

**THE INSTITUTE FOR SOCIAL ACCOUNTABILITY
(TISA)**

**POLICY PROPOSALS ON CITIZEN PARTICIPATION IN
DEVOLVED GOVERNANCE IN KENYA**

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EXECUTIVE SUMMARY

The New Constitution of Kenya lays the basis for the development of a policy framework on citizen participation in devolution. This paper aims at informing the design and content of the policy framework on devolution for more effective citizen engagement. The paper begins by defining citizen participation, what it entails and its significance in governance. This definition allows for the conceptualization of citizen participation into eight core elements that constitute citizen engagement in devolved governance. The main body of the paper discusses the eight thematic areas through an examination of their status in the current devolved structures. The paper highlights the strengths and weaknesses of present devolved structures giving rise to policy concerns addressing each of the thematic areas. The eight core areas are citizen awareness, capacity building, planning, implementation, monitoring & evaluation, feedback & reporting mechanisms, financial resource mobilization and Citizen Engagement Forums. Some of the major policy concerns emanating from the examination of the past and present devolved structures are:

- The need to create awareness amongst both duty bearers and citizens on what citizen participation is and its importance.
- The need to build the capacity of citizens to enhance their participation in the management of local affairs and projects, and to hold duty bearers accountable. Duty bearers also need continuous capacity building on participatory methodologies.
- Poor information management on the part of duty bearers alienates citizens from effective engagement in local governance. This calls for the strengthening of communication mechanisms under devolved systems.
- Poor planning has often contributed to the marginalization of communities, poor prioritization of community needs and high incompleteness rates of projects at local levels.
- Planning under county governments should be grounded on consultative processes and informed by statistical and factual data. Communities need to develop county visions that are guided by strategic action plans.
- Need for effective legislation that compels duty bearers in public offices to account to the citizens.
- Planning, implementation and monitoring and evaluation should be devolved to lower levels within the county system to ensure greater representation of communities. This necessitates the establishment of representative citizen forums.

The emerging policy concerns lay the foundation for proposals and considerations to be made that can be adopted for implementation under the county governments. The policy proposals are systematically presented under each of the thematic elements of citizen engagement. Structures that can facilitate citizen participation within the county systems are suggested with clear guidelines for their constitution and implementation provided. The paper also reviews some case studies and highlights best practices within these that can further inform the design of the policy framework.

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LIST OF ABBREVIATIONS

AIHD	-	African Institute for Health and Development
CBOs	-	Community Based Organizations
CBMS	-	Community Based Monitoring System
CDF	-	Constituencies Development Fund
CDFC	-	Constituencies Development Fund Committee
CDDC	-	Community Driven Development Committees
CEDMAC	-	Consortium for the Empowerment and Development of Marginalized Communities
CIMES	-	County Integrated Monitoring and Evaluation System
CSAPs	-	County Strategic Action Plans
CSIPs	-	County Strategic Investment Plans
CSOs	-	Civil Society Organizations
DED	-	Development the German Development Service
DFRD	-	District Focus for Rural Development
DSBO	-	District Social Budgeting Observatories
ESP	-	Economic Stimulus Programme
FOI	-	Freedom of Information
IPD	-	Institute of Participatory
ICJ	-	International Court of Justice
KHRC	-	Kenya Human Rights Commission
KISREWA	-	Kisumu Residents Water Association
KNBS	-	Kenya National Bureau of Statistics
LASDAP	-	Local Authority Service Delivery Action Plan
LATF	-	Local Authority Transfer Fund
MDGs	-	Millenium Development Goals
M&E	-	Monitoring and Evaluation
MRF	-	Malindi Residents Forum
MSPNDV	-	Ministry of State for Planning, National Development and Vision 2030
NIMES	-	National Integrated Monitoring and Evaluation System
NGOs	-	Non Governmental Organizations
PICD	-	Participatory Integrated Community Development
PIP	-	Participation in Partnership
SCCF	-	Sub-County Citizens' Forum
SBF	-	Social Budgeting Framework
SPAN	-	Social and Public Accountability Network
SSBO	-	Social Budgeting Observatories
WAGS	-	Water Action Groups
WASREB	-	Water Services Regulatory Board
WCF	-	Ward Citizens' Forum
WSPs	-	Waters Service Providers

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1 INTRODUCTION

Over the years, Kenya has progressively shifted from a centralized to a decentralized form of governance. This paradigm shift was precipitated by the shortfalls that are often characteristic of highly centralized systems. The shortfalls include administrative bureaucracies and inefficiencies, misappropriation of public resources and the marginalization of local communities in development processes. Consequently in the late 1990s, the government began the devolvement of specific funds and decision making authority to the districts, local authority and constituency levels (Legal Resources Foundation Trust, 2009). However, devolution systems and structures have lacked a coherent or coordinating framework. They have thus been marred by overlaps, duplication, and despite their multiplicity, low citizen involvement (Kenya Human Rights Commission [KHRC] and Social and Public Accountability Network [SPAN], 2010).

The promulgation of the New Constitution in August 2010 provides a strong legal foundation for the enhancement of participatory governance through devolved structures at county level. This is an important milestone, but it is critical at this stage of the design process to take stock of the empirical findings of research and counsel of practitioners. Indeed, scholars concur that devolution is not without its risks and does not necessarily lead to improved governance and economic performance. Devolution rules and systems thus need to be properly designed and implemented. Conversely, it would only lead to the translation of central government bureaucracies, poor utilization of resources, rent seeking and lack of accountability to the sub-national units (Barret, Mude and Omiti 2007; Mwenda 2010; Omolo 2010).

The purpose of this policy paper therefore is to give policy proposals on citizen participation. The proposals have been arrived at through analytical reviews of the country's own experiences with current decentralized structures. They are also informed by best practices that have been modelled both within the country and externally from other countries.

1.1 Overview of Methodology

The policy recommendations have been derived from two key processes.

1.1.1 Secondary data Collection:

This involved a literature review of documented research findings and reports on the existing devolved funds and other participatory mechanisms. A full list of documents reviewed is provided in the references.

1.1.2 Primary data

This involved an analysis of in depth interviews held with government officials and representatives from civil society organizations with experience in participatory governance. The data collection instruments to guide the key informant interviews were developed from the literature review.

1.2 Rationale for Policy Guidelines on Participation

The New Constitution lays the basis for the development of a policy framework on citizen participation. Key provisions pertaining to this are:

- a) Article 1 (4), that Sovereign power of the people is exercised at the (a) National level and (b) the county level.
- b) Article 6 (2), the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.
- c) Article 174, the objects of devolution are to (c) give powers of self-governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them (d) recognize the rights of communities to manage their own affairs and to further their development.
- d) Article 184 (1), which states that National Legislation shall provide for the governance and management of urban areas and cities and shall in particular (c) provide for participation by residents in the governance of urban areas and cities.
- e) Article 196 (1), which states that a county assembly shall conduct its business in an open manner and hold its sittings and those of committees in public, and facilitate public participation and involvement in the legislative and other business of the assembly and its committees.
- f) Article 232 (1) on the values and principles of public service which include: (d) involvement of the people in the process of policy making and: (e) accountability for administrative acts and (f) transparency and provision to the public of timely and accurate information.
- g) Fourth Schedule Part 2 (14) which stipulates that the functions and powers of the county are to ensure and coordinate the participation of communities and locations in governance at the local level. Counties are also to assist communities to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.

1.2.1 Defining and Understanding the significance of Citizen Participation

Participation is the process through which stakeholders' input and share control over development initiatives, decisions and resources which affect them (Odhiambo and Taifa,

2009). Citing Gardiner (1995), Okello, Oenga and Chege (2008) further define it as a process whereby stakeholders influence policy formulation, alternative designs, investment choices and management decisions affecting their communities.

Participation is important because practical experience on the ground shows that it establishes the necessary sense of ownership. Generally people tend to resist new ideas if these are imposed on them. Participation has greatly contributed to the sustainability of development initiatives, strengthened local capacity, given a voice to the poor and marginalized and linked development to the people's needs. Participation has been instrumental in guarding against abuse of office by public servants and political leaders. It has also provided a control against excessive discretion being vested in civil servants in public procedures. Participation has provided checks and balances against unnecessary political interference in service delivery and disregard for professionalism and meritocracy in the public sector amongst others (Odhiambo and Taifa, 2009).

1.2.2 What does Citizen Participation entail?

There are two broad dimensions of citizen participation namely, indirect involvement and direct involvement. Indirect involvement acknowledges that electoral officials and professional administrators should act on behalf of the citizens in a representative democracy. Direct involvement suggests that citizens are the owners of the government and should be involved in the decisions of the State (Yang and Callahan, 2005). This paper therefore focuses on direct participation. This dimension is administrative centric. This simply means that it focuses on the role of the public in the process of administrative decision-making or their involvement in decision-making related to service delivery. It thus implies governmental efforts to involve citizens in administrative decision making and management processes. Since it occurs primarily at the administrative-citizen interface direct participation therefore differs from political participation. The latter includes but is not limited to voting in elections, contacting elected officials and campaigning for political candidates (Yang and Callahan, 2005).

The imperative for citizen participation is also drawn from their statutory duty to pay taxes for service delivery. This means that they are not only consumers of services but essential financiers of government. Citizen participation in administrative decision making is thus inclusive of goal setting, determination of strategies, policies, and monitoring and evaluating government services. Citizen participation activities would then relate to the techniques and mechanisms to arrive at these. The techniques include but are not limited to public hearings and sittings, citizen advisory councils and citizen panels, neighbourhood or resident association meetings and citizen surveys. The functional or practical areas for citizen involvement are economic development, education, environmental protection, public health and policing and public safety amongst others (Yang and Callahan, 2005).

Kenyan citizens will not only engage in the implementation of 15% of the national revenue transferred to their counties, but also in the remaining 85% administered at the national level.

1.2.3 Historical overview on Citizen Participation in Kenya

In the Kenyan context, like in many other countries, participatory development began with and was for a long time confined to community development projects (Wakwabubi and Shiverenje, 2003). Kenya attempted to institutionalize decentralized planning and implementation of its programmes as early as the 1960s through Sessional Papers. The most elaborate was the District Focus for Rural Development (DFRD) Strategy which became operational in 1983. However, the Strategy emphasized involvement of central government field workers in planning and implementation of programmes. This, as Chitere and Ireri (2004) note is contrary to the conception of the participatory approach. Ideally in participation, development workers such as civil servants have a role in facilitating the process through assisting communities to identify and solve their own problems. The DFRD Strategy also faced challenges in implementation because it lacked an Act of Parliament that could entrench the coordinating committees in the law. They therefore operated administratively rather than legally. This has been a characteristic of decentralized policies in Kenya whereby some funds have been created by Acts of Parliament and therefore have had legal backing. However, others have been created through policy pronouncements and consequently have had no guarantee of continuity (Kenya Human Rights Commission [KHRC] and Social and Public Accountability Network [SPAN], 2010).

A landmark event in the evolution of participatory development and law in Kenya was the enactment of the Physical Planning Act in 1996. The Statute does provide for community participation in the preparation and implementation of physical and development plans. However, its major shortfall is the lack of the critical element of community sensitization on their roles. Physical planning is also centralized in major towns and thus communities residing in remote areas remained marginalized in participatory planning (Okello et al, 2008).

The Local Authority Service Delivery Action Plan (LASDAP) and Constituencies Development Fund (CDF) have been the main vehicles of community participation at the local level. The LASDAP was introduced in 2001 through a ministerial circular whilst the CDF was established in 2003 through the CDF Act. The LASDAP are three year rolling plans that are required to have a poverty focus with priority areas in health, education and infrastructure (Kibua and Oyugi, 2006). The LASDAP provides opportunities for the local authorities to constructively engage with local communities on matters of planning, budgeting and development (Ministry of Local Government, 2009). The CDF Act targets constituency level development projects particularly those aiming to combat poverty at the

grassroots. The CDF Act provides for communities to participate in development through its various committees. The CDF Committee (CDFC) members are selected by the local MP, although a framework detailing the categories of representation is legally provided for. The other is the Project Implementation Committee which is made of local stakeholders (Odhiambo and Taifa, 2009).

A major weakness in the CDF Act has been the lack of clear mechanisms for the community to participate in decision making. Whereas these exist under the very elaborate LASDAP framework revised in 2009, empirical studies have established that there exists a gap between policy and practice. The weak articulation of mechanisms of engagement has significantly affected the success of the LASDAP and CDF. In order to enhance participation as the country implements devolution at county level, there is need for clear mechanisms for engagement and articulation of community interests.

The existence of several funds has been another key impediment to effective citizen engagement in devolved governance. A study on the harmonization of decentralized development in Kenya, examined the effects of the existence of multiple funds and the duplication of implementation jurisdictions. The study established that these have largely deterred citizen engagement in local governance. Citizens have been confused by the existing overlaps between administrative boundaries which have made it difficult for them to understand or recall the processes involved in fund administration. The overlaps have also made it difficult to conduct monitoring and evaluation (KHRC and SPAN, 2010). The study proposes that for effective citizen participation to be realized there must be harmonization of the funds into a single basket under the county government.

This policy document thus seeks to point out the principles necessary for effective citizen participation. It achieves this through an examination of the successes and challenges of present devolved structures. It thus focuses mainly on the two most popular vehicles of citizen engagement, LASDAP and the CDF. The paper also discusses comparative models of citizen engagement from which legislators can adopt best practices in designing a legal framework for citizen participation.

The paper addresses eight thematic areas that are the core elements of citizen participation. These are Citizen Awareness; Capacity Building; Planning and Budgeting; Implementation; Monitoring and Evaluation; Inclusivity and Composition of Citizen Forums; Feedback and Reporting Mechanisms and Financial Resource Mobilization.

2 ELEMENTS OF CITIZEN PARTICIPATION AND THEIR STATUS IN CURRENT DEVOLVED STRUCTURES

2.1 Citizen Awareness

For devolution to be successful, the citizens must be politically conscious¹, and have access to information. They must not only be aware of their rights and responsibilities but also know the channels via which they can exercise them (Omolo, 2010).

A study conducted by the IEA on the CDF showed that CDF is generally well known in many communities across Kenya's eight provinces (85%). However, the knowledge of regulations and specifics of CDF was very low (21%) and communities were unaware of costs of projects and disbursed amounts (IEA, 2006). Similarly the study by KHRC and SPAN (2010) ascertained that citizen awareness of CDF was very high (96%) but involvement very low (39%).

Another study conducted in Turkana District by Oxfam GB showed that there were extremely low levels of awareness of the LASDAP process (18%). A majority of respondents (82%) were not aware. The low levels of awareness are due to the limited one week period within which notice is given of LASDAP meetings. In a vast and remote district like Turkana one week's notice is insufficient for effective outreach to the communities. Lack of funds for transport to access the remote areas further compounds the outreach.

Similarly in Malindi, communities requested the Local Authorities for sufficient notice to enable them have prior consultation. This was intended to facilitate more effective engagement during the LASDAP meetings². The LASDAP does have an elaborate timetable of events from the processes of information gathering to monitoring and evaluation. The timetable should provide citizens with the information that would facilitate their effective participation at each stage, but the timetable is poorly publicized and resourced. The LASDAP desk office is charged with the responsibility of ensuring that the documentation of the LASDAP process is carried out on a timely basis. It also organizes meetings related to the LASDAP process. Thus even with a detailed structure as is the case within the LASDAP process there is limited knowledge amongst the public of the spaces or opportunities for engagement³.

¹ Awareness of political roles

² See case study on Participation in Partnership in Malindi

³ See Appendix II with a detailed description of the LASDAP timetable

Further, though the structures exist there is in some cases little commitment to making them work on the part of duty bearers. At times there are deliberate steps to lock out citizen participation. This is achieved through postponement of meetings and lack of advertisement. Lack of an ingrained culture amongst public officials to share information is a factor that greatly affects the release of adequate information to citizens. There is a tendency by Council officials to engage in the LASDAP process simply to fulfil funding requirements without a sincere commitment to enhancing public participation. The cardinal condition for the disbursement of LATF to local authorities is the preparation of LASDAPs in which the communities participate (Oyugi and Kibua, 2006).

Poor information management and failure to disclose information regarding local development alienates citizens from local development and provides opportunities for corruption (TISA, 2010).

2.1.1 Access to information as an integral component of awareness creation

The right to access information held by governmental authorities often referred to as Freedom of Information is a fundamental human right recognized in International Law. Most recently, Kenya has taken crucial steps towards recognition of the right in the New Constitution. Article 35(1) states that every citizen has the right to access information held by the State. Further, article 35(3) states that the State shall publish and publicize any important information affecting the nation. There are key concerns that have been raised in relation to the goal of the draft Freedom of Information (FOI) Act 2007. The draft is yet to be tabled in Parliament. Its objective is stated as providing a framework for the implementation of the FOI Bill yet there is currently no legislation that the Bill would implement. The lack of clarity also emanates from the insufficiently detailed policies which cannot provide for real and effective implementation of the Act (International Court of Justice (ICJ), 2007).

Access to information is crucial as a right in its own regard and is also central to the functioning of democracy and enforcement of other rights. Without freedom of information, State authorities or agents can selectively release good news whilst withholding damaging information. Such climates then breed corruption and human rights violations can remain unchanged. To guard against such a climate any policy on devolution should provide for legislation that requires counties to adopt principles of maximum openness. As the ICJ (2005) points out, any information held by a public body should in principle be openly accessible. This is particularly in recognition of the fact that public bodies hold information not for themselves but for the public good.

Emerging Policy Concerns

1. Need to designate funds to facilitate the process of citizen awareness creation.
2. County governments should publish and widely disseminate any information of public significance in concordance with the relevant legislation on FOI.
3. Strengthen mechanisms of communication such as the LASDAP desk office and explore alternative methods of disseminating information.
4. The LASDAP desk has defined responsibilities for ensuring timely documentation of the LASDAP process and organization of meetings. The framework is good and should be adopted but strengthened to ensure its optimal efficiency and effectiveness. This may require adequate financial and human resource provision.
5. The need to give sufficient notice of meetings to enable communities adequately prepare to attend and participate effectively in consultations.
6. Where guidelines for participation exist, there is no commitment towards implementing them. There is need to sensitize both communities and duty bearers on the importance of citizen participation.
7. There is need for a calendar of activities to enable citizens engage effectively at various stages of the development cycle.
8. Provision for a recourse mechanism where action against public bodies can be taken if information is unduly withheld.

2.2 Capacity Building

To engage effectively, citizens not only need an awareness of their roles and responsibilities but knowledge and skills on how to execute the responsibilities. Capacity building consists of developing knowledge, skills and operational capacity so that individuals and groups may achieve their purposes (Okello et al, 2008).

An examination of both LASDAP and CDF shows the critical need for building the capacity of communities. The LASDAP planning meetings are scheduled for only one day at the end of which communities are required to come up with proposals. This takes place against a backdrop where citizens are ill-equipped to participate in planning. In Malindi, the Civil Society Organizations (CSOs) and the Malindi Municipal Council have a joint collaborative initiative, termed Participation in Partnership (PiP). Under the partnership, CSOs have committed to holding three-day workshops to educate the communities on how to engage in planning.

Similarly, within the CDF structures, study findings show inadequate knowledge of project planning, implementation and monitoring processes among communities and the various committee members (IEA, 2006). Before the introduction of the CDF Fund managers, there were high levels of wastage and misappropriation of resources. This was due to poor capacity of the committees to manage the colossal funds disbursed to them (Omolo, 2009).

One of the shortfalls of Kenyan leadership is failure to receive criticism positively. For instance, councillors for the most part do not support criticism because they fear losing electoral support. Thus most citizens at the grassroots are wary of holding their leaders accountable so that they are not victimized. Leaders must be sensitized to appreciate that citizens' constructive criticism and input is essential for the success of decentralized funds.

Overall, whereas the CDF and LASDAP may be successful in undertaking and completing local projects, the projects usually deteriorate over time. One of the main reasons behind this is that the communities lack the capacity to sustain projects handed over to them. Local Councils do not receive funds to train community members on project management.

Emerging Policy Concerns

1. County governments should conduct community profiling and needs assessments to inform capacity building. This will include the analysis of technological capabilities of the communities, and an assessment of attitudes, value systems and literacy levels. It may also capture other social and economic indicators that may be useful in tailoring the training curricular and modes of delivery. The overall goal would be to empower stakeholders to formulate proposals and plans, implement projects and ensure their sustainable management.
2. Community profiling and training needs assessment may be done through neighbourhood surveys, Focus Group Discussions and formal meetings with local leaders, CSOs and CBOs. Identification of resource persons who may be trained as trainers may be useful to achieve this. Since it is an expensive venture to undertake it should thus be conducted through a staggered phase that will train the committees directly involved in participation. It could also be done through an initial baseline survey which can be a collaborative effort with the Kenya National Bureau of Statistics (KNBS).
3. County governments should organize for community training on various subjects that would enhance their participation. This would include leadership dynamics, resource mobilization and utilization, basic book keeping, accounts and budgeting, and conflict and conflict resolution. Any other necessary skill may also be identified through the needs assessment.

4. County governments would need to organize for continuous and refresher training courses for duty bearers on participatory methodologies. The training should facilitate attitudinal and behaviour change within government organizations.

2.3 Planning

The current decentralized funds structures provide a relatively better environment for participation to take place in comparison to previous decentralized initiatives such as the DFRD. As earlier mentioned the planning process within the DFRD was executive driven. The LATF/LASDAP has an elaborate local planning mechanism effected through LASDAP consultative forums. The forums act as platforms through which citizens have been able to articulate their interests and priorities (TISA, 2010).

In 2009, the guidelines for the preparation, implementation and monitoring of the LASDAP were revised to improve the process. The guidelines provide that the LASDAP desk in coordination with the Community Development officers should gather information necessary to facilitate an informed LASDAP process. This information should encompass; baseline socio-economic data, stakeholder analysis, resource and social mapping, standard designs and costing. Other vital information includes lessons learnt from the previous year's LASDAP process, analysis of the strategic plan and identification of other national and sectoral priorities. All this information is intended to be ready by the time of the annual planning in September. The various processes in the LASDAP are provided for in the LASDAP timetable⁴ (Ministry of Local Government, 2009). The LASDAP framework provides for evidence-based planning and should be adapted within the planning guidelines for county governments. However, in practice this kind of planning is not realised due to poor resourcing and enforcement of the LASDAP. To ensure effective compliance which has been a key challenge, the framework for information gathering needs to be given legislative force (TISA, 2011). Statutory law should thus emphasize that the prioritization of resources should be based upon evidence-based facts. The data or facts must in part be derived from monitoring and evaluation of the impact of previous policies and projects. The Community Based Monitoring System (CBMS) is one tool that can be modified and adopted by county governments to develop evidence-based strategic plans⁵. The CBMS is relatively expensive to implement as it is done on a household census basis. Thus, the possibility of modifying it to capture representative samples of households in the community would make it more cost-effective and efficient. The LASDAP guidelines presently recognize the critical role of civil society engagement in information sharing and

⁴ See Appendix II on the LASDAP timetable

⁵ See case study on CBMS

monitoring and evaluation. Collaborative mechanisms on how to implement tools such as the CBMS should be exhaustively explored.

It would also be essential to review the weaknesses associated with the LASDAP planning process to ensure they are not replicated in county governance structures. Some of the prevalent problems are poor record keeping of minutes of priorities arrived at in meetings and failure to hold prioritization meetings. Instead projects are identified that may not be of priority to the locals or that are based on whims. In some instances councillors invite few people known to them as a way of arriving at resolutions favourable to their interests (Odhiambo and Taifa, 2009). Other fundamental difficulties relate to the structure of the technical committees which lack operational continuity.

As earlier mentioned, communities are insufficiently prepared to participate in planning meetings. The voice of citizens in various planning forums would be more effective if the citizens were organized in groups to present their priorities collectively. Poor planning particularly within the CDF structures have often contributed to the high incompleteness rates of projects especially where technical expertise is not applied.

During the planning, communities should have a vision for their county. The community vision should be founded on desirable and achievable social-economic wellbeing, social justice and equity, sustainability and gender equity.

The Social Budgeting Framework (SBF) which is still at its nascent stages of implementation could be adopted at county level through the line ministries. The framework was developed by the Ministry of State for Planning National Development and Vision 2030(MSPNDV). All sectors with the responsibility to plan, budget, implement, report and account for public investment in the social pillar of the Vision 2030 are required to adopt the guidelines. MSPNDV envisions that with the constitutional reform the guidelines will undergo modifications⁶ (MSPNDV, 2010). SBF is a good model because it adopts a Human Rights-Based Approach to improved effectiveness of budgetary policies and choices. However, it is premised on a strong centralized government with notable input from the provincial administration. It therefore needs to be radically modified to make it applicable to the new constitutional dispensation. Since the SBF creates room for Sectoral Observatory Groups to participate in planning and budgeting, its suitability for implementation under the county governments should be considered.

⁶ See brief overview of the Social Budgeting Framework in the Case studies.

Emerging Policy Concerns

1. County planning should be guided by a common vision derived consultatively by all stakeholders in the county. The vision should be developed in line with the national vision.
2. Need for Strategic Action Plans that identify both long-term and short-term objectives. The Action Plans should be developed from statistical and factual data. Participatory community-based generation of planning data through methods such as the CBMS will enhance the targeting of funds and their alignment of national development goals.
3. Strategic Action Plans should then be translated into Strategic Investment Plans which show cost estimates of projects and the expected duration of implementation.
4. Technical personnel from relevant government ministries such as finance, water, roads and public works need to be incorporated in the planning stages. Their role should primarily be to provide guidance on the identified needs and the requisite financial and technical resources.
5. Planning for development priorities needs to be devolved to lower levels (wards) to ensure representation. There should be linkages between the wards and counties to ensure synergy of plans.
6. There is need for preparatory design to determine how the SBF will be implemented and fit into the overall planning framework at county level. This will guard against the duplicity of roles that parallel structures often generate.

2.4 Implementation

One of the major weaknesses with present decentralized structures is that community participation is negligible at the project implementation phase. A social audit conducted in four constituencies in Nairobi in October 2010 revealed that community participation was relatively high during the identification cycle. However, for both the LASDAP and the CDF participation remained low at the implementation and monitoring stages of development projects. On a positive note, participation in the Economic Stimulus Programme (ESP) introduced in 2009/2010 indicated high levels of participation throughout the project cycle (TISA, Shelter Forum and Ufadhili Trust, 2010).

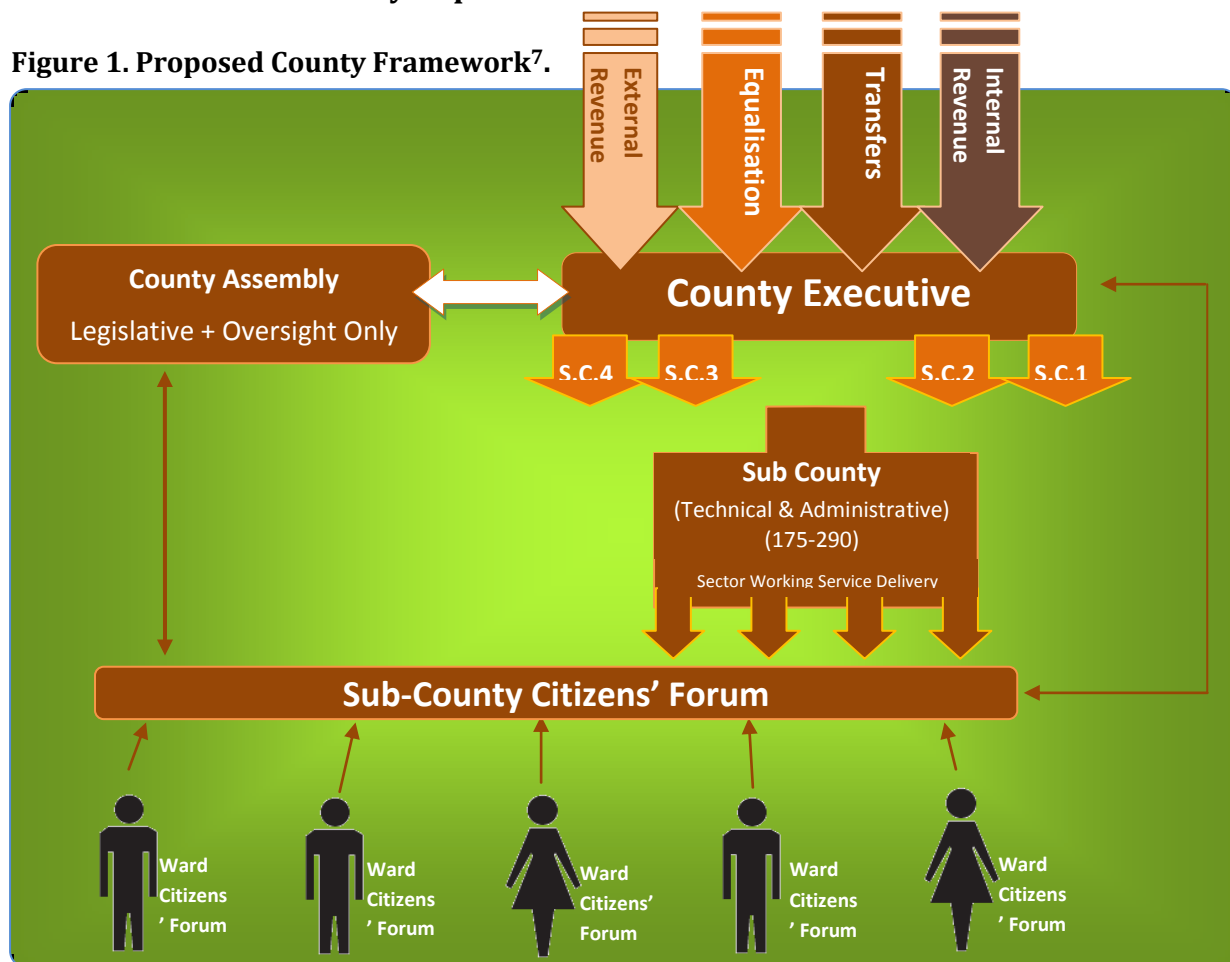
Another challenge facing community participation in implementation processes is the failure or apathy of the middle class and local elite to engage in development processes. The middle class rarely attend chiefs' *barazas* or CDF committees, and there is need to sensitize and animate them to their social responsibility. There may also be need to create

incentives to encourage their participation. Incentives need not be in monetary terms; the benefits of development of the region can be aggressively marketed and recognition of service awards given. Lack of suitable facilities to hold consultative meetings may also deter individuals from participation. Each ward should have a functional social hall with accessible grounds to enable proper organization of local meetings and activities.

At present, implementation is characterized by a thin spread of human and financial resources across many devolved funds projects. Projects are thus typified by high incompleteness rates, poor quality, price inflation, collusion and other forms of mismanagement. Relevant legislation should thus deal comprehensively with the issues of human resource management, technical expertise and performance management.

2.4.1 Proposed operational Framework Introduction of Sub County Implementation units

Figure 1. Proposed County Framework⁷.



⁷ The framework developed with assistance of Abraham Rugo, Futures Programme Officer at IEA and expert on devolution, with further input from Asunza Masiga of the VESH initiative and Cornelius Oduor of Centre for Democracy and Good Governance (CEDGG).

Citizen participation at the county level should be structured around service delivery. The devolution framework should provide for the formation of Sub-County Implementation units that will operate below the county governments. These would be purely administrative and service delivery units with no political responsibility. As such political responsibility will be retained at the County Assembly level whilst administrative and fiscal responsibility will be devolved to the Sub-County Implementation units. The criteria for the formation of Sub-County Implementation units should be specified in the devolution policy. It should be guided by cost, practicability, functionality and capacity of an area that can effectively manage itself. Technical officers with relevant expertise in various social and economic sector programmes will be responsible for running the programmes within the Sub-County Implementation units.

Each Sub-County Implementation unit will be a service delivery unit for a specified number of wards, as functionally possible (See figure 1). The ward representatives under a local authority unit will then constitute a committee and elect a ward citizens representative. The representative will then engage with the County Assembly and the Sub-County Implementation Unit at the Sub-County Citizen's Forum.

Emerging Policy issues

1. Need to repeal Cap 265 on Local Authorities Act 1998.
2. Need to establish Sub-County and Ward Citizens Forums to enhance participation of residents in local governance. The forums will specifically enable citizens to engage directly in the planning, budgeting and implementation and monitoring stages of the planning and development cycle.
3. Terms of reference guiding the forums' mandate should be drawn through a participatory process involving all stakeholders.
4. Ward Citizens' Forums should incorporate resource or technical persons drawn from the government or the private sector. Retired experts can be engaged in order to benefit from their knowledge e.g. retired water officials or economists.
5. Representatives from the Ward Citizens Forums will constitute the Sub-County Citizens Forum.
6. Ward Citizen Forum representatives should receive capacity building on their mandate and responsibilities and where necessary should be trained through regular seminars.
7. There should be recognition of individuals for exceptional community service to encourage participation in the citizen forums.

2.5 Monitoring and Evaluation

The accountability component of citizen participation is the weakest in the development cycle management of current decentralized structures in the country. It has been difficult to hold anyone accountable for misuse of funds which lack legal backing (KHRC and SPAN, 2010). The average Kenyan has in the past not been able to question procedures and processes at the local level. The lack of accountability mechanisms has contributed to corruption and the politics of patronage. The two are perhaps amongst the greatest risks to devolution at the county level.

Kenya boasts an elaborate monitoring system housed under the Ministry of Planning and National Development monitoring directorate. However, this directorate is starved of resources and is therefore not fully functional. The absence of effective monitoring fundamentally undermines performance and accountability in local governance in Kenya. Furthermore whereas it is informed by numerous indicators, the accountability indicators are few and not useful in monitoring accountability performance (TISA, 2010).

There should thus be effective legislation that compels duty bearers to account to the citizenry. The executive also needs to be more proactive in sharing information. However strengthening channels of communication alone is not enough. There is need to put in place mechanisms for engaging communities in doing audits of projects. In Bolivia, the duty bearers have gone beyond merely putting information on projects and expenditures on posters and have created citizen surveillance committees. These committees operate under an umbrella organ, the community assembly committee. Various committees under the community assembly committee perform different roles. For instance, there is a committee that addresses the allocation of funds, another audit, and procurement among others. The oversight mechanisms greatly reduce instances of corruption.

As earlier noted there is need to create a culture of social responsibility particularly amongst the middle class who are socialized against dissent. Grassroots communities are more engaged in local development, but the middleclass which is part of intelligentsia is disconnected from participatory processes. The grassroots communities if not imbued with training to instil a sense of civic consciousness will remain susceptible to manipulation by local politicians.

Within the current structure of the local authorities, the monitoring of resources is done through the Ministry of Local Government. There have been reports of rampant bribery of government officers at the field level. Such reports underscore the importance of putting in place external monitoring mechanisms at the devolved levels. The role of the National Integrated Monitoring System (NIMES) is important to this end. Devolution of institutions

like the Kenya Anti-Corruption Commission would greatly promote accountability. These institutions should work closely with the communities in sustaining accountability at county level.

The introduction of devolved funds has been accompanied by an increase in Social Accountability mechanisms. These have largely been undertaken by the civil society, academia and research institutions. These mechanisms should be institutionalized within the Social Monitoring Framework at county government level as part of citizen participation. The CBMS tool would be of particular importance in this regard.

A good Monitoring & Evaluation (M&E) system should include indicators for measuring development outcomes, service delivery performance and accountability. Development outcomes would include information on inequality, employment and productivity. Delivery of service could be monitored by type whether water, market facilities, waste management amongst other (NSA Preliminary report 2010). The M & E system should provide a forum for dissemination of information, where wananchi deliberate the way forward. This process would allow the community to investigate poor areas of performance based on its strategic plans. They would then address the gaps, challenge the responsible parties and assign responsibilities for future action.

Emerging Policy Concerns

1. Develop a citizen framework and mechanism for exerting accountability at the local levels through citizen oversight committees or surveillance committees. These committees may be formed under the Sub-County Citizens' forum and Ward Citizens Forums to compel performance.
2. NIMES should be devolved to coordinate monitoring and evaluation at county level. Monitoring and evaluation should be supported by anti-corruption units at the county level. NIMES should also be linked with the planning processes at county levels to ensure coherence. It could also collaborate with KNBS which would assist in providing baseline information.
3. Need for official recognition of social accountability mechanisms such as social audits, community score cards and citizen report cards and public expenditure tracking surveys. A collaborative framework between the government through NIMES and other institutions such as academia, research bodies and CSOs should be formed.
4. Provide for capacity building of citizens oversight committees to engage in monitoring and evaluation.

2.6 Feedback and Reporting Mechanisms

Reporting and monitoring and evaluation are closely related but reporting mechanisms here apply to the documentation and dissemination of the outcomes of the evaluation processes. The major weakness observed with current decentralized structures is that their status reports have been of poor quality and not based on sound indicators. Personnel in some of the offices have no training in monitoring and evaluation hence they have inadequate capacity for preparing reports on the same.

Citizens require information on ongoing basis, so it should always be available at a place where they can easily access it on a regular basis. Given that institutional capacity at county levels is yet to be developed, reporting on outcomes and dissemination of status reports should not be made too costly. This may imply fewer reports at the onset, which can then eventually be increased and standardized to periodic quarterly reporting.

Emerging policy concerns

1. Need to have clear time frame for county governments to report to citizens on performance.
2. Need to adopt standard reporting criteria based on county strategic plans and national development plans.
3. Status reports should be comprehensive.
4. Need to build capacity of county personnel on reporting based on measurable indicators that would fall under development outcomes and service delivery.
5. Need to establish official linkages or mechanisms for reporting to the Citizens' Forums.

2.7 Financial Resource Mobilization Strategies

Citizen participation is generally a costly affair particularly in enhancing the capacity of the communities and government personnel in embracing participatory methods. Funding should therefore be a collaborative effort between stakeholders. The government should partner with the private sector and citizens in funding citizen participation. The latter should inculcate a spirit where citizens see the development process as theirs. It would also emphasize that local development should be a citizen driven process. Citizens may also be involved in design of development projects for which service awards may be given. Productivity should thus be incentivized to increase the revenue base of the county governments and engage citizens fully.

Since development partners and international NGOs have had a presence at the grassroots levels, a mechanism for engaging their involvement should be carefully determined. However, the key players should remain the government, the corporate sector and the

citizens. Where development partners wish to be engaged, a framework should be designed to clarify the roles of international NGOs or CSOs and development partners. This will avoid the misconception that the key development processes such as the accountability process are externally driven. Overall, the government has the responsibility to ensure the participation of citizens in its activities. As such it should be the primary player in facilitating the participation of citizens.

On the current devolved funds, there is need to collapse all funds into a central basket at county level. However this must be accompanied by adequate controls to ensure checks against abuse of resources by a powerful county executive. Funds outside the 15% allocation should be sector specific and have a focal coordination centre. This ensures that the overlaps and confusion generated by implementing a multiplicity of funds are avoided.

Emerging Policy Concerns

1. A percentage of the county budget should be earmarked to target citizen participation activities particularly awareness and capacity building.
2. County governments should raise funds locally through local taxes and private-public partnerships to support programmes that enhance citizen participation.
3. Need for a collaborative funding mechanism between the government, counties, and the private sector.
4. Need to have overarching framework for the coordinated management of funds.

2.8 Constitution of Ward Citizens' Forums

The New Constitution places great emphasis on separation of powers both at the national and county level. Separation of powers at county level is stipulated in Article 175 (a), which states that county governments shall be based on democratic principles and the separation of powers.

One of the challenges affecting the success of decentralization has been poor demarcation between the patron role of politicians from executive management and control of devolved funds. A research that investigated the best practices in the management of CDF revealed trends that would be useful in informing future design of devolved structures. Performance of projects in constituencies where CDFCs had autonomy and the MP played an advisory role was significantly better than where MPs exercised management control (Kimani, Nekesa and Ndung'u, 2009). The presence of professionals in CDF committees proved a critical ingredient in the development of visionary leadership and success of projects. Conversely, Committees that were handpicked without professional qualifications exhibited poor leadership in implementation of projects (Kimani, Nekesa and Ndung'u, 2009). Other perception surveys conducted amongst communities established that the

public would have more confidence in the Committees if they had a role to play in their selection (IEA 2006; Omolo, 2009).

The county citizen engagement framework should seek to provide an engagement platform that safeguards against elite capture of committees. This can be achieved through developing statutory and regulatory tools which aid citizen engagement and accountability at Sub County Level and ward levels.

Emerging policy concerns

1. Citizen forums, their mandate and powers should be protected in statute, with operational procedures detailed in implementation guidelines.
2. Citizen forums should be fairly representative and inclusive of all stakeholders and thus should cut across youth, women, marginalized groups and faith based organizations who offer more value based contributions and are fair in terms of representing community interests.
3. There should be criteria for selection of citizen committee members such as integrity, educational qualifications among other criteria.
4. Citizen Forum Committee members should be subject to vetting.

3 POLICY PROPOSALS AND CONSIDERATIONS

ENHANCING CITIZEN PARTICIPATION IN COUNTY GOVERNMENTS

POLICY ISSUE 1

ENHANCE PARTICIPATION THROUGH AWARENESS CREATION

Policy Objective: Create an enlightened and empowered citizenry able to engage effectively in local development affairs to influence local development outcomes in the best interest of the community and for posterity.

- a) Promote sharing of information through use of accessible channels of communication. These should include county websites, transparency boards, SMS, local newsletters, local or community radio, TV, barazas and any other media.
- b) Provide timely information and sufficient notice of not less than 1 month for forthcoming planning meetings.
- c) Provide information in formats accessible to a wide group of people including persons with disabilities and translate to local language where necessary.
- d) Promote awareness by designating a percentage of the county budget towards funding community IEC/BCC programmes.
- e) Provide for free media time from all media channels and papers to support the national cause.
- f) Have a Citizen Board liaison office to promote citizen engagement drawing from the structure of the LASDAP desk. Alternatively, adopt and strengthen the LASDAP desk through human and financial resource allocation.
- g) Provide for strict time limits for processing of requests for information and refusals to be accompanied by substantive written reasons.
- h) A list of reasons for non-disclosure should be provided for in legislation and in concordance with the Freedom of Information legislation and made public.
- i) Costs of accessing information should be reasonable as not to deter potential information seekers. This should be specified and standardized across all counties.
- j) Prescribe penalties for failure to disclose information within stipulated time and in contravention of the legitimate reasons for non-disclosure. Relevant office may pay a fine as determined by court of law.

POLICY ISSUE 2

CAPACITY BUILDING

Policy Objective: To promote community involvement in policy formulation, implementation and all stages of project cycle management to achieve sustainability of development initiatives and enhance poverty reduction.

Policy principle 1: *Capacity building shall be an ongoing process built into the community participatory framework or institutions at county level.*

Policy principle 2: *Training shall be sensitive to and target or capture concerns and needs of different social categories of the community.*

- a) A National Steering Committee be given statutory power to spearhead the capacity building effort, develop a strategic plan and curricula, ensure quality and oversight.
- b) Enlist resource persons to conduct community profiling and a comprehensive needs assessment. The KNBS should facilitate the process.
- c) Organize seminars and short courses on leadership dynamics, resource mobilization and utilization, basic book keeping, accounts and budgeting, conflict and conflict resolution. Other necessary skills related to service delivery initiatives may be identified through the needs assessment. The training should initially target members of the Sub-county Citizen's Forum.
- d) Capacity building should also focus on the Constitution of Kenya specifically on civic engagement.
- e) Capacity building can be done through a staggered process to ensure that it is effectively and efficiently devolved to the ward levels. Key resource persons in the Ward Citizens Forum should be included in capacity building programmes.
- f) Encourage training and documentation in local language and the use of creative media such as drama, art and music.
- g) Make adequate budgetary provisions and work plans for the training seminars.
- h) Promote the establishment of community libraries or resource centres where information on county governments may be accessed. The resource centres should enhance information sharing including documentation of best practices (in sector development programmes).
- i) Institutionalize training and capacity building in participatory development for all

county staff including refresher courses on emerging trends in participation.

- j) Community training through a national service targeting students of tertiary institutions will also promote national cohesion and volunteerism.
- k) Participation in training should be motivated through a transparent points system where all trainers and community members who perform well are recognized. Special acknowledgment may be given to individuals with outstanding performance in community service for instance number of hours contributed or notable development achievements. Recognition should be in the form of gifts such as scholarships or ceremonial role in county and national events, and other incentives to promote volunteerism.

POLICY ISSUE 3

CITIZEN PARTICIPATION IN PLANNING

Policy objective: Establish a participatory framework to maximize the ability of citizens to influence development outcomes at all stages of the development cycle.

Policy principle: Planning shall be informed by county development statistical data and previous evaluation outcomes and national development goals.

- a) Citizens shall consultatively develop a county vision founded on desirable socio-economic well being, social justice and equity.
- b) Participatory and community based strategic action plans be developed during planning using methods such as the CBMS which are participatory and bottom up. Indicators can be broadened to cover all aspects of development and service delivery.
- c) County Strategic Action Plans (CSAPs) with short-term and long term goals and objectives will be developed. Ideally they should be ten year strategic plans and subjected to periodical review. The Action Plans should not coincide with the electoral calendar.
- d) CSAPs should be in line with the national development plans.

- e) CSAPs shall be translated into County Strategic Investment Plans (CSIPs) which reflect the budgetary costs of programmes and projects.
- f) Identification and prioritization of community needs shall be accorded sufficient time (possibly beyond a one-day period to reflect a minimum of 3 days).
- g) A calendar of all planning meetings shall be maintained and publically disseminated to ensure maximum participation.
- h) County planning and financial data shall be shared with the public through the Citizens Forums. The data should be availed in good time (a stipulated period) prior to local budget day and planning meetings to enable informed discourse.
- i) Planning shall be devolved to lower levels within the county, specifically to the Ward Citizens Forums to ensure representation of all needs.
- j) Guidelines should be developed to steer the planning and budgeting process. Prioritized projects shall be forwarded from the Ward Citizens Forums to the Sub-county Citizen Forum for consensus building.
- k) The Sub-county Citizen Forum shall review and recommend annual prioritized projects, engaging in consensus dialogue towards the development of the final list of prioritized projects. The final prioritized project list shall constitute the annual county plan, which shall be transmitted to the county executive for approval.
- l) Failure to obtain approval of the ward representatives at the sub-county citizen forum on the annual prioritized project should result in withholding of development budget funds.
- m) Resource persons shall be enlisted from relevant government ministries such as Finance, Water, Roads and Public works to give expert advice during planning.
- n) The principle of affirmative action shall be adapted to mainstream vulnerable groups in planning to ensure inclusiveness. This should be reflected at the Ward level.
- o) The counties shall have the option based on guided criteria to market their CSAPs and CSIPs to donors for funding of projects.

POLICY ISSUE 4

CITIZEN PARTICIPATION IN IMPLEMENTATION

Policy objective: Establish a participatory framework to maximize the ability of citizens to influence development outcomes at all stages of the development cycle.

- a) County governments shall delegate implementation powers and responsibilities to sub-county and ward levels.
- b) The County shall assign an officer at the ward level known as the Community Development Officer. This shall be the officer responsible for ward level planning, implementation and monitoring.
- c) The Counties shall provide for the establishment of Citizen Forums at Sub-County and ward level, with clear mandate and power to form committees for specific functions. Sub-committees shall address the allocation of funds, audit, and procurement among others.
- d) The sub-county and ward level committees shall be formed based on agreed formula to ensure operational effectiveness on service delivery.
- e) The delegated committees should have clear roles, responsibilities and powers to ensure their effective performance and delivery.
- f) The Sub-county Citizens Forum shall establish a citizen oversight committee as needed to oversee sub-county and county project implementation.
- g) The forum shall also establish the ward Public Audit Sub-Committee to audit the implementation of the sector or ward projects. Its mandate shall be to ensure transparency and accountability particularly in procurement of goods and services.
- h) Community participation in the committees and forums will be on a volunteer basis.
- i) Repeal Cap 265 on Local Authorities 1998 and other conflicting legislation.
- j) Appoint a Cabinet secretary for devolved government who will be responsible for oversight of Counties.

POLICY ISSUE 5
CITIZEN PARTICIPATION IN MONITORING & EVALUATION OF DEVELOPMENT
OUTCOMES

Policy objective: Establish a participatory framework to maximize the ability of citizens to influence development outcomes at all stages of the development cycle.

Policy Principle 1: *Citizens will have the right to obtain justification and explanations for the use of public resources from those entrusted with the responsibility for their management.*

Policy principle 2: *Public office-holders have a duty to provide justification regarding their performance and take corrective action in instances where public resources have not been used effectively.*

- a) Enable citizens to engage in the assessment and reflection of the achievement of the strategic goals as identified in the county Strategic Action Plan. This will be coordinated through the Sub-County Citizens Forum and the Ward Citizens Forum.
- b) The Sub-County Citizens forum will provide for the establishment of citizen oversight or surveillance mechanisms to oversee monitoring and evaluation on behalf of the county.
- c) The Ward Citizen Forums shall establish citizen monitoring committees to oversee all ongoing projects in the ward. The committees shall generate quarterly or bi-annual citizen monitoring reports to be tabled at the Ward Citizen Forum.
- d) Citizen oversight mechanisms should be given statutory powers to enforce accountability from duty bearers.
- e) The Sub-County and Ward Citizen forums and committees shall have the right to access all information held by the county executive.
- f) County and Sub-County Integrated Monitoring systems (CIMES) will be established under the auspices of NIMES to undertake monitoring. CIMES shall involve citizen oversight forums in its monitoring processes and reporting.
- g) The county monitoring system will make use of Social audits, Citizen Report Cards and Score Cards in evaluating performance at county level.
- h) Have a reward mechanism to encourage accountability. This can be in the form of a quality mark to be attained by counties. Counties will be assessed on performance in areas such as funds utilization, project completion and citizen participation. Obtaining a percentage close to the quality mark e.g. 80% means recognition in the form of a bonus project funded in the county or political mileage for good governance.

POLICY ISSUE 6 REPORTING

Policy Objective: Create a culture of accountability both amongst the duty bearers and those demanding accountability.

- a) County governments should submit periodic reports to the citizens through the Citizen Forum Committees. The reports shall be submitted in accessible formats and language.
- b) The Sub-County Citizen Forum will be required to receive the county implementation status reports on a quarterly basis. It shall also receive county expenditure reports prepared by the sub-county executive. The status report shall capture all allocations, expenditure, projects, status and responsible departments to provide a simple monitoring tool for all county development.
- c) The forum will prepare quarterly oversight report providing comments or reactions to the Implementation status report. It shall channel any arising complaints to the county executive and assembly for follow up.
- d) The sub-county forum will receive annual monitoring reports prepared by the sub-county sectoral offices through the CIMES. It will also receive citizen monitoring reports from the oversight committee. It shall make recommendations based on the monitoring reports and forward the same to the county executive and copy them to the assembly for action. The reporting format will be replicated at the Ward Citizen Forums, which will forward all reports to the sub-county citizen Forum.
- e) Status reports should be comprehensive and citizens have the right to demand for a redrafting of reports where these are insufficient. Reporting will be based on the Strategic Action Plans.
- f) Citizens have a right to know all expenditure in the county. All county expenditure shall be captured in the status report on a county, sub-county and ward basis. The information shall also be made available on line and at the information desk at county, sub county and ward level.
- g) Reports should be simplified in local language if necessary.
- h) Government technical committees and their staff should be required to answer to queries on the reports at the sub-county and ward citizen forums. They should remain open and responsive to citizen queries.

POLICY ISSUE 7
FINANCIAL RESOURCE MOBILIZATION STRATEGIES

Policy objective: Ensure sustainability of citizen participation

- a) The 15% allocation shall constitute the County Fund and will be channeled through the central framework of the county planning and implementation process.
- b) Harmonization of devolved funds at County level with requisite checks and balances put in place.
- c) Designate a portion of the 15% of funds allocated to counties towards support for citizen participation, report generation, awareness creation and capacity building.
- d) The government should set aside a fixed amount from the annual budget to support the national service award scheme. This will promote volunteerism by citizens in county forums and events.
- e) Establish a joint funding mechanism between government, development partners and the private sector to ensure the continuity of citizen engagement at the local level.
- f) The corporate sector should be encouraged to contribute through promise of tax rebates, recognition and other prestigious acknowledgements.
- g) Development functions to be privatized must be specified and may include waste management or market management. The functions should be in conformity with those delineated within the Constitution of Kenya as being in the purview of the local government.
- h) Develop a framework to clarify the roles of CSOs and private sector to ensure that their potential is tapped into in the development of the county.

POLICY ISSUE 8

COMPOSITION OF CITIZEN FORUMS/COMMITTEES

Policy Objective: Ensure integrity and capability of committees to perform effectively in the development of counties.

Policy Principle 1: Maintain the autonomy and independence of committees.

Policy Principle 2: Respect constitutional provision on separation of powers to ensure credibility of the committees.

- a) A Sub-County Citizens Forum (SCCF) shall be established at the sub-county level.
- b) The SCCF shall comprise citizen ward representatives, CSO representatives, community and religious leaders. Technical county government officers and development partners may sit on the forum as ex-officio members.
- c) The SCCF shall appoint a neutral civilian head who must be a person competent in development matters. He or she must be non-partisan, of respectable repute and have a distinguished career of at least 5 years in development matters.
- d) County governments will engage in democratic or popular processes in the selection of citizen representatives to the SCCF. This shall be in accordance with National values and Principles of governance as provided for in Articles 10 and 99 of the Constitution.
- e) Forum and attendant committee officials will be subject to a vetting process based on their qualifications and character which will then qualify them to stand for selection.
- f) The SCCF meetings shall be open to all members of the public to attend and contribute in deliberations.
- g) Assembly members of the Sub-County should be required to attend a designated minimum number of the SCCF meetings.
- h) A calendar of all SCCF meetings shall be maintained and publically disseminated to ensure maximum participation.
- i) The SCCF shall have the power to petition parliament.
- j) Ward Citizen Forums (WCF) shall be established to enable direct citizen engagement in the planning and budgeting, implementation and monitoring stages of the development cycle.

- k) The WCF shall comprise ward residents, CSOs working in the ward, Religious bodies and community leaders. The Community Development Officer, the ward assembly member of that ward, development partners and relevant technical government officers may be enjoined as ex-officio members.
- l) The WCF shall nominate or select two ward representatives to represent the ward at the SCCF. The two ward representatives shall be required to attend every WCF meeting.
- m) The two representatives shall be persons competent in local development matters, non-partisan, of good repute in compliance with Chapter 6 of the Constitution of Kenya 2010.
- n) The WCF shall have power to petition the county assembly directly.
- o) A code of conduct shall govern the members of the forums and their committees.
- p) The forums and its committees will be representative of all cadres of society including marginalized groups such as Persons with Disabilities.
- q) Contractors or beneficiaries of county contracting will not be eligible to sit on any of the functional committees set up by the citizens' forums.
- r) Citizens shall participate in the forums on a volunteer basis.
- s) Those who serve the county citizens forums should be recognized through a National Service awards scheme. This can be organized annually in recognition of exceptional community service to encourage citizen engagement in county development.

APPENDIX I: BEST PRACTICE IN CITIZEN PARTICIPATION: CASE STUDIES

A. Participation in Partnership: A case study of Malindi

Prior to 2005, the Municipal Council of Malindi was in a state of constant disorder due to riots by Council staff occasioned by their salary arrears. LATF did not trickle down to the communities. The main reason for this was that the funds were used to settle debts that the council had accrued towards businessmen who had rendered it service. The debt crisis had arisen because councillors had been paid six months advance salary and the council thus had a shortage of funds. The relationship between employees and councillors was riddled with mistrust and stakeholders criticized the poor service delivery of the council. Frequent transfers of Town Clerks worsened the situation because there was no continuity of projects.

A core group of stakeholders, comprising the Institute of Participatory Development (IPD), the German Development Service (DED) and the Council, came together to analyze problems facing the council. It is out of this process that the Malindi Residents Forum (MRF) was formed. It emerged during the analysis that revenue collectors in the Council were not submitting the revenues collected from merchants. The stakeholders committed to assist the government in revenue collection and consequently the Revenue Enhancement Committee was formed. The committee held meetings on a weekly basis and heads of department within the Council reported on how much revenue they had collected. Each stakeholder in Malindi was represented at forum meetings to monitor the revenue collection. Revenues increased thereafter because Council workers realized they were being monitored and would have to account for revenues collected and utilized. Heads of department and even the Town Clerk were often called upon to account for any expenditure that was not clear. The monitoring process resulted in the improvement of revenue generation by the Council.

Thereafter the Council was able to use the LATF for its intended purposes. The MRF started organizing workshops at the ward level to sensitize the communities on the LATF and the LASDAP process. Workshops were held to educate the communities on preparation of proposals and the government planning process. These workshops were held in the months of August and September prior to government planning period. Communities were thus by the time of LASDAP meetings ready with concrete prioritized projects. They would never have developed the prioritized projects as effectively during the one-day sessions that are slotted for the LASDAP meetings. From the workshops, committees were formed at ward level that elected representatives to form the MRF Board of management.

The MRF Board became the official mechanism for engagement with the Council. The chairman of the Board represented the forum at subsequent revenue enhancement meetings.

As the partnership progressed, it became evident that engagement at the ward level was not adequately representative of the communities. The PiP therefore devolved engagement further from the ward level to the sub-location levels. Due to inadequate representation at the sub-location level, engagement was finally devolved to school catchment areas. Within this structure all community members who benefited from the services of the school, would deliberate their problems and select their representatives. The representatives then constituted a Village Residents forum. The forum then elected a representative member to the ward level and the ward level then forwarded a representative to the Board. This ensured that the participatory process was all inclusive.

Key lessons learned from the PiP process

1. Integration of development process with the local culture and respect for traditional institutions such as local leaders guarantees community support.
2. Ownership of the development process by communities. The government and sometimes the NGOs view communities as recipients but there should be a role reversal where the communities are the drivers of the process.
3. Residents' forums are a very practical and effective means of engagement.
4. Community Awareness is crucial to the success of participatory processes.
5. Voluntarism is a key ingredient to the success of participatory processes.
6. Politicians should not be members of residents' forums.
7. Strengthened accountability through engagement with appropriate duty bearers.
8. Regular reporting facilitates monitoring and evaluation.
9. Representation of every segment of society in participatory processes.
10. Devolved funds management should be delinked from politicians.

B. Water Action Groups: Case study of Kisumu Water Action Group

Overview of Water Action Groups

Water Action Groups (WAGS) are local community based organizations constituted by citizens on a volunteer basis to address issues which affect consumers of water services. The WAGs operate as an extended arm of the Water Services Regulatory Board (WASREB) under whose mandate consumer protection lies.

The overall goal of the WAGs is to ensure that consumers' views are taken into account on water service provision matters affecting them. They facilitate improved understanding of the roles and obligations of consumers and sector institutions. More specifically the WAGs receive and disseminate information to consumers from the WASREB and Water Services Board. They increase community awareness on their rights and responsibilities. They represent in a structured manner, the interests of the consumers in water supply and sanitation. The WAGs engage Water Service Providers (WSPs) and Boards to highlight consumers concerns and monitor action to be taken. The WAGs ensure that WSPs deliver services in accordance with set standards of the WASREB. They are the consumers' voice on issues which require stakeholder consultations (Wasreb, 2010)

In Kisumu, the WAGs mobilize communities through self-help groups, CBOs and residents associations. The Kisumu Residents Water Association (KISREWA) is an umbrella organization of 53 estates that deals with matters affecting residents. The WAGs use KISREWA which was in existence before the WAGs were conceptualized. The officials of KISREWA mobilize the communities and the WAGs often hold Focus Group Discussions (FGDs) with the communities every quarter. They also hold Complaints Discussion Forums when complaints have been registered with service providers and there has been no action taken. The WSPs are called upon to give an account for the delays. Complaints Discussion Forums are held once a week. They also hold stakeholders forums after every three months and address weightier issues.

Although a recent venture, the WAGs have registered success in four key areas:

1. Creating awareness amongst citizens on the role of institutions in the water sector. Citizens are aware of where to seek redress over their concerns.
2. Following up on unresolved consumer complaints to ensure the providers address these to the customer's satisfaction.
3. Increased dual accountability in the water sector and amongst the citizens who volunteer information on illegal users of water which would ultimately interfere with service provision.
4. Decision making taken down to the citizens.

Challenges faced by WAGs

1. Lack of resources to hold awareness forums and education campaigns.
2. Need for further decentralization for wider outreach but this is curtailed by availability of funds.
3. Lack of personnel due to the element of voluntarism. Citizens expect monetary allowance therefore there is low attendance of meetings.

C. The Community Based Monitoring System (CBMS): Best Practice in Monitoring

The CBMS is an organized process of collecting, processing and validating information at the local level, and the integration of the data in local development processes. CBMS empowers local communities to participate in the development process. CBMS is implemented in several countries across the globe. In Asia, the CBMS is implemented in Bangladesh, Cambodia, Indonesia, Lao PDR, Pakistan, Philippines and Vietnam. In Latin America it is used in Peru. There are several countries in Africa that have adopted the CBMS. They include Benin, Burkina Faso, Ghana, Nigeria, Senegal, Tanzania, Zambia and Kenya which is implementing it on a pilot basis.

Benefits of the CBMS

1. It involves local communities engaging in the design of tools and in implementing the system. To this end it is an empowerment tool in itself.
2. It enables the generation of relevant poverty and development data to inform the formulation of appropriate plans and programs to address problems. The data also provides the basis for resource allocation and identifies eligible beneficiaries for targeted programs.
3. Finally it enables monitoring and assessment of the impact of programs and projects.

Methodology

It is a census of households and is rooted in local government which promotes community participation. It uses local personnel and community volunteers as the monitors. It has a core set of indicators and establishes databanks at all geopolitical levels. Indicators can be developed to measure all aspects of development such as:

Health, Food and nutrition; Water and Sanitation; Shelter; Peace and Order; Incomes; Employment; Education; Natural Calamities and Disaster Management; Environment Protection; Women's well being; Child Labour; Migration; Disability; and Community Service Delivery.

Steps in the CBMS process

Step 1: Advocacy and Organization

Step 2: Data Collection and Field Editing (Training Module 1)

Step 3: Data Encoding and Map Digitizing (Training Module 2)

Step 4: Processing and Mapping (Training Module 3)

Step 5: Data validation and Community Consultation

Step 6: Knowledge (Database) Management

Step 7: Plan Formulation (Training Module 4)

Step 8: Dissemination, Implementation and Monitoring

CBMS Outputs

CBMS generates vital outputs namely:

- Comprehensive Local-level Databases
- Poverty Maps and Poverty Profiles
- Evidence-based local development plans and interventions
- Established monitoring systems that are owned and sustained by communities⁸

In Kenya, the CBMS is being implemented through two organizations. The first is the African Institute for Health and Development, (AIHD) which has implemented it in Muranga, Kisumu, Kilifi and Tana River as a Pilot project. The other organization is the Consortium for the Empowerment and Development of Marginalized Communities (CEDMAC) in collaboration with DANIDA the local funding partner. Through local partners operating at District level and the communities, CEDMAC has, established community based monitoring systems in the eight districts. The districts are Kakamega, Siaya, Migori, Nairobi (West and East Pumwani); Isiolo, Marsabit, Bungoma, and Laikipia (AIDH 2010; CEDMAC, 2011).

⁸ Further information about the CBMS may be obtained from the web-site at www.pep-net.org or through the PEP-CBMS Network Office DLSU Angelo King Institute for Economic and Business Studies, Estrada Cor. Arellano Ave., Malate, Manila, Philippines 1004 E-mail: reyesc@dls-csb.edu.ph, cbms.network@gmail.com.

Kenyan affiliate contacts are: mnyamongo@aih dint.org or alicesereti@yahoo.co.uk

KEY LESSONS LEARNED

1. Communities are willing to engage in community level data collection processes so long as they feel sufficiently involved.
2. Communities can provide the human resources that can be utilized in the implementation of CBMS activities.
3. Partnership is important with the district and national teams in decision making.
4. CBMS is very useful for policy formulation by the government. This is because of its ability to provide up-to-date information on the welfare status and needs at the community and house-hold levels.
5. Political commitment is crucial to its sustainability. In general implementation of the CBMS has been received with mixed with attitudes. Positive attitudes have been recorded in areas with greater involvement of stakeholders in all aspects of the CBMS project. However, there have been challenges experienced in accessing information from within the CDF Structure and the Local Authorities.

In terms of its benefits, the lessons learnt are:

6. It empowers communities to participate in the development process by providing them with information with which to question government performance and demand responsiveness.
7. Improves resource allocation.
8. Helps to monitor impacts of projects and programmes.
9. Improves dialogue between citizens, government and elected officials.
10. Increases the number of women and persons with disability in decision making structures.
11. Improves service delivery with a pro-poor focus. Needy students benefit appropriately from the education bursary and pregnant women are able to access maternal health services. Finally, it has minimized the incidence of stalled projects.

In Kakamega and Marsabit in particular the key factors that have contributed to the CBMS' success include:

- a) Involvement of all stakeholders during project design and implementation
- b) Acceptance of CBMS by elected leaders (MPs, and Councillors); Government

officials-fund managers, council secretaries.

c) Training of both citizens and service providers/duty bearers.

d) Transparency on the part of in the CBMS project team (CEDMAC, 2011).

In terms of ensuring data generated from the CBMS improves planning and resource allocation, some significant progress has been recorded in several areas. In Marsabit there has been an increase in LATF allocated to women groups and projects with an impact on women. In Siaya, community and duty bearers in the health sector have agreed to work together to reduce incidences of corruption. In Migori the community and duty bearers have agreed collaborate to improve the government score card. Overall, more effort is however needed to ensure that the CBMS improves planning and resource allocation.

D. The Social Budgeting Framework (Planning Model)

The mandate of the Ministry of State for Planning and National Development and Vision 2030 (MSPNDV) is to spearhead and coordinate policy and planning efforts. The ultimate end of these efforts is the attainment of the objectives of the Social Pillar of Vision 2030. It aims at achieving this through a participatory, transparent, and fair application of public resources and delivery of services to meet human rights particularly for vulnerable groups. The achievement of equitable and sustainable outcomes in the social pillar is a precursor to the attainment of the political and economic pillar objectives of the Vision 2030. To this end one of the key policy reforms the MSPNDV has adopted is the strengthening of participatory planning and budgeting at the Sectoral and district levels. The policy goal is to improve service delivery and provide the human capital to propel the country into a middle income country by 2030. In accomplishing this mandate the SBF provides the platform for popular engagement of all stakeholders in social development.

The SBF is comprised of National, Sectoral and District observatories connected to national level planning and budgeting organs. The observatories are assisted by the utility of the Social Policy Advisor, to focus equity in the Social Pillar of Vision 2030. The observatories are to enhance the linkages between national level planning and budgeting with the process of community level priority setting for service delivery. This is to be achieved through a Sector Wide Approach to Planning (SWAP). The observatories were formed after the initiative was launched in the ASAL districts of Isiolo, Kwale and Turkana. Thereafter it was expanded to North Eastern Province districts of Garissa, Ijara, Mandera and Wajir. It was reviewed in 2009 based on the implementation experiences to generate the currently existing guidelines.

The development of the Social Budgeting Guidelines was necessitated by several factors namely:

- a. The need to standardise the mode of implementation, assign accountability for setting up social budgeting observatories and apply uniform procedures.
- b. To define statutory membership in the process.
- c. To ensure more coherence between planning, budgeting, reporting.
- d. To enshrine the principles of community and stakeholder participation especially women, children, and the civil society in the development process.

The guidelines were therefore developed in a participatory process to incorporate views of key stakeholders from grassroots to the national levels.

The SBF through its guidelines seeks to achieve:

- A cyclic link between development planning, budgeting and reporting.
- Timely realization of the social pillar outcomes of Vision 2030.
- A gender sensitive and human rights based approach to planning, budgeting and to mainstream Monitoring and evaluation.
- Development of District Development Plans through stronger and broad-based district level institutional capacity for budgeting and planning.
- Defined community priorities and resource requirements for effective service delivery.
- Increased coordination of social sector stakeholders to create synergy and avoid duplication.
- A platform for shared accountability.
- A monitoring and evaluation system and culture anchored on quality assurance and accountability for the Vision 2030 Social Pillar.

The SBF is organized to capture national, sectoral, district and community level stakeholders and centre their roles on a socially transparent and accountable institution.

The National Social Budgeting Observatory brings together national budget stakeholders. Its goal will be to facilitate the uptake of social development priorities identified by the sectoral and district level stakeholders.

The Sectoral Social Budgeting Observatory (SSBO) brings together technical heads of departments in various sectors to engage key national budget stakeholders, non-state actors and development partners. Its main role is to facilitate sector specific social

priorities identified by the district level planning and budgeting, other sector and national budgetary observatories.

The District Social Budgeting Observatories (DSBO) is intended to promote synergy, transparency and participatory engagement of all stakeholders including women and children. It will also promote mutual accountability in social sector service delivery while avoiding duplication of efforts.

Strengths of the SBF

1. It provides increased space for citizen participation which enhances mutual accountability.
2. It introduces a holistic approach to planning and budgeting. This means through SBF, citizens can now participate in planning and budgeting for all government expenditure and not just specific funds or projects.
3. It promotes citizen-led accountability in which citizens, through their representatives are given opportunity to drive the process such as chairing of the observatories.
4. It provides room for innovation through clauses on preparation of operational and policy guidelines on social budgeting. This provision offers opportunity for integrating CBMS into the SBF.
5. It provides for good linkages between national and local level planning and budgeting processes. It also facilitates coordination between various development actors at all levels. By placing and emphasis on actors working through a coordinated planning and budgeting framework, it has strong potential for minimizing problems of duplication and overlap between development actors.
6. Recognises information from social intelligence including community reports as critical to its decision making processes.

Some limitations of the SBF

1. There are sentiments from members of the Civil society that there is under representation of citizens. This is because the slots allocated to citizens within the frameworks are deemed too few to enable meaningful contribution.
2. There is more focus on participation of service oriented CSOs and minimal mention of advocacy CSOs with the exception of research and academia.
3. Introduces a very hierarchical accountability system by limiting direct communication between communities and NSBO. Some civil society organizations hold that communities should be allowed to submit their reports or findings and complaints at the NSBO. This implies that they should not be required to go through DSBO.

4. The guidelines do not specify the manner by which the community and CSO representatives will be selected or elected. It also makes no mention of the consultative mechanism to be followed in the process. Elaborate procedures for identification of CSO and community representatives and the consultative mechanisms thereof should be put in place through the operational and policy guidelines on SBO.
5. The SBF is a form of indirect participation of citizens through representatives. This is as opposed to the CBMS which gives opportunity for direct citizen engagement. There is thus need to improve on the SBF to ensure a balance between direct and indirect participation is upheld. This may be achieved through integrating the CBMS within the NIMES. As indicated in its guidelines, the social budgetary framework envisions (under SSBOs) adopting and adapting the NIMES framework for monitoring and evaluation.

E. The Arid lands Resource Management Project II in Turkana

The Arid Lands has been a significant driver of development in Turkana. It has operated under the Ministry of Development of Northern Kenya and other arid areas. Its funds are similar to devolved funds. Its goals were mainly to enhance food security and reduce livelihoods vulnerability in Arid and Semi-Arid Lands. Aridlands has operated a Community Driven Development Programme which is one of the most inclusive structures in Turkana. The programme aimed at building the capacities of local communities to take charge of their own development. This was achieved Participatory Integrated Community Development Approach (PICD). Under the PICD the communities were taken through a fourteen day training exercise conducted by Mobile Extension Teams. The teams facilitated the communities to identify the problems affecting them, prioritize the problems and identify the projects that would adequately address the problems. The projects were then translated into Community Action Plans which involved construction of schools and water projects among others. The communities undertook responsibility for management of the funds, the procurement process and monitoring and evaluation. The management was effected through the Community Driven Development Committees (CDDC) which were constituted by selected representatives. The programme significantly promoted accountability of the communities because the CDDC signed an MOU to undertake fiscal reporting on the use of funds disbursed to it. The funds were disbursed in tranches only after the CDDC had accounted for the use of each disbursement.

There are other community participatory models whose practices may be useful in designing and determining formulas for community participatory strategies. These include Practical Action Kitale and Kisumu Experience and the Nakuru Stakeholders Consultative Forum.

APPENDIX II MILESTONES IN THE LASDAP PROCESS			
Chapter	Month	Local Authority	Community
2	On going to September	Information gathering to guide LASDAP process and linkages to strategic plan	
2	September	Formation of LASDAP Technical Team	
2	September	Preparatory activities and Calculation of Resource Envelope	
3	October		Consultation Meetings
4	November	First Draft LASDAP Prepared	
4	November		Consensus Meeting
5/4	November	Council Approval of LASDAP	LASDAP Monitoring Group Formed
5	November	LATF Conditionality Submission	Feedback Meetings
6	April	Council Budget Approval	
6	May	Formation of Project Technical Teams	
		Council approval of Strategic Plan Revisions	
		Minister's Budget Approval	LA Budget Day
			Community Budget Day and Formation of Project Committees
6	July to June	Implementation Of The Projects	
7	On Going	Evaluation Of LASDAP Process And Projects	

Monitoring and Reporting by Community and Local Authority

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LIST OF ORGANIZATIONS INTERVIEWED/PARTICIPATED IN THIS STUDY

1. Centre for Law and Research International (CLARION)
2. The Institute for Participatory Development (Malindi)
3. The African Institute for Health and Development
4. Practical Action Kenya
5. The Kisumu Water Action Group
6. The Water Services Regulatory Board (WASREB)
7. The Inter-religious Council of Kenya
8. Ministry of Planning: National Integrated Monitoring and Evaluation System
9. The Institute for Social Accountability
10. Africa Local Governance Resource Centre – Kinuthia Wamwangi
11. Institute of Economic Affairs
12. Society for International Development
13. Consortium for the Empowerment and Development of Marginalized Communities (CEDMAC)
14. Vihiga, Emuhaya, Sabatia Hamisi (VESH) Initiative
15. Centre for Democracy and Good Governance (CEDGG)
16. Centre for Human Rights and Citizen Education (CHRCE)
17. Muslims for Human Rights (MUHURI)