WESTERN AND NYANZA REGION REPORT

STATE OF CIVIL SOCIETY KENYA:

A REPORT OF PROCEEDINGS OF CSO DIALOGUES IN WESTERN AND NYANZA REGIONS

Kisumu, 14th AUG 2014

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Supported by

Poverty Eradication Network

Strengthening Citizens Participation

Ford Foundation
List of Abbreviations

CBOs  Community Based Organizations
CSOs  Civil Society Organizations
CIDP  County Integrated Development Plan
CMA  County Members Assembly
COG  Council of Governors
CSORG  Civil Society Organizations Reference Group
DFID  Department for International Development
GOK  Government of Kenya
ICC  International Criminal Court
KANU  Kenya African National Union
NGOs  Non-Governmental Organizations
PEN  Poverty Eradication Network
PEV  Post Election Violence
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1. Introduction
The Nyanza and Western Kenya Region Forum was held on the 14th August 2014 at the Kisumu Hotel. The one–day forum was facilitated by the Poverty Eradication Network and was attended by 36 participants from most counties in Western region.

The objectives of the workshop were to help participants to discuss, analyse and come to conclusion on the status of Civil Society sector in Western and Nyanza regions: to identify challenges, Opportunities, including threats and propose way of reengaging the sector in wave of new constitutional order in Kenya.

2. Opening remarks
Chris Mbiti formally welcomed the participants to the meeting after which he invited them to make self introductions. He then went ahead to set the tone for the day by making few remarks as far as the CSO sector is concerned in Kenya. The highlights are as follows:

2.1 Why Dialogue with CSO leaders
The forum with CSO leaders seeks to look at the current state of the CSO sector in Kenya and specifically in Western Kenya. Questions to consider are: How can this sector be revived as opposed to saying that it has lost its previous vibrancy? What are some of the reasons for the loss of vibrancy in the sector?

Often time, many CBOs are formed simply because a national NGO has indicated that it wants CBOs to work with. As soon as that NGO pulls out, the CBOs also close shop meaning sustainability is a major challenge. Chris shared a powerful example with the participants telling that in North Eastern for example, the civil society is equal to government.

In many occasions, the current powerful individuals known in society from that region went to school because of the civil society. Without civil society, they would not know how to read and write. Indeed, the civil society plays a crucial role in human development and it is important that the leaders are empowered to ensure that its legacy is restored where it has been lost.
3. Keynote presentation on the state of the civil society sector

3.1 Historical Perspective of the CSO Sector: Dr. John Batten

Dr. Batten has been in Kenya since 1985. He has worked both with Plan International and Action Aid. He also helped to found Poverty Eradication Network (PEN) because he felt that Kenya needed to strengthen its own Civil Society rather than relying on foreign NGOs.

In 1993, Dr. Batten was one of the first members of the NGO Coordination Board, the first time NGOs were defined in Kenya and an Act put in place to govern the sector.

Dr. Batten then mentioned the PBO Act 2013 which he reiterated is in line with the new constitution in Kenya hence should be enacted. He added that a few individuals can change society and that is the role of civil society. He gave the example of many of the world’s great leaders having come from civil society including Martin Luther King.

3.2. Civil society definition

• It is the space or arena within which the people act to improve the quality of their own lives, that of their families, clans, communities, society at large and/or vulnerable groups within society.

• Citizens acting individually or together on a voluntary, peaceful and self-determined basis, for the common good and in the public’s interest; responsibly exercising their fundamental rights of freedom and liberty, assembly and speech; in order to contribute to the development of their communities and special interest groups within.

3.3 Context

CSO work is largely voluntary. Civil society is better placed to provide services especially where it involves engaging communities.

Three different categories of organizations form civil society:

✓ Government agencies: State: Central, Provincial, Local government
✓ Market enterprises (public/private partnerships) Private, business, profit-driven sector
CSOs: Organized civil society, value and mission driven, voluntary, community motivated

### 3.4 Eras of Civil Society in Kenya

**Pre-colonial era:** Some parts of Kenya were governed from faraway lands but civil society still existed.

**Colonial era:** Civil society was seen as a threat to the government even though some of those organizations were set up through an act of Parliament such as St. Johns Ambulance. This was a sector to be watched and monitored.

**Post-independence (neo-colonial) era:** Civil society was still not to be trusted by government. This history is very important because it has defined civil society and how the government should relate to the sector.

*How are the civil society organizations registered and under what legislation?* The earlier organizations were registered as societies. Some are registered as trusts which are very specific - for the purpose of protecting assets. Others are registered as cooperatives, trade unions, etc. There are many unregistered CSOs at the grassroots level. Others are registered as not for profit companies. It is not illegal now to be unregistered as a civil society, which used to be illegal.

Many people start NGOs with the purpose of raising income. Being not for profit means that it is not possible to make profit that is then distributed to the members; otherwise NGOs can make profit as long as it is plunged back into the NGOs, not given out to members.

### 3.5 Characteristics/Activities that CSOs are engaged in

Sometimes a donor establishes an NGO for the purpose of entrenching its own agenda, which creates serious competition and lopsided development agenda (biased towards the donor). That is not really civil society but an organization that is fulfilling a donor agenda, usually has only one donor.

CBOs are formed within local contexts, by local communities. Faith based organizations are organizations that are set up by religious organizations or by faith communities such as churches or mosques. There are international faith based organizations.

### 3.6 What is the status of Civil Society in Kenya?

The number of Kenyans involved actively in civil society is huge. Many are responding to calls for funding such as when the Red Cross makes calls for funding. There is also engagement between government and civil society. Corporate giving is also growing e.g. Safaricom Foundation, EABL Foundation, Coca Cola Foundation, etc.
Questions abound: who is driving civil society, who is driving its agenda? It is a task for civil society to create a positive image for the sector. Many international NGOs reflect their own governments back home and when the sector tries to set up a culture that is foreign, Kenyans do not want to fund that. The government and CSOs still do not work together enough; they still see each other as adversaries. Internationally, many CSOs get most of their funding from their governments or by lotteries that are funded by government. That is not the case in Kenya.

3.7 Global/Regional Factors

Traditional aid partners are going through their own crisis in their countries which is affecting how much aid they can give. Kenya itself is also becoming less and less aid dependent. There is also a rise of social enterprise.

3.8 Challenges

The legal and enabling environment is the biggest challenge. There is need to be helped to legislate and to operate but the sector does not need to be controlled. Monitoring and accountability is a continuous major issue. External communication is very weak; no one really
knows what CSOs are doing. Use of social media is still weak but that will sort itself out as younger people join the sector. When it comes to media engagement, it is good to keep in mind that the media agenda is governed by politics, profit, etc. It is not all that representative of the people’s agenda.

Are CSOs in a position to set their own agenda? When stakeholders go for certain kind of funding, the agenda comes with the funding. They may end up being involved in someone else’s agenda because that person is giving the funding. This raises a question about whose agenda the CSO are really pursuing. Indeed, the delay to pass the PBO Act and problems with county government is delaying the CSOs in Kenya to come of age.

There is unhealthy competition: Some CSOs act like no one else can do what they do so they block everyone else from achieving a similar agenda with them. Many of them are not accountable and transparent locally and that only causes suspicion. Many CSOs do not quite have an agenda to serve the common *mwananchi* but end up looking for funding without *mwananchi’s* agenda but for personal gain.

CSOs do not always represent *mwananchi*’s interests. It is therefore important to question who such entities represent. On the other hand, CSOs are not political organizations but there are times when the line is really thin.

In addition, there has been a history of persecution that has led to a tendency to avoid issues that are controversial and that put people in conflict with the government and that is diluting the effectiveness of CSOs.

Lack of awareness on legislation: CSO actors are not always aware of the different acts/legislation that govern the sector. They are also not aware of the county agenda for their counties hence they are not able to influence the agenda. With the new constitution in place and devolution, this is the time that a real powerful agenda can be set.

## 3.9 Opportunities

This is the time that real CSOs are emerging. Devolution has brought about so many different activities that can play a role in bringing about the desired change, with devolution bringing governance to the lowest level, the ward level. But there are conditions that are attached that disadvantage many CSOs on the ground because they do not have the capacity to meet those conditions.

On a number of occasions, there are partnerships that are not healthy. This is because these are really not partnerships but conditionalities set by the donors/funders. It is factual that international funders will become irrelevant unless they re-negotiate their partnerships. The forcing of partners to do certain things is going to change.
International organizations often define the terms of engagement, which undermines the CSOs. That has destroyed many Kenyan NGOs because they get swallowed up by the donor’s conditionalities. The donors are more prescriptive than taking time to understand the local issues and needs.

The ICC cases on the other hand have made the suspicion between CSOs and government worse, with CSOs being viewed as witch hunting local leaders on behalf of foreign governments.

It is going to be very important to research different donors and their agenda before seeking funds from them. For example, some donors fund only human rights work.

There have increasingly been problems of citizens who do not understand the CSOs agenda and how it helps them hence it is difficult to convince such people to support the agenda of CSOs. Therefore, CSOs need to improve their engagement with the communities they speak for. They have to make them understand how the agenda is for their own good.

4. The Role of the CSO Sector: Humphrey Buradi

Humphrey divided the participants into two groups. One group was to write questions, each participant to write a question starting with ‘why’. The second group to write answers, each participant to write an answer starting with ‘because’.

He then introduced himself. He said that he got into the CSO sector by associating with the players in the sector and learning from them. He gave an introduction to the CSO sector; before and after 2010. Introduction of devolution which brought about 48 governments in Kenya. But he had many questions on the process: Who sets the agenda? The agenda should be set by civil society. Are we still driving the citizens’ agenda or are we driving our own agenda as CSOs?

He gave an example of civil society in Kakamega. They looked at the priorities of the county government in Kakamega and discovered that the issue of people participation as prescribed by the constitution was missing. They quickly developed an agenda to ensure participation and it was included. CSOs have a role to play in the government agenda (both county and national).

**Staff development:** Organizations invest a lot in development of staff then they are poached by other organizations. How do those organizations invest in developing new people? This affects the sustainability of these organizations.

**The challenge of founders:** The founder being used to having total control and doing things his or her own way. Founders usually get involved because it is a course and a passion while many who join them want jobs and are not really interested in the course. Mentorship of people who are passionate about a course is often lacking. There is failure to develop people into leadership.
Do CSOs share their reports with government? How do they get the government to trust them when there is no openness? CSOs are coming up with a service charter that will guide how engagement will take place. The service charter for PBOs is still in draft stage. E.g. if a CSO organization is dealing with matters to do with environment, they will need to do an MOU with the Ministry of Environment.

There is however a challenge on how to protect the NGOs’ intellectual property rights otherwise experience has shown that county governments are adopting CSO agenda and even tag lines, making it difficult for NGOs to share openly with government. CSOs are also being taken advantage of, with different people visiting CSOs and engaging them on certain agenda, only for them to go and use that information for their own personal gain such as for their research and university thesis. This is really theft of intellectual property.

Communities know CSOs and that is why CSOs should take advantage of that to drive the people’s agenda. Remember that the world no longer cares about what you know but the world cares about what you can do with what you know.
4.1 Opportunities

1. **Public service:** There is need to develop synergy with government, private sector, the judiciary, county assembly and the public.

2. The constitution of Kenya 2010 provides an enabling environment for the sector

3. People are now applying human rights approaches.

4. **Grant making through development partners**

County governments are realizing that CSOs are relevant and they are engaging them. Many of them do not have the capacity to do what they say that they will do. They do not even have the mechanisms for engaging with citizens yet according to the law, they must prove that for every law they pass, citizens have been involved.

However, it is important to be cautious when it comes to engage with county governments because it is possible to be misused, by having them ride on the structures of civil society for their own personal gain. There are people in civil society who operate to accomplish personal agenda and are therefore not careful when engaging with county governments, which they do for their own personal gain/selfishness. It is high time for CSOs to clean their own house and for those who are in it for individual gain to actually step out of civil society.

*Corruption is a real threat to CSOs:* There is a mentality that corruption is alright as long as it is ‘our son’ who has eaten and not an outsider. Corruption keeps changing face and is a threat to society.

*The government becoming more autocratic* and less accountable to people. The current debate on devolved funds has hardly involved citizens. It is the governments taking but citizens need to be brought into the picture.

*The discovery of natural resources* such as crude oil and gas which will reduce donor funding for Kenya. In future, the Kenyan budget will be pegged on natural resources.
5. Issues/ Recommendations for the Region

Through group discussion members raised issues of concern as pertains the CSO sector in the region.

The Capacity Gaps: Organizations going on to programs and projects that are beyond them instead of bringing on board the necessary expertise

- Donor driven initiatives
- Poor succession plans
- Briefcase NGOs
- A weakened watch dog role where civil society does not challenge the government.
- Unhealthy competition in the sector.
- Exodus from the CSO sector to government
- Poor resource mobilization
- Lack of clear mandate

6. Way Forward

It is important that CSOs have a clear mandate: vision and mission. Additionally, there is need to develop mentorship programs.
## Annex 1: LIST OF PARTICIPANTS

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