

**Policy Brief on**

**Public Policy Monitoring of Devolved Funds: *The case of Local Authority Transfer Fund (LATF) in Mombasa, Kenya***

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## **1.0 Introduction**

Public policy monitoring by civil society actors in the South has been on the increase in the last few decades. This is part of the slow and complex process of consolidating democracy and fostering active citizenship among the Southern countries populations.

The processes of democratisation have involved redefining public/private relationships and the links between the State and society. Of concern is to build new forms of democratic governance whereby citizens are able to hold their governments to account.

Since the late 1990's, civil society organisations in Kenya have played a pivotal role in democratic governance including holding government accountable in the usage of tax payers' money. Action Aid International Kenya (AAIK) as part of its governance work, has been partnering with various civil society and community based organisations (CSOs) to spearhead efforts to ensure good governance and the promotion of human rights. It is in pursuit of this course of action that AAIK and its partners have been monitoring the utilisation of Constituency Development Fund (CDF) and Local Authority Transfer Funds (LATF) in most of the Development Initiatives (DIs) it works in. For the last few years in Kenya's Coast Province, AAIK, together with a community-based partner, the Coast Development Lobby Group (CDLG), have been monitoring the use of LATFs within the Municipal Council of Mombasa.

### ***Purpose of study***

The objective of this study was to develop a case study on Public Policy Monitoring of LATFs in Kenya's Coast Province. This case is a component of the "Reflection and Action Network of Public Policy Monitoring and Societal Accountability" project.

## **2.0 Methodology**

This case study was developed using a variety of approaches and tools. Primary as well as secondary data was used. Primary data was generated from interviews and focus group discussions with purposively selected key informants who had the required information on public policy monitoring, LATF and CDLG. Review of relevant literature such as reports, memoranda and other materials deemed relevant to the case study was also undertaken. 43 key informants (20 women and 23 men) participated in this study and selected projects were visited to demonstrate the work the lobby was involved in.

## **3.0 Public Policy monitoring – the context**

A core principle in public policy monitoring is to ensure that there is development with social justice. In pursuit of this, citizens use their potentialities and resources to reduce risk and insecurity in their lives. This is underscored by the fact that the capacity-building approach emphasizes that a root cause of poverty, illiteracy, and ill-health is lack of capacity in government to design and implement proper development strategies, and, in society, to hold government accountable for its actions (IBRD 2005:7). Citizens and civil society organisations play an important role in policy formulation, implementation,

monitoring and evaluation as many interests have to be checked to ensure equitable performance and delivery of services. Market forces are not always adequate in ensuring equity or allocating resources efficiently and the government alone cannot ensure this. It is thus imperative that public policy monitoring is taken on board as governments and local authorities undertake their core business of serving its citizens.

In Kenya, CSOs, as represented by the many NGOs, are acknowledged as key partners in development. According to the February 2006 Sessional Paper on NGOs in Kenya states, *NGOs have an important role to play in the provision of social and economic services. They address diverse issues ranging from lobbying, advocacy and human rights to service provision. They bring creativity, innovation and develop strong community links thereby playing a catalytic role in improving the delivery of various types of services (OVP 2002).*

### ***The process of public policy monitoring***

CSOs undertake a variety of processes in engaging with governmental authorities on service delivery and fulfilment of rights. These include mobilisation of community members to participate effectively in processes of policy formulation and review and ensuring that the diverse interests within society are properly represented in these processes. Moreover, CSOs also directly influence public policy processes by inputting into them.

### ***Tools used in public policy monitoring***

A variety of tools are used to engage citizens in community monitoring efforts. In Kenya, public expenditure tracking (PET), is the most commonly used tool, through which citizens and community groups monitor how the government or its agencies spend funds. The aim is to identify leakages and/or bottlenecks in the flow of financial resources or inputs and to bring processes and outcomes in the use of resources to the open.

### ***Public policy monitoring in Kenya***

Public policy monitoring remains a contentious issue in Kenya today. For a long time, the citizens have not been in a position to demand accountability for public resources. Over the years, however, as the political space continues to open up, the people's capacity for monitoring public policy and holding the government and other service providers accountable is increasing. Citizens are taking more visible and audible action, especially through the mass media and activities of CSOs in search of just governance. It is also a fair observation to state that the current Kenyan government is in office largely because its citizens were tired of the previous government's near non-accountability for public resources. The new government came into power through a platform of good governance and zero tolerance to corruption. The euphoria that characterised the electioneering process and the installation of the new government in early 2003 was an indication that Kenyans would no longer watch their hard earned resources go to waste, watch poverty increase and have their rights denied.

Space for public policy monitoring in Kenya needs to be conceptualised within the constitutional framework that guarantees the various individual freedoms and rights as provided for in Chapter Five of the Constitution of Kenya, The Bill of Rights. Further, in

realisation of the role of CSOs, the government of Kenya has developed a NGOs Policy, which recognises NGOs as development actors in their own right (OVP 2006). This very act creates further space for NGOs to operate, including in areas such as public policy monitoring.

### ***Kenya's policy on devolved funds***

The government of Kenya has been deliberately pursuing decentralised development policies since independence. In the Sessional Paper No. 10 of 1965 on *African Socialism and its Application to Planning in Kenya*, the government stated that planning was to be extended to the provinces, districts and municipalities so as to ensure that there was progress in each administrative unit. However, as Kenyans continued to experience increased poverty and deteriorating service delivery, a disquiet emerged among communities and political leaders which, to a large extent, led to the government looking for alternative ways of availing resources in a devolved manner. Consequently, there are currently several devolved funds in operation in Kenya. These include: the LATF, launched in 1999, pursuant to the passing of the LATF Act in 1998; the Roads Maintenance Levy Fund (RMLF), which started in 1993; the Constituency HIV/AIDS Transfer Fund, which started in 2003; the District Bursary Fund, which started in 1993/94, and the Constituency Development Fund (CDF), established by an Act of Parliament in 2003. Others include the Secondary Education Bursary Fund (SEBF) the Free Primary Education (FPE) and the Rural Electrification Levy Fund (RELF).

The significance of devolved funds in Kenya is reflected by the government's commitment to economic recovery and poverty reduction. The Economic Recovery Strategy for Employment and Wealth Creation (commonly referred to as ERS), developed in 2003, provides the government's policy framework against which devolved funds are leveraged. The thrust of making funds available at the local level is the conviction that the local communities are best placed to prioritise on projects and equally that local resources are easily tapped where people participate in development processes.

### ***The Local Authority Transfer Fund (LATF)***

This case study is about the Local Authorities Transfer Fund established under the Local Authorities Transfer Fund Act (No. 8 of 1998), and into which the government remits 5% of all national personal income tax collections. According to the Local Authority Transfer Act 1998, Article 4, the LATF was established to facilitate disbursement of funds to local authorities, "*to supplement the financing of the services and facilities they are required to provide under the Local Government Act*". LATF monies are, however, specifically meant to enable local authorities to do three things, namely, improve local service delivery, improve financial management and accountability, and to reduce outstanding debt. To access LATF resources, local authorities must have an action plan, a three-year rolling Local Authority Service Delivery Plan (LASDAP). The LASDAP must be prepared using a participatory process that involves the various stakeholder groups and citizens within the local authority's jurisdiction. It should also have a poverty focus in line with the Poverty Strategy Reduction Paper and the ERS whose priority areas include health, education, infrastructure and upgrading of informal settlements. A completed LASDAP must be adopted as a resolution of the LA and then submitted to the MOLG. It

is however the responsibility of stakeholders to hold councillors and chief officers accountable for the implementation of the LASDAP, hence the primacy of their monitoring role.

#### **4.0 Monitoring of devolved funds in Mombasa**

Monitoring of devolved funds in Mombasa and particularly LATF has been a core concern of Action Aid International Kenya (AAIK) and its partners. AAIK is among the larger international NGOs in Kenya, with four regional offices in addition to the Nairobi office. It works with over one million poor Kenyans in twenty districts across the country, building their capabilities to secure their basic rights (AAIK, 2002). As part of its 2002 – 2005 country strategy plan, AAIK supported greater community engagement with government and civil society in the area of policy advocacy and grassroots action. Consequently, since July 2004, AAIK and its partner, the Coast Development Lobby Group (CDLG) have been engaging the Municipal Council of Mombasa with regard to how LATF resources are utilised. AAIK sponsored a workshop in July 2004 with the aim of sensitising members of the then Coast NGO Forum (a coalition of the main NGOs operating in the cost region) about monitoring the use of devolved funds. The CDLG was started in July 2004 as an offshoot of this dissemination workshop as a few concerns arose. Foremost concerns were raised about the LASDAP consensus meeting of 2003 as it emerged communities were not aware of devolved funds, and how they could demand their share of those resources as well as accountability for funds that are available. Secondly, community leaders equally lacked awareness about devolved funds. Thirdly, as projects were identified and prioritised, there was also lack of transparency in the process. Communities found themselves rubber stamping projects.

The lobby group, which is registered as a community organisation by the Department of Social Services, has several objectives all aimed at working with the community to ensure that basic rights are obtained through proper delivery of services by the duty bearers. Being a social movement, and having an extensive network throughout the district, the lobby group speaks for 828,514 (393,623 female and 434,891 male) residents of Mombasa district (CBS 2002). However, in the lobby group leadership are 13 members (5 women, 8 men) of the executive committee of the lobby group. Then there is the compliment of 56 (26 male and 26 females) ward representatives. CDLG has CBOs as members who are also AAIK partners in other areas. Some of these include Mtongwe Community Initiative (MCI) and Likoni Community Development Programme (LICODEP).

#### ***The strategic role of AAIK and CDLG in monitoring devolved funds in Mombasa***

It has been a strategic choice by AAIK to partner with communities and community organisations in efforts geared towards addressing rights issues of communities such as poverty and lack of basic needs. In pursuit of this objective, AAIK executes its planned action through partners, the primary ones being the poor and excluded. It is in this context that it supports community organisations and builds their capacities to engage with rights holders. In monitoring the LATF-LASDAP process in Mombasa, AAIK has partnered with and continues to support the CDLG. Thus AAIK and CDLG occupy a pivotal role in monitoring the LASDAP- LATF process in Mombasa. With the support of

AAIK, the lobby group has therefore developed certain strengths that it can bring to bear as it pursues its mandate in public policy monitoring. These include a leadership elected from the grassroots and therefore enjoys a wide mandate; engagement in activities that the mass media find attractive and newsworthy thus developing a symbiotic relationship with the media; highly committed leaders who continue to volunteer substantial time; membership from CBOs and recognition by the Municipal Council of Mombasa.

### ***Strategy and approaches***

In furthering its advocacy for various rights-related issues, AAIK uses the strategy of augmenting poor people's capability to analyse their situation and make decisions to realise sustainable development (AAIK 2004:9). For instance, during 2004, working with CBOs, AAIK efforts were directed towards tracking local authority transfer fund resources in various local authorities with a view to establishing how priorities were addressed. In an effort to enhance accountability, AAIK supported putting up of public information boards in Chepatais, Kapsokwony Bundalagi, Usigu and Kuria, where up-to-date information about resources and their allocation is displayed publicly, which stirred local communities to demand transparency and accountability in the use of public funds (AAIK 2004). With regard to LATF- LASDAP in Mombasa, AAIK in conjunction with the CDLG, has mainly used one broad approach -community mobilisation and awareness creation about the LASDAP – LATF process and their entitlements and responsibility in articulating their rights to receive services from duty bearers.

### ***Actions undertaken in monitoring LATF-LASDAP in Mombasa***

AAIK and the CDLG have engaged in a series of actions in the course of monitoring the LASDAP – LATF process. These have included: extensive awareness creation within the community; engaging the Municipal Council of Mombasa; social audits – for instance of various LATF funded projects within the municipality and comparing findings with those of the Municipality. The 2004 audit, as a reality check on the ground, revealed some serious areas of weakness in the LASDAP-LATF process. These included: few community members and wards knew of the LATF; councillors decided on resources on an ad hoc basis; there was fear of double funding of projects by LATF and CDF; some contractors had completed work but had not been paid; and there was no clear targeting of projects towards the poor and the excluded. Women, children, the youth and the handicapped did not appear to be deliberately targeted. Other activities include open engagement during meetings; demonstrations; grassroots campaign such as the February 2006 Name and Shame Campaign which involved a procession from Uhuru Gardens to the District Commissioner's office; use of FM Radio stations; petitioning for action from the Ministry of Local Government; lobbying political leaders in the Coast Province and building partnerships.

### ***Monitoring tools used***

A variety of tools are utilised to facilitate monitoring activities. The LASDAP project lists, compiled by the LASDAP secretariat as a result of the LASDAP process, have been used as benchmark in monitoring projects. The other list used is the LASDAP project update list, also prepared by the LASDAP secretariat. The other tool used is observation done on sites where LASDAP/LATF work is in progress. Pictures of projects while at

various stages of completion have been taken and used as evidence of progress of work and also as community mobilisation material. CDLG, in conjunction with AAIK, also writes its own project audit reports which it then compares with the official reports.

### ***The amount spent on monitoring***

Substantive resources have gone into the process of making the lobby a viable vehicle for public policy monitoring in Mombasa. People's efforts, as represented by their thinking capacities and sacrifice, have been immense. Nevertheless, based on the meetings held by the different lobby group leadership cadres, it is estimated that it has cost 4,392 human hours between July 2004 and August 2006, which translates to Ksh. 915,732. AAIK, Kenya through its governance programme in the Coast Region Office has contributed Ksh. 1.7 million in support of various lobby group activities. The Kenya Human Rights Commission has also provided funding (Ksh. 120,000) and has supplied 500 T-shirts.

### ***The vision of the users***

The perspective of the users of information (the Municipal Council of Mombasa and central government officials) generated by the lobby group was that the lobby group, through the community mobilisation processes, has led to the LASDAP process being enriched as there was wider community participation in the prioritisation as well as the consensus sessions. The lobby group has provided a forum through which the community articulates their concerns about using the LATF.

### ***Results and impacts***

There was consensus that the lobby group has had significant impact in Mombasa.

- It has created widespread community awareness about the LASDAP/LATF process and their role in it.
- Existence and activities of the lobby group has heightened the sense of responsibility and accountability among public officials and political leaders with regard to how they use resources they are entrusted with on behalf of citizens.
- Participatory project social audits have been undertaken to determine the extent of and proper utilisation of LATFs.
- The CDLG has received recognition from municipal and government officials.
- The lobby group has enhanced governance in Mombasa.

### ***Challenges faced in monitoring LATT-LASDAP in Mombasa***

AAIK and its partner, the lobby group, have faced a variety of challenges. Challenges internal to the lobby group include leadership, time constraints, perceived political ambition of the lobby group leaders; weak organisational structure as the lobby group is meant to be a social movement; weak social audit capacity; and lack of focus on rights of the marginalised and especially women rights.

Challenges external to the lobby group include: funding; perceived political interference as Members of Parliament and councillors see the lobby group as endangering their careers; public order concerns as the lobby risks being branded as an inciter; a risky monitoring environment due to challenging of entrenched interests; and negative

perception of lobby groups, as many institutions, especially the private sector, fear to associate with such advocacy organisations “because of its noise”.

### **5.0 Conclusion and recommendations**

This is a potentially important case. It shows how partnership between AAIK and a local community group (CDLG) has been able to engage with duty bearers (service providers) in Mombasa. It illuminates what citizens and community groups can do to transform the process of allocation and utilisation of resources. It shows what powers a community controls in terms of being able to hold to account the government and its agencies. It is a case that can be replicated in other municipalities and areas where public resources are being applied to address issues of poverty and inequality.

This is even more, given the potential for public policy monitoring in Kenya. The economy is showing signs of growth and thus the issue of where and how the increasing resources are applied is urgent if the country is going to pull increasing numbers of Kenyans out of poverty. Further, the multiplicity of devolved funds that the government of Kenya is using to hasten the process of service delivery has created a challenge in terms of monitoring the use of funds. Concerns for improving the targeting of funds also offers opportunities for public policy monitoring in Kenya. The concerns for securing women’s rights, the needs of the youth and those of the handicapped cannot easily be addressed through mainstream service delivery activities and processes. Public policy monitoring offers the potential for staking claims to resources for addressing these special needs.

#### ***Recommendations for improvement of LATF monitoring***

1. As the technical capacity of the lobby group has repeatedly been called to question, the lobby group should seek to develop a technical capacity. This can be through bringing high calibre members on board, conducting adequate research and getting facts to help them in their work and enhance the credibility of their work.
2. The LATF Act and the guidelines anticipate that the community will monitor the process. This aspect needs to be adjusted so that community members do not eventually stand accused of trespassing during project sites visits and physical inspections of works in progress.
3. The focus has so far been on monitoring projects generally. However, projects affect men and women differently. The rights of men and those of women are affected differently by projects. Efforts need be geared towards specifically promoting and monitoring projects that promote and protect the rights of women and other excluded groups.
4. The lobby needs a more multi-pronged approach to have more impact. So far, most of its efforts have been focused on writing letters of complaint to the Municipal Council of Mombasa. Where there is merit, it should be more decisive and take its case to the courts of law.

5. Positive efforts need to be appreciated. The CDLG should change its mindset from just criticising to appreciating even the little that has been done and offer suggestions.
6. For purposes of sustainability, the lobby group should consider establishing a secretariat to coordinate its day to day affairs as well as build institutional memory.
7. The lobby group should tap the participation of all stakeholders in Mombasa. The private sector is potentially a major beneficiary of a well functioning Municipal Council and should be brought on board. Further, the lobby should partner with other common interest groups.
8. To maintain credibility, any lobby group members who have political ambition should reconsider their position and be seen not to use the lobby as their vehicle for political office.
9. The lobby group experience is a useful experiment that has had reasonable successes and useful lessons. Efforts should be put in place to replicate this case in other local authority jurisdictions in Kenya and beyond.

For details refer to:

Public Policy Monitoring of Devolved Funds: The case of Local Authority Transfer Fund In Mombasa, Kenya by Actionaid International Kenya, September 2006