Constituency Development Fund in Tanzania: the Right Solution?

The Constituency Development Fund ('CDF') is an additional means of financing (sourced from domestic revenue) for community-driven development that is managed at the constituency level by Members of Parliament ('MPs'). As such it supplements, or operates parallel to existing funding mechanisms for local government. In East Africa, the CDF has been available in Kenya and Uganda since 2003 and 2005, respectively and in August 2008, President Kikwete fully endorsed the introduction of CDF to Tanzania in his address to Parliament.[1]

In Kenya, Opposition MPs sought to introduce the CDF as they were concerned that their constituencies were not receiving development funds and consequently these areas remained with poor infrastructure and social services.[2] In their view, introducing the CDF (by way of legislation) would ensure a fair distribution of funds and therefore lead to more even-handed development throughout Kenya's 210 constituencies.[3] In Uganda, CDF was borne out of a series of meetings held between the President and MPs of the 7th Parliament in order "to relieve [MPs] of the pressures of their constituents in regard to the promised and other development projects."[4] Unlike Kenya, Ugandan MPs each personally received 10 million Ugandan Shillings in November 2005 with only a minimum set of guidelines (prepared by a Committee of 7 MPs and the Clerk to Parliament appointed by the Parliamentary Commission) to direct disbursement and accountability by MPs. Predictably, this had deleterious results for Ugandans.[5]

Similar to Uganda, President Kikwete stated that the CDF would be established in order to assist MPs in implementing development projects and reduce the 'daily nuisances' that MPs face in their constituencies. He added that it is embarrassing to have constituents ask their MPs to financially contribute to development projects, when they have no finances to do so. However, he did point out that whilst MPs

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1 President Kikwete's Address to Parliament on August 21, 2008 available (in Kiswahili) at http://www.parliament.go.tz/bunge/docs/PrezSpeech.pdf, accessed December 6, 2008.

2 The CDF Social Audit Guide: A Handbook for Communities. Developed by Wanjiru Gikonyo. Open Society Initiative for East Africa: Nairobi, Kenya, 2008, at page 4. Available at http://www.soros.org/initiatives/osiea/articles_publications/publications/cdf_20080201, accessed October 13, 2008.

3 Ibid.

4 Briefing Paper on the Constituency Development Fund (CDF) in Uganda. Uganda Debt Network: Kampala, Uganda, May 2007, at page 1. Available at http://www.udn.or.ug/pub/CDFbriefingpaper.pdf, accessed October 29, 2008.

5 From a field study conducted in six districts and from interviews with 60 MPs, Uganda Debt Network (UDN) found that the CDF was mismanaged, communities in the districts were unaware of the CDF prior to disbursement, they did not know the CDF Committee members, and couldn't identify the CDF projects. MPs tended not to follow the guidelines for disbursing the CDF monies and found the amount allocated was insufficient. For more information, refer to the Report on the Constituency Development Fund prepared by the Uganda Debt Network and available at http://www.udn.or.ug/pub/CDFreport.pdf, accessed October 29, 2008, and also the Briefing Paper Briefing Paper on the Constituency Development Fund (CDF) in Uganda. Uganda Debt Network: Kampala, Uganda, May 2007, Available at http://www.udn.or.ug/pub/CDFbriefingpaper.pdf.

can use the CDF to assist their constituents in this manner, when MPs are asked, for instance, to pay for school fees, it should be clear that this is not the work of MPs. Rather, the focus of MPs should be whether or not there are public amenities to enable children to have a quality education in their constituencies. [6] At the time of writing, the issue of CDF had not officially been developed further in Tanzania.

Unsurprisingly in all three countries, the management of development financing by Members of Parliament (politicians) has caused controversy and debate particularly from civil society organisations.[7] In this context, Policy Forum has determined to consider the extent to which the CDF is in fact the solution to the underlying questions that it presupposes. Namely, is there a need for an additional development fund? And, is it the role of MPs to be such fund managers? Based on the literature reviewed, it is argued that the CDF is not the appropriate solution to these fundamental questions. Instead, the focus should remain in addressing the systemic and systematic issues arising within the existing development financing arrangements for local government (which are many), strengthening the Office of Parliament, and reorienting the relationship between MPs and their constituents to its democratic rather than (apparent) financial basis. The first part of this paper focuses on whether or not Tanzania needs an additional development fund, and the second part on MP-constituent relations that the CDF raises.

1. Do Tanzanians Need Another Development Fund?

1.1 Local Government Financing: A Snapshot

Pursuant to the Policy Paper on Local Government Reform (1998) and resulting Local Government Reform Program (LGRP), Tanzania has for the past decade been in a continuous process of decentralisation. The rationale being that Decentralisation by Devolution (or ‘D by D’) will play a significant part in poverty reduction by ameliorating service delivery in key sectors, such as health and education, by increasing the political, administrative, and fiscal autonomy of Local Government Authorities (‘LGAs’): “decisions that concern local matters should be [made] according to own local priorities.”[8]

A major step taken to realise the 1998 Policy Paper was the introduction of formula-based systems for inter-government transfers from the Central Government to LGAs to meet recurrent (personnel emoluments and ‘other charges’) and development expenditure, through the Recurrent Grant system and Local Government Capital Development Grant System (LGCDG) in 2004 and 2005

[6] Supra Note 1.

[7] Some civil society organisations are fundamentally opposed to CDF (e.g. Policy Forum in Tanzania and recently Muslims for Human Rights in Kenya), while others, and particularly in Kenya and Uganda (e.g. Uganda Debt Network in Uganda) argue that provided a sound legal and institutional framework is in place, then the CDF is a viable development funding mechanism at the local level.

[8] ‘decentralisation by devolution.’ Under ‘local government reform’ in Overall Concepts. ‘Interlinking Management Systems, Instruments and Tools at Council Level.’ Version: 1 (English) prepared by the Prime Minister’s Office Regional Administration and Local Government (CD ROM).

respectively.[9] This move has increased the quality of local financial management and transparency of local government finances.[10] For the Financial Year 2006/2007, intergovernmental transfers accounted for about 93% of funding for local governments, clearly evidencing that more money is spent at the local government level, but is not locally generated.[11]

A key weakness in the transfer system is the limited control over local expenditure (local public servants and revenue autonomy) that local governments have.[12] Low local revenue autonomy means that local residents are unable to make the link between "the benefits from local expenditures and the costs of these to local residents."[13] Significantly, for FY 2007/2008 and to a lesser extent in FY 2006/2007, the Tanzanian Government ('GoT') did not use the formula-based recurrent grant system to determine fiscal transfers for personal emoluments and 'other charges' to **all LGAS**, as all LGAs were being 'held harmless.' The principle of 'holding LGAs harmless' means that the formulaic allocation system will only be gradually used so that LGAs would not actually receive less than what they had in earlier years.[14] However, the failure to apply the formula has far-reaching implications:

> *"The current allocation approach is detrimental not only to the objectivity of the formula-based approach and the sense of equity across councils, but also has a negative impact on sectoral service delivery objectives and the achievement of poverty reduction goals under MKUKUTA."[15]*

With respect to the LGCDG system, the Letter of Sector Policy (2004) provides that,

> *"[the] LGCDG system will be established as the main modality through which funds for capital investment are transferred from central government and donors to LGAs. Ultimately the LGCDG system procedures and modalities will be the vehicle*

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[9] Although strictly speaking, the recurrent sector block grant system includes other fiscal transfers (local administration and the General Purpose Grant, which was introduced as compensation for the eradication of certain local revenues. Tidmund, Per, Hans Bjorn Olsen and Nazar Sola. Local Level Service Delivery, Decentralisation, and Governance: A comparative study of Uganda, Kenya and Tanzania Education, Health, and Agriculture Sectors: Tanzania Case Report. Research Group, Institute for International Cooperation and Japan International Cooperation Agency: Tokyo, March 2008, at page 14. Available at http://www.jica.go.jp/english/publications/reports/study/topical, accessed November 28, 2008.

[10] Local Government Fiscal Review 2007: Measuring Progress on Decentralisation by Devolution. Prime Minister's Office – Regional, Administration, and Local Government: Dar es Salaam, December 2007, at page 4, Available at http://www.logintanzania.net/documents.htm, accessed November 28, 2008.

[11] Supra Note 10 at page 15.

[12] Supra Note 10.

[13] Supra Note 10 at page 12.

[14] Tidmund, Per, Hans Bjorn Olsen and Nazar Sola. Local Level Service Delivery, Decentralisation, and Governance: A comparative study of Uganda, Kenya and Tanzania Education, Health, and Agriculture Sectors: Tanzania Case Report. Research Group, Institute for International Cooperation and Japan International Cooperation Agency: Tokyo, March 2008, at page 19. Available at http://www.jica.go.jp/english/publications/reports/study/topical, accessed November 28, 2008.

[15] Supra Note 10 at page 16.

transfer of all development funds to LGAs, including sectoral programmes."[16]

Its broad objectives are the following:

1. to improve the access of local communities, particularly impoverished ones, to local services through the expansion of new and revamped infrastructure;
2. to improve the delivery and management capacity, productive efficiencies and financial sustainability of local governments; and
3. "[to] provide a national system for the delivery of development grants to LGAs." [17]

If only official government statistics are considered, then it is true that the LGCDG system is the most significant development funding mechanism at LGA level. In fact, the District Agriculture Development Grant (DADG), Rural Water Program, and Urban Development and Environmental Management Grant (UDEMG) have been integrated into the LGCDG system, albeit using separate management systems.[18] However, the main local government sectors—primary health and education—have not yet 'bought into' the LGCDG, and the LGCDG is treated like a 'project' rather than primary development funding modality.[19] Additionally, because much of the development budget remains OUTSIDE of official statistics, the overall impact of the LGCDG system as an effective development funding mechanism cannot be overstated. In FY2005/2006, the LGCDG only accounted for 4% of the total development budget.[20] Furthermore, according to the Local Government Fiscal Review 2007, the LGA reports indicate that the inter-government development transfers that are planned do not necessarily match what is actually disbursed and "is substantially worse than the recurrent grant system."[21]

1.2 Local Government Capital Development Grants

As stated above, the LGCDG system channels discretionary development funds (Capital Development ('CDG') and Capacity Building Grants ('CBG'), and sector specific grants such as the DADG and UDEMG) to LGAs. The formula used for allocating the funds is supposed to be pro-poor and therefore favour the more impoverished districts.[22] To date, it is the only funding mechanism that allows LGAs to plan according to local priorities versus sector specific investments.[23]

[16] Supra Note 10 at page 17.
[17] Annual Assessment of Minimum Conditions and Performance Measures for Local Councils under the LGCDG System for FY2007/2008: National Synthesis Report. Prime Minister's Office – Regional, Administration, and Local Government: Dar es Salaam, April 2007, at page IV. Available at http://www.logintanzania.net/documents.htm, accessed November 28, 2008.
[18] Supra Note 10 at page 18.
[19] Supra Note 10 at page 17.
[20] Supra Note 14 at page 20.
[21] Supra Note 10 at page 21.
[22] Supra Note 14 at page 21.
[23] Supra Note 14 at page 20.

The Annual Assessment is the 'qualification round' for LGAs and normally takes place around September/October so that it coincides with the preparation of budget plans and guidelines in the LGA budget cycle. Only LGAs satisfying the full set of Minimum Conditions (regarding financial management, transparency, and accountability) receive the CDGs and sector specific grants. 52% (63 councils) of LGAs received CDGs in FY07/08 versus 51% (62 councils) in FY06/07.[24] LGAs are also measured on their past performance during the assessment concentrating on 14 thematic areas.[25] The purpose of performance measures is to provide incentives for LGAs to improve service delivery and resource management.[26] Of the 63 councils receiving CDGs in FY 2007/2008, 10 received bonuses, 43 got basics, and 10 were penalised.[27]

More councils (38%, or 46 councils) received provisional passes being an increase of 8% from the last financial year.[28] Of these 46 councils, one received a bonus, 27 were basic, and 8 were penalised.[29] 11 councils (9%) did not meet the Minimum Conditions ('MCs') and therefore did not receive the CDG in FY 07/08.[30] Major reasons why more LGAs received provisional passes were due to their weak fiscal capacity (weak internal audits, as it was found in last year's assessment, failure to prepare sufficient number of reports, financial irregularities), and failure to reconcile bank statements.[31] If LGAs do not meet all the MCs for CDGs, then they are automatically disqualified from receiving the sector specific grants, namely DADG and UDEMG.[32] Even if LGAs do not receive the development grants, there is still an opportunity for them to receive capacity building grants to meet current weaknesses so as to increase likelihood in accessing the development grants in the next financial year, subject to meeting the MCs for these. In FY 2007/2008, 27 Councils (22%) received all the development and capacity building grants (CDG, DADG, UDEMG, CBG, UDEMG-CBG), and 43 Councils (36%) received the capacity building grants: UDEMG-CBG, CBG.[33]

For the most part, development funds have been spent on constructing classrooms and teachers' housing, although certain LGAs did prioritise water and agriculture.[34] It was noted that although broad improvements have been made, the Internal

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[24] Supra Note 17 at page 13.

[25] The thematic areas are: financial management, fiscal capacity, planning and budgeting, transparency and accountability, interaction between HLG and LLG, human resource development, procurement, project implementation and M & E; council functional processes; DADP; Environmental Profile; participatory implementation of UDEM; establishment of EMIS; and Strategic Urban Development Plan (SUDP). For more information see the Annual Assessment of Minimum Conditions and Performance Measures for Local Councils under the LGCDG System for FY2007/2008: National Synthesis Report. Prime Minister's Office – Regional, Administration, and Local Government: Dar es Salaam, April 2007 at page 24.

[26] Supra Note 17 at page VII.

[27] Supra Note 17 at page 23.

[28] Supra Note 17 at page 13.

[29] Supra Note 17 at page 23.

[30] Supra Note 17 at page 14.

[31] ibid.

[32] Supra Note 17 at page 10.

[33] Supra Note 17 at page 16.

[34] Supra Note 14 at page 22.

Audit Units in the councils still need deepening of human capacity (i.e. increased training) and logistical support (office equipment).[35] Additionally and as observed earlier, LGAs need to increase local revenue collection, not only so that local residents can appreciate the link between the benefits of local expenditure and its costs to local residents, but also because LGAs are obliged to co-fund the development programs in the councils.[36] All councils are expected to co-fund 5% of the amount of the CDG received. However, only 65% (79 councils) were able to co-fund, and the remaining 35% (42 councils) were unable to due to capacity, failure to budget for or fully disburse co-funding amounts.[37] Finally, LGAs need to increase information regarding development programs so that the beneficiaries know more about them.[38]

Going forward, the core areas for improvement include clarification of roles between lower level local government (villages, mitaa, etc) versus higher level local government (district and urban authorities) in terms of planning and budgeting, particularly for LGCDGs.[39] Additionally, LGAs need increased fiscal and administrative control over local personnel. More must also be done to ensure that Central Government desists from making vertical decisions regarding LGAs, since increasing local participation in priority setting for development projects will be futile, unless this happens.[40] And most importantly, the GoT should devise concrete solutions to improve the development grant system, as a whole.[41]

1.3 Tanzania Social Action Fund

The Tanzania Social Action Fund ('TASAF') is one of the largest social funds designed and funded by the World Bank in sub-Saharan Africa.[42] The rationale for the fund is to enable local communities to contribute to their own development, particularly communities with inadequate access to social services, households with able-bodied adults suffering from food insecurity, and individuals living in impoverished households affected by acute shocks (e.g. HIV/AIDS). The total credit amount for the first phase of TASAF (2000 – 2005) was USD 60 Million and the target recipients were the 40 most impoverished districts in Mainland Tanzania and Zanzibar. Due to parliamentary pressure, the social fund was expanded to all districts in its second phase, commonly referred to as TASAF II. Significantly, during the first phase of TASAF, it operated largely outside of government bureaucratic structures and control, and according to Einar Braathen, thus "giving TASAF an image of non-corrupt effectiveness."[43] Interestingly, in an interview with a Planning Officer in a District Council in February 2003, Braathen found that

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[35] Supra Note 17 at page XI.
[36] Supra Note at page 4.
[37] Supra Note 17 at page 18.
[38] Supra Note 17 at page 28.
[39] Supra Note 10 at page 26.
[40] ibid.
[41] Supra Note 10 at page 28.
[42] Braathen, Einar. Social Funds in Africa: A technocratic-clientelistic response to poverty? Norwegian Institute for Urban and Regional Research: Oslo, December, 2004, at page 4. Available at: http://en.nibr.no/uploads/publications/19a892b2f266798c6778311cc72d6378.pdf, accessed November 28, 2008.
[43] Supra Note 42 at page 21.

Tanzanians are advised that TASAF projects are gifts from the Government and not supported by loans obtained from the World Bank, since, in the words of the Planning Officer, 'TASAF is only a funding mechanism, so we say: 'This is not a donor agency project, it is part of the Government.'"[44] This was echoed in an interview Braathen had in February 2003 with the head teacher in a village, who shared with him that, "People think TASAF is a CCM/government thing, not World Bank. I therefore think that TASAF helps to increase people's support to the Government."[45]

How has TASAF performed?

There has been scope for local political leadership to influence the selection and allocation of TASAF projects. For instance, In Einar Braathen's 2003 field study, it was found that despite the fact that in one district only one project was operating per ward, the only village to have two projects was the council chairperson's village.[46] The council chairperson is one of a number of councillors who is part of the District Steering Committee of the TASAF projects.

Similar to CDGs, in terms of poverty reduction, TASAF's greatest success has been building social services infrastructure that is managed by community committees.[47] However, TASAF has not been very successful at building up entrepreneurial skills in the communities, given the limited feasibility for this during the first phase.[48] This may be partly explained by the use of the Participatory Rural Assessment ('PRA') which maintains 'a short term and clientilistic' orientation.[49] Over the course of 5 days in a village, a team of 3 or 4 government extension officers ask villagers to devise a 'shopping list' of their needs in focus groups. The village assembly then convenes to determine (by vote) the priority needs of the community as a whole, which the TASAF is supposed to satisfy. TASAF refers to this process as the Community Needs Assessment. However, one District Planning Officer was critical of the quality of this kind of community engagement:

> *"[It] is supposed to be bottom-up, but that is not the case. People at the grassroots level are not well capacitated. They just shop-list their problems, and want us [to] deliver it."[50]*

Furthermore, TASAF's Public Works Program has been beneficial to the most impoverished groups and women both as implementing agents as well as target recipients. However, it is also a potential cause of social discord and engendering dependency in the villages as those who are eligible to participate (based on a relatively narrow classification of those who are poor) receive payment, thereby

[44] Supra Note 42 at page 22.
[45] ibid.
[46] ibid.
[47] ibid.
[48] Braathen, Einar. TASAF – A support or obstacle to local government reform? Norwegian Institute for Urban and Regional Research. Oslo, December 2003. Available at: http://en.nibr.no/uploads/publications/d6ae0bbf6ad0281aeb1e2a12d040711c.pdf.
[49] Supra Note 42 at page 22.
[50] ibid.

undermining the importance of 'self-help' or unpaid community work as a long-term driver of community development.[51]

It should be borne in mind that when TASAF was first introduced, there was no other systematic funding mechanism for community-driven development, as the LGCDG system was only introduced at the *end* of the first phase of TASAF. Given that TASAF has been expanded nationwide, it is important that the issues arising from the first phase of the social fund are addressed and that it is increasingly integrated into the LGCDG in order to be sustainable and in accordance with the Letter of Sector Policy (2004).

1.4 Lessons from our Kenyan Neighbours

As mentioned earlier, CDF was introduced in Kenya, as result of Opposition MPs' concern that their constituencies were not receiving development funds and consequently these areas remained with poor infrastructure and social services.[52] In their view, introducing the CDF (by way of legislation) would ensure a fair distribution of funds and therefore lead to more even-handed development throughout Kenya's 210 constituencies.[53] Indeed, in Kenya, the CDF, principally governed by the CDF Act 2003 (and the CDF (Amendment) Act 2007) "aims to promote equitable development and alleviate poverty at the constituency level."[54]

Key Actors

CDF projects are implemented by Project Management Committees ('PCs') upon obtaining all financial approvals and completion of the tender process (according to governing public procurement laws), but the bureaucracy of running the CDF involves far more actors.

The most senior entity in charge of overall supervision of the CDF is the Constituency Fund Committee ('CFC'), the CDF parliamentary committee comprised of 11 MPs (one of whom acts as chairperson), appointed by the National Assembly. None of these MPs can be part of the Cabinet (i.e. Ministers/Deputy Ministers). They must be proportionally representative (party-wise) and serve for 3 years on a renewable basis OR until Parliament is dissolved.[55] Their functions include *inter alia* determining the fund amount and distribution thereof, the manner in which unspent funds shall be used, and overseeing the CDF legislative and policy framework to ensure the CDF operates smoothly.[56] Every two years the CFC is obliged to report to Parliament on the status of the CDF, making recommendations for improvements as deemed necessary. They may also make additional reports to fully advise Parliament and obtain necessary approvals.[57]

[51] ibid.
[52] Supra Note 2 at page 4.
[53] ibid.
[54] ibid.
[55] Supra Note 2 at page 9.
[56] Supra Note 2 at pages 9-10.
[57] Supra Note 2 at page 49.

Next, the Board of Management of the CDF ('Board') administers the CDF and importantly must approve all payments made out of the CDF. The Board is a corporate legal body that owns all CDF property. It is comprised of 17 people drawn from Government and 8 qualified people, drawn from diverse professional backgrounds, including finance, accounting, engineering, economics, community development, and law, who are nominated according the First Schedule to the CDF Act. 4 additional people may be appointed by the Minister of Planning to obtain regional representation. The Chief Executive Officer (CEO) is 'ex officio' and secretary to the Board and along with two other Board Members must be a signatory to the national CDF account. He or she is appointed on a competitive basis and must be approved by Parliament.[58]

All MPs within the same district, together with local authority chairpersons and mayors, the District Commissioner, District Development Officer, District Accountant, and chairpersons of the CDFC are members of the District Project Committees ('DPC').[59] All MPs are obliged to list the projects to the DPC in order to avoid duplication of projects, and at the start of each financial year, the DPC circulates a list of all continuous government and council projects to all CDFCs. However, the existence of a similar project has not necessarily barred a proposed project from receiving funds from the CDF. DPCs are equally responsible for executing projects that cover two or more constituencies, as well as managing procurement for project contracts that exceed Kshs 10 million. The DPC must meet annually and up to six times a year, and is dissolved upon the dissolution of Parliament. The chairperson of the DPC must be elected from either the MPs or councillors.[60]

The Constituency Development Fund Committee ('CDFC') members are appointed by the MP on a 3-year renewable term for up to two consecutive terms, or until the new MP appoints the new Committee. The members can be no more than 16 in number and must include the MP, councillors, a District Officer, 2 religious representatives, 1 NGO representative, a Fund Manager, and 3 other MP-appointed members. They are obliged to meet at least 12 times a year and up to 24 times. The CDFC has full discretion to determine the CDF disbursement amount and payment modality to the various projects, as well as the priority of the projects. However, it must make relevant consultations with the government departments to ensure reasonable cost estimates have been made.[61]

Project Management Committees are public entities that implement or manage individual projects on behalf of the community. Committee members are drawn from the communities in which the projects are undertaken but remain subject to public financial regulations. Implementation includes procurement management (purchasing goods and services, keeping proper records and accounts, contract supervision) and liaising with both government officials and the local community.[62]

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[58] Supra Note 2 at page 10.
[59] Supra Note 2 at pages 11-12.
[60] ibid.
[61] Supra Note 2 at pages 12-13.
[62] Supra Note 2 at pages 41-42.

Source and Distribution of CDF

CDF funds are drawn from domestic revenue. The CDF Act provides that a minimum of 2.5% of all domestic revenue should be allocated to the CDF and in FY2007/08, the CDF allocation was 2.7% of domestic revenue, being about Ten Billion Kenyan Shillings (or roughly 170 Billion Tanzanian Shillings).[63] From this Ksh Ten Billion, 3% is allocated to the CDF Management Board. 5% of the remaining Ksh 9.79 Billion was divided equally amongst the constituencies to cover contingencies. After these two deductions, 75% of the remaining balance is distributed equally amongst the 210 constituencies. The 25% of the remaining balance is allocated to the most impoverished constituencies based on a National Poverty Index to ensure that the funds are directed to those with the most need.[64] Part of the CDF (15%) can be directly allocated on an annual basis to bursaries; however no guidelines to date have been set to regulate this process.[65] Consequently, the CDF bursary is frequently abused in the following manner:

1. "Given to students who are not deserving;
2. Frequently, [Constituency Development Fund Committees (CDFC)] members grant bursary to relatives;
3. Collusion with educational institutions;
4. Failure by [CDFC] to formulate disbursement guidelines;
5. Failure by [CDFC] to create awareness of disbursement guidelines
6. Failure by [CDFC] to display list of bursary beneficiaries."[66]

Impact

With increased public awareness and interest, the CDF has indeed benefitted and met the development needs of local communities.[67] The CDF has been successful in constituencies where the following best practices have been observed:

1. *"The MP does not interfere with CDFC decisions and activities*
2. *The CDFC members are competent professionals from various fields*
3. *There is commitment and unity among CDFC members*
4. *There is high awareness among members of the public*
5. *There is good coordination between members of the local communities*

[63] Supra Note 2 at pages 5-6. Exchange Rate as at October 13, 2008 and according Tanzania Revenue Authority.
More information on the CDF Poverty Index available from the official Kenya website on CDF: http://www.cdf.go.ke/.
[65] Supra Note 2 at page 51.
[66] ibid.
[67] For examples of Best Practices, see generally Chapter 12 of The CDF Social Audit Guide: A Handbook for Communities. Developed by Wanjiru Gikonyo. Open Society Initiative for East Africa: Nairobi, Kenya, 2008. Available at http://www.soros.org/initiatives/osiea/articles_publications/publications/cdf_20080201.

6. *There is high level of public participation through frequent, open meetings and access to CDF information and records*
7. *The CDFC maintains sound records in accordance with the CDF implementation guidelines*
8. *The CDFC remains open to the public and readily supplies CDF information upon request."*[68]

However, in the absence of best practice being exercised by the various key actors, and particularly MPs, there is much room for abuse of the CDF. First, MPs are afforded too many powers in the CDF governance structure. MPs enact CDF legislation. The parliamentary committee, the CFC, oversees implementation of the CDF, enjoying powers to determine the allocated amounts, develop policy, and 'has the final say' on issues of implementation. MPs appoint the CDFC which manages the CDF in the constituency, and sits as its chairperson. In certain instances, an MP may unduly influence his or her 'allies' on the CDFC and make all critical decisions (as the 'kitchen cabinet') to be rubber stamped by the other CDFC members.[69] "This duplicity of roles makes CDF a *de facto* 'MP's kitty' without regard to MP's competence in development planning and implementation, and also fails to provide sufficient checks to prevent abuse."[70] Further, there are insufficient checks and balances in the governing structure. The Management Board is reluctant to hold errant MPs to account.[71]

Also, the role of other government institutions in the CDF governance structure is ambiguous. Gaps in principal and subsidiary legislation are such that government institutions, such as the District Office and Ministry of Planning, do not have the express power to regulate contravening CDFCs. It remains unclear amongst the CFC, NMC, CDFC, and District Office who is chiefly liable for financial accountability.[72] The District Project Committee is equally 'toothless' and has been marginalised in most constituencies.[73] Without formal clarification of roles in the governance structure, opportunities abound for abuse between CDF officials and government officers. Importantly, because government officials are often left outside of project approval and implementation, the quality and use of infrastructural projects once completed may be compromised as the operational and maintenance costs are provided for in the government or sector budget and not CDF.[74]

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[68] Supra Note 2 at page 76.
[69] Supra Note 2 at page 66.
[70] Supra Note 2 at page 64.
[71] ibid.
[72] ibid.
[73] ibid.
[74] Tidmund, Per, Hans Bjorn Olsen and Nazar Sola. Local Level Service Delivery, Decentralisation, and Governance: A comparative study of Uganda, Kenya and Tanzania Education, Health, and Agriculture Sectors: Kenya Country Report. Research Group, Institute for International Cooperation and Japan International Cooperation Agency: Tokyo, March 2008, at page 15. Available at http://www.jica.go.jp/english/publications/reports/study/topical, accessed November 28, 2008.

There is poor public participation and access to information. The CDF Act is silent on how effective public participation will be ensured to give effect to the Act and often, relevant information is either not provided in a timely manner or at all.[75] Under the CDF Act (as amended in 2007), project committees are responsible for implementation of the project. In practice, these committees are often comprised of people who are close to the MP. They are often not representative of the community, transparent or accountable. In other instances, they are 'easily manipulated' by unscrupulous CDFCs. [76] The law needs to be revised to make them more accountable to the public as well as CDFCs. Moreover, projects funded by LATF (Local Authority Transfer Fund) may also become CDF projects and CDF officials pocket the money, or councillors take credit for CDF-funded projects allowing them to take the LATF funds or gain popularity with the electorate.[77] Finally, and as stated above, the lack of bursary guidelines provides ample opportunities for abuse.

1.5 Situating Kenya's CDF

In comparison to Uganda and Tanzania, Kenya is far less decentralised as it does not have a system of decentralisation by devolution whereby local government is chiefly responsible for local service delivery and development.[78] Instead, Kenya has a duplication of parallel funding and service delivery mechanisms to be consumed at the local level resulting from new funding and service delivery modalities being introduced without abolishing or reviewing existing ones.[79] In general, four such mechanisms exist, the latest of which is the CDF. These are, the central government systems (funded from the national budget), local government systems (funding from own-sources, LATF, donors), NGOs, and the CDF.[80]

The District Focus for Rural Development ('DFRD') is the government's strategic document on decentralised planning, management, and financing of rural activities devised in 1983. The Central Government system through its de-concentrated sector ministry field offices and district administrative units has not been effectively able to implement the DFRD in the past decade due in part to the absence of a political will, clear legal framework that gives effect to the policy, and resources to finance the operations particularly after the donor funding which had previously supported projects identified and prioritised by the DFRD were discontinued.[81] All development activities are currently implemented either through the sector ministries or through the projects supported by donors, NGOs or CDF—planning for which does not involve the District Development Committee.[82] Additionally, popular participation in planning processes is still at a nascent development stage.[83]

[75] Supra Note 2 at page 65.
[76] ibid.
[77] Supra Note 2 at page 67.
[78] Supra Note 74 at page 5.
[79] Supra Note 74 at page 10.
[80] ibid.
[81] Supra Note 74 at pages 11-12.
[82] Supra Note 74 at page 12.
[83] ibid.

For the limited services[84] that Local Authorities ('LAs') are responsible for delivering in rural areas, LAs provide these poorly. This is due to a lack of resources (untimely disbursement), and a large portion of the LATF being used to meet the LA's operational costs. The small portion of the LATF allocated to development activities in accordance with the Local Authority Service Delivery Action Plan (LASDAP) is in practice often divided amongst ward councillors to support development projects in their wards only, and thereby resulting in wastage of very scarce resources and inequitable development.[85] This may explain the poor infrastructure and service delivery that Opposition MPs were aggrieved about. In FY2002/2003, more than 65% of own-source revenue including grants (such as LATF) was used by LAs to service debts and pay salaries, and particularly rural LAs relied heavily on LATF just to maintain operations, as they cannot rely on own-source revenue from say property tax, like their urban counterparts in Mombasa and Nairobi to generate substantial revenue.[86]

Third, donors tend to use separate and independent funding systems (outside of the public system) and reach out to local communities directly through NGOs, such as the EU funded Community Development Trust Fund. These would normally be managed by the DDC, if the central government system had been used.

Consequently, in the run-up to the CDF being enacted in Kenya, both the central and local government systems were ineffective in providing quality services and driving equitable development in local communities. As a result and in the past few years, the CDF (representing 17-20% of government spending at district level) has overtaken the LATF as a more effective and visible mechanism of delivering social projects geared towards poverty alleviation.[87]

1.6 Do Tanzanians need another Local Government Development Fund?

Learning from Uganda's experience, it is clear that if at all necessary, the CDF should only ever be introduced in any country AFTER clear and widely understood legislation is in place that posits as much distance between the CDF monies and the constituent MPs, provides for as much transparency and accountability in the governing structures, and is grounded in solid local community participation. Whilst from Kenya, it is evident that parliamentarians have emerged through the CDF, to be critical agents of service delivery at the local level, largely because of the overwhelming futility of local public service delivery at both the central and local government level.[88]

[84] These services include maintenance of rural access roads, establishment and maintenance of public markets, bus parks and slaughter houses, housing and implementation of social welfare programmes, including support to and burial of destitute people.
[85] Supra Note 74 at page 13.
[86] Supra Note 74 at page 13.
[87] Supra Note 74 at page 15.
[88] ibid.

Unlike Kenya, Tanzania is far more decentralised and despite the various challenges (as discussed above) within the local government financing system, introducing the CDF to Tanzania would be redundant, costly, and contrary to the Letter of Sector Policy (2004). Enacting CDF would effectively create a parallel funding mechanism, like TASAF, but without the World Bank loans to sustain it. Based on Kenya's experience, introducing the CDF is equally no guarantee that *inter alia* development projects will be community-driven, or that project duplication will be avoided, or even that errant MPs will be (legally) held to account, despite legislation catering for this being firmly in place. The focus of the GoT and (MPs) should remain on addressing the paramount issues that plague the recurrent and development grant system with a view to realising MKUKUTA and VISION 2025 through actualising the D by D principle.

2. MPs, their Constituents, and CDF

> *"It is the commercialisation of our politics that makes constituents expect monetary rewards for their votes. The constituents find it difficult for someone who showered them with a lot of money during elections to all of a sudden say he or she does not have money when elected. [It is] high time the masses are clearly sensitised about the roles of the various government organs including that of the legislature, which is simply to make laws and act as a check on the executive and not engage in development programmes…[while] the intention of the fund is good because it will be given to all MPs irrespective of ideological beliefs, CDF is likely to be misunderstood as we near the 2006 general elections."[89]—John Eremu*

As highlighted above, the issue of CDF raises two chief concerns regarding the role of MPs. First, assuming there is a need for an additional development fund, is it within the remit of MPs to act as development financiers? And more importantly, what is (and what ought to be) the relationship between MPs and their constituents in Tanzania, and how will introducing CDF improve it? Each of these questions will be addressed in turn in the subsequent paragraphs.

2.1 MPs and CDF Implementation

> *"That money should be sent to districts and be managed at local government level. Why should government give MPs money? It is obvious that the money will always be misused. MPs should be overseers of the various projects that are run and managed by local governments. Development is a national issue that should be planned and pursued with clear direction not this business of dishing out money to individuals in the*

[89] Eremu, John. "Constituency Development Fund shouldn't go to MPs." March 6, 2008. Africa News Online. Available at: http://africanewsonline.blogspot.com/2008/03/constituency-development-fund-shouldnt.html, accessed on October 15, 2008.

name of CDF. Even if you gave Shs 10 billion to each MP, no development will take off in their respective constituencies. I gave the Shs 10 million to a committee that distributed it to several community based development organisations."[90]*—Nandala Mafabi (MP for Budadiri West-Sironko District, Uganda).*

The key functions of Parliament are to make laws, contend with budgetary issues (give sanction to budget issues, ensure the Executive remains accountable in administering the budget), scrutinise government policy and administration (with a view to checking the Executive's power as and when necessary), and debate major issues of the day.[91] Whether or not legislation is in place (as in Kenya) or not (as in Uganda), the CDF seriously undermines these core functions of MPs, as highlighted in the above quotation by Hon. Nandala Mafabi, MP, and as discussed earlier with reference to Kenya's CDF experience. In a nutshell, and based on the experience of Kenya and Uganda, the CDF compromises the integrity and legitimacy of parliamentarians.

Alternatively, if in Tanzania, MPs are removed from the implementation process, and as Hon. Nandala Mafabi, MP suggested, the CDF is implemented instead by local government officials, then effectively, this would mean the CDF will simply operate like another TASAF, stretching the already stretched local government public servants. However, because the CDF would be sourced from domestic revenue, it is even less justifiable as a viable development funding mechanism operating parallel to, rather than through, the LGCDG (the preferred local government development funding modality). Hence, even if MPs were divorced from implementing CDF, there is little value addition that it would bring to the existing development financial management system.

2.2 MPs and their Constituents

"Inside his constituency, the MP is expected to carry out the normal duties of meeting and talking to constituents regularly…But again there have developed certain unscheduled expectations of treating their MP as a provider of financial assistance. This can and has created problems for those MPs who are unable to respond adequately to such expectations. For as the old adage goes, 'members of parliament are men and women of high rank, [but] they have nothing in the bank!'"[92] *– Pius Msekwa, Former Speaker of the National Assembly of the Tanzania Parliament*

In a democratic society, MPs must also represent their constituents and maintain this relationship in order to effectively and informatively carry out their other core functions. Additionally, the state of constituent-member relations provides

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[90] Report on the Constituency Development Fund prepared by the Uganda Debt Network, at page 16. Available at http://www.udn.or.ug/pub/CDFreport.pdf, accessed October 29, 2008.

[91] "Functions" Parliament of Tanzania website. Available at: http://www.parliament.go.tz/bunge/Functions.asp, accessed September 10, 2008.

[92] Msekwa, Pius. Reflections on the First Decade of Multi-Party Politics in Tanzania. Hanns Seidel Foundation: Dar es Salaam, 2006, at page 275.

constituents with some means of measuring the performance of their MPs and government actions.[93]

Effective constituency work entails four key components: casework (getting information and lodging demands on behalf of people), policy work (seeking ways to benefit constituencies through existing or proposed national programs and legislation), voicing out views or concerns of constituents regarding national policy issues (this involves listening and explaining and expressing informed positions, although MPs are not obliged to agree with morally or ethically unsound views), and attending social events (particularly important in rural constituencies as a key means of maintaining close personal ties with their constituents). In order to conduct constituency work effectively, MPs ideally should have a constituency office with staff (volunteers and paid staff).[94]

However, the reality of conducting constituency work in developing countries poses many challenges. Generally in developing countries, MPs operate with limited resources and in a political climate where the Executive is dominant and potentially restrains MPs' legislative efforts to assist the needs of constituents. Moreover, constituents usually expect to receive direct assistance from their MPs given the 'patron-client' nature of politics common in the developing world that "encourages the expectation of direct forms of help."[95] In this context, constituency work predominantly involves MPs being inundated with individual claims for assistance leaving little time to engage in constructive member-constituent relations or other parliamentary activities. In Tanzania, as with Uganda, the CDF was mandated by President Kikwete to relieve MPs of these 'unscheduled [financial] expectations' that some MPs feel obliged to meet at great personal expense out of fear that they may not be re-elected. However, given that CDF is sourced from domestic revenue, it is a misuse of public funds if they will be used to meet these individual assistance claims or small development projects that MPs are asked to personally finance (such as provide business capital or pay school fees). More importantly, creating a 'development fund' for this purpose does not resolve but actually perpetuates the underlying (and problematic) financial basis of constituent-member relations.

Rather, MPs must not concede to the demands of their constituents to provide personal financial assistance, as that is not the nature of their representative role in a democratic society. Moreover, it is critical that the Office of Parliament provide MPs with an office space and staff (both paid and voluntary) in their constituencies, and 'satellite offices' in Dodoma and Dar es Salaam which MPs from the same region can share in order to engage with their constituents, since much parliamentary business takes place in these cities. Equally important is providing citizens with more (or continuous) civic education to inform them about the

[93] "The Legislature and Constituency Relations." Available at http://www.undp.org/governance/docs/Parl-Pub-constrelat.ht, accessed November 27, 2008.
[94] "On the Front Lines: the New MP and Constituency Work" Parliamentary Centre. Available at http://www.parlcent.ca/publications/Omnibus/frontlines_e.php, accessed September 10, 2008.
[95] Supra Note 93.

structure, roles, and functions of the government, particularly MPs, and the rights and duties of citizens in a democratic society, so that citizens are encouraged to use their MPs far more constructively.[96] Additionally, as citizens acquire information about MPs usually through media coverage, it is essential that Tanzania develops journalists who can competently, critically, and accurately report on legislative activities.[97] Civil society actors must continue to lobby MPs and act as a 'watchdog' in order to influence for policy change and or represent constituents at public hearings.[98]

Concluding Remarks

Despite the pronouncements made by President Kikwete in August 2008, it is argued that the CDF is unlikely to bring about substantial developmental gains to citizens that cannot be realised through the LGCDG system and TASAF, if these systems are integrated and strengthened. Any other reason to introduce the CDF perpetuates undemocratic member-constituent relations. Finally, the experiences of Kenya and Uganda should serve as cautionary tales to Tanzanian citizens of what is likely to result if CDF is introduced.

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96 ibid.
97 ibid.
98 ibid.

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