developing Civil Society’s Budget-Monitoring Capacity of HIV and AIDS Resources in Southern and Eastern Africa**

**Authors:** Teresa Guthrie, Nhlanhla Ndlovu, Rose Wanjiru and Dr Paulina Chiwangu, Centre for Economic Governance and AIDS in Africa (CEGAA), Cape Town, South Africa

Teresa Guthrie, Director, is a health economist with five years experience in economic and budget analysis, resource tracking, capacity building and technical training on budgetary processes in Africa, Latin America and East Europe. Prior to co-founding the Centre for Economic Governance and AIDS in Africa (CEGAA), she was the Regional Co-ordinator for the AIDS Budget Unit of Idasa and co-ordinated multi-country budget monitoring projects.

Nhlanhla Ndlovu, Parliamentary and Civil Society Programme Manager, was previously Provincial Manager of KwaZulu-Natal Child Services programme for Absolute Return for Kids (ARK), where he promoted access to social security as an intervention in mitigating the social impact of AIDS. He spent several years working for Idasa’s AIDS Budget Unit where he monitored resource allocation and utilisation of HIV and AIDS funds in South Africa.

Rose Wanjiru, Civil Society Project Co-ordinator, is a development specialist with experience in networking, advocacy and partnering with civil society groups.

Dr Paulina Chiwangu, Project Coordinator, is a social scientist who has worked in the HIV/AIDS field for several years. Her previous placement was with the Zambian National AIDS Council (NAC) (funded by the United Nations Development Programme -- UNDP) as their monitoring and evaluation advisor, and she participated in their National AIDS Spending Assessments (NASA) with CEGAA.

### **Chapter 10: The Local Governance Barometer – Measuring Governance in Madagascar**

**Author:** Jean-Michel Dufils, Pact, Madagascar

Jean-Michel Dufils, the Country Representative of Pact Madagascar, has more than 25 years of experience in governance and knowledge-based decision-making systems applied in various sectors such as natural resource management, health and education. He is an expert in the use of geographic information systems analysis and other technology-based analytical systems as tools for empowering local stakeholders in making rational development decisions. He has pioneered development of the Local Governance Barometer, which is a

participatory assessment and evaluation tool that local government authorities and communities can use to improve governance.

### **Chapter 11: Activating Citizens through Community-Based Planning: The Case of Johannesburg**

**Authors:** Lesley Hudson and Khadija Richards, Cut to Black, Johannesburg, South Africa

Lesley Hudson and Khadija Richards have been working in the areas of development communication and public participation in South Africa for the last 15 years. Over the last three years the pair have incubated and tested a community-based planning model that integrates what tends to be considered as micro planning or urban management interventions with scale public private partnerships that reorient or reshape a city's spatial and/or governance landscape. Often the two approaches to planning, top-down and bottom-up, have been projected as mutually exclusive. In Hudson and Richards' model, the integration is possible, resulting in some unique lessons in city governance and active citizenship, including participatory budgeting for the entire city of Johannesburg.

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### **Chapter 12: Towards an Enabling Environment for Social Accountability in Kenya**

**Author:** Alexander O'Riordan, Addis Ababa, Ethiopia

Alexander O'Riordan has been working in the international development sector since 1996 specialising in institutional strengthening, governance and civil society development. He has worked in Eastern and Southern Africa, the Caribbean and the Balkans. He is currently working on building government ownership and institutional capacity to ensure aid effectiveness for the government of Ethiopia and the European Commission in Addis Ababa.

### **Chapter 13: Monitoring Resource Flows in Decentralising African States**

**Authors:** Mary McNeil, World Bank, Washington DC, USA, and Sylvain Boko, University of Wake Forest, USA

Mary McNeil is Senior Operations and Task Team Leader in the World Bank Institute's Governance Program. She developed the model for and manages the Affiliated Networks for Social Accountability and has spearheaded the Institute's work on participation and social accountability for the past decade. Since 1986 she has worked in various capacities within the World Bank Group, including managing operational, technical-assistance and capacity-building programmes in the Water and Sanitation, Urban, and Social Development Sectors. From 1995-1997 she oversaw NGO relations for the International Finance Corporation. She is the author of *Demanding Good Governance, A Stocktaking of Social Accountability Initiatives in Africa*, co-author with the Organisation for Economic Cooperation and Development (OECD) of *Beyond Public Scrutiny: A Stocktaking of Social Accountability in OECD Countries*, and is a visiting professor in Economics and International Development at Wake Forest University.

Dr Sylvain Boko is an Associate Professor of Economics at Wake Forest University. He has published in the areas of institutional and economic reform, decentralisation, local community finance, gender and globalisation. As a decentralisation specialist he has accumulated over 18 years of experience in economic development and socioeconomic impact assessment of international development programmes. His work has focused primarily on African countries, including Rwanda, Uganda, Tanzania, Senegal, Togo, Mali, Benin, Ghana and Burkina Faso. He is the author of *Decentralisation and Reform in Africa*.

### **Conclusion**

**Authors:** Carmen Alpín Lardiés and Mario Claasen, Idasa, Kutlwanong Democracy Centre Pretoria, South Africa

See Author information, Introduction.





# SOCIAL ACCOUNTABILITY IN AFRICA

*Social Accountability in Africa: Practitioners' Experiences and Lessons* is a collection of case studies from Africa on social accountability. This collection attempts to build a consolidated body of knowledge on social accountability efforts across the continent. The case studies are diverse and present unique approaches to how social accountability strategies and interventions are implemented within different countries.

The book is written by practitioners, for practitioners, providing first-hand experience of designing and implementing social accountability initiatives and the challenges, methods and successes each one presents.

- While most research focuses on the role of citizens and civil society organisations in promoting accountability, this book places a greater emphasis on joint state-civil society initiatives.
- Where before social accountability initiatives have been known mostly only in their own countries, and few African campaigns have been documented, this book aims to fill this gap by recording different approaches within an array of African countries.

*The Affiliated Network for Social Accountability in Africa (ANSA-Africa) supports the engagement of citizens and civil society in building more effective states through social accountability approaches.*



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