Constituency Development Funds: Scoping Paper

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Executive Summary

Constituency Development Fund (CDF) schemes are decentralisation initiatives which send funds from the central government to each constituency for expenditure on development projects intended to address particular local needs. A key feature of CDF schemes is that Members of Parliament (MP) typically exert a tremendous degree of control over how funds are spent. This scoping paper provides an overview of CDFs: when, where and how they have emerged worldwide; identifies the key features of CDFs which impact on their performance; outlines the arguments and evidence available for and against CDFs, and; investigates the opportunities and possible future research from an advocacy perspective.

Despite the variety of forms and approaches in different countries, the following essential elements are identified which help to distinguish CDFs from other decentralization initiatives or community-based development programmes. First, funds are raised by national government and disbursed at local level. Second, funds are allocated per constituency and MPs have some degree of control over the spending. Lastly, funds are intended for development projects which reflect localized needs and preferences.

Other critical features of CDFs which vary from country to country will have a direct bearing on the performance of the programme, including: quantum of funding available per constituency; method for allocating funds between constituencies (degree of targeting); and the existing legislative framework.

From a transparency and accountability perspective, the separation of powers is most fundamental criticism of CDFs. The paper considers other issues which have emerged in the implementation of CDF schemes worldwide. These issues include:

- Impact on MP-constituent relations;
- Public participation
- Selection of non-priority projects due to MP influence
- Development expenditure in the absence of coherent, long-term planning
- Intergovernmental coordination to avoid project duplication
- Targeting of allocations to poor areas
- Corruption and mismanagement of funds
- Need for greater professionalisation and improved project management
- Additionality and sustainability
- Administrative costs and impact on local authorities
- Transparency and public access to information

Civil society groups have formulated a number of proposed reforms to address these implementation issues including proposals to improve the representivity and capacity of the CDC Committee and to improve and strengthen citizen participation and accountability.

In summary, the paper argues that emerging examples of good practices and the mere variety of CDF schemes worldwide would suggest that it *is* possible to build safeguards into the system to ensure transparency, promote public participation and substantially

curb corruption. From a civil society perspective concerned with poverty alleviation, transparency and accountability, the critical features of a more effective CDF would be:

1. The existence of a legislative and regulatory framework which:
    - Promotes and protects public participation processes in project prioritization and identification
    - Provides for a body—apart from Parliament—which is empowered to manage and conduct oversight
    - Establishes funding flows and disbursement procedures which remain in control of government officials, as opposed to MPs
    - Ensures representivity of CDF committee at local level
    - Requires CDF project and budget information to be publicly available
2. Allocation formula which prioritizes poorer constituencies

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1. Defining and understanding CDFs

1.1. Introduction

Constituency Development Fund (CDF) schemes are decentralisation initiatives which send funds from the central government to each constituency for expenditure on development projects intended to address particular local needs. A key feature of CDF schemes is that Members of Parliament (MP) typically exert a tremendous degree of control over how funds are spent. The practice was first adopted in India, but gained prominence when Kenya established a CDF in 2003. Based on the perceived success of the Kenya model and various political and historical drivers, the trend has spread to other African countries and across the world in recent years. The following countries have adopted some form of a Constituency Development Fund:

- Southern Sudan
- Philippines
- Honduras
- Nepal
- Pakistan
- Jamaica
- Solomon Islands
- Tanzania
- Malawi
- Namibia
- Zambia
- Uganda
- Ghana
- Malaysia
- India

The major argument in favour of CDFs is that they skirt bureaucratic hassles which weaken the efficiency and effectiveness of the usual government development programmes. Theoretically, by sending funds directly to constituency level and enabling communities to identify their own local development priorities, funds are spent faster, and spent on the right things. Those supporting CDFs believe it is a vital and innovative means to achieve tangible development outcomes at a grassroots level.

However from the citizen perspective, there are three main concerns with these arguments. In the view of most civil society groups concerned with accountability and governance issues, the first and foremost issue is that CDF schemes violate the separation of powers principle on which democratic constitutional governments are built. CDFs put MPs in the position of determining and/or implementing government programmes, instead of focusing on their legislative and oversight functions. In the most glaring example, Parliament approves the establishment of the CDF and funds are then transferred directly to the bank accounts of MPs, who are responsible for choosing projects and approving expenditure. The body responsible for managing the funds—typically the national Ministry—reports back to Parliament, whose members are the implementers and, often beneficiaries, of the fund. Without adequate checks and balances built into this system to ensure independent oversight, the opportunity is wide open for corruption, fraud, wastage and use of funds for personal or political gain by MPs.[1]

[1] The best articulation of the legal argument against the constitutionality of the Kenyan CDF is captured by Ongoya and Lumallas. In their 2005 appraisal of the CDF Act, Ongoya and Lumallas asserted that the legislation is “inconsistent with the constitution and incapable of implementation.” Their analysis was based on three main arguments. First, the CDF has no specific development agenda meaning that its role in development is not clearly defined compared to the LGA or national ministry. Second, the CDF system lacks proper governance and accountability systems because the members of the National Assembly make the law, implement the law, and monitor their own expenditure. Third, the Act blurs the role of the MPs and violates the constitutional principle of separation of powers. The strength of this argument will be tested when MUHURI lodges a court case opposing the CDF Act in 2009.

Second, a key argument in favour of CDFs—that they enable communities themselves to choose how funds are spent—is eroded if in reality the public are not aware of or involved in CDF processes. Experience in several countries has shown that excessive powers of the MP are often accompanied by very poor public participation in project prioritisation and inadequate access to information, which undermines communities' ability to hold authorities accountable for how funds are used. Unless legislation and institutions are designed to curb MP's influence and protect genuine public participation, then the benefits of delivering funds directly to the grassroots to be prioritised by the community will not be realized.

Even if a legislative framework is put in place to limit MP participation, ensure adequate checks and balances, and enable genuine participation, there is a third issue which relates to the relevance and need for the programme. The push towards decentralization for development in some African countries has resulted in a number of decentralization schemes being introduced in recent years. The result is a layering and duplication of programmes as multiple schemes are set up to send funds to local level. Often these initiatives have not reaped the anticipated development benefits due to problems with bureaucracy, sufficiency of funding, and capacity. The concern is that the introduction of the CDF represents another potentially problematic decentralization scheme which will further compound the administrative burden of local authorities and result in the same problems encountered by current initiatives. Government would do better to focus on improving the efficiency, effectiveness and quantum of funding under existing decentralization schemes.

Apart from the more theoretical debate around the constitutionality and relevance of CDFs, practical issues have arisen around implementation. There is little comparative data on design and practical impacts of these programmes despite a proliferation of CDF schemes on multiple continents. Such information is needed by civil society groups who wish to engage in debates in their own country around the possible establishment, proposed expansion, or suggested reforms of CDFs.

The purpose of this scoping paper is therefore to:

- Provide an overview of CDFs: when, where and how they have emerged worldwide;
- Identify the key features of CDFs which impact on their performance;
- Outline the arguments and evidence available for and against CDFs, and;
- Investigate the opportunities and possible future research from an advocacy perspective.

1.2. Methodology and sources

This paper is primarily a desk study, supplemented by phone interviews with a select number of civil society groups engaged in the CDF debate. The study is therefore essentially limited to secondary information (apart from phone interviews) including: online news service articles, blog discussions chiefly by civil society members, position papers by civil society groups, and a limited number of academic articles.

The primary obstacle with this research is the lack of information. There is asyet little academic research on CDFs and only a handful of studies/surveys on their impact or public awareness related to CDFs. Kenya surpasses other countries in terms of making documentation—including allocation information—available by government online. However public access to information is one of the key critiques of CDFs in many countries; primary documentation must therefore be obtained through country visits which were beyond the scope of this report. The scarcity of sources for this paper is discussed in Section 2 as one of the issues related to CDFs.

1.3. Typology of CDFs

Appendices B-F contain descriptions of the CDF schemes in a select number of countries where CDF programmes are more entrenched and greater information was available, while Appendix A contains a summary chart of the main characteristics of selected CDF schemes.[2] Despite the variety of forms and approaches in different countries, commonalities can be identified which help to distinguish CDFs from other decentralization initiatives or community-based development programmes. The following are the *essential elements* of a CDF:

1. Funds are raised by national government and disbursed at local level
2. Funds are allocated per constituency and MPs have some degree of control over the spending
3. Funds are intended for development projects which reflect localized needs and preferences.

Other critical features of CDFs which vary from country to country will have a direct bearing on the performance of programme. They are:

- Quantum of funding available per constituency
- Method for allocating funds between constituencies (degree of targeting)
- Legislative framework
- Governance: institutions and systems used to select, implement and monitor projects
- Checks on corruption
- Public access to information
- Community participation in project prioritization

From a transparency and accountability perspective, the separation of powers is the most fundamental criticism of CDFs. As shown in the Tanzanian example (Appendix E), some civil society organizations have elected to take a position which opposes the establishment of a CDF in totality on the basis that it violates this core constitutional principle. However where this battle has been lost and CDFs established despite opposition, the country experiences gives useful examples of institutional and procedural safeguards which can be built into CDF schemes to better protect the separation of powers between the executive and legislative branches and to check undue influence of MPs in project selection, committee selection, and CDF operations.

[2] Information on the origin, design, processes and impact of the CDF schemes in these countries is drawn from government documentation as well as research reports and position papers by civil society organizations in-country. The focus of these brief country reports is on how and why the scheme was initiated; the legislative framework governing its operations, if any; the governing institutions and financial and administrative procedures; and finally the response by civil society groups.

Table 1 isolates the critical design features which act as the key determinants of the degree of control afforded to the MP. Examples of various approaches are given which allow a greater or lesser degree of control by the MP.

CDF Design Elements Impacting the Degree of MP Control

	Authority to appoint CDC Committee	**Funding flow**	**Signatories on cheques**
High degree of MP influence	▪ MP appoints all members of CDC Committee ▪ MP serves as chair of CDC	▪ Funds transferred directly to MPs personal account	▪ MP is signatory
	▪ MP serves on Committee as patron instead of chair		
	▪ Legislation requires representation from certain groups		▪ MP is not signatory; only 2 signatories who are civil servants
	▪ Potential members of Committee nominated by public	▪ Legislation requires that separate commercial account set up for CDC	
Low degree of MP influence	▪ Public votes on members of Committee		▪ 3 or more signatories, including district representation

CDF schemes also vary widely in the amount of funds allocated to each constituency or MP. In some countries, the amounts are quite small, hardly enough to deliver on substantial development projects. Other schemes were originally distributing non-substantial amounts, but the allocations have been ratcheted up quite quickly to sizable kitties (e.g. Philippines).

Table 2 attempts to display how some of the CDF schemes compare in terms of quantum of funding per constituency. The table can only be interpreted as a rough picture, as the amounts are best understood in the context of the national economy and budget, poverty levels, and electoral systems. The amount should also be considered in relation to the overall amount of government funding that goes to local government.

Table 1 Amounts allocated per MP in USD

	GDP (billion USD)	**Total population** (millions)	**Exchange rate to USD**	**Amount allocated per MP** (local currency)	**Local currency**	**Amount allocated per MP** (USD)
Philippines[3]	166.91	90.35	46.8384	200,000,000	Peso	$ 4,270,001
Kenya	34.51	38.53	75.5226	60,000,000	Shilling	$ 794,464
Malaysia	194.93	26.99	3.4605	2,000,000	Ringgit	$ 577,951
Jamaica	15.07	2.69	87.65	40,000,000	Dollar	$ 456,361
India	1217.49	1139.96	47.5296	20,000,000	Rupee	$ 420,790

[3] 24 Senators receive P200 million each; 238 House members R70 million each.

Sudan	58.44	41.35	2.3094	733,333	Pound	$ 317,543
Pakistan[4]	168.28	166.04	83.21	5,000,000	Rupee	$ 60,089
Malawi	4.27	14.28	140.5	3,000,000	Kwacha	$ 21,352
Tanzania[5]	20.49	42.48	1308	18,000,000	Shilling	$ 13,761
Uganda	14.53	31.66	1928	10,000,000	Shilling	$ 5,187

Source: Exchange rates from http://www.xe.com on 5 October 2009.

However the figures do help to put some of the CDF debate over the potential consequences of abuse and corruption into perspective. Although there are grave concerns with the Ugandan scheme which delivers funds directly to the MP's account, the funds are quite small amounts. In contrast, the amount allocated to each constituency in Kenya has increased rapidly since the CDF's inception and now amounts to approximately 790 000 USD per MP. Relative to the national economy the amounts allocated per constituency in the Philippines, Kenya and Jamaica are substantial, making the installation of proper management and oversight of the CDF all the more important.

2. Advantages and disadvantages in practice

The growing body of experience on the ground with CDFs provides evidence of the practical consequences emerging in the implementation of CDFs. Using examples and citing evidence available from various countries, in this section we examine the critical problems arising with CDF schemes from a citizen and civil society perspective.[6]

2.1. Impact on MP-constituent relations

In some countries the stated rationale for creating the CDF has included the need to provide funds for MPs who are burdened with constituent requests for resources for personal hardship or community development needs. The tendency of MP-constituent relations to be driven by MP contributions has been documented in Kenya and Uganda.

- The National Anti-Corruption Campaign Steering Committee (NACCSC) report from Kenya gives evidence of high levels of voter dependence on monetary hand-outs from politicians. The report found that in virtually all instances money was used to influence voting.

- In Uganda, the Africa Leadership Institute (AFLI) compiled a score card assessing the performance of all the MPs of the 7th parliament (elected in 2001) , and findings were then disseminated to constituents in four constituencies. The results indicate that voters were basing their view of MP's performance on community projects—"material things that the member was able to bring to the constituency…Clearly the legislative role of the MP was not well recognized or

[4] R20 million for each National Assembly member; each Provincial Assembly member receives 5 million rupees.
[5] Approximation; amount is not known publicly. See Appendix E.
[6] Where possible, I cite some of the evidence on these questions. The bulk of the available research conducted at constituency level is from Kenya (NACCSC, 2008) (CDFAP, 2008) (CCGD, 2009) although there is also research findings from Uganda (UDN, 2008) (AFLI, 2007). Methodologies of the studies vary, using both quantitative and qualitative data, varying sample sizes, surveys of citizens, MP interviews, other stakeholder interviews and focus groups.

given the prominence it deserves." The UDN report captured views from MPs which reinforce this notion: a number of MPs felt that it was important that the MP control the CDF funds because then constituents could recognize the contribution of MPs in developing their area.

The criticism of the CDF is that, by providing a kitty to MPs for this type of expenditure, the CDF reinforces MP-constituent relations which are based on commodities or benefits in return for voter support. The evidence from constituent surveys in Uganda and Kenya certainly suggest that, in the minds of both constituents and MPs, the CDF is contributing to the view that MPs are agents of development in their constituencies and are thus expected to contribute to community projects and deliver material outcomes to their area.

A study in India by Keefer and Khemani also found that political context was a key determinant of effort by legislators on behalf of constituents. Their main finding was that legislator effort is significantly lower in constituencies where voters are more attached to political parties and in constituencies that are reserved for members of socially disadvantaged groups or are seen as candidate strongholds. "Legislators substantially reduce effort to provide public works to their constituents when their constituency is a party stronghold."

If delivery can garner votes, non-delivery may cost them. The CDF Accountability Project undertook some investigations and learnt of various incidences where voter anger over MP non-performance or poor performance in spending CDF funds likely cost the politician the re-election. The report cites statistics from the Electoral Commission of Kenya (ECK) which indicate that 60% of the legislators from the 9th parliament did not return after the 2007 elections.

> *The ECK statistics in collaboration with those from the CDF National Board and the United Nations Development Programme (UNDP) Secretariats demonstrate that a majority of the MPs who fell at the last general election across the country had accumulated billions of CDF cash lying un-used in bank accounts with scores of incomplete projects. Most of those who made it back to the 10th parliament had lesser amounts of un-used CDF cash in bank accounts.* [7]

The ECK study does not prove the direct causation between CDF performance and voter behaviour. However anecdotal evidence suggests that voters in some constituencies notice non-performance and are holding their MP accountable. The CDF Accountability Project concludes: "The resounding lesson to the 10th parliament seems evident, manage your CDF prudently or else face the consequences in 2012."

2.2. Public participation

One of main arguments in favor of CDFs is that the institution enables greater involvement by citizens in identifying development priorities.[8] The key measure of public participation are the representivity of the CDC committee and the inclusivity of the processes used for project identification and selection.

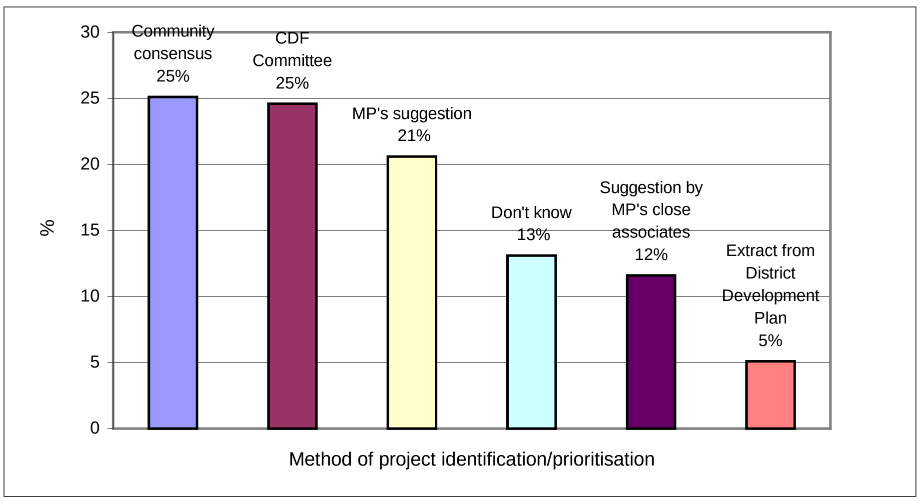
[7] "CDF – A Double Edged Sword." www.cdfproject.org

[8] Policy Forum. "Policy Forum Position Paper on the Constituency Development Fund."

The Kenyan CDF cites low/non-involvement of local communities in project identification and selection as one of the key challenges of the CDF. This is evidenced by data from the NACCSC report that showed low levels of public participation: nearly 60% of Kenyans are not given the opportunity to be involved in project selection or prioritization. Approximately 25% of respondents were involved in CDF projects in some manner (project identification or prioritization, project management, project monitoring) (NACCSC, 2008).

The degree and manner of public participation in project selection/prioritization appears to vary between constituencies. However the MP and CDC committee are key drivers of project selection. Figure 1 from the NACCSC reveals the methods used in project identification.

Figure 1 Methods Used in Project Identification/Prioritisation (Kenya)



Source: National Anti-Corruption Campaign Steering Committee (June 2008). "The Constituency Development Fund: An Examination of Legal, Structural, Management and Corruption Issues in Kenya."

With regard to representation on the CDF committee, the Kenyan system does make provisions for community representation on the committee, with representatives appointed by the MP.[9] Two places are reserved for persons representing religious organizations, and one place each for persons representing the youth and active NGOs in the community. Furthermore, the legislation reserves two slots on the committee for women.[10]

In Uganda, the lack of criteria or proper guidelines for appointing committee members opened the opportunity for MPs to manipulate the composition of the committee in their favour (AFLIA, 2008). The UDN report recommends, "Members of the committee should not be politicians but people with integrity in the communities." (UDN, 2009).

In Tanzania, limited efforts have been made in the new legislation to ensure NGO and community involvement and consultation. The legislation limits the CDC Committee to

[9] Legislation mandates that the committee, appointed by the MP, shall be chaired by the MP unless he/she opts out and shall have between 12 and 15 members.
[10] The legislation does not specifically indicate who appoints these representatives, but does state that the MP will constitute and convene the CDF committee.

six members, one of which must be a person nominated by the Committee from among the active NGOs in the area. (The other members are ward and district officials and councilors.) Section 10.4 of the CDCF Act also stipulates that each ward shall come up with a list of priority projects to be submitted to the CDC committee.

The situation in India is quite different. The explicit objective of the Members of Parliament Local Area Development Scheme (MPLADS) is to enable MPs to recommend development projects; there is no community committee establishment at grassroots level. According to the Ministry guidelines, the projects recommended by the MPs should be works which “meet the locally felt community infrastructure and development needs” but there are no requirements placed on the MP to solicit community input or set up structures which enable representivity and involvement by constituents in project selection.

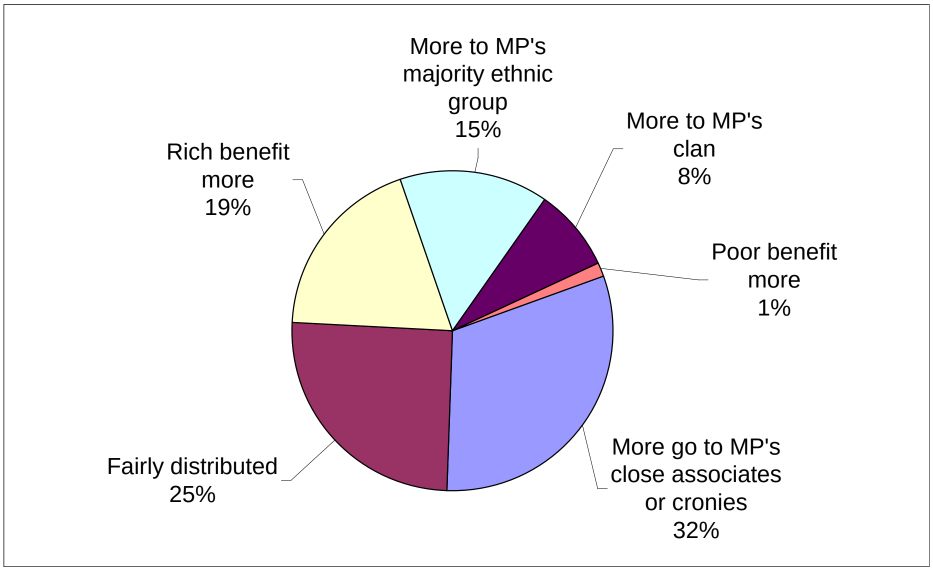
In summary, while Tanzania and Kenya have legislated a degree of community representation on the CDF committees, on the whole, public participation in CDF processes at grassroots level appears to be falling far short of civil society expectation. MPs and their appointees on the CDF committees tend to dominant project prioritisation and selection decisions and edge out public participation processes.

2.3. Selection of non-priority projects due to MP influence

Despite policy intentions of public participation and prioritization of projects which speak to local community needs, the research shows that many constituents feel resources are not flowing to the intended beneficiaries, primarily as the result of improper influence by the MP. The NACCSC reported instances where the CDF office was located in the MP’s home or rented from the MP’s building (2008). [11] This led to a situation where the majority of respondents felt the MP favored people of his or her ethnic group/clan/community or allocates more resources to the region where the MP was from. Figure 2 shows the data from the NACCSC report on constituent perceptions on how CDF resources were allocated.

[11] Apart from legal and ethical issues, the personal attachment of the CDF to the MP personally also creates practical transitional issues when the MP is not re-elected and the institution must then be disengaged from the person. The CDF Accountability Project has highlighted instances where there was the difficulties installing the new MP and sustaining CDF projects because the CFC office had been based at the former MP’s premises. “A Storm Brews in CDF Kitties.” www.cdfproject.org

Figure 2 Perceptions by Constituents of CDF Resource Distribution (Kenya)



Source: National Anti-Corruption Campaign Steering Committee (June 2008). "The Constituency Development Fund: An Examination of Legal, Structural, Management and Corruption Issues in Kenya."

As a result of low levels of public participation and tremendous power accorded to the MP in CDF management, the project identification and prioritization processes are not resulting in outcomes which meet the CDF's policy goals of pro-poor targeting, redistribution and grassroots development. The NACCSC report in Kenya found the uneven distribution of projects was a problem: projects were not targeting the right beneficiaries and projects were not reaching all community members. 78% of respondents reporting funding of non-priority projects, such as white elephants which remain un-utilized and projects which do not benefits the most poor and needy (NACCSC, 2008).

2.4. Development expenditure in the absence of coherent, long-term planning

On one hand, the purpose of the CDF is to address those specific local development needs which may have been neglected by centrally run development programmes or to let local communities move ahead with much-needed projects without having to wait on central government. However, the concern has also been raised that public resources are not maximized if they are expended on thousands of small, diverse projects which fail to move the country together towards common goals. When the total envelope available to the CDF is relatively small, this is less of a concern, but where political pressures are expanding the slice of the national budget which is spent on CDF projects, the danger increases that a sizable amount of public funds will be spent on projects which ultimately do not have a long-term impact.

Critics in Kenya have argued that funds are most often and most easily being spent on short-term projects which benefit a small number of residents; the larger struggle is to identify relevant and viable projects to fund which have long term value.[12] The view expressed by one Kenyan MP was that the CDF must be tied to national goals:

> *Is it appropriate to leave CDF to 210 MPs—do they have a vision in the first place. We should lock CDF to particular projects for the next five years so that the whole country grows together. So for instance we can all build dispensaries, or all fund water projects. We need to tie CDF to the national goals of the country for a particular number of years so that we are all growing at the same pace.* [13]

In order to maximize the impact of resource utilization, each constituency should prioritize their projects in a coherent strategy, which is linked to national goals and has a medium term time frame of 5 or more years.[14]

In Jamaica, a reform was introduced to address this same issue. Each MP is required to submit a 5-year development plan for their constituency, developed within the context of national priorities.[15] While this reform promotes long-term planning, it increases the similarity between the CDF projects and government's regular development programme and begs the question why a separate decentralized development programme is required.

2.5. Intergovernmental coordination to avoid project duplication

A common concern raised in Kenya, Uganda and Pakistan among others, is that CDF processes do not adequately protect against the duplication of development projects. MPs eager to garner political support may initiate 'new' projects under their name which are essentially duplications of their predecessor's work. In Kenya the District Project Committees receive the list of projects from their constituencies and are responsible for ensuring there is no duplication. However the Kenyan CDF itself has acknowledged that the failure to follow planning norms has led to projects being implemented close together.

Apart from duplication within the CDF scheme, there is also the danger of duplication of projects funded by other decentralization schemes (i.e. across national programmes) such as the Local Authority Transfer Fund (LATF). [16] A coordinating mechanism at local level is required to monitor and streamline the multiple sources of funding flowing to grassroots level. In some cases, the CDF might be used to contribute to the budget of an existing project for which there are insufficient funds available. The Joint Memo by SPAN in Kenya recognised this need when it included broader recommendations to set up institutions to coordinate decentralisation schemes at local level.

2.6. Targeting of allocations to poor areas

In some countries an equal amount of funds is allocated to each constituency. Other countries—including Kenya and Tanzania—have included an equity and redistribution

[12] Juma, Victor. "Bill seeks to curb wastage of CDF cash." Posted 24 July 2009.
[13] Report on Kikuyusforchange Discussion Forum on Constituency Development Funds, held 18 July 2009.
[14] Report on Kikuyusforchange Discussion Forum on Constituency Development Funds, held 18 July 2009.
[15] "Contractor General to Monitor Spending Under Constituency Development Fund." Jamaica Information Service. 13 June 2009.
[16] Juma, Victor. "Bill seeks to curb wastage of CDF cash." Posted 24 July 2009.

objective in the CDF legislation and have thus provided for an allocation process which is biased towards poorer areas. In Kenya, 75% of the Fund is equally divided among 210 constituencies while the balance is allocated to the poorest constituencies.[17] In his 2008 paper on the Kenyan CDF, Bagaka investigates whether CDF allocations per constituency are based on district population characteristics i.e. size and poverty. The evidence shows that densely populated districts with high poverty indices do indeed receive more funds than less populated districts with fewer people living in poverty. He concludes that the allocation formula used in the Kenyan model succeeds in promoting equity and allocative efficiency.

Tanzania adopted a similar approach to Kenya but went further to include geographic size and population size (in addition to poverty indices) as factors in the allocation formula. In contrast, the CDF schemes in India, Zambia, Malawi, Uganda and Southern Sudan allocate funds equally or on population basis.[18]

Although India allocates an equal amount per MP, the development policy objectives are promoted via Ministry guidelines which require that MPs set aside a certain amount for vulnerable groups with particular development needs within their constituency. MPs must recommend works costing at least 15% of funds for areas inhabited by Scheduled Caste population and 7.5% for areas inhabited by Scheduled Tribe Population—this translates into Rs. 30 lakh (63 000 USD) and Rs. 15 lakh (32 000 USD) respectively.[19]

If funds are not prioritized towards poorer constituencies, it provides further evidence to suggest that the main objective of the CDF scheme is to bolster the MPs' stature. The effectiveness of the formula used to target poorer areas will depend upon the factors and data included. As yet, there is no study which compares changes in development indicators per constituency to relative share of CDF funds, in order to assess impact of targeting formulas.

2.7. Corruption and mismanagement of funds

Issues of corruption are a common thread linking all CDF schemes, backed by research in many areas. Beyond anecdotal evidence, there is research from Kenya that clearly documents the corruption present in CDF operation in many constituencies. Public surveys have also recorded constituent perceptions of corruption on the part of CDF management.

The issue is also acknowledged by the Government of Kenya which identified corruption as one of the key problems to be investigated by the Task Force.[20] The various forms of corruption reported in Kenya include (NACCSC, 2008) (Gikonyo, 2008):

- Funding of non-priority projects which benefit a particular few, or are 'quick-wins' as opposed to more long-term development projects which are difficult to implement.
- Favouring of particular geographic areas of MP support in selecting projects

[17] Oxford Analytica, "Africa: Wide CDF adoption belies limited efficacy." 2 April 2009.
[18] Oxford Analytica, "Africa: Wide CDF adoption belies limited efficacy." 2 April 2009.
[19] A lakh equals 100 000 rupees.
20 At the launch of the Task Force in May 2009, the Planning Minister admitted that at least 20% of funds go to waste. Kagira, Anthony. "New Team to Review CDF Laws." Capital News, 22 June 2009.

- Collusion in the awarding of tenders and committee officials/MPs acting as suppliers
- Bribery in order to secure contracts
- Double-funding of projects
- Starting new projects instead of following through on the implementation of existing ones, in order for an MP to tie their name to particular project and point to their impact
- Tendering and procurement procedures are unclear and tenders are un-advertised. Single sourcing and irregular expenditure may result.
- Poor or little contract management, leading to contractors being paid for incomplete work or sub-standard work.

The NACCSC report gives data on the frequency of different forms of corruption and found that nepotism and sub-standard delivery by contractors were predominant:

- Nepotism: 64%
- Shoddy implementation of projects: 60%
- Awarding of tenders irregularly: 54%
- Payment of bribes: 39%

Corruption is a result of other weaknesses in CDF management—such as lack of reporting, weak contract management, poor oversight—because it creates an enabling environment for abuse. The corruption is also enabled by the failure of strong systems for redress in the CDF—due to weak institutions and the lack of political will. The CDF Accountability Project reports that despite numerous complaints, only three cases of CDF corruption have been prosecuted in Kenya over past six years.[21] At the same time, the 2007 Amendments to the CDF Act stripped the National Management Board of the powers it needed to go after corruption.

Recommendations for reform to address corruption in the Kenyan CDF centre around the need to establish a proper process for utilizing and managing the funds. It is clear that without a proper legislative framework, avenues for redress, and strong systems for accountability, decentralization schemes including the CDF are more likely to bring corruption down to the local level than achieve greater gains in development.

2.8. Need for greater professionalisation and improved project management

The low capacity and skill level of members of the CDC Committee and Project Committees has emerged as another key issue in Kenya and elsewhere. Where nepotism impacts on MP appointments to the CDC, the experience and skills base of the Committee membership may suffer.

This gap can partially be addressed by sourcing external support. According to the Kenyan CDF, there is minimum or non-existent consultation between CDCs and professionals in the community and low utilization of the existing technical capacity in the district because the Act did not spell out the role of technical officers in the programme implementation. It has also been suggested by government and civil society

[21] "Failure of Redress in CDF." www.cdfproject.org CDF Insight January 2009.

stakeholders that one remedy for this problem is for professionals with relevant skills to volunteer their time to the local CDC Committee.

In Kenya recent efforts have been made to professionalize CDFs and improve their capacity. As part of 2007 reforms, Fund or account managers were recruited and posted to each constituency by the Board, to improve management and compliance. Their role was to advise on the viability of proposed projects and to act as the link between the Board and the CDFC. However some fund managers have reported of intimidation and hostility from the MPs and Committees. The CDF Accountability Project reports that many have come under intimidation or have met serious resistance from MPs and CDC Committees when they raise questions around record-keeping and expenditures.[22]

In Jamaica, recent efforts have been made to improve the capacity at local level. Project managers were deployed to the 6 designated regions with oversight responsibility for approximately 10 constituencies each.[23] The CDF-PMU assigns Project Managers to each region, and then project officers assigned to each parish within regions to work with MPs in project implementation.[24] To be successful, such efforts must include provisions to support and empower professional deployees.

2.9. Additionality and sustainability

Proponents of the CDF argue that the system supplies additional discretionary funds at the local level and makes those resources available to communities for development projects of their own choosing. However its not always clear whether the CDF allocations are additional injections or are diversions from other budget priorities. If the funds are 'new', is their source donor funding or revenue from new or higher taxes?

In Kenya, where legislation mandates 2.5% of ordinary government revenue is allocated to the CDF, Parliament has boosted that percentage beyond legislative requirements to 7.5%. It would be necessary to undertake a tax analysis to check if increases in taxes collected are associated with increased allocations to the CDF, and whether the CDF allocation is increasing at higher rate than the overall budget (implying that it is crowding out other budget priorities).

A separate but related question is whether the CDF funding flow is supplementing or edging out other local government revenue sources. A budget analysis at constituency level would be necessary to determine if the CDF has resulted in a net increase in development funds available at local level. One of the concerns raised by Kimenyi (2005) in his analysis of the political economy of the CDF is that the scheme will weaken fiscal effort by local governments instead of complementing local revenue-raising efforts. However in practice, this appears to be less of a concern on the part of civil society groups than the fear that CDFs will displace other development funding streams from national government, instead of increase the net funds available at local level.

[22] "CDF Managers' Trials and Tribulations" www.cdfproject.org

[23] "Contractor General to Monitor Spending Under Constituency Development Fund." Jamaica Information Service. 13 June 2009.

[24] Government of Jamaica Office of the Prime Minister. "Constituency Development Fund." 2008. Downloaded at http://www.opm.gov.jm/library/ministry_papers/constituency_development_fund_cdf on 16 August 2009.

The danger of the CDF creating fiscal illusion among residents at a local level is also explored by Bagaka in his 2008 paper on the Kenyan CDF. Similar to Kimenyi, he labels the CDF as a delegated form of fiscal decentralization, whose main attribute is that it allows local people to make expenditure decisions based on their own development priorities, within the boundaries of directions from central government. Bagaka was chiefly interested in the impact of the CDF on central government's recurrent and capital health budget—how do decentralization schemes impact the size of the public sector? His analysis suggests that because regular maintenance of capital projects and salaries of new employees tasked with running the new facilities fall under operating costs, the CDF projects have the effect of growing the operating budget. The scheme essentially has created "a mismatch between projects' benefits at the constituency level and the 'true' operating cost of such projects." In essence, the CDF results in the export of the tax burden outside the constituency and the growth in government spending overall.

To remedy this mismatch, Bagaka recommends that the Act be amended to that a portion of a constituency's annual CDF allocation is set aside to cover the operating and maintenance costs associated with CDF projects so that the full costs of CDF projects are internalized at the local level.

Our understanding of the full impact of CDF schemes on the national budget is clouded by another issue. The PF in Tanzania has noted that often only the direct costs of CDFs are considered i.e. project costs (capital) and administrative costs. The Kenyan CDF Act requires the line departments to be involved during project development in order to ensure that budget estimates are 'realistic'; in other words, to ensure that the full long-term costs of the project are tallied, including running costs. These on-going operational costs (salaries, maintenance etc.) must be sourced from the regular budget of line departments. Thus theoretically every CDF project allocation must carry with it an associated allocation in the main budget for running costs. However in practice, the budget process does not provide for the intergovernmental coordination which would ensure that the capital and operating costs of all CDF projects are planned for over the long term.

In some cases, the CDF scheme becomes the platform for a tussle between levels or departments over budget responsibilities. The CDF management may feel its responsibility ends with capital financing and other government bodies must share the total burden. For example, India is experiencing the same debate over the responsibility for operational costs as Kenya. The National Ministry in India takes the position that operations and maintenance costs are not to be funded via the MPLADS. The view of the Ministry is that these running costs are the responsibility of the owner/user and it is the task of the District Authority to address this issue before approving the project (MPLADS, 2006).

The net result is that poor intergovernmental coordination undermines proper budgeting and planning, and the underfunded projects become unsustainable. The Kenyan CDF has acknowledged that the lack of collaboration between line departments on staff requirements especially has led to low utilization of completed facilities especially Health institutions and cattle dips.

2.10. Administrative costs and impact on local authorities

From an institutional perspective, what impact do the CDFs have on the power of local authorities in development? The danger is that the role of local government in development projects will be undermined, marginalized, or duplicated.

Critics of the CDF in Kenya have argued that the scheme sets up a parallel administrative structure which is expensive, unnecessary and burdensome on the local authority. In India, the funds flow through existing administrative structures which avoids the set-up of a new structure. However the MPLADS puts significant additional monitoring and reviewing responsibilities on the States which already suffer from staff shortages. The Ministry has prohibited the use of MPLADS funds, including the contingency set-aside, to finance additional administrative capacity for the State Nodal departments. The view expressed by the Ministry is that the central government via the MPLADS is already financing development projects that otherwise would be financed by the State; thus "it would, therefore, be appropriate that overhead/establishment expenses for the State Nodal Department is borne by the respective State/UT Government." (MPLADS, 2006). Restrictions on CDF expenditure which limit its use to capital costs mean that operational cost burden (which must come from another funding source, often local) may not be properly coordinated and/or planned for, or may be insufficient to ensure the functioning of the facility.

Apart from the administrative and financial burden on local authorities, there is also evidence that putting funds in the direct control of the CDC committees and MPs sets up conflict between them and the local authorities. For example in Kenya some MPs have argued that government officials obstruct utilization of funds and MPs should thus have more direct control.[25]

2.11. Transparency and public access to information

CDF data, including budget and expenditure figures, progress reports and tendering/procurement documentation, is often very difficult for citizens to access. CDC Committees, national and local government officials and MPs often hinder access, delay publication of data, or simply refuse to release documentation. There is documented evidence of this in Kenya. The CDF Accountability Project conducted field visits in Nairobi's constituencies in 2008 and found that constituents are basically unable to access CDF project information from their local CDF office or from the national CDF Board. During field visits, CDFCs were 'extremely reticent' to provide any project information: "Officials at the constituency level in all 8 constituencies refused to provide CDF records without the express permission of either the Board or the MP. This 'official secrets mentality' facilitates a culture of corruption and impunity that must change if widespread local economic development is to occur."[26]

Similarly, the NACCSC study in Kenya found that 88% of respondents felt that transparency in the CDF management was poor or lacking entirely.
The same problem was encountered by MUHURI and other civil society groups in Tanzania attempting to gain CDF project information from CDCF offices in the constituencies.

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[25] Wanambisi, Laban. "Kenya MPs want more say in CDF use." Capital News, 17 June 2009.
[26] The CDF Accountability Project. "Exercising the Right to Know: The Constituency Development Fund (CDF) in Nairobi Constituencies." CDF Case File Report No 1, September 2008.

Countries with longer-running CDF programmes, such as India and Kenya, have made progress publishing information online. The official CDF website of the Government of Kenya is the best example of publicly available information (www.cdf.go.ke) however there are substantial deficiencies. The website ostensibly provides information on CDC committee members, project allocations, project status (included amount spent to date), disbursements and reallocations per project by constituency, for 2003/04 to 2008/09. However it is incomplete for some constituencies for some years, outdated and/or vague.

Civil society groups say the struggle to access CDF progress and expenditure reports, as well as information on tendering and procurement, is not particularly unique to the CDF but applies as well to other decentralization schemes which government bureaucrats are reticent to share information.

Efforts to access information are substantially impeded by the non-existence of Freedom of Information legislation. In Kenya, FOI legislation has been under debate since 2005 and a Bill was actually introduced in Parliament in May 2007. However legislation has not yet been passed.[27] In Tanzania, Article 18 of the Constitution of Tanzania gives citizens a broad general right to information and freedom of expression, there is no specific Act to detail and protection citizen access to information. The Newspaper Act of 1976 actually restricts public information by granting the President powers to prohibit any publication to be imported or printed if it jeopardizes national interest.

As described in Appendix B on India, utilization rates of CDF funds in India sharply improved following the release of the Auditor's report and the related media coverage. MP disbursement improved markedly once the media focused on the parliamentarians' poor spending rate to date. Keefer and Khemani also make that the point that it was the combination of independent credible data from the CAG and the dissemination of that information by the media which succeeded in making an impact on government performance.

Public access to information and transparency of the MPLADS continued to improve and India now offers some best practices for CDF transparency. The 2005 Guidelines from the Ministry included specific provision to protect the right of citizens to access information on "any aspect of the MPLAD Scheme and the works recommended/sanctioned/executed under it" as per the Right to Information Act, 2005. A web-based system has also set up which the District Collectors use to enter the monthly progress data which is required for the release of the next MPLADS installment. Reports are also available to the public online, showing expenditure per State per MP/constituency, as well as progress reports on work done in priority sectors (e.g. drinking water, education, electricity). Although Kenya has similar information available online, India differs from Kenya in that a Freedom of Information Act is in place, and secondly, that Act is specifically cited in government regulations to emphasize the applicability of the Act to CDF data.

[27] Access to information was further hindered by amendments to the 1998 Communications Bill which were approved by the President in January 2009. Section 88 of the amended act gives the Minister responsible for Internal Security the power "to take temporary possession of any telecommunication apparatus or any radio communication station or apparatus within Kenya," upon "the declaration of any public emergency or in the interest of public safety and tranquility."

3. Proposed reforms and alternatives to CDFs

3.1. Views of donor organisations

The long gestation period for the Tanzanian CDCF legislation is an interesting example of donor influence. In Tanzania a number of domestic and international NGOs have been involved in the Policy Forum coalition opposed to the Act, including Action Aid which currently serves as chair.[28] The Forum includes other international partners such as: Norwegian People's Aid; Oxfam-Great Britain; Save the Children; Accord; Catholic Relief Services; Family Health International; and the Danish Association for International Cooperation. Action Aid is of the view that the CDF compromises the independence of Parliament and thus undermines their ability to provide oversight of the executive. There is already a democratically-elected institution at local level—local government—and thus there is no need for the parallel system which the CDF introduces.

One of the reasons the CDCF Act was not passed earlier in 2007 was that donors refused to allow the Tanzanian government to utilize General Budget Support funds for the CDF. Tanzania is one of the largest recipient's countries of foreign aid in Sub-Sahara Africa with approximately 35% of government spending dependent on foreign aid (Fiscal Year 2008/2009).[29] Government took a decision to fund the CDCF from local sources before the Act went through in 2009.[30] Thus civil society, teaming up with donor organizations, were a factor in the delayed establishment of the CDCF but were not successful in blocking its passage.

On the whole it appears that, with regard to CDFs, donor organizations have more concerns than confidence. How those views manifest in public action varies. Some donors have expressed explicit opposition to the establishment of CDFs. It is the view of the German Embassy in Tanzania that the country does not need a CDF. Their opposition is firstly based on the separation-of-powers issue. From a political perspective, it is the view of the Embassy that the CDF favours incumbents, while from a practical perspective, the CDF is unnecessary duplication given that donors already support a local development fund intended to foster grassroots development. The German Embassy has brought forward these arguments to the Tanzanian government on many occasions, in unequivocal terms.[31] However the Embassy has not provided grant support to organizations involved in advocacy on the matter.

In contrast, other donor organizations have not directly taken a position on CDFs but instead relied upon grantees who undertake civic and public participation initiatives around the issue. The Ford Foundation, Office for Eastern Africa, views the primary advantage of the CDF is that it can serve as a critical entry-point to mobilize people at grassroots level for change, accountability and control of resources earmarked for their

[28] Phone interview with Rose Mushi, ActionAid Tanzania, Dar es Salaam, Tanzania, 2 November 2009.
[29] According the Development Partners Group Tanzania (http://www.tzdpg.or.tz), aid management in Tanzania is guided by the Joint Assistance Strategy (JAST) jointly developed by the government and development partners. There are three modalities used to provide assistance to Tanzania: General Budget support (GBS), Basket Funds (BFs) and direct project funds, with the GBS being the most preferred mode since it is consistent with the government's legal framework and processes.
[30] Email from Irenie Kiria, Tanzania Youth Action Volunteers. 29 September 2009.
[31] Personal email correspondence from Dr. Guido Herz, German Embassy, Tanzania, 4 November 2009.

livelihoods.[32] However with regard to the Kenyan situation, their concern is that the CDF may become a slush fund for patronage and direct bribes to Members of Parliament to allow them to perpetuate corruption at the grassroots level and promote impunity. The Foundation has supported NGOs and CBOs involved in advocacy around CDFs.

3.2. Reforms proposed by civil society organisations

Civil society groups have formulated a number of proposed reforms to address the implementation issues described above. Several organizations have worked to highlight best practices and documented the various interpretations and implementation schemes adopted in different constituencies.

A number of the suggestions for reform have zoomed in on improving the representivity and capacity of the CDC Committee. In Kenya, CCGD cites a best practice where CDC Committee members are democratically elected by the community (CCGD, 2009).[33] Kikuyus For Change has argued that the CDF is a constituency fund and not a political fund; therefore instead of a winner-take-all approach to CDC Committee composition (where the MP selects all CDC Committee members), representation on the committee could reflect share of vote in the local election.[34]

It is also suggested that representation on the committees should be opened up to other groups, including the private sector, CBOs, NGOs etc. Best practices are also highlighted in Kenya where deliberate measures were taken to proactively improve gender equity and include the participation of marginalized and vulnerable groups on the Committee (CCDG, 2009).

In some areas, specific actions were taken to boost the capacity of the CDC Committee, including incorporating professionals on the Committee and organizing capacity-building programmes for both CDFC and Project Committee members (CCDG, 2009).

Other good practices provide examples of measures to improve and strengthen citizen participation and accountability, such as: the public disclosure of the financial status of the CDF projects; opening up the project identification and selection process to better participation by the community; and making tendering procedures transparent were also identified as best practices. In some instances MPs themselves took steps to connect to constituents and increase accountability, through progress reports by CDF committees and monthly meetings with citizens; open procurement meetings; and processes for public nomination of CDF committee members.[35]

Another set of proposed reforms centre on strengthening the capacity and resources of MPs to carry out their oversight function. The rationale behind these recommendations is that CDFs were instigated by a misguided understanding of the nature of MP-constituent relations which casts the MP in the role of resource provider. Civic education efforts are

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[32] Personal email correspondence with Willy Mutunga, Ford Foundation, Office for Eastern Africa, Nairobi, Kenya, 27 October 2009.

[33] The 2009 report from the Collaborative Centre for Gender and Development in Kenya documents a number of best practices and provides case studies of specific CDF projects, based on research carried out in 10 constituencies.

[34] Kikuyusforchange hold online conversations on CDF. 24 June 2009.

[35] Gikonyo, Wanjiru. "Why CDF is a bucket full of holes." The East African, 29 June 2009.

needed to change the mind-set of the citizens so that they fully understand the oversight and law-making function which is the core of the MP's function. The role of the MP is to contribute to the parliamentary process to shape laws which promote the national good, not to aid the welfare of individuals by intervening in personal hardship cases.

Finally it is noted that one of the reasons CDFs evolved was that opposition MPs had little to no impact on budget-making and thus, after campaign promises, are unable to return to constituencies and point to any concrete projects which they have effected. CDFs thus partly arose from public frustration with the main budget process which does not allow minority input or local responsiveness at grassroots level. This weakness points to need to alter budget process so there are more real opportunities for input into the budget process by legislators so that the budget can better reflect the priorities of their constituencies.[36]

3.3. Directions for future research and advocacy

There is a clear need for sound research to document the impact and consequences of CDF schemes in various countries. As can be seen from the dominance of research from Kenya cited in this paper, the majority of constituent perception surveys and studies of CDF processes and institutions have provided a clear understanding of the issues in Kenya but have not enabled us to understand how different design features used in other countries may impact on programme outcomes. This research will benefit civil society groups undertaking advocacy campaigns for CDF reform.

Three key areas must be investigated. First, analysis of budget and expenditure information is needed, from a public finance perspective, to understand how the efficiency of CDF spending relates to other decentralisation schemes (utilisation rates per constituency for each decentralisation fund). Historical budget analysis can indicate:

- From an expenditure perspective, whether the installation of CDF schemes has resulted in a net increase in funds spent on grassroots development; and
- From a revenue perspective, how the growth in allocations for CDF schemes are financed and what impact they have on the budget.
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Second, the relatively quick escalation of allocations per constituency (in Kenya and the Philippines especially) raises questions around the political and social drivers of CDF initiatives. A stakeholder analysis may be able to give insight into why CDFs take off in some countries and are slow to be established in others.

Third, as yet we have no research telling us whether CDF schemes actually make a difference on the ground in terms of development indicators. Despite the concerns raised in this paper, it is important to note that survey and interview data reflect positive views of the CDF from citizens. In Kenya, the CDF is relatively popular and well-known by citizens, in comparison to other local level funding sources/programmes. The level of community satisfaction with the Fund was found to be approximately 50% of respondents (NACCSC, 2009). Although many respondents feel that the CDF can be better implemented, on the whole it has had a positive development impact on

[36] Phone interview with Vivek Ramkumar, 24 September 2009.

communities, in concrete tangible ways: increasing health facilities, building classrooms and schools, providing bursaries, improving and building roads, enabling access to drinking water, and constructing social and community facilities in villages (CCGD, 2009). For many, the CDF has become the most popular and visible vehicle for delivering social projects at grassroots level (Mshana, 2009).

The AFLI report expressed similar sentiments from Ugandans. Views varied on whether the funds had been well-utilized and levels of awareness of the programme ranged from 47% to 14% (AFLI, 2007). However the study found that generally people felt the fund was a good approach to poverty alleviation and, even where there were concerns of mismanagement of funds, people felt there was a need for the programme.

If arguments opposing the establishment of a CDF on the basis of violation of separation of powers are disregarded and legislation is approved, civil society groups may be forced to take the legal route and push the courts to declare the legislation unconstitutional. The success of this approach will depend on the strength of civil society, the court system and the rule of law.

However the emerging examples of best practices and the mere variety of CDF schemes worldwide would suggest that it *is* possible to build safeguards into the system to ensure transparency, promote public participation and substantially curb corruption; although the violation of the separation of powers would remain a fundamental issue This review indicates that, from a civil society perspective concerned with poverty alleviation, transparency and accountability, the critical features of a CDF are:

1. The existence of a legislative and regulatory framework which:
   - Promotes and protects public participation processes in project prioritization and identification
   - Provides for a body—apart from Parliament—which is empowered to manage and conduct oversight
   - Establishes funding flows and disbursement procedures which remain in control of government officials, as opposed to MPs
   - Ensures representivity of CDF committee at local level
   - Requires CDF project and budget information to be publicly available
2. Allocation formula which prioritizes poorer constituencies

According to Gikonyo, “A CDF project can be said to be successful if it enjoys public involvement and support, is transparently managed, and answers the development needs of the electorate.” The evidence reviewed in this paper would suggest that these ingredients in the design of a CDF scheme would contribute to such success.

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Appendix A. Summary of country experience of CDFs

	Year started and original intent	Budget and allocation	Legislative/regulatory framework	Institutional framework	Key issues emerging in press/literature
India	Members of Parliament Local Area Development Scheme instituted 1993 For development: durable community assets based on locally felt needs	− Every MLA receives 2 crore rupees each year (420 790 USD) − Small amount originally and then sizably scaled up since introduction − State legislators also have own funds; differs from state to state	Funds paid into separate account for each constituency	MPs recommend projects to District Authority (District Collector) responsible for implementation No CDF committee State Nodal Department coordinates with Ministry	Low spending rates in early period increased to over 90% currently Significant authority to District Collector; degree of influence of MP over DC varies
Kenya	2003 Address regional imbalance from harambees; redistribution. Make funds available at grassroots level to fight poverty	2009/10 KShs 60 million to each of 210 constituencies (795 464 USD) 75% equally distributed, remainder allocated according to poverty levels Act mandates 2.5% of ordinary govt revenue for CDF; increased to 7.5%	Clear legislation in place. CDF Act (2003); Amendments to Act (2007); currently Taskforce undertaking review of CDF	National CDF Management Board – semi autonomous CDF Committee for each constituency appointed by MP Project Management Committee for each project – responsible for implementation District Project Committees responsible for coordination	Civil society research gives evidence public awareness is very low; cannot access info Corruption and mis-management of funds Utilization rates fairly high; CDF most well-known/'successful' of multitude of decentralization schemes
Tanzania	July 2009 Implement development projects and reduce burden on MPs from constituent requests	Total envelope and amounts per constituency not known publicly Approximated at 15-20 million TZS (11000-15000 USD) 25% divided equally; 45% in relation to population; 20% poverty margin; 10%	Constituencies Development Catalyst Fund (CDCF) modeled on Kenyan legislation	CDCC convened and chaired by MP; District Planning Officer is secretary	Strong opposition by civil society activists arguing CDF is unconstitutional because violates separation of powers Concern with introduction of CDF prior to 2010 general election; potential misuse by MPs for

	Year started and original intent	Budget and allocation	Legislative/regulatory framework	Institutional framework	Key issues emerging in press/literature
		geographical size			campaigns
Uganda	September 2005 Intended to relieve MPs from constituent pressure for financial support for development projects	Current disbursement: 10 million shillings per constituency (5 187 USD)	− 2005 Parliamentary Committee created guidelines which not approved in plenary or followed in all constituencies. − No comprehensive legislation in place.	− MP establishes committee and chairs − District Project Committee monitors − Money released to individual MP who is responsible for accounting	Low levels public awareness Corruption and mis-management of funds
Sudan		− Total of 141 million pounds in 2007 − Each of 171 MPs get 733 333 pounds (317 543 USD)			Issue of who has signing power for expenditure
Malaysia		− Each BN ADUN in Selangor is allocated RM2 million (577 951 USD) annually per constituency − Increased from RM500 000 originally			
Philippines	Priority Development Assistance Fund	Senators P200 million each (4.27 million USD); 238 House members P70 million (1.5 million USD) each			−
Jamaica	February 2008 To empower MPs to respond to needs articulated by constituents	− Every MP allocated J$40 million (456 361 USD) in 2008, same in 2009	− Project applications submitted to CDF-PMU then referred to specially appointed Parliamentary Committee which approves	− Recent efforts made to improve accountability: project managers deployed to the 6 designated regions with oversight responsibility for approximately 10 constituencies − Also project officers working with MPs to	−Reporting 98.5% expenditure for 2008 −In 2009, will establish Constituency Project Oversight Committees −Concerns over separation of powers −Debate in Parliament on possible cutting of CDF to reduce budget expenditure

	Year started and original intent	Budget and allocation	Legislative/regulatory framework	Institutional framework	Key issues emerging in press/literature
				implement	
Malawi	To enable communities to act on small projects without waiting for central government	K3 million annually (21 352 USD)			
Pakistan	1985, evolved in various forms since then	R20 million (240356 USD) for each National Assembly member; each Provincial Assembly member receives 5 million rupees (60 089 USD)			

Appendix B. India

Origin and Design of the MPLADS

India has two CDF-style schemes: the Members of Parliament Local Area Development Scheme (MPLADS) at the national level and the Member of Legislative Assembly Local Area Development Fund (MLA-LAD) for the Legislative Assembly of each of India's 28 States.

The MPLADS scheme was instituted in India in 1993 under the dominant national party, the Congress Party. Under the MPLADS, an equal amount is allocated annually to each single-member parliamentary constituency; the funds are to be used for "works of developmental nature with emphasis on the creation of durable community assets based on the locally felt needs."[37]

The Ministry of Statistics and Programme Implementation has overall responsibility for managing the funds. Each State government must designate a Nodal Department which is responsible for coordination with the Ministry and effective supervision (including physical inspection) of the work on site. The MPs recommend projects which are sanctioned by the District Authority who is directly responsible for implementation. The District Authority identifies the agency to be used to execute the project; this may be a local government, government agency or NGO. The District Authority is also responsible for enforcing the provisions of the guidelines with regard to admissible expenditure.

In FY 1999-2000 the amount allocated for each MP was doubled to Rs 2 crore—approximately 420 790 USD.[38] The Ninth Report of the Lok Sabha committee on MPLADS suggested increasing the allocation to Rs 5 crore per MP in view of cost escalations. If funds are unspent in a given year, they are not returned to central government but are pushed forward into the next financial year with no penalty.

MPLADS performance

The MPLADS was introduced at a time when the Congress Party was vulnerable at state level; "The timing and manner of programme initiation..suggests that MPLADS may have been conceived as a vehicle for the dominant national party to channel funds to its MPs in the growing number of states controlled by the opposition." (Keefer and Khemani, 2009). Keefer and Khemani suggest that in this context, there was no political incentive for the national party to publicize the programme and inform voters of these resources available for constituency service. As a result, the programme was largely unknown and disbursement levels were quite low for the first five years. From 1993 to 1999, MPLADS disbursements in the average and median districts were only 36 percent of available funds (Keefer and Khemani, 2009).

[37] Funds may not be spent for maintenance, repairs, grants and loans, acquisition of land, assets for personal reward, recurrent expenditure, places of worship or religious groups. Ministry of Statistics and Programme Implementation. "2005 Guidelines on MPLADS."

[38] 1 USD = 47.5296 INR (http://www.xe.com/ 5 October 2009). 1 crore equals 10 million Indian rupees.

The context changed in 1999 when the Comptroller and Auditor General (CAG) released an audit of the MPLADS programme which covered a select few states.[39] The report drew attention to the fact that central government transfers MPLADS funds directly to the District Authority thus the usual checks and balances for regular government expenditure were not applicable. However the Ministry had failed to develop specific accounting controls for the MPLADS funds to make up for this, resulting in poor financial management (CAG, 1999).

Numerous problems were identified by the CAG Audit, including:

- Low utilization of funds due to: MPs not recommending projects and DCs delaying in sanctioning work.
- Failure of the Ministry to obtain utilization certificates to show appropriate use of the funds, and yet the disbursements of further installments had continued.
- Mis-reporting of financial progress of work by the District Collectors (DCs).
- Great time delays in implementation, by the DCs in approving projects and by the implementing agencies.
- Use of funds for inadmissible purposes, including commercial and private organizations and repair and maintenance works, purchase of stores, works on private land etc.

Table 3 shows cumulative expenditure as a share of cumulative funds released from 1997 to 2000, as reported in the CAG audit. As of March 2000, 35.8% of cumulative funds released had still not been spent.

Table 2 MPLADS utilization rates, 1997-2000 (cumulative)

Date up to	**Cumulative release of funds** (Rs in crore)	**Cumulative expenditure** (Rs in crore)	**Percentage utilisation**
31 March 1997	2349.8	1285.5	54.71%
31 March 1998	2837.8	1549	54.58%
31 March 1999	3627.3	2315.4	63.83%
31 March 2000	5017.8	3221.21	64.20%

Source: Ministry of Statistics and Programme Implementation, as quoted in 1999 CAG Audit Report on MPLADS 1997-2000.

The CAG report also found that the physical progress on works had actually *declined* between the 1st audit period (1993-97) and the 2nd audit period (1997-2000). A smaller portion of works were completed in the latter period.

In summary, the overall finding was decidedly negative, arguing that the Ministry had clearly failed to monitor the MPLADS and that the implementation of the scheme has actually become worse since 1997.

When the CAG report publicized the extent of un-utilized funds, pressure was put on government to revise guidelines to improve performance and prevent the mismanagement of funds. In 1999 national elections brought in a new cohort of MPs. Faced with media scrutiny of their MPLADS performance, MPs stepped up their

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[39] Comptroller and Auditor General of India (1999). "Audit Report of the Comptroller and Auditor-General (CAG) on MPLADS 1997-2000."

spending: between 1999 and 2003, the median MP office disbursed 85% of accumulated funds (Keefer and Khemani, 2009).

However the study by Keefer and Khemani shows that even after the jump in utilization rates in 1999, some MPs were still showing low expenditure rates and there were wide variations between constituencies. 30 % of district still had spent less than 75% of accumulated allocations by 2004.

Utilization rates have improved since then. As of 25 September 2009, a total of 20713 Rs. crore in funds are available.[40] Of this, 18522 Rs. crore or 91.35% has been utilized.[41]

Role of MPs

Notably there has been no act of Parliament passed to govern the MPLADS and MLA-LAD.[42] Instead guidelines issued by the government set the terms for the implementation of the scheme. Under those guidelines, most recently updated in 2005, MPs 'recommend' projects to be funded. According to the Ministry: "Hon'ble MPs have the full authority to select the works of their choice provided these are eligible under the Guidelines."[43] However the India scheme also gives significant authority to the District Authority who sanctions the projects and has technical, financial and administrative authority. Funds are not deposited in the MP's account but are paid into a separate account to be opened for each MP and maintained by the DC (civil servant). (The Ministry Guidelines specifically forbid the funds being deposited in the State/UT Government Treasury accounts). Depending on the strength of the local MP and party politics, the MP's influence over the District Collector will vary but in official terms the funds remain in state government with oversight executed by the civil service and not politicians. [44]

Notably MPLADS Guidelines state that the work and site which the MP selects for a project cannot by changed by the District Authority except with the concurrence of the MP. However the CAG report gave evidence that in a large number of instances, DCs were not approving projects which the MP had put forward: DCs did not sanction 24% of the projects recommended by MPs. Furthermore DCs incurred expenditure on Rs3.97 crore worth of projects which were never recommended by MPs.

[40] Figures are cumulative, since the inception of the programme in 1993. The amount available quoted here includes interest earned.
[41] Ministry of Statistics and Programme Implementation. "Statewise Status of Fund Release and Expenditure (as on 25/09/2009). Available online.
[42] Email from Sowmya Kidambi, Mazdoor Kisan Shakti Sangathan (MKSS), Rajasthan, India.
[43] Member of Parliament Local Area Development Scheme (MPLADS) (2006). "A compendium on instructions/clarifications issued on MPLADS guidelines."
[44] Phone interview with Vivek Ramkumar, 24 September 2009.

Appendix C. Kenya

Origin of the CDF

The CDF idea took hold in Kenya 10 years after its establishment in India. Hon. Muriuki Karue (former MP for Ol Kalou) is credited with initiating the CDF in Kenya in 2003. According to him, the original intention of the fund was to ensure that money was made available right at the grassroots level development. The existing budgetary system was not succeeding in getting sufficient funds to local level for expenditure on priority projects defined by the communities themselves.[45] Opposition MPs had also expressed the view that the distribution of development funds throughout regions in Kenya was biased against the opposition areas. By providing funds directly to each constituency for fighting poverty, the proposed CDF would assist to iron out regional imbalances due to patronage (Bagaka, 2008). Proponents also sought to frame the initiative as a means of ensuring equitable distribution of development funds for equitable growth (Gikonyo, 2008). Thus both equity and efficiency arguments were used to support the establishment of the Fund.

There was also a historical impetus for the emergence of the CDF in Kenya. The long-standing tradition of community events, termed 'harambees,' held to generate support and build communities was an established feature of Kenyan life. Under the rule of President arap Moi, some political leaders began to abuse the system for electoral support and other MPs felt building pressure to support local harambee drives with significant personal financial contributions. The CDF system was therefore designed to replace the harambee system and reduce corruption by institutionalizing MPs control of funds.[46]

Finally, the CDF was located within a variety of decentralized funds which are currently operational in Kenya, including the Secondary School Education Bursary, Local Authority Transfer Fund, Roads Maintenance Levy Fund, Rural Electrification Program Levy Fund and Free Primary Education, most of them established in the 90's (Gikonyo, 2008). The CDF followed on these programmes as part of the national drive to shift the implementation of development and service delivery to the local level in order to boost ownership, responsiveness, and participation.[47]

Total envelope

One of Karue's main goals was to create a statutory obligation on national government to transfer a certain amount of the budget to local level for development projects. Although the original hope was for a 5% set-aside, the CDF Act of 2003 stipulated that 2.5% of total government revenues were to be disbursed to constituencies.[48]

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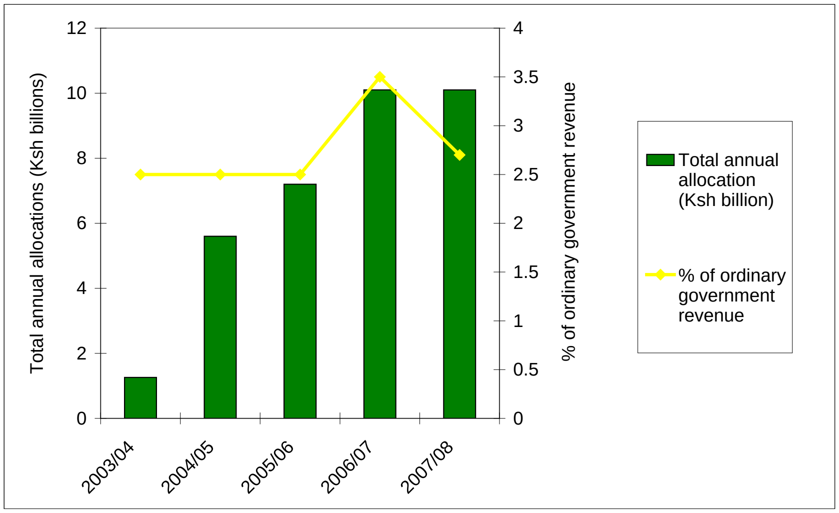
[45] Report on Kikuyusforchange Discussion Forum on Constituency Development Funds, held 18 July 2009. See http://www.kikuyusforchange.com/?p=194#respond
[46] Oxford Analytica, "Africa: Wide CDF adoption belies limited efficacy." 2 April 2009.
[47] Oxford Analytica, "Africa: Wide CDF adoption belies limited efficacy." 2 April 2009.
[48] Juma, Victor. "Bill seeks to curb wastage of CDF cash." Posted 24 July 2009.

Figure 3 Kenya: CDF allocations 2003-08 as percentage of ordinary government revenue



Source: Gikonyo, Wanjiru (2008). "The CDF Social Audit Guide." Open Society Initiative for East Africa: Nairobi, Kenya. Pg. 6.

Figure 3 shows the total annual allocation to the CDF from 2003/04 to 2007/08, in Ksh billions and as a percentage of ordinary government revenue. In 2006/07, the total allocation increased to 3.5% of ordinary government revenue and then in 2007/08 the allocation dropped to 2.7% (Gikonyo, 2008). The total kitty has increased ten-fold since the Fund's inception: from 1.26 Ksh billion in 2003/04 to 10.1 Ksh billion in 2008/09. Since its launch in 2004, total of Sh44 billion has been devolved through CDF framework (approximately 580 million USD).[49] A motion seeking to increase the allocation to 7.5% of revenue was recently passed in Parliament.[50]

Allocation of funds

The total amount of CDF funds allocated to each constituency depends upon poverty levels in the area. 75% of the CDF is equally distributed among Kenya's 210 constituencies. The remaining 25% is allocated to constituencies according to the National Poverty Index multiplied by the constituencies poverty index.[51]

In 2009/10 each constituency was allocated approximately KShs 60 million (794 464 USD).[52] There is a proposal to increase that amount to Ksh183 million in the next financial year.[53]

The CDF Act (2003) and CDF Amendment Act (2007) place the following limits on how the funds may be utilized:

- Each constituency must keep 5% aside for emergency reserves.
- The maximum each constituency can spend on each area is as follows:

[49] Kagiri, Anthony. "New team to review CDF laws." Capital News, 22 June 2009.
[50] Kenya Institute for Public Policy Research and Analysis (KIPPRA). See http://www.kippra.org/Constituency.asp
[51] Constituency Development Fund website http://www.cdf.go.ke/
[52] 1 USD = 75.5226 KES (http://www.xe.com/ 5 October 2009)
[53] Gikonyo, Wanjiru. "Why CDF is a bucket full of holes." The East African, 29 June 2009.

  - Administrative costs: 3%
  - Operations and maintenance (vehicles, equipment and machinery): 3%
  - Sports Activities: 2%
  - Monitoring and evaluation: 2%
  - Environmental activities: 2%
- Total number of projects in a year must be a minimum of five and a maximum of 25.
- Funds cannot be used to support political or religious activities and may not include personal awards.
- Funding must cover a complete project, or defined phase or element of a project.
- Expenditure must be on capital costs of development projects; recurrent costs may not be included.

Governance and structures

The main governing bodies for the CDF are as follows:

- The *Constituency Fund Committee* is the select committee of parliament responsible for determining the allocation and distribution of the CDF.

- The *Board of Management* of the CDF is a semi-autonomous body of 18 members, composed of top government officials and representatives from civil society groups nominated by the Minister of Planning. The Board reports to the CFC, administers the fund and approves all payments.

- Below the Board, the *District Projects Committees* are comprised of all MPs in each district as well as other local government heads and other officials. The MPs table their list of projects to the DPC which is responsible for ensuring there is no duplication across the district. The 2007 Amendments to the Act removed procurement responsibility from the DPC and limited their role to primarily coordination.

- In each constituency, the relevant MP constitutes and convenes a *Constituency Development Committee* (CDC) with a maximum of 16 members. The CDC, chaired by the MP, is responsible for deliberating on and prioritizing project proposals.

- Finally the *Projects Committee* set up for each project monitors the actual implementation of the project with the assistance of the relevant government department.

Process for approval and disbursements

Funds are sent from the Ministry of Planning to the CDF Board which then disburses them directly to constituency committees, into commercial bank accounts set up for each CDC. [54] Project proposals are submitted to the MP, then forwarded to Clerk of the National Assembly. The approved list is reviewed by the national CFC, which presents final recommendations to the Finance Minister.

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[54] One of the amendments to the Act in 2007 shifted the CDF from the Ministry of Finance to the Ministry of Planning.

Similar to India, unspent funds may be rolled over to the next budget year (Section 10 of the CDF Act). IN order to improve monitoring of rollovers and unspent funds, the CDF Amendment Act (2007) inserted two new schedules into the reporting system(Section 9). Each year constituencies must use the Fourth Schedule to submit details on unspent funds which they intend to re-allocate. Constituencies use the Fifth Schedule to submit their request to re-allocate those funds to a new or ongoing eligible project. These re-allocations must be approved by the Board (Section 9).

One of the potential dangers of permitting rollovers of unspent funds is the possibility that MPs may influence project approvals and implementation in order to delay expenditure until immediately prior to an election, in order to take credit with voters for the delivery of tangible projects in the area. The Act allows rollovers of funds which ‘are not utilized for whatever reasons’ and the Amendments are not clear on the criteria to be used by the Board in approving the re-allocation of unspent funds. Detailed information on the percent of funds which are rolled over, per constituency and per project, should be provided via the website in order to improve accountability and identify any abuse of the rollover mechanism.

Checks and balances

Section 25 of the CDF Act (2003) stipulates that there must be three signatories to the CDC fund: one signature from a nominee of the DPC and one signature from the CDC. The MP may *not* be a signatory on the account.

The CDF Implementation Guide issued by the National Management Committee is more specific than the legislation with regards to the required signatures:

- Two nominees of the DPC, one of whom *must* be the District Accountant;[55] and
- The treasurer and secretary of the CDC (both appointed by the MP).

The authority of the District Development Officer (under the Ministry of Planning and National Development) is also required for any payment to be made from the account.

Although theoretically the district official could veto approval of projects via his authority as signatory, in practice the power to determine projects lies with the MP and his appointees. Where the district administration is weak and district officers are unable to stand up to the MP, the Act does not sufficiently empower the officers to enforce regulations. The tremendous influence of the MP is thus a primary criticism of the Kenyan system, as it allows for essentially no independent oversight.[56]

Section 34 of the Act is explicit in requiring that all funds received shall be audited and reported upon by the Controller and Auditor-General. However Gikonyo reports that a nationwide audit of the CDF has never occurred to date. Considering that each of 210 constituencies has 5-25 projects, the likelihood that the Controller and AG have the necessary capacity to audit thousands of projects is not high. It is recommended that an annual national audit of the CDF must be resourced and institutionalized, and audit findings made public in a timely manner.

[55] The District Accountant is the district officer under the Ministry of Finance and is responsible for maintaining the CDF books and ensuring compliance with procurement regulations, in addition to being one of the required signatories on CDF cheques.

[56] Phone interviews with Wanjiru Gikonyo (2 October 2009) and Vivek Ramkumar (24 September 2009).

With regard to procurement and tender procedures, the DPC, CDC and PCs are all public entities under the CDF Act and therefore are subject to government procurement regulations. All CDF procurement must be done by tender committees set up for this purpose by the CDC, DPC and PC, However in practice most procurement is done by the CDC without setting up a formal tender committee (Gikonyo, 2008). MPs are not allowed to sit on the tender committees.

Sustainability and inter-governmental coordination

CDF projects are implemented by the relevant government department, which is also has an instrumental role to play in ensuring the sustainability of projects. CDF funds may not be used for recurrent expenditure, but this means that such costs must be planned for and built into the budget of the relevant line department. If coordination isn't achieved to organize sufficient public funding for operations, staffing and maintenance, CDF capital expenditure can result in empty or under-utilized facilities (Gikonyo, 2008).

Section 24 of the CDF Act places the responsibility on the CDC to liaise with the relevant government department to make sure that cost estimates are realistic i.e. that recurrent costs are included in the budget and appropriate funding sources found. In June 2009 Planning Minister Wycliffe Oparanya stated: "According to the law, the CDF committees ought to be submitting their plans to our Ministry by March of every year after which we are to forward them to Treasury so that the maintenance of the projects is factored in the allocations to various ministries. This is however not happening and we want to see how best to address it."[57]

Clarifying the roles and responsibilities of the CDC and the line departments may be one means to address this. Some MPs have drafted a formal MOU with the heads of relevant government departments to spell out responsibilities and contributions and set up procedures to ensure accountability. These agreements may include minimum amounts for remuneration of government employees and norms and standards for quality of service (Gikonyo, 2008).

Proposed reforms

A number of Kenyan civil society groups have become involved in research and advocacy efforts to enhance the transparency, accountability and performance of the CDF, including the Kenya Institute for Public Policy Research and Analysis (KIPPRA), the CDF Accountability Project, Institute of Policy Analysis and Research (IPAR), Collaborative Centre for Gender and Development (CCGD), and Muslims for Human Rights (MUHURI).

In August 2007, MUHURI worked with community members of Changamwe constituency in Kenya's Cost Province to undertake a social audit whereby constituents investigated CDF expenditure in their community and held authorities to account for their performance. Government documents on CDF expenditure were accessed, analyzed and distilled into easily-understandable assessments which were shared with community members. Residents assisted to identify problems and make on-site visits to verify delivery of these public projects. An open public hearing was then held at which

[57] Kagiri, Anthony. "New team to review CDF laws." Capital News, 22 June 2009.

residents presented their findings and citizens questioned the public officials responsible for delivery of the CDF projects and directly interrogated the area MP.[58]

The social audit process proved a powerful tool, and subsequently the Open Society Institute for East Africa (OSIEA) put together a guide for communities in 2007 which walks them through the process of undertaking a social audit of CDF projects. Developed by Wanjiru Gikonyo, the guide can be used as a training manual to help communities understand how the CDF works in Kenya, how they can participate effectively in the different stages of the project cycle, and the basic steps of a social audit:

a. Organization of the social audit and gathering records from the government
b. Training community activists and analyzing information
c. Educating and mobilizing the public, and raising awareness of the social audit public meeting
d. Inspecting project sites to verify information
e. Public hearing
f. Follow up

Apart from providing a practical instrument for constituents to monitor CDF spending, the Guide also offers an analysis of the main problems with the CDF in Kenya, examples of best practices, and suggestions for improvement. The recommendations include:

- the installation of routine audits;
- improved public participation in project selection and better access to information;
- the development of clear bursary guidelines;
- community selection of project committee members;
- strengthening of the CDF Board so that it is empowered to enforce compliance of CDF rules and regulations;
- elimination of the duplication of roles of MPs, by making the CDFC locally elected;
- limiting the MPs' involvement to participation in an ex-officio capacity; and
- the establishment of a monitoring and evaluation framework.

In 2008 the National Anti-Corruption Campaign Steering Committee released a study on the CDF which they had commissioned to look into possible solutions to the reported corruption in the CDF. Their analysis of the problems with the CDF and the required remedies echoes the views of civil society groups (Table 4).

Table 3 Findings of the Kenyan National Anti-Corruption Campaign Steering Committee (NACCSC), June 2008

Key problems	Recommendations
▪ Flaws in the CDF legislation which create loopholes and permit MPs excessive leeway in the management of the fund ▪ Structural weaknesses and unclear role of NMB ▪ Small size of CDB ▪ Low community awareness and	▪ Further amend CDF Ac (2007) to clarify roles and powers of NMB ▪ Set up mechanisms for transition of CDF committees ▪ Increase national allocation of CDF from 2.5% to 5% ▪ Carry out civic education and increase

[58] Ramkumar, V. and Kidambi, S. "Twataka Pesa Zetu" (We Want Our Money): A Public Budget Hearing in Kenya." Muslims for Human Rights (MUHURI). See also documentary on the event, available at www.internationalbudget.org

participation ▪ Tribalism, clanism, nepotism and equity in the selection of CDF committees and the awarding of tenders ▪ Low community participation in CDF management and project prioritisation ▪ Failure to undertake feasibility studies or environmental impact assessments ▪ Low project prioritization, reach and impact, including duplication of projects and insufficient monitoring and planning ▪ Lack of professionalism and gender bias in membership of CDF committees ▪ Lack of clear tendering and procurement procedures; tenders often unadvertised	public vigilance and scrutiny ▪ Undertake and institutionalize audit of CDF monies ▪ Increase community participation and make membership on CDF committees rotational ▪ Improve on project prioritization, reach and impact ▪ Streamline tendering and accountability, and enforce compliance ▪ Sensitization and advocacy by NACCSC

Source: National Anti-Corruption Campaign Steering Committee (June 2008). "The Constituency Development Fund: An Examination of Legal, Structural, Management and Corruption Issues in Kenya."

Five years on from enactment of the CDF, the Kenyan government announced they would undertake a review to see how programme can be improved. The CDF Task Force was set up in June 2009 by the Minister for Planning, National Development and Vision 2030, Mr Wycliffe Oparanya, and is headed by Muriuki Karue.[59]

The 16-member task force has been holding extensive public hearings, meeting with stake holders and distributing questionnaires in order to solicit wide input. The anticipated output is a review of the CDF legislation, structures and performance, and suggestions on ways to improve accountability of the Fund and eliminate mismanagement. The Task Force's report is due in October 2009. [60]

In response to the CDF Review Task Force, a group of civil society organizations came together in 2009 as the Social and Public Accountability Network (SPAN) and formulated a Joint Memorandum for the Task Force. The memo is an "appeal to official stakeholders to take a sober view of local development in Kenya and institute reforms that will transform not only our country but also establish professional standards of local development to be emulated regionally and across the globe." (SPAN, 2009).

Apart from recommending a clarification of the roles of the key institutions of the CDF, the memo goes further to address necessary reforms for the decentralization sector more broadly. For example, its recommended that the Board be reconstituted as a Commission of Constituency Development and the CFC be transformed into a Committee addressing decentralization. The memo suggests other mechanisms for better collaboration in the decentralization sector, improved accountability, a comprehensive citizen engagement framework and avenues for redress. It remains to be seen whether the report of the Task Force will sufficiently reflect the main concerns of civil society groups and the public's input.

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[59] Juma, Victor. "Bill seeks to curb wastage of CDF cash." Posted 24 July 2009.
[60] Wanambisi, Laban. "CDF task force report due in October." Capital News, 26 August 2009.

Appendix D. Uganda

Although the Kenya CDF was established before Uganda's, the notion of allocating funds to MPs for development purposes in their constituencies reportedly stretches back a number of years in Uganda (AFLI, 2007). The idea gained ground during the 7th Parliament when the President held discussions with MPs and pledged to ease the burden MPs experienced from pressure put to them by constituents asking for financial support for development projects in their areas. The Ugandan government sent a mission to Kenya to study how the Kenya CDF worked. Subsequently the 2005 State of the Nation Address included an announcement by President Yoweri Museveni that MPs would be given funds for development in their constituencies as part of the proposed CDF. During a plenary session 9 September 2005, Parliament adopted the proposal to allocate 2.95 Billion shillings for the CDF (1.5 million USD) (UDN, 2007).[61]

A Parliamentary Committee was then set up in October 2005 and tasked with the job of developing interim guidelines and procedures for the establishment of the CDF for 2005/06. The interim guidelines were discussed by the Committee but never approved by the plenary. However despite no legislative framework being put in place, disbursement of the funds went ahead and each constituency was given Ushs10m (5187 USD). The Clerk to Parliament released the money to the individual MP's personal accounts in November 2005 which was near to the conclusion of the 7th parliamentary term and approaching elections in early 2006 (UDN, 2007). The focus on the elections was a reason cited for the Parliament not to give adequate attention to putting legislation and policy in place to govern the CDF (AFLI, 2007).

The governance structure proposed in the interim guidelines calls for every MP to establish a CDF Committee of 5 people composed of him/ herself as the Chairperson, a Secretary, a Treasurer and two other members. The District Project Committee to be established in each district would receive and consider project proposals from the CDF Committees in its district. The DPC would play a monitoring role, headed by the District Community Development Officer (UDN, 2007).

Each MP would be responsible for accounting on the expenditure of the CDF funds to the Accounting Officer (Clerk to Parliament). According to a briefing paper by the Uganda Debt Network, the interim guidelines restrict the use of the funds to activities that directly increase household incomes and productivity; interventions that can trigger rapid rural transformation and economic development; and agro-processing and marketing of produce in the respective constituencies. The stated intention was that the money would not be used on development of infrastructure projects already underway via local government initiatives or central government programmes. Furthermore the funds could not be used for political and/or religious activities. The regulations concerning how the funds can be used thus echo those established in Kenya.

Up to the present, no comprehensive legislation has been put in place to govern the CDF and reportedly the interim guidelines developed by the Parliamentary Committee have not been followed in most cases (UDN, 2007) (AFLIA, 2007). The current

[61] 1 USD = 1 928 UGX (http://www.xe.com/ 5 October 2009).

disbursement is 10m Ugandan shillings per constituency each year, paid directly into MPs' accounts (ALFIA, 2007).

Concerned that there was no law to govern the CDF which could enforce accountability and effective and appropriate utilization of the funds, the Uganda Debt Network conducted a study in November-December 2006 (UDN, 2007) which included a desk review, field visits and MP interviews. Their main findings were that the interim guidelines were not only inadequate and largely disregarded by the MPs. UDN advocated for a clear legislative and regulatory framework to be put in place to govern the CDF and eliminate mismanagement.

According to the UDN study, field visits to the different districts showed that over 87% of respondents did not have knowledge of the CDF. In interviews with MPs it was shown that the over 70% of MPs could not provide detail on which projects were funded and were also not aware of the guidelines to be followed in spending the money.

The Africa Leadership Institute (AFLI) in Kampala also conducted a CDF study at about the same time and their findings echoed those of the UDN. According to the AFLI report, constituents were largely unaware of the fund and its purpose and processes were not transparent. The report argues that although the CDF assisted to strengthen the link between constituents and MP, "At the grassroots, the voters have no knowledge or say on how the funds should be utilized. At all depends on the initiative of the area MP."

Furthermore, the AFLI found evidence of mismanagement of funds and concluded that this was primarily due to: lack of relevant law and policy; MPs unlimited powers; and no independent signatories on the account.

Table 5 summarises the recommendations advocated by UDN and AFLI, who have been the most vocal civil society organizations in the CDF debate in Uganda.

Table 4 Civil Society CDF Recommendations in Uganda (2007)

Recommendations from the Uganda Debt Network on the CDF:	**Recommendations from the Africa Leadership Institute for improving the CDF:**
▪ The beneficiaries of the CDF in the constituencies should be involved in the selection and planning of the projects, so that they can participate in project implementation, monitoring and evaluation. The chosen projects should be submitted and explained by the MPs to the Local Governments' planning committees, to ensure there is no duplication of the projects funded by the government. ▪ The CDF money should not be banked on the MPs' personal accounts or mixed with their other emoluments, but be banked on a separate account of Local Governments where the Chief Administrative Officers should be part of the CDF management. Whenever CDF money is disbursed, it should be publicized to create citizens' awareness and participation in the utilization and accountability of the fund.	▪ There should be a five year and annual CDF plan and budget. This should be backed up by a comprehensive policy and law to guide the use of CDF in the country. ▪ A CDF committee be established at the constituency, sub-county, district and national levels and must include key stakeholders and constituency representatives. The CDF committee at constituency level should be headed by the area MP and be responsible for selecting projects to be funded. ▪ CDF funds should go to an account controlled by the CDF Committee at constituency level and not the personal account of an MP. ▪ There should be civic education to all stakeholders about CDF to improve

▪ The Clerk to Parliament should work closely with the Chief Administrative Officers to ascertain the existence of a credible Constituency Committee to oversee the management of the CDF. ▪ The CDF accountability and auditing procedures should be a function of the Clerk to Parliament and the Auditor General, respectively. ▪ The CDF should not simply be paid towards the end of any Presidential/ Parliamentary term and or impending elections to avoid a risk of exploiting the fund for personal political gain.	accountability. ▪ CDF should be increased from 10 million to 50 million annually to cause more impact. Bigger constituencies should receive more funding. ▪ All projects and funds should be displayed for community to review and build consensus on the beneficiaries of projects.

Appendix E. Tanzania

Origins of the CDCF

Similar to Kenya, Tanzania has been in ongoing process of decentralization since Policy Paper on Local Government Reform I 1998 and the resultant LG Reform Program (LGRP) were set in motion (Mshana, 2009). Tanzania's approach to local government reform is to decentralize through devolution (D by D), thus alleviating poverty by improved service delivery brought about by increased political, administrative and fiscal autonomy at the local level. Intergovernmental transfer systems which sent funds from central government to local level were set up to support these development objectives, including the Tanzania Social Action Fund (established in 2000), followed by the Local Government Capital Development Grant System in 2004. Key weaknesses in these systems have emerged, including the need for better role clarification of levels of government and increased fiscal and administrative control by local government authorities.

Against this backdrop, the implementation of a CDF in Tanzania has been under debate for a number of years. Similar to Uganda, a government study tour to Kenya was conducted in July 2008 to glean lessons from the Kenyan experience. The possible establishment of a CDF in Tanzania was considered in Parliamentary Committee and then in President Jakaya Kikweta proposed the establishment of the CDF in August 2008, in order to assist MPs in implementing development projects and to reduce the 'daily nuisances' that MPs face in their constituencies.[62] One of the stated intentions was to relieve MPs embarrassment at constituent requests which they could not accommodate. On 3 July 2009 the Constituencies Development Catalyst Fund (CDCF) Act was gazetted in Parliament and in August was signed by the President.[63]

Mechanics of the Act

Tanzania took the Kenyan practice of allocating 25% of the fund according to the poverty index and went further to include factors of geographical size and population in their allocation formula. According to Section 3 of the Act, 25% of the total amount will be divided equally between all constituencies. The remaining 75% will be split between the constituencies as follows:[64]

- 45% in relation to the constituency's population
- 20% in relation to the poverty margin, and;
- 10% in relation to the geographical size of the constituency.

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[62] President Kikwete's Address to Parliament on 21 August 2008, as quoted in Mshana, Vera (2009), "Constitutuency Development Fund in Tanzania: The Right Solution?"

[63] According to Kilonzo, the insertion of the word 'catalyst' in the title of the fund is an acknowledgement that the quantum of funding is insufficient to bring about genuine development and instead must be approached as a top-up to existing revenue streams for development. The concern that the funds allocated to each constituency were insufficient was one of the criticisms posed by the Policy Forum in the early drafts of the Act.

[64] Earlier drafts of the Act allocated the funds equally to all constituencies. Concern that the funds were not biased towards poorer areas was one of the criticisms raised by the Policy Forum.

It is unclear how the poverty margin is calculated and what data is used for the formula. Furthermore, the size of the total envelope allocated to the CDCF is not publicly known.[65] The CDCF Act was passed retrospectively, effective for the FY 2009/10 beginning 1 July, yet civil society groups report that the budget guidelines and ministerial speech did not indicate the amount allocated to the CDCF for 2009/10.[66]

With respect to rollover funds, the Tanzanian CDCF legislation takes the same approach (and largely identical language) as the Kenya CDF Act of 2003. However the Tanzanian legislation does not set out a procedure for re-allocating unspent funds.

Similar to Kenya, the Constituency Development Catalyst Committee (CDCC) for each constituency is convened and chaired by the MP. However it is limited to 6 members, including the District Planning Officer who serves as Secretary.

Each ward generates a list of priority development projects which is submitted to the CDCC of the constituency for consideration. The CDCC considers and approves projects. All projects approved for financing by the CDCC are to be then implemented by the relevant Council, overseen by the Council Planning Officer.

The required signatories on the account differ from the Kenyan model. Only two signatories are required in Tanzania: one must be either the Council Director or Planning Officer, and the second signature must be from the Council Treasurer (appointed by the Council Director) or the Council Accountant. The signatories must be public servants.

Role of civil society

From the first discussion of a Tanzanian CDF in 2004, civil society groups opposed the idea on the grounds that it would violate the separation of powers. The Policy Forum a network of 96 civil society organizations in Tanzania, headed a coalition which was joined by other groups opposed to the proposed CDCF, including international organizations and the teachers and students union.[67] When the Bill was introduced in Parliament in July 2009, there was heated debate with most MPs appearing to favour the CDCF and civil society organizations, including the PF and the Tanzania Association of Non Governmental Organizations, opposing the entire Bill outright. [68]

The civil society coalition argued that the CDF is unconstitutional as MPs would be taking on the implementation role of government instead of restricting themselves to oversight and law-making. [69] The PF also argued that the funds were not actually additional resources for development as assumed because they would be taken from the

[65] In 2007/08 Parliament approved 7.2 billion TZS (1.5 million USD) for a CDF but legislation establishing the Fund was never approved and it is unclear what happened to the funds. Given that Tanzania has over 300 constituencies, it is estimated that the amount per constituency could be in the region of 15-20 million TZS (11000-15000 USD). (1 USD = 1308 TZS http://www.xe.com/ 5 October 2009).
[66] Phone interview with Irenei Kiria, Tanzania Youth Action Volunteers. 29 September 2009.
[67] Phone interview with Semkae Kilonzo, Policy Forum. 29 September 2009.
[68] "Activists oppose Constituency Development Fund." 16 August 2009. Daily News online edition. Downloaded from http://www.dailynews.co.tz/home/?n=3159 16 August 2009.
[69] Chiwambo, Yakobe and Wandwi, Abdul. "MPs to legalize Constituency Development Fund soon." Posted 16 July 2009. Downloaded from http://csrtanzania.blogsport.com/2009/07/mps-to-legalise-constituency.html

general budget. [70] Concern was also raised with the timing of the Bill, and the possible release of funds prior to the 2010 general election when MPs may be tempted to misuse the funds for campaigning purposes. On the whole, the submission of the Policy Forum at the public hearing in July was brushed aside, and the Act was approved 2 days later.

In a paper by Vera Mshana, published on the Policy Forum website, it is argued that the real problems are a) systemic issues within the existing development financing arrangements for local government; and b) the need to strengthen the Office of Parliament to "reorient the relationship between MPs and their constituents to its democratic rather than (apparent) financial basis." (Mshana, 2009). The CDF is the wrong solution to these problems for a number of reasons.

First, as demonstrated by the experience in Uganda and Kenya, the CDF system compromises the integrity and legitimacy of parliamentarians and will negatively impact on MP-constituent relations. MPs feel obliged to provide financial contributions to constituents in order to get re-elected:

> *However, given that CDF is sourced from domestic revenue, it is a misuse of public funds if they will be used to meet these individual assistance claims or small development projects that MPs are asked to personally finance (such as provide business capital or pay school fees). More importantly, creating a 'development fund' for this purpose does not resolve but actually perpetuates the underlying (and problematic) financial basis of constituent-member relations. Rather, MPs must not concede to the demands of their constituents to provide personal financial assistance, as that is not the nature of their representative role in a democratic society. (Mshana, 2009)*

Second, even if the MPs were not involved in the CDF, the vehicle would still bring little added value to the mission of development in Tanzania. It is argued that the CDF is an expensive, redundant, parallel funding mechanism which is "unlikely to bring about substantial developmental gains to citizens that cannot be realized through the LGCDG system and TASAF, if these systems are integrated and strengthened." The focus of government should be on reforms to the local government system which enable the actual realization of the objectives of the decentralization by devolution.

Instead of introducing a new function for legislators which is misplaced and potentially undermining of the legislators' legitimate role, the PF argued that measures should be taken to strengthen the oversight function of MPs within the existing system, within existing legislation (see Table 6). This would include resources to strengthen MPs' offices and their capacity to follow up on issues and conduct research and analysis. Furthermore, public awareness campaigns were needed to educate voters that MPs should play a representative role and not a philanthropic one.[71]

Table 5 Alternatives to the proposed CDF, suggested by Policy Forum in Tanzania (2009)

▪	Ensure that all MPs (including nominated or special seats MPs) have offices, preferably in their constituencies for elected MPs and in either Dar es Salaam or Dodoma for special seats.

[70] Chiwambo, Yakobe and Wandwi, Abdul. "MPs to legalize Constituency Development Fund soon." Posted 16 July 2009. Downloaded from http://csrtanzania.blogsport.com/2009/07/mps-to-legalise-constituency.html

[71] Phone interview with Irenei Kiria, Tanzania Youth Action Volunteers. 29 September 2009.

- Ensure that all MPs offices have basic essential furniture and equipment (including IT equipment where possible).
- Empower every MP with the ability to engage staff who are able to conduct research, follow up issues and assist them in performing their oversight function.
- Set aside a budget for special research projects or commissioned studies to strengthen their performance in Parliament.
- Establish accountability mechanisms to ensure that resources allocated in subsections *a* to *d* are effectively used for their intended purpose.

Source: Policy Forum. "Policy Forum Position Paper on Constituency Development Fund." July 2008.

From a civil society perspective, there are a number of specific concerns with the Act. First, unlike the Kenyan model with its National Management Board which manages and oversees the fund, the Tanzanian scheme has no national management or oversight body. The CDCC of each constituency reports on their disbursements to the Minister directly with no intervening body to monitor performance and take corrective action if there is abuse of the funds. Overall management of the scheme lies with the Minister and there is no separate oversight body for the CDCF, apart from the regular Comptroller and Auditor-General responsible all government departments.

Second, the Act is quite vague on the content of projects to be funded, citing only that they must be development projects which are community-based. There is no clarity or guidance on the criteria to be used by CDCCs in selecting projects.

Given that the CDCF Act has now been signed into law by the President despite stated opposition by civil society organizations in Tanzania, the Policy Forum now plans to shift their strategy from lobbying to litigation. They intend to launch a court case, led by the Legal and Human Rights Centre, to overturn the Act on the grounds that it is unconstitutional. There is precedent in Tanzania of court cases successfully launched by civil society groups, and the PF is optimistic of the strategy.[72]

[72] Phone interview with Irenei Kiria, Tanzania Youth Action Volunteers. 29 September 2009.

Appendix F. Philippines

In the Philippines, a CDF-type fund has been in existence in various forms for a number of years. The Priority Development Assistance Fund (PDAF) is a kitty of discretionary money allocated to congressmen, intended for infrastructure projects; at one stage the fund was called the 'countrywide development fund' CDF. Proponents of the funds argue that it's a developmental tool and is particularly important for addressing the developmental needs of rural constituencies that are often neglected in national programmes. Opponents argue the funds are a mechanism by the executive to buy votes of Congress and an opportunity for lawmakers to collect bribes and kickbacks from contractors.

The amount of discretionary funds available to each legislator has risen rapidly over the years. In 1990 the amount per representative was approximately P12.5 million. In 2004, the amount allocated to each senator was P200 million (4.27 million USD), while congressmen received P65 million (1.39 million USD) each year of discretionary funds for projects of their own choosing.[73] In 2009, each of the country's 24 senators are receiving P200 million each and the 238 House members are allocated P70 million each (1.5 million USD).[74]

In the Philippines, the debate around the PDAF leans towards issues of 'pork-barrel politics' and political party funding reform. Some analysts have suggested that the use of 'pork-barrel' politics increases substantially in periods when the president is vulnerable politically and in need of Congressional support. Similar to the African debate, there is also serious concern with how the fund impacts on MP-constituent relations. The view of some voters is that legislators should be evaluated on their ability to make laws and contribute to the legislative debate; others evaluate candidates on their ability to bring in benefits to their constituency. [75]

As in Tanzania and Uganda, the timing of the release of the funds prior to election is also a hot issue. Journalists have noted the tendency of politicians to hold back or save their PDAF funds until just prior to an election. "A few months before the 2004 elections, a publicist of several members of the House estimated that more than half of all congressmen had not touched their pork for projects, saving it instead for reelection purposes."[76]

[73] 1 USD = 46.8384 PHP (http://www.xe.com/

[74] Philippine Centre for Investigative Journalism. "PCIJ Investigation – Arroyo Sons, Friends, Foes Get Big Public Works Deals." (30 April 2009). Available at http://www.pcif.org/stories/2009/arroyo-sons2.html

[75] Chua, Y and Cruz, B. (2004). "Pork is Political, not a Developmental Tool". Philippine Centre for Investigative Journalism. (7 September 2004). Available at http://pcij.org/stories/2004/pork.html

[76] Chua, Y and Cruz, B. (2004). "Pork is Political, not a Developmental Tool". Philippine Centre for Investigative Journalism. (7 September 2004). Available at http://pcij.org/stories/2004/pork.html

Appendix G. Pakistan

In Pakistan, Parliament first allocated funds for use in constituencies in 1985. The funds were largely perceived as an attempt to bribe the legislators and to increase their influence and clout. The elections which brought them to power were boycotted by the major political parties and the new legislators' credibility was weak. With project determination largely left to the discretion of the politicians, the funds were "basically used to reinforce the power base of politicians without any systematic procedure of accountability or public involvement."[77] Since then the government has retained or increased the CDF funds, through a variety of changes in the last two decades to the local government system.[78]

In 2000 former President Pervez Musharraf introduced a new local government system which includes the Union Council at the lowest level (representing approximately 20 villages, 15 000 to 25 000 people) and the District, one level up. The Union Councils are the local government structures closest to the grassroots and with the most direct relationship to citizens, thus there is substantial accountability at the level of Union Councils. Typically each District has 2-3 National Assembly members, although this differs according to the size and population of the district. [79]

The CDF monies are allocated to each National Assembly and Provincial Assembly legislator. In the recent budget, the amount for each National Assembly member was doubled from 10 to 20 million rupees (240 356 USD).[80] In addition, each Provincial Assembly member receives 5 million rupees in CDF funds.[81] The total amount of funds flowing through the CDF system is approximately 5% of the 2009/10 development budget, but not a sizable slice (in relative terms) of the overall national budget. [82]

Over the last 25 years, the system of CDFs has become entrenched with legislators exercising full control over project selection. Legislators choose projects which are implemented by the relevant line department. Decisions on project approval and selection of contractors are more often than not made on political grounds, rewarding family members or influential supporters. There are no checks on the process and no transparency regarding selection criteria. [83]

Without separate legislation governing the CDF system, the funding flows through the regular budget processes of the Public Sector Development Programme. The funds

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[77] Khan, Shadiullah. (2006). "Local Government and Participatory Rural Development: The Case study of District Government in North Western Pakistan." Thesis submitted for Phd. Department of Public Administration/Gomal University, Dera Ismail Khan.

[78] Phone interview with Ali Asghar Khan, Executive Director, Omar Asghar Khan Development Foundation, Islamabad, Pakistan. 25 September 2009.

[79] Phone interview with Ali Asghar Khan.

[80] 1 USD = 83.21 PKR (http://www.xe.com/ 5 October 2009)

[81] As a result, a typical district with 2 National Assembly and 3 Provincial Assembly members could receive up to 70 million rupees. In contrast, the development funds allocated to each Union Council Nazim are only 0.25 million. With typically 50 Union Councils in each district, the development funds under the Union Council's control therefore amount to approximately 12.5 million in comparison.

[82] Phone interview with Ali Asghar Khan.

[83] Phone interview with Ali Asghar Khan.

remain within the government system and are not transferred to a separate bank account or to the MPs personal account (as in Uganda). However, although the funds remain within the government system, the bureaucracy takes instruction from the legislator on how the funds will be allocated and projects implemented.

The degree of public participation and establishment of a committee system to control the funds is entirely up to the National or Provincial Assembly member, as there are no legislated requirements for organized public participation or representative governance structures.

The system has created frustration on the part of the local government bureaucracy upset by the establishment of a parallel source of funding to the local level. Given that the local government system of Union Councils and Districts is non-party based, conflicts and competition for resources can arise between the local government and the legislators, who are perceived as less accessible to citizens compared to the Union Council members who are directly answerable to their constituents. [84]

Civil society efforts, including those of the Omar Asghar Khan Foundation, have focused recently on advocating for more representative, responsive local government structures and participatory development processes, given that the local government system itself is under attack. The term of the local government structures established under Musharraf will expire in October 2009 and moves have been made to reshape local government with more central appointments and less democratic representation. From a civil society perspective, the CDF monies would be better directed to the Union Councils or Districts, who are less influenced by party political interests and have greater accountability to the grassroots.

[84] Phone interview with Ali Asghar Khan.