

**“Civic Participation in Public Goods Provision: The Efficacy of Institutional Reforms in Kenya’s Constituency Development Fund”<sup>1</sup>**

***DRAFT: not for citation or additional circulation***

**Kirk A. Harris – PhD Candidate, Department of Political Science, Indiana University**

**March 25, 2015**

*Vincent and Elinor Ostrom Workshop in Political Theory and Policy Analysis, Indiana University, Bloomington, IN*

**Abstract:** Prior research on civil society, social capital, and civic engagement suggests that widespread participation in public life is associated with more efficient and representative public goods provision. Some this research describes the positive effects of citizen-state “co-production” of public goods. These findings raise important policy questions about how to accomplish “co-production” without a robust and well-organized civic sector. In this context, how can state institutions create meaningful opportunities for citizens to help produce public goods? How does co-production affect citizen satisfaction with outcomes? And how does this process affect citizens’ relationships with and expectations of the state?

This paper uses original data from interviews with over ninety civil society activists, politicians, and civil servants in several parliamentary constituencies in Kenya to evaluate the efficacy of the country’s Constituency Development Fund (CDF) as a tool for promoting public participation in community development projects. Changes to the rules governing the institution since its creation in 2003, along with variation in fund management across constituencies, provide insight into which institutional arrangements are effective in facilitating public participation in the fund and which are not. Although the stated intent of the fund when it was inaugurated in 2003 was to create a more participatory framework for local development, critics have described it as little more than a vehicle for patronage for the Members of Parliament who supervise the fund in their respective constituencies. In spite of this, institutional reforms to the management of the fund have created new opportunities for citizen involvement that Kenyans are beginning to grasp. Interview data suggests that stakeholders who participate are more satisfied with outcomes, and that participation is potentially transformative, raising the expectations that the state will respond to the will of its citizens.

---

<sup>1</sup> This paper builds on data collected with the support of research grants from the Vincent and Elinor Ostrom Workshop in Political Theory and Policy Analysis at Indiana University, and from the National Science Foundation. This data also relies on invaluable information from interview respondents in Kenya for whose time I am very grateful. All errors and omissions are my own.

## **Introduction**

The provision of public goods is a classic and crucial function of representative government. This is especially true in much of Sub-Saharan Africa, where poverty and low levels of human development mean that such goods are extremely valuable to citizens. Prior research suggests that the provision of public goods is most efficient and representative when there is a large and diverse civic sector capable of monitoring the behavior of policymakers and contributing to policy conversations about the nature and amount of public goods that citizens desire. An extreme form of this participation is the “co-production” of public goods, in which citizens collaborate with public officials in prioritizing, generating, and managing the goods that they consume as service users. The critical role of civic engagement raises important questions about how societies can efficiently provide public goods to citizens when levels of civic engagement are low, the civic sector is weak vis-à-vis the state, or when public goods provision has been biased towards clients of incumbent leaders – situations which are widespread in Sub-Saharan Africa. How can institutions in these environments create opportunities for meaningful public participation in public goods provision? What effect does participation have on citizen satisfaction with service outcomes? How does this, in turn, shape individuals’ relationships with, and expectations from, the state? This article examines attempts to provide local public infrastructure goods like schools, clinics, and water points in one such setting. Kenya’s Constituency Development Fund (CDF) mandates public consultation and involvement in decisions about the financing and placement of local infrastructure projects. Changes to the institution over time and variation in institutional performance across the country suggest that specific sets of rules are more effective at institutionalizing

participation in public goods provision, that stakeholders who participate are more satisfied with outcomes, and that participation creates an environment in which citizens see the fund as their own, rather than as belonging to the state.

### **The Importance of Being Engaged**

There are at least three broad families of explanations about the relationship between civic engagement in public life and “good governance,” a key feature of which is usually that governments invest in public goods like security, education, basic health facilities, or transportation infrastructure that benefit all of their citizens.

Studies of “social capital” suggest that widespread participation in a variety of voluntary associations creates generalized norms of reciprocity that enhance trust and facilitate the kinds of collective action necessary to produce socially valued public goods (Putnam 1993, 2000; Sen 1999; Krishna 2002; Varshney 2002). Social capital explanations for political outcomes face a number of criticisms – it can be seen as an overly “fungible” explanation for positive outcomes that can be transferred to any setting as needed (Fine 2003). In addition, social capital theories make it clear that not all forms of reciprocity and trust are desirable – it is possible for organizations to generate “bad” social capital that has harmful effects, or for social capital to “bond” group members to one another rather than “bridging” key social cleavages (Berman 1997, Putnam 2000, Varshney 2002).

An alternative perspective on the significance of civic engagement – one associated with studies of pluralism or interest groups – suggests that membership in civic associations offers citizens the opportunities to influence policy by pooling their resources and amplifying their voices. However, as Schattschneider and subsequent authors have explained, group membership is often biased in ways that have important representational

consequences (Schattschneider 1960, Olson 1965). In addition, not all interest groups are equally powerful, and especially influential organizations can bend policy in ways that fail to serve the public interest, a notion which has been famously applied to Africa in the form of Bates' argument about "urban bias" in postcolonial African states (Bates 1981).

Work in the American tradition additionally suggests that participating in civic activities equips individuals with the "civic skills" they need to confidently, clearly, and persuasively make their voices heard to representatives (Verba et al. 1995). However, when civic participation is as distorted as the critics of pluralism suggest it is, the opportunities for subaltern groups to acquire these civic skills are limited, resulting in their further marginalization in the policy realm.

What unites each of these explanations is an explicit understanding of civic engagement as a behavior – a particular type of activity that builds social cohesion, facilitates group representation, or equips individuals with the skills they need to get what they want from government. While each of these explanations operationalizes the concept in different ways (indeed, many of the studies referenced above do not explicitly mention "civic engagement"), taken together this body of research suggests that citizen participation in public life can be valuable for promoting the provision of public goods. However, these theories also specify certain conditions under which civic engagement can be blunted or even harmful – for example, when norms of reciprocity exclude social groups, when interest group formation is biased in favor of powerful sectors, or when opportunities (such as education) for acquiring civic skills are limited to the few.

An extreme form of this engagement is the "co-production" of public goods by agents of the state and the citizens who inhabit it. In contrast to traditional models of public goods

provision which views citizens as passive recipients of government services, “co-production” regimes explicitly involve citizens in the process of public service delivery (Verschuerre et al. 2012, 1086; Bovaird & Loeffler 2012, 1123). An early example provided by Ostrom and Whitaker is the co-production of community security by citizens and police departments in the American Midwest (Ostrom and Whitaker 1999a (1973), 1999b (1974)). Proponents of this form of service provision argue that it can be more representative, accountable, and efficient than traditional, state-centric, models of service provision, but these claims remain relatively untested (Verschuerre et al. 2012, 1093-4). The mechanism linking co-production to accountable service provision is distinct from the mechanism linking civic engagement from accountable service provision in a more state-centric model: rather than civil society groups putting pressure on elected representatives for outcomes, citizens engage directly in the process of securing those outcomes for themselves (Verschuerre et al. 2012, 1097).

Additional research on “policy feedback” in the United States and elsewhere suggests that participation in government or exposure to public services can shape the identity and political activity of citizens. Public policy shapes what citizens expect from the state, how they are perceived by one another, and whether or not they will engage with the political process (e.g. Mettler & Soss 2004, Mettler & Milstein 2007, MacLean 2011). Public participation in regimes of co-production thus may have positive effects on political involvement – creating an endogenous relationship between these two variables: citizens involved in co-production are more likely to become involved in other political activities, while politically involved citizens are also more likely to engage in regimes of co-production.

## Research Design, Data, Methods

This article represents an attempt to address the effect of institutions on ensuring the co-production of public goods. In so doing, it leverages variation in the rules governing Kenya's Constituency Development Fund (CDF) over time and across parliamentary constituencies to offer tentative conclusions about the relationships between institutions, participation, and performance. It relies in part on extant research about the CDF, especially non-academic 'grey literature' from civil society organizations. The primary data for this inductive approach, however, comes from in-depth interviews with over ninety civil society activists, politicians, and civil servants in several parliamentary constituencies in Kenya, conducted from July – November 2014. These interviews took place in, or focused largely on, six different parliamentary constituencies in Kenya. Within each constituency, I spoke with the local bureaucrat who helps administer the fund (the CDF Fund Manager) and at least one member of the local Committee in charge of allocating CDF resources to different projects. With the help of staff in the CDF office, I identified projects that they regarded as successful, popular, or valuable around the constituency; this resulted in a sample of projects that reflect the priorities and values of CDF staff in each area.<sup>2</sup> I contacted a member of the local Project Management Committees (PMCs) at these sites and made an appointment to speak with them. Often this would be a staff member at a public institution (a school or clinic). It was important in each constituency that the

---

<sup>2</sup> While this sample made it unlikely that I would encounter projects which had been mismanaged or faced difficulties, PMC members in these places were often quite candid about their experience with the CDF. They generously shared their challenges in working with the CDF and communicated what they thought was valuable about the fund.

projects I visited were distributed across as many of each constituency's different wards as possible.<sup>3</sup>

Each constituency was home to an incumbent Member of Parliament (MP) who was in his or her second or third term in office. Although poverty levels and average incomes in these constituencies varied, they were neither among the poorest nor the richest constituencies in the country. All six were predominantly rural and fairly densely populated by small farmers engaged in a variety of agricultural activities. Climatic features and region varied, as did the ethnic backgrounds and political loyalties of citizens in these constituencies. Moreover, the extent of citizen participation in the CDF differed between these constituencies as well. While certain categories of respondents in some constituencies described how citizens were involved in the management of the Fund, similar categories of respondents in other locations expressed frustrations at being excluded from the Fund. This variation, along with changes made at the national level to the CDF over time, creates a variety of settings in which I am able to examine the CDF. I am able to explore how the institution has shaped citizen involvement in the co-production of local public goods in a political environment which has in many ways been unfavorable to this engagement.

### **Kenya's Past**

Kenya has inherited a tradition of authoritarian rule that has stifled public participation in policymaking. Like many of its neighbors, Kenya has experienced a legacy of authoritarian state-building in which the provision of public goods were used as a tool for

---

<sup>3</sup> Constituencies in Kenya are nested within counties, and each constituency contains several different wards. While counties and constituencies are represented in the national Senate and National Assembly, respectively, each individual county government has a legislature composed of representatives from the various wards.

controlling the population. This dates back at least to the colonial period, in which British colonial officials, consistent with the empire's "civilizing mission" and attempts to placate white settlers, supported the construction of mission schools, the creation (and control) of markets for land and agricultural commodities, and engaged in tax farming in order to ensure compliance with colonial rule and control over the population (e.g. Elkins 2005; Bates 2005 [1989]; Migot-Adholla 1984, 204-205). Although the country has a long tradition of civic activism dating back to its opposition to colonial rule, the decades after Kenya obtained independence from Britain in 1963 saw increasing levels of authoritarianism and a stifling of the country's civic sector. By the late 1980s, the Kenyan government's authoritarian tendencies had suppressed press freedom, constrained the ability of independent civic associations to organize, and brutally suppressed the formation of any opposition parties.

Consistent with the behavior of colonial officials, Kenya's leaders after independence used the coffers of the state as a way to suppress dissent and bolster confidence in the ruling party. The home territories of political allies would be lavished with development resources while the constituents of political adversaries would suffer from a deficit of service provision (Barkan & Chege 1989, 449; Klopp 2000; Widner 1992). President Daniel arap Moi was famous for describing this system with the phrase, "*siasa mbaya, maisha mbaya*" ("bad politics, bad life") intimating to politicians and voters alike that the fruits of dissent would be bitter (Brass 2012, 390). The result of all of these behaviors was an environment in which the provision of "local" public goods – schools, roads, health centers, or police outposts were biased towards supporters of the regime.



## **Creation of the CDF**

A unified coalition triumphed over Moi's designated successor in 2002. The new coalition government, led by President Mwai Kibaki, sought to redress the biased and unequal provision of local infrastructure projects by creating a number of development funds that would be "devolved" to the local level. The most important of these was the Constituency Development Fund, or CDF. The rationale for the CDF was that decades of centralization had severely distorted policymaking and led to a sclerotic, inefficient, and corrupt form of governance that failed to invest in the kinds of basic infrastructure that were necessary to sustain economic growth. The CDF would thus bring development resources to the local level, putting them under the control of locally-elected officials.

The CDF seeks to remedy past inequities by devolving a significant portion of funds – 2.5% of all ordinary government revenues – to the level of each parliamentary constituency. This money is allocated according to a formula that distributes 75% of available funds evenly across each of the country's parliamentary constituencies, while the remaining 25% is allocated to constituencies according to their contribution to the national poverty rate.<sup>4</sup> Local CDF Committees (CDFCs), selected in part by the area Member of Parliament (MP), administer the fund and select projects on which to spend money. Legislation establishing the CDF requires CDFCs to solicit input from the public to generate ideas for projects. At the grassroots level, the construction process is typically overseen by

---

<sup>4</sup> The new constitution approved by Kenyan voters in a 2010 referendum sets the number of constituencies in the National Assembly at 290.

a Project Management Committee (PMC) that is composed of beneficiaries of the project in the community.<sup>5</sup>

The Fund remains wildly popular amongst Members of Parliament, in no small part because it affords them with substantial political capital to assist with their re-election campaigns. For both practical and historical reasons, Kenyan legislators typically base their claims to leadership on their ability to provide “constituency service” to voters. Much of this is rooted in the political culture that emerged in the years immediately following Kenyan independence. At independence, President Jomo Kenyatta adopted as the country’s national motto the slogan “*Harambee!*” – an expression which urged Kenyans to join together and create community projects. The government promised that if a community joined together to build a school or health center, they would provide a teacher for the students or a health worker to staff the dispensary. As a result, *harambee* fundraisers remain a part of Kenyan life and culture. They also have played a prominent role in local and regional politics. Although Kenya became a *de facto* one-party state soon after independence, political competition remained vibrant within KANU for decades; President Kenyatta created a system in which politicians served as ambassadors of their ethnic groups rather than as agents of the central state (Holmquist 1984, 185). The basis for this competition was often material – it was expected that candidates for parliamentary seats would contribute generously at local *harambees* to build local infrastructure (Widner 1992, 34-35, 60-66). Government ministers and other influential MPs travelled to other constituencies at the invitation of their parliamentary peers, and the ability to contribute

---

<sup>5</sup> PMCs are either “elected” by the community, or in the case of a school or clinic that has a pre-existing board responsible for its management, composed of members of this board.

resources helped establish a hierarchy of national, provincial, and local elites whose political status reflected their ability to contribute economically to the development of their co-ethnic publics. As reflected in Moi's "*siasa mbaya, maisha mbaya*," this kind of vertical clientelism could be used to reinforce a leader's authority rather than to serve his or her constituents. It is in light of this tradition that the political function of the CDF can be properly understood. The structure of the CDF as it was constituted in 2003 afforded incumbent MPs the opportunity to use public resources to fulfill the function that was expected of them personally: supporting local development projects.

### **Problems with the CDF**

The CDF is not universally adored. The performance of the Fund raises serious questions about financial and political accountability, which some argue are endemic to the overall structure of the CDF (van Zyl 2010). Critics of the fund contend that the CDF undermines good governance by violating the separation of powers: the same figures who manage the fund are also responsible for its oversight (Center on Budget & Policy Priorities 2009, TISA 2013, KAH5, KAH6).<sup>6</sup> MPs are effectively tasked with overseeing themselves, according to critics. Citizens accuse MPs of rewarding close associates with CDFC positions, and audits of the CDF in select constituencies reveal that so-called "ghost projects," in which money is spent on infrastructure improvements that never materialize, are also common (KAH19-082814, Center on Budget & Policy Priorities 2009). Incumbent politicians and their allies are quick to counter this point, however. They argue that voters are capable of 'punishing' MPs who fail to effectively manage the CDF, or who provided resources in an unfair or biased fashion (KAH26, KAH48, KAH53, also KAH12). And in spite

---

<sup>6</sup> References in this format (KAH##) represent interviews conducted by the author.

of being a highly lucrative position (Kenyan legislators are amongst the world's highest paid), Kenyan Members of Parliament have very low incumbency rates. Scores were booted from office in 2007; and currently only a quarter of the elected Members of Kenya's National Assembly served in the previous term. It is unclear that this high turnover rate reflects attempts by voters to chasten poorly-performing MPs, however. Re-election rates for MPs are so low that citizens may not be rewarding successful CDF management in their voting decisions; audits of the CDF reveal that maybe 20-30% of the Funds are lost to corruption or waste, but that popular perceptions are that 70-80% of the funds are spent in this way (KAH7). If MPs believe that voters intend to dismiss them from office regardless of whether or not they are successful managers of the Fund, this increases the likelihood of venal behavior by MPs (KAH7, KAH11).

Kenya's current constitutional dispensation creates political and legal problems for the CDF. The Kenyan people approved a new constitution in a 2010 referendum that creates new sub-national units of government, called counties, which have substantial responsibilities for local public service provision (Constitution of Kenya 2010). The existence of the CDF as an independent entity, disconnected from the system of public administration in Kenya, raises red flags for some about its efficacy. The legislation authorizing the CDF prohibits the fund from supporting recurrent expenditures (KAH7, KAH8, KAH83). In some cases, this has translated into a situation in which the CDF creates a structure – say, a dispensary or clinic – for which the counties or the relevant government ministry has not provided staff or other resources (KAH7, KAH12, IEA 2010, 39-40). This lack of coordination with other branches of government is reflected in a lawsuit that several Kenyan civil society groups brought against the CDF in the Kenyan courts; they

argued in part that the Fund diverts substantial resources from the newly created county governments, undermining the principle of devolution enshrined in the constitution (KAH12, TISA 2013). On February 20<sup>th</sup> 2015, Kenya's High Court ruled in their favor and gave the government twelve months in order to bring the CDF into line the law of the land (Ndurya 2-20-15). Members of Parliament swiftly rallied to defend the Fund; they argued that the CDF has made indispensable contributions to the development of Kenya's infrastructure. The Speaker of the National Assembly has vowed to address this issue and bring the Fund into line with the Court's ruling (Obala & Mwakwale 2-21-15, Mwere 2-24-15).<sup>7</sup>

### **Reforms to the CDF**

While the basic structure of the CDF remains unchanged since 2003, the law governing the CDF has been re-written twice: first in 2007, and then in 2013. Each time legislators made a significant change to the Fund that affected the how it is managed, albeit in different ways. The first such change took place in 2007, when Parliament created the position of "Fund Manager" to help oversee and account for the activities of local CDF Committees. While the political independence of Fund Managers, who are not appointed by individual Members of Parliament, appears to have been beneficial for the financial accountability of the CDF, it has not played a significant role in increasing citizen participation in the Fund's operations. The second such change came in 2103 and its effects are less clear, albeit potentially more significant for ensuring democratic

---

<sup>7</sup> A notable exception to this was Nyandarua Senator Muriuki Karue, one of the original authors of the bill establishing the CDF, who suggested that the Fund be allowed to die a natural death having served its original purpose (Obala 2-22-15). Subsequent statements by Karue clarified his position, stating that the CDF has made substantial contributions to the country's development; he has even gone so far as to deny he ever supported disbanding the CDF (Otieno 3-17-15).

accountability: The most recent version of the Act provides for the “election” of CDF Committee members at the constituency level. While a number of respondents suggested that electing CDF Committee members has been a valuable addition to the CDF – one that enhances its democratic accountability by giving citizens more of a say in how it is run – others suggested that this change was largely cosmetic and that MPs maintained control over appointments.

### *Fund Managers*

The first iteration of the CDF granted MPs a very high level of discretion over the use of the CDF funds in their constituencies. MPs selected CDF Committees on their own and chaired such Committees; as such, there was very little immediate oversight for the CDF. Although the legislation authorizing the CDF required CDFCs to table tenders and quotations for their projects with the relevant District Projects Committee and authorized the relevant District Development Officer (DDO) in each area to maintain a record of all transactions in his or her jurisdiction (Republic of Kenya 2003, VI.31(2), VI.33(1)), it isn't clear to what extent this regulation was actually followed.<sup>8</sup> A six-month study by a Kenyan NGO determined that the District Projects Committee was widely ignored by members of the CDF Committees (IEA 2010, 22).

Legislation amending the 2003 version of the Act changed the systems for administering the CDF and ensuring proper management of the Fund's finances at the local level. In renewing the Bill, MPs created a new constituency-level position, the CDF Fund Manager. Fund Managers are recruited and remunerated independently by the national-level CDF

---

<sup>8</sup> The District Projects Committee was itself a creation of the CDF Act. The Committee was composed of elected officials and senior bureaucrats in each District.

Board to whom they answer for proper management of the CDF. These bureaucrats sit as non-voting, *ex officio* members of the CDF Committee, meaning that they are involved in all of the Committee's deliberations about how to allocate resources at the local level but have no formal say on these decisions (Republic of Kenya 2012, 23(1.j)). In practice, Fund Managers are essential to the day-to-day operations of the CDF: helping to organize the election of CDFCs, liaising with the national CDF Board in Nairobi that is responsible for allocating funds to the constituencies, offering guidance and counsel to the CDFC during its meetings, soliciting input about projects from local communities, overseeing the work of the Project Management Committees (PMCs) that actually implement the projects at the local levels, and assisting the CDFCs in doing monitoring and evaluation of these projects. In all of these activities their role is to ensure that finances are properly accounted for and that CDF Committees behave in accordance with the Act (and associated legislation regarding tendering and procurement).

For supporters of the CDF, the apparent political neutrality of fund managers is critical to their effectiveness. While Members of Parliament have incentives to reward political supporters with CDF-funded projects in their communities or with bursaries for their children to attend secondary school or post-secondary educational opportunities, fund managers do not face these same political pressures (KAH8-081314, KAH83-102714). They are not posted to their "home" constituencies, and sometimes hail from the opposite side of the country as the constituency where they work (KAH8-081314). Nor do Fund Managers owe their jobs to the Member of Parliament or CDFC members; rather they are appointed by an independent, national board with the mandate to ensure that CDF projects

in their area conform to the requirements of the Act.<sup>9</sup> As such, from time to time Fund Managers butt heads with the CDF Committees in their constituencies or with the MP. As one Fund Manager put it, “I have to enforce the law here,” which sometimes means telling the Committee or the MP when something isn’t possible or when it violates the terms of the Act, such as if a proposed project requires recurrent expenditures, doesn’t promote development, or isn’t community oriented (KAH8). This tension was particularly significant when the position was first created. Fund Managers whose jobs required them to enforce the rules mandated in the CDF Act and associated legislation (i.e. the legislation governing the tendering of government-funded construction projects) faced resistance from CDFCs used to managing their own affairs with little interference (KAH13, KAH67). This neutrality is important; CDFC members advocate strenuously for their wards and seek to pull resources to their own communities (e.g. KAH15, KAH27, KAH49, KAH58, KAH83). The fact that Fund Managers, as the individuals who hold the “authority to incur expenditure,” are bureaucrats, rather than individuals embedded in community politics, is significant with respect to their ability to restrain corruption and ensure financial probity.

While Fund Managers appear to have been essential additions to the Fund, their role is not a panacea for the mismanagement that critics argue is pervasive in the CDF. Members of Parliament are still able to put pressure on Fund Managers to allow behavior that might run afoul of the law; if they refuse to work with a Fund Manager they can always be transferred to a less desirable post (KAH9, KAH13). What’s more, even though they hold no incentive to reward political supporters, Fund Managers still exist in a political context

---

<sup>9</sup> The CDF Board is a creation of Parliament, and as such, it is ultimately answerable to the country’s legislature. The Board is, however, capable of independent actions that curb the behavior of the more politically inclined CDF Committees (Shiundu, 10-22-14).



in which their authority to incur expenditures affords them with potential opportunities for fraud. For example, respondents in one Rift Valley constituency suggested that the previous Fund Manager had used his control over the CDF's finances to siphon off money for himself (KAH40, KAH41, KAH44, KAH49; also KAH13 in Western Kenya). In addition, while Fund Managers help participate in the selection of the CDF Committee members and take part in the solicitation of development priorities from the local community, engaging the public does not appear to be a core component of their mandate. CDF Committee members and Fund Managers themselves describe the function of Fund Managers as ensuring fiscal probity in the CDF.

*Electing CDFCs: "Power was given to the people."<sup>10</sup>*

An additional change, instituted in the 2013 version of the Act, is the creation of a mandate that the members of CDF Committees be "elected" by the public, rather than chosen by the area MP. The 2013 Act reduces the number of CDFC members from (approximately) fifteen down to eight and stipulates that these members come from a number of specific categories: two youth (one male and one female), one representative from a non-governmental organization (NGO), one person with disabilities, as well as a designated women's representative and men's representative.<sup>11</sup> Moreover, the legislation also stipulates that these eight CDF Committee members must be selected via "elections" at the ward level and that each ward must be represented on the CDF Committee. Each ward is supposed to nominate a pool of five representatives, with the Member of Parliament selecting a total of eight representatives from all the wards in the constituency to the CDF

---

<sup>10</sup> KAH8

<sup>11</sup> This mandate that specific demographics be included is similar to the one imposed by the 2003 and 2007 versions of the Act.

Committee. In theory this offers members of the public an additional opportunity to become involved in the CDF.

The CDF Act does not, however, spell out the procedures by which these elections will be carried out (KAH6). This ambiguity contributed to very different processes for electing potential CDFC members, even within the same constituency. While in some places citizens gather at a central location to vote by secret ballot, in many places they would simply line up, in a format known as *mlolongo*, behind their preferred candidate (e.g. KAH45, KAH54, KAH95). In all cases the process differed from that used in general elections, where polling stations are distributed throughout each ward; for the CDF, interested citizens needed to make plans to attend a meeting at a particular place and time.<sup>12</sup> Although CDFC positions are not political offices and Committee members don't draw a regular salary (a sore spot for some members), competition for these positions could nonetheless be intense (KAH54), requiring a heavy police presence to maintain order (KAH67). The combination of ad hoc, ambiguous processes with deeply emotional political divisions could boil over, as when the MP was almost beaten by frustrated CDFC aspirants at the gathering where elections took place (KAH8). Members of Parliament retain a significant amount of influence over the selection of CDFC members, to the extent that one civil society advocate and critic of the CDF referred to them as "just puppets" of the MP (KAH5, KAH7, KAH12). In one constituency in the (former) Rift Valley Province, citizens in one ward suggested that the MP preferred working with "nitwits," and that the elections process was biased in favor of

---

<sup>12</sup> This is likely due to a lack of capacity (KAH86). The process may have shut out worthy candidates: one civil servant involved with the CDF suggested that the process was "humiliating" and favored the candidates who could make the most noise, shutting out qualified and competent candidates who were quiet, reserved, or who may have been unable to make time in the middle of a weekday to attend these boisterous, contentious meetings (KAH8).

the political allies of the MP; this included accusations that youths supporting the MP arrived, drunk, to elect his preferred candidate (KAH36, KAH40).

In other settings, however, the presence of elections appears to have diluted the power of the sitting MP and, according to respondents, should curb bias in the distribution of resources (KAH24, KAH62, KAH83). Elected representatives are seen as servants of the people who voted for them (KAH44). And they are not necessarily even supporters of the MP (KAH58). Optimism about the efficacy of elections as meaningful conduits of public opinion is likely linked to the mandate that each ward must be represented in the CDF. The belief that Members of Parliament have incentives to shut out their political opponents from benefitting from the CDF is widespread (e.g. KAH, KAH91). Given that political allegiances are often based on ethnic divisions, and that these divisions are often reflected in settlement patterns, the inclusion of CDF Committee members from formerly marginalized parts of a constituency represents a counterweight to this perceived bias. One CDFC member from a ward known for its ethnic and political marginality suggested that his presence on the CDF Committee was due to the Act's requirement that all wards be represented; he said that he had succeeded in getting projects allocated to his ward in part because he threatened to sue the constituency if his home area was excluded (KAH49).

### **Participation and Satisfaction**

Changes made to the CDF over time – the creation of an independent Fund Manager, and the election of CDF Committee members – have had mixed effects on the extent to which co-production of public goods is possible under the CDF. However, the extent of citizen engagement in the CDF also varies across constituencies, with certain CDFCs granting greater opportunities for citizen engagement than others. A particularly important

opportunity for involvement in co-production is the supervision of the construction of infrastructure projects. Project beneficiaries who are involved in the process of establishing a budget and selecting a contractor are more satisfied with the work of the CDF and more confident in its transparency than those who are denied this opportunity.

CDF projects are, according to the legislation governing the CDF, supposed to be managed at the local level by members of the community who constitute a Project Monitoring Committee (PMC). In the case of public schools, clinics, or projects with a pre-existing Board of Management (BoM) or equivalent structure, representatives from this Board constitute the PMC. The extent of PMCs involvement appears to vary. While some PMCs create budgets, solicit bids for construction, and manage the construction process themselves, other PMCs work with a representative from the relevant government ministry heavily involved in the process, and still others lack input into the financial dimensions of the project (e.g. KAH16, KAH60, KAH92). Respondents in two of the six constituencies sampled in this project reported that they had been on the far end of this spectrum; they were not involved in managing the construction of the projects at their schools.<sup>13</sup> In some cases, the PMCs reported that contractors simply showed up and asked where to build the structure in question (KAH44).<sup>14</sup> In one example, a PMC member at a school reported serious disagreements with the contractor, who chopped down a tree on the school's property, claiming it was for the purposes of the project, and then tried to remove the

---

<sup>13</sup> In one of these constituencies the marginalization of PMCs from genuine management roles appeared to be ongoing; in the other constituency the CDF had reverted to involving them in management of the fund, a change which respondents agreed was for the better.

<sup>14</sup> The respondent in KAH73 contrasted a project implemented by the county government, in which she was simply told "here's your contractor" to the CDF project at her site, which she and her fellow PMC members were more involved in managing.

lumber from the premises for his own purposes (KAH92). This lack of participation generated a sense of mistrust and led to a belief that the quality of the projects was worse or that money was wasted by working solely through contractors (KAH39, KAH41, KAH89, KAH91). Some PMCs who were not involved in the tender process communicated their suspicions about its transparency, suggesting that CDF Committee members may have awarded the construction contract to friends, cronies, or unscrupulous bidders willing to offer kickbacks (KAH92). What's more, these PMC members said that they lacked the ability to control contractors whom they had not selected; they reported that contractors in these settings have the sense that they work for the CDFC, not the PMC, when this is the case (KAH90).<sup>15</sup> In general, the sentiments of PMC members interviewed for this project was that "it is the wearer who knows where the shoe pinches most," and that local communities should be more involved in managing the construction of infrastructure projects financed by the CDF (KAH91).

The rationale for limiting citizen participation in these public works projects is not necessarily driven by corruption or the desire for kickbacks. Some PMC members apparently see the CDF, and the financial resources that it brings, as an opportunity for self-enrichment (KAH13, KAH65). For PMCs that don't have a history of working together or who aren't accountable to a larger board or community, there appear to be more opportunities for corruption or looting from the fund (KAH19). There is thus an occasional tension between democratic accountability and financial accountability in the CDF. While

---

<sup>15</sup> Contrast this with respondent in KAH73 who said that with the CDF, at least the contractor knows who pays him, and that the PMC can tell him to fix things if they aren't satisfied.

public participation and oversight of the CDF is essential, so is professional expertise and management capacity.

### **Participation and Citizenship**

In addition to informing citizen satisfaction with outcomes, participation in the CDF as a co-production regime also shapes informs citizens' expectations about their relationship with the state. When the CDF was established, it was largely viewed as an extension of the *harambee* system: funds were perceived as "*pesa ya mheshimiwa*" – the MP's money (IEA 2010, 22).<sup>16</sup> A few Kenyan civil society organizations have gone to great lengths to raise awareness of the CDF and to inform citizens that this fund belongs to them as Kenyans. While it is difficult to determine just how widespread this understanding is, some interview respondents claimed that awareness of the CDF as a fund that belongs to the people has been transformative (KAH43). "They used to say, 'hiyo ni serikali'," (this is the government's) but now they understand the Fund comes from their taxes argued one respondent (KAH86). Another echoed this sentiment saying that now "*hiyo ni pesa mashinani*" ("this is grassroots money") (KAH70). Several respondents suggested that citizens "owned" the Fund and resulting projects, and as such must be consulted (KAH26, KAH44, KAH57, KAH60). Respondents who engaged with the CDF described the fund as an example of the devolution of taxpayer money and as a way of the public getting value from their taxes (KAH60, KAH70, KAH74, KAH79).<sup>17</sup>

---

<sup>16</sup> To a certain extent, maybe even to a large extent, this remains the case. However, multiple respondents talked about how this attitude has changed over the past dozen years.

<sup>17</sup> Two respondents bemoaned the opposite, suggesting that poverty and apathy led local residents to believe that that politicians can just do everything (KAH36, KAH92).

## **Conclusion**

Kenya's Constituency Development Fund (CDF) represents an example of citizen-state co-production on a large scale. Throughout the country Kenyans lobby their leaders for the creation of local infrastructure projects to serve their communities, select representatives to manage the fund, and supervise the construction of projects at the local level. This takes place, however, in circumstances that are (in many ways) unfavorable to this form of providing public goods. Kenya's history of using state resources as a means of control, and the political culture based on clientelism and hierarchy that it gave birth to, undermine the notion of effective democratic participation in the production of public goods. In this setting, politicians have incentives to control the process of allocating and managing resources, altering the resulting distribution towards their cronies and core supporters. And there is evidence that, over the course of the past dozen years, Members of Parliament have leveraged their influence in the CDF to do just that.

Two mechanisms help curb the tendency of the CDF to be used as a patronage fund, albeit in different ways: the creation of the Fund Manager position, and the "election" of CDF Committee members at the ward level in each constituency. They do so with mixed success. While Fund Managers appear to have been more effective in ensuring financial accountability in the CDF, their role does little to encourage public participation. A mandate in the most recent act that CDF members be "elected" from the wards, and that each ward be represented on the Constituency Development Fund committee, is more effective at ensuring that the CDF be representative of the constituency as a whole. Public involvement in the CDF is important for citizens' satisfaction with and confidence in the Fund: Members of PMCs who are not involved in overseeing the finances of the projects at

their site tend to question the fund's financial management and to be less satisfied with the quality of the construction. In addition, involvement with the CDF as an institution has important effects on citizens' attitudes towards government. Involvement with the Fund helps create an environment in which public consultation by leaders is expected and in which the public perceives the CDF as belonging to the people.



## Works Cited

- Barkan, Joel D., and Michael Chege. 1989. "Decentralising the State: District Focus and the Politics of Reallocation in Kenya." *The Journal of Modern African Studies* 27 (3):431-453.
- Bates, Robert H. 1981. *Markets and States in Tropical Africa*. Berkeley: University of California Press.
- Bates, Robert H. 2005. *Beyond the Miracle of the Market: The Political Economy of Agrarian Development in Kenya*. New ed. New York: Cambridge University Press.
- Berman, Sheri. 1997. "Civil Society and the Collapse of the Weimar Republic." *World Politics* 49 (3):401-429.
- Bovaird, Tony, and Elke Loeffler. 2012. "From Engagement to Co-Production: The Contribution of Users and Communities to Outcomes and Public Value." *Voluntas* 23:1119-1138.
- Brass, Jennifer N. 2012. "Why do NGOs go where they go? Evidence from Kenya." *World Development* 40 (2):387-401.
- Center on Budget and Policy Priorities. 2009. "It's Our Money. Where's It Gone?" International Budget Partnership (<https://www.youtube.com/watch?v=z2zKXqkrf2E>, accessed 12-17-14).
- The Constitution of Kenya. 2010. Nairobi: National Council for Law Reporting.
- Fine, Ben. 2003. "Social Capital: The World Bank's Fungible Friend." *Journal of Agrarian Change* 3 (4):586-603.
- Holmquist, Frank. 1984. "Class Structure, Peasant Participation, and Rural Self-Help." In *Politics and Public Policy in Kenya and Tanzania*, edited by Joel D. Barkan, 171-198. New York: Praeger Publishers.
- (IEA), Institute of Economic Affairs. 2010. "Kenyans' Verdict: A Citizens Report Card on the Constituencies Development Fund." In *IEA Research Paper Series, no. 7*: Institute of Economic Affairs.
- Kimenyi, Mwangi S. 2005. Efficiency and Efficacy of Kenya's Constituency Development Fund: Theory and Evidence. In *Department of Economics Working Paper Series*, edited by University of Connecticut.
- Klopp, Jacqueline M. 2000. "Pilfering the Public: The Problem of Land Grabbing in Contemporary Kenya." *Africa Today* 47 (1):7-26.

- Krishna, Anirudh. 2002. *Active Social Capital: Tracing the Roots of Development and Democracy*. New York: Columbia University Press.
- MacLean, Lauren. 2011. "State Retrenchment and the Exercise of Citizenship in Africa." *Comparative Political Studies* 44 (9):1238-1266.
- Mettler, Suzanne, and Andrew Milstein. 2007. "American Political Development from Citizens' Perspective: Tracking Federal Government's Presence in Individual Lives Over Time." *Studies in American Political Development* 21:110-130.
- Mettler, Suzanne, and Joe Soss. 2004. "The Consequences of Public Policy for Democratic Citizenship: Bridging Policy Studies and Mass Politics." *Perspectives on Politics* 2 (1):55-73.
- Migot-Adholla, S.E. 1984. "Rural Development Policy and Equality." In *Politics and Public Policy in Kenya and Tanzania*, edited by Joel D. Barkan, 199-232. New York: Praeger Publishers.
- Mwere, David. 2015. "CDF is here to stay, vow MPs in Appeal Plan." *The Star (digital)*, Feb. 24, 2015. <http://www.the-star.co.ke/article/cdf-here-stay-vow-mps-appeal-plan>, accessed 3-17-15.
- Ndurya, Mazera. 2015. "Court declares CDF Act invalid, gives govt 12 months to make amendments." *Daily Nation (digital)*, Feb. 20, 2015. <http://www.nation.co.ke/news/Court-Constituency-Development-Fund-Act-unconstitutional/-/1056/2630210/-/k8vsxoz/-/index.html>, accessed 3-17-15.
- Obala, Roselyne. 2015. "CDF has not realised its role and should die a natural death, says man who created it." *The Standard (digital)*, Feb. 22, 2015. <http://www.standardmedia.co.ke/article/2000152493/cdf-has-not-realised-its-role-and-should-die-a-natural-death-says-man-who-created-it>, accessed 3-17-15.
- Obala, Roselyne, and Steve Mwakwale. 2015. "Speaker Muturi defends CDF, vows to fight court ruling declaring it unconstitutional." *The Standard (digital)*, Feb. 21, 2015. <http://www.standardmedia.co.ke/article/2000152400/speaker-muturi-defends-cdf-vows-to-fight-court-ruling>, accessed 3-17-15.
- Olson, Mancur. 1965. *The Logic of Collective Action*. Cambridge, MA: Harvard University Press.
- Ostrom, Elinor, and Gordon P. Whitaker. 1999a. "Community Control and Governmental Responsiveness: The Case of Police in Black Neighborhoods." In *Polycentricity and Local Public Economies: Readings from the Workshop in Political Theory and Policy Analysis*, edited by Michael D. McGinnis, 203-231. Ann Arbor: University of Michigan Press.

- Ostrom, Elinor, and Gordon P. Whitaker. 1999b. "Does Local Community Control of Police Make a Difference? Some Preliminary Findings." In *Polycentricity and Local Public Economies: Readings from the Workshop in Political Theory and Policy Analysis* edited by Michael D. McGinnis, 176-202. Ann Arbor: University of Michigan Press.
- Otieno, Brian. 2015. "CDF Has Improved Lives-Karue." *The Star (digital)*, March 17, 2015. <http://allafrica.com/stories/201503171416.html>, accessed 3-18-15.
- Putnam, Robert. 1993. *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton: Princeton University Press.
- Putnam, Robert. 2000. *Bowling Alone: The Collapse and Revival of American Community*. New York: Simon & Schuster.
- Republic of Kenya. 2003. The Constituencies Development Fund Act, 2003, *No. 10*.
- Republic of Kenya. 2012 (Rev.). Constituencies Development Fund Act, 2003, *No. 16, of 2007*: National Council for Law Reporting, with the authority of the Attorney General.
- Republic of Kenya. 2013. The Constituencies Development Fund Act, 2013. In *Kenya Gazette Supplement No. 45 (Acts No. 30)*. Nairobi.
- Schattschneider, E.E. 1960. *The Semi-Sovereign People*. New York: Holt, Rinehart, and Winston.
- Sen, Amartya. 1999. *Development as Freedom*. New York: Knopf.
- Shiundu, Alphonse. 2014. "CDF Board Rejects Illegal Projects Planned by MPs." *The Standard*, Oct. 22, 2014.
- (TISA), The Institute for Social Accountability. 2013. TISA Position Paper on the Unconstitutionality of the CDF Act, 2013. Nairobi: The Institute for Social Accountability.
- van Zyl, Albert. 2010. What is Wrong With Constituency Development Funds. In *IBP Budget Briefs (3, no.10)*: International Budget Partnership.
- Varshney, Ashutosh. 2002. *Ethnic Conflict and Civic Life: Hindus and Muslims in India*. New Haven: Yale University Press.
- Verba, Sidney, Kay Lehman Schlozman, and Henry E. Brady. 1995. *Voice and Equality: Civic Voluntarism in American Politics*. Cambridge: Harvard University Press.
- Verschuerre, Bram, Taco Brandsen, and Victor Pestoff. 2012. "Co-Production: The State of the Art in Research and the Future Agenda." *Voluntas* 23:1083-1101.

Widner, Jennifer A. 1992. *The Rise of the Party-State in Kenya: From "Harambee!" to "Nyayo!"*. Berkeley: University of California Press.