COAST REGION REPORT

STATE OF CIVIL SOCIETY KENYA:

A REPORT OF PROCEEDINGS OF CSO DIALOGUES IN COAST REGION

Mombasa, 7th 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 Coastal Kenya Region Forum was held on 7th August 2014 at the Best Western Plus Creekside Hotel in Mombasa. The one–day forum was facilitated by the Poverty Eradication Network and was attended by 32 participants from Coast region Kenya.

2. Opening remarks
The meeting started with a word of prayer said by one participant, followed by introductions. Chris Mbiti from Poverty Eradication Network (PEN) started the meeting by giving the overall background information about the civil society sector in Kenya. He mentioned that the sector was key in fighting for multiparty democracy in Kenya even though the challenges the sector has faced since then have been numerous. Over time, as Mbiti stated, there have been accusations that the sector has lost its direction and is not as vibrant as it used to be. Participants however did not seem to agree with that statement but acknowledged that there have been valid issues that have been raised by the media over the role of civil society in the country.

Mentioned also was that in the past few years, the civil society had tended to take the role of being a follower as opposed to taking the leadership mantle. A few questions posed to the participants to ponder included: Whose interests does civil society serve, is it the citizens or donors? Do stakeholders report to citizens or donors?

Mbiti also noted that many in civil society are volunteers and that there are a number of councils that claim to be the umbrella bodies for civil society in Kenya. For the Sector, it is crucial to reflect on the disjointed nature and find ways of working together if the claim is that the Sector represents the interest of same citizens. All members present were therefore reminded that time was ripe to dialogue and look honestly at the state of the sector in Kenya.

3. Keynote presentation on the state of the civil society sector
The session was moderated by Yusuf Lule who welcomed Mr. Wambua Kituku to give the session’s first keynote address. Mr. Wambua Kituku, the UNDP (Amkeni Wakenya) Capacity Building Specialist made it clear that he was speaking in his own personal capacity and the views he expressed were not those of UNDP.
Mr. Wambua stated that stakeholders in the civil society sector desire better lives for Kenyans. However, the situation then was that many people in Kenya were not happy with the way things are in Kenya. He challenged members present to contemplate on where they were with the reforms that the Society hoped would deliver people in the country.

3.1 What is civil Society?

“These are social institutions within a society that are outside the realm of the state. Civil society institutions act in concert or individually to limit and prevent the control of the state into all aspects of the social activity.” (CIVICUS). Mr. Kituku added that civil society is the forum through which citizens engage collectively or individually to with the state and within itself. To solve problems and pressure government to act.”

He stated that as civil society, the overall aim remains to do good for society. Members are not present to make profit and neither are they employees of the state. Participants were asked whether politicians are members of civil society. They felt that unfortunately politicians join civil society once they lose elections but once they recapture their political seats, they cross over and become part of government.

3.2 Functions of Civil Society

Charity: Money, Basic stuffs

Service Delivery: Education, health, agriculture, infrastructure

Empowerment: Civic education, capacity building (knowledge, skills, resources)

Advocacy: Policy change, legislative, attitudinal

3.3. Characteristics of CSO in Kenya

CSOs operate at local, national, regional and international spheres. They operate as single entities or networks/coalitions and are registered under different laws e.g. as trusts, societies, NGOs, companies, etc. The sector is very diverse with competing interests and agenda’s therefore cannot be lumped into one pocket. Democratic governance CSOs have remained most vocal in Kenya. Additionally, the level of resources and constituency base determines how effective civil society will be.
3.4 Historical Role of CSOs in Political Change and Development in Kenya

The CSO sector is quite old. Some form of CSO was in operation even before Kenya was declared a state, for example those who established schools such as Alliance High School (colonial and independence era). An example is Harry Thuku and the association he formed. His efforts inspired Kenyans to come up with other associations such as the Kikuyu Central Association. Much more recently we had CSO movements like Mwakenya and Release Political Prisoners. Others include *Maendeleo ya Wanawake* organization and the Green Belt Movement.

The NGO Coordination Act that was put in place in the 1990s came up with a framework to enable people register NGOs. The clamour for multi-partyism during the days of Kenya’s President Moi brought civil society into the limelight. The sector organized everything around Moi who was perceived as a common enemy owing to bad governance. There was a change after President Moi was defeated with vibrant CSO advocates joining the side of government and the sector sort of lost its grip. During this time, it became mandatory to negotiate with the government in order to operate. Afterwards, the clamour for a new constitution took over and in 2010, mainly as a result of civil society engagement, a new constitution was passed.

3.5 The Legal Scenario

The law governing the CSO sector is not perfect. There has been pressure to have all CSOs registered as NGOs and to freeze other kinds of regimes e.g. trustees and companies. Not registering under the NGO Coordination Act has been criminalized and can attract legal consequences such as fines and being banned from holding NGO position for some period of time. This is draconian.

The law gives the NGO Council and NGO Coordination Board certain powers that can be used against the sector. For example refusal to register an organization that is viewed to be a trouble maker or de-registering an organization that fails to make returns to the board. It is also easy for people to register briefcase NGOs that are not really accountable to anyone. If one criticizes the government, the NGO coordination board can be used to criminalize your work and deregister the organization. Unfortunately if the CSO sector does not claim its watchdog role like used to happen in the 90s, there is big risk that the law can be used to suppress and even kill the sector.

The discovery of oil and minerals and the resources that come with them may often lead to bad governance because government will rely less and less on tax to run its programme and thus less accountable to citizens. The influence of the western governments who used to be strong partners with CSOs has diminished. That has diluted the effect of the sector.

The threat of terrorism is also a threat to the sector because it can be used to suppress it. The state likes to blame Kenyans whenever something bad happens e.g. Westgate or deaths from illegal brews. The citizens end up being punished for the failure of the state organs. For example
there is a feeling of being unfairly targeted with alco-blow to curb drunk driving with security operations harassing citizens yet the failure is in the security organs to screen people who come into the country or to regulate the alcohol sector.

If the new law, PBO Act 2013 is enacted, it will give benefit to the sector such as being able to do business to raise income to operate within the sector, as long as the business is within what is allowed.

This will require advocacy from the CSO sector (for the law to be enacted). An option to ensure that the PBO Act comes into place would also be considerations for CSOs to use the judiciary.

4. Keynote presentation on the state of the civil society sector
Role of the CSO Sector and the emerging scenarios in the Coast Region: Dr. Hassan Mwakimamo, Pwani University

CSOs have evolved. They are not static but respond to the way the government reacts to them. They have engaged for a very long time in bringing about social and democratic change. Change only comes because there are people in society who demand and agitate for it. CSOs almost participate like the opposition. They are donor funded to provide services to the citizens. They have also been on the forefront to shame corruption. They respond to what is happening in society.

CSOs are however invigorated in controversies. During Kibaki’s first term, there was a lull in the sector because there was no major controversy to respond to. What had not been realized is that Kenya is a very volatile country and requires just a small trigger for the situation to go out of hand, like the 2007/08 post-election violence.

It triggered CSOs to begin to focus on the passing of a new constitution. The CSOs however thought that once a new constitution was enacted, it would override the role of individuals to define government. It would no longer be possible for an individual to make road side declarations or to sack another through 1.00 p.m. news. They wanted to check on the erratic operation of the government.

The new constitution was promulgated in 2010. This moved the government into a devolved structure of government with 47 counties. Things are not yet smooth. There are still challenges due to Ad Hoc policies e.g. the declaration that principals should give all certificates in their
custody, free maternity, cancelation of land title deeds, lap top programs, etc. These look more or less road side declarations because they are not based on facts or research. The truth of the matter is that a government cannot run like that.

The National government still has challenges sharing power with the devolved structures. It will take around a decade for the devolved structure to really be in place. This is an opportunity for the CSO sector to be involved in mitigating the influence of corruption, mastering the commitment to engage and define the CSO sector and sustaining autonomy as the people’s mechanism for oversight over government.

4.1 Emerging Coast Scenario

Contested regional identity: There is a feeling of being excluded by the people whose ancestral home is the Coast. The region lags behind in education and indicators of poverty of issues of livelihoods have always been important. There is a hardening position against the state, like the state is something outside of them. The regional identity makes people from Coast get away with anything even land grabbing and crimes because people from Coast identify with their own.

Radicalism: The Coast region is at risk of escalating political violence and religious radicalism and extremism. The way political power is concentrated here at the Coast has also a role to play in political violence in the region.
4.2 CSO Responsiveness to the Scenario

CSOs should continue playing significant roles in devolved government structures: However there are capacity challenges. For example, how many people can look at a budget and analyze it, realize that something is not right? It is important for CSOs to develop constructive relationship with country officials. That does not necessarily mean presenting proposals for funding.

Facilitate citizens’ experience of participatory democracy: Develop a culture of dialogue and discourse with leaders. Participants felt that the communication is there even though working together is not yet perfect. Engage the middle and professional class and expand the idea of philanthropy.

Frame advocacy messages to link livelihood issues to policy. Over-reliance on donor funding. Systems of accountability are also not in place.

Support learning and reflections. You cannot influence policy if you are blank.

5. Plenary: Issues/ Recommendations for the Region

Leadership and education: What is the role of leaders more so regional ones? The feeling is that leaders are not willing to face the real issues on the ground. They hide things. The major cause of Coastal problems is linked to education. There is need to have people who can address issues with understanding and education is a major factor in this. Bad laws and policies are a major cause of problems. There is need to engage positively to get these changed.

Additionally, the civil society needs to develop a collaborative platform with the middle class because they tend to work mainly with those considered as poor and low class. Coast people feel that they are being made to fail by design. An example is the teacher training colleges in Coast which were closed down leaving only Shanzu College. Others are not accessing their results for national exams, by design. They are being made to fail by design. There are professors from the Coast region yet the Coastal region has been marginalized academically. Others have taken advantage of them and the only way they can get their rights back is to bring insecurity.

There is need to come up with a framework to safeguard the rights of consumers e.g. the change of prices of commodities such as bread or milk. People always relied on using lawyers to solve their problems. Is that the best way forward? At the end of the day when all these issues have been identified and discussed, who pulls the strings?

The Coast region has its own unique problems. Most CSOs at the Coast are not producing adequate information that can really bring about change. They only produce very shallow workshop reports that are very predictable, that really lack evidence and actionable points. That cannot bring about real change.
**Visibility:** The unfortunate thing is that academicians do their work as consultants and their reports are not made public so they cannot help the public. The challenge posed to CSO players is: what have they done to bring about change? Even universities have the possibility of forming networks but how far have they gone to do that?

The problems at the Coast are created by the leaders and the citizens are failing by not engaging with the leaders about these problems e.g. leaders grabbing/allocating land even when the land grabbers are locals.

**Education:** Examination questions also work against the people from the Coast. The questions asked about pyrethrum, coffee and such, but not about coconuts and cashew nuts that are well familiar with coastal people. The questions raised in national exams favour students from other regions but not those from the Coast region. It is high time that regional exams were considered.

**Divisions:** Many NGOs have run away from the real issues at the Coast because of fear of getting in trouble with the law. The number of CSO organizations at the Coast has grown tremendously (maybe 2,000 or 3,000) yet the real issues are not being addressed. Have they run away from the real issues that need to be addressed?

Some of the concerns raised include the issue of lack of security for players in the CSO sector. There is no protection for people in the sector. Players in the sector are viewed as suspects and there is even suspicion amongst different players in the sector, with some viewing others as suspects. There is also a lot of dishonesty within the sector, with some teaming up with political parties and some are even being given offices and positions within political parties and within country governments.
Is there a way that CSOs can come together and strategize the way forward afresh since threats have always been there even before independence? Can we protect each other against a common enemy as used to happen before instead of branding and suspecting each other?

Not working together as a sector is working against us. The suspicion of each other is a big problem. There are people who will not work with so and so, no matter how good the agenda is or even though they have a common agenda. Prominent CSOs need to embrace others in the sector and embrace them. Not everyone is able to understand things hence the need to embrace the less vibrant ones and work with them. There is a feeling that there are mercenaries within the CSO sector, people who are used by others outside the sector e.g. the government.

This forum is long overdue and should be consistent. We have taken roles that are not ours. We end up fighting for people who ought to fight for themselves. The people don’t realize that they have a role to play; they don’t question things for themselves. We also need to think about strategy. Let us learn from the people who are currently in government. At one time, they were not in government.

Tribalism also affects the CSO sector; when a CSO person talks they often want to analyse whether he or she is from coast or mainland. If he is from coast, he speaking for coast; if from mainland, he isn’t speaking for coast. This should not be so.
Transparency and accountability in the CSO sector is also lacking. When did the rain start beating us? When did we start blaming and suspecting each other? There is need to start working together. Attempts have been there but really working together has not been happening. We all need to focus on the same things.

We must also rethink our strategy as CSOs. Lack of transparency and accountability is threatening our own survival. Without it, the sector will die. Is posting information on the website adequate? Is that all the accountability and transparency we require?

The success of CSO sector will be determined by the way the sector engages with the state and regulates the government in the interests of the public. CSO sector has succeeded in pushing for reforms when they come together e.g. Ufungamano Initiative.

If CSO sector does not come together at the national level and at the regional level (here at the Coast), nothing much will be achieved. Marginalization at the Coast also needs to be addressed. The organizations in the sector are not submitting proposals for funding. Why? Building capacity and sharing information is critical for success in this sector. Other organizations come from Nairobi and set up offices here at the Coast, call themselves Coast organizations and do the work the Coast NGOs should be doing. This needs to change.

6. Group deliberations

What are the immediate actions the sector needs to take to remain relevant and vibrant within the Coast region?

A divided civil society cannot speak together in one voice and that is an advantage to the government. To understand the situation or scenario that the CSOs are operating in: Let us map ourselves; Develop an engagement strategy; Develop linkages among other players in this sector, develop partnerships and working to complement each other rather than competing against each other; Tap onto the young people that come from these institutions. Look at devolution as a very good opportunity and develop a niche with the county government by offering alternative solutions to the challenges they are encountering; Base everything on research and evidence and not just on rumours and assumptions and Work with issues and not personalities.

Who are the key stakeholders we need to engage in CSO engagement paradigm

Civil society is actually citizens organizing themselves to do something for themselves. But do we raise any funds locally? Is there any NGO that raises even 20% of their budget locally?

Opportunities exist at: National government; County government; Independent commissions and the judiciary; Media; BMOs (Business Membership Organizations like Kenya Association of Manufacturers); Independent commissions; Local administration; Local citizens (mwananchi);
Religious leaders and traditional leaders e.g. the Kaya elders; Donor community; International community; Security organs such as police; Consulates; CSOs; Religious entities and Donor communities

Challenges, risks and opportunities for CSOs, in the emerging scenarios (for example diminishing donor funding, discovery of oil and other natural resources)

6.1 Internal Challenges
Disunity within the sector; Over reliance on donor funding; Agenda being defined by the donor; Donor preferences to fund certain organizations within the sector;

Some CSOs aligning with politicians agenda; Attitude (bias against some players in the sector);

The NGO Act under which all CSOs are being registered does not provide an enabling environment while threats of terror, and radicalism etc. may limit effectiveness of CSOs;

Biased Mass Media that provide selective reporting;

Powerful politicians and their interference and Making use of the valuable space at country governments

6.2 Opportunities
The following opportunities exist

Wider democratic space courtesy of the constitution;

Research and data and look for evidence based; Engagement of the county officials; Making use of the available spaces:

Forum to engage that include County assembly, Court users committee;

Making use of the available resources e.g. devolved funds:

Ministry of Gender; Vision 2030; Transparency and Accountability: Community empowerment, Delegation of duties, Training of young leaders

6.3 Risks (External)
Policies in place: non implementation of PBO Act and limitation of NGO Act;

Government linking some NGOs to terror/radical groups of civil society;

Media: being biased leading misinterpretation of facts on the ground;

Harassment and threats from powerful politicians
6.4 Challenges (Internal)
Negative ethnicity amongst members of the CSOs; Disunity/a divided house; Religious intolerance and negative perception; Religious rivalry over donor funding and ideological differences; Agenda being defined by donors; Donor preference to fund specific groups within a network; Donor dependency (foreign); Unhealthy competition; Some CSOs aligning themselves to political agenda; Poor leadership structures of the existing networks.

7. Way forward
Where is this forum going to? Can we form a network to bring CSOs together? Let us not duplicate. Let us map and strengthen what is already there. We already have process. Can we match and become one. Something that will attract private sector? Let us work with existing networks, by strengthening them instead of starting new networks. Let us keep everything simple and from this momentum that this meeting has brought, let us keep talking to each other.

8. Closing Remarks
In his closing remarks, Chris Mbiti thanked the donor, Ford Foundation, the participants and the organizations they represented, the moderator of the sessions, the presenters, Martin, who mobilized the people to attend, the hotel that hosted the team and the rapporteurs, etc. He urged everyone to stay active so that the society does not feel that the civil society is not needed anymore.
### Appendix 1: LIST OF PARTICIPANTS

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<td><a href="mailto:mamundichu@yahoo.com">mamundichu@yahoo.com</a></td>
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<td>Presenter</td>
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<td><a href="mailto:wambuak@yahoo.com">wambuak@yahoo.com</a></td>
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<td>Human Rights Agenda</td>
<td>722235219</td>
<td><a href="mailto:yusuflulemwatsefu@gmail.com">yusuflulemwatsefu@gmail.com</a>; <a href="mailto:y.lule@humanrightsagenda.org">y.lule@humanrightsagenda.org</a></td>
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