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Governance Assessments in Practice – Case Studies

4B KENYA

Theme: How helpful are assessments in conflict and crisis?

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Context

1. Development assistance has been an integral part of Kenya's national development efforts with official development assistance doubling in the period 2001-2004. Nevertheless, dependence on external financing of the national budget has been relatively low since a new government came to power in December 2002 (with a doubling of domestic resource mobilisation between 2002 and 2004). In the 2006/2007 period, donor funding accounted for only 7% of the total national budget. Economic recovery and growth has seen an upward trend. By the end of 2007, economic growth was estimated at about 7%. However, nearly half of Kenyans live below the poverty line. Kenya is one of the most unequal countries, and there are ethnic inequalities too. Although the country comprises about 42 ethnic groups, five groups comprise about 70% of the population. This influences political competition and inter-ethnic conflict over control of resources and national politics.
2. In 1991, Kenya re-introduced multi-party politics. The ruling party, the Kenya African National Union (KANU) won the election and maintained power until 2002, when opposition groups formed a coalition and won the election. But disagreements over sharing of political power fragmented this coalition into two main factions which assumed ethnic characteristics.
3. This is the context that informed and shaped the 2007 December general election and the post-election violence that followed the hotly disputed presidential election vote count. The underlying causes of these events are many. They include historical grievances, inequalities and deepening poverty, control of natural resources such as land, and ethnic inequalities in distribution of political power.
4. This paper addresses mainly how well recent donor assessments of governance in Kenya have captured the factors underlying the present crisis, and how they have been used to inform donor decision-making in the current situation.

Donors and governance assessments

5. There are a number of bilateral and multilateral donors that support governance programmes in Kenya. (Annex I provides an overview of active donors in Kenya, and the sectors they support.) The Harmonization, Alignment and Coordination donor group is responsible for encouraging donor harmonization and alignment. Development partners, jointly with government and non-state actors, have developed the *Kenya Joint Assistance Strategy, 2007-2012*. The KJAS partners have developed three financing scenarios which will guide their choice of instruments or the level of financial support or both. These scenarios are determined by the levels of government's commitment and performance. In the low case scenario, which is characterized by a reversal of gains made by government, relatively more funds will be channelled through civil society. Donor support to government is now in abeyance awaiting the outcome of efforts to settle the dispute between the government and the opposition political parties.
6. A number of governance assessments have been conducted by donors in Kenya during the period 2002 to 2007, using various methodologies. The donors include the World Bank, EC, AfDB, DFID, USAID, SIDA, and CIDA among others. This case study sampled four donors (DFID, EU, CIDA, and

SIDA). We also interviewed the Netherlands Embassy. Due to circumstances, the case study has been made under a very tight timeframe and with limited resources.

Usage and purpose

7. The governance assessments were used to guide the donors' country strategies and governance support programmes. The EU conducted its governance assessment as part of the Governance Initiative in 2006 and noted some gains in terms of improved governance. This influenced the decision to allocate an incentive tranche to Kenya of 25% (€306 million). The weaknesses noted by the Governance Profile (which is not made public) included corruption in the judiciary and poor participation by non-state actors.
8. The CIDA assessment found that government commitment to fight corruption and protect human rights and freedom of the press was not satisfactory. This resulted in CIDA pulling out from the Governance Justice Law and Order Reform Programme basket fund. Instead, CIDA concentrated its support in the Public Sector Reforms and Public Financial Management Reforms. On the demand side, CIDA opted for a Governance Fund to support Parliament, and the National Civil Education Programme. The assessment was also useful in identifying areas that needed improvement when the government and donors discussed the government's Governance Action Plan, which the new government undertook to develop and implement in line with its policy on improving governance and fighting spread of corruption.
9. DFID and SIDA conducted their individual governance assessments which assisted them to develop governance interventions. Specifically SIDA developed a country framework (2004-2008) after sharing information with other donors. Other donors such as the Netherlands held back their assessment because it wanted the assessment to capture changes resulting from the December 2007 election.
10. Those interviewed reported using both the APRM Report (2006) and the 2006 World Bank CAS Progress Review to inform their own assessments. The value added of the APRM process was as a source of credible information. The EC allocated an additional 5% as part of its incentive tranche mechanism, because Kenya had undertaken a thorough and open APRM process.

Assessments and ability to identify sources of conflict

11. The World Bank, APRM, DFID, SIDA, EC/EU and CIDA governance assessments (particularly the historical and political analyses) recognise that ethnicity and competition over natural resources such as land constitute a potential source of conflicts. Some of these assessments also note that ethnic based violence during elections may occur and that formation of political parties along ethnic lines can lay the foundation for inter-ethnic violence. These are also identified as obstacles to improved governance.
12. These analyses cover the macro-level dynamics, and less the implications at the social level. In all cases, donors used the assessments to develop programming approaches and governance intervention strategies to address what they identified as possible causes of conflict.

13. The EU and CIDA stated that the strategies that were devised to deal with the identified problems, however, were generic and conventional. They included civic education under the National Civic Education programme (NCEP II), voter education, media monitoring, election observers and other initiatives under the Elections Assistance programme.
14. CIDA, the lead donor in NCEP II, together with civil society organisations participating in the programme, are discussing other strategies to deal with these problems. They are discussing both short term (peace building and the establishment of a Truth Justice and Reconciliation Commission) and long term interventions (constitutional reform).
15. DFID realised that the governance assessment of 2007 was unable to identify structural causes and dynamics of insecurity. In particular, the assessment did not examine the likelihood of increased insecurity and tensions before, during and after the elections. Therefore, DFID commissioned a Strategic Conflict Assessment. The consultants tabled a report in November 2007. The report identified three forms of violence that constrain prospects for development. These included ethnic clashes related to politics or land, political incitement, and the use of armed groups to carry out attacks which result in significant internal displacement.
16. SIDA's assessment also identified ethnic divisions - as arising from competition over land in multi-ethnic areas and competition over control of political power by parties formed along ethnic lines - as a perpetual risk of conflicts.
17. The EC recognised polarization along ethnic lines in the run up to the 2007 elections as an important fissure of conflict. Consequently, the EC wrote a report to the headquarters in Brussels and requested for an international observer team to be sent to monitor the elections. The EU observation team report on the December 2007 election and its follow-up on the post-election conflict assisted in laying the ground for the current mediation efforts.
18. The governance assessment tools of various donors thus picked up signs of conflicts. They identified ethnicity, inequalities, unemployed youth organised into criminal gangs, use of unemployed youth by ethnic elites to cause violence, and competition over political power by parties formed along ethnic lines as the most important catalysts of conflict.
19. DFID noted that the strategic conflict assessment tool was most suitable in terms of identifying sources of conflicts, potential conflict dynamics and the possible consequences. The assessment also identified a strong civil society, independent media, a powerful multi-ethnic middle-class and business sector with an interest in stability to be mitigating factors.
20. It is clear that the general governance assessments were not as useful as the strategic conflict assessments in terms of precise identification of the actual form of conflict. Still, these conflict assessments failed to identify a number of unaccountable governance institutions – such as the Electoral Commission of Kenya (ECK) and the Kenya police – as important contributors, causes, or triggers of conflict. By all accounts, the 2007 electoral process up to the counting and tallying of presidential votes was a major improvement compared to the previous elections. It is the dispute over how the ECK conducted the presidential vote count and tallying, and its failure to account to the public in a credible way that triggered the violence and the inter-ethnic conflict.



21. The Kenya police deepened inter-ethnic tensions by its biased and unprofessional reactions to spontaneous violence. Acting with impunity, using live bullets, and violently dispersing opposition protesters – identified on an ethnic basis – further fuelled inter-ethnic conflict. The conflict assessments had not sufficiently picked up such dysfunctions in the security system as a potential amplifier of ethno-political violence.
22. Still it was felt that the conflict assessments have the potential to identify key conflict related factors and actors. In that sense they can add value to the political economy analyses or general governance assessments.
23. The usefulness of the assessments is somehow hampered by the tendency of donors to do things their own way and to be secretive about the findings of such diagnostics. The DFID conflict assessment was – although produced timely – not shared or disseminated.

Tensions and challenges experienced

24. Tensions and challenges exist at conceptual, operational and individual levels. There is a multiplicity of governance assessments and variations in terms of focus, methodology and quality of governance assessments. This is caused by differing interests and preferences by donors and individuals, varying demands and institutional arrangements (including timing and programming requirements) by head offices. For example after the EU finalized its Governance Profile, DFID and the World Bank commenced their own assessments.
25. Effective participation of stakeholders is another challenge. Consultation with other donors is seen as more of a formality than a serious engagement. The EC noted that their Governance Profile is supposed to be a joint exercise between the Commission and the EU Member States. Some of the EU donors, nevertheless, had not provided any comment or inputs to drafting of the EC's Governance Profile. Information is shared at donor meetings and a draft assessments circulate but with little feedback. In general there is limited sharing with the government. The government largely lacks credibility to comment objectively on governance issues; it is perceived as not open, objective or truthful about governance shortcomings.
26. The confidentiality surrounding some of the governance assessments is also an area of tension. The assessments are held in confidence because of risks associated with disclosing information that may constrain working relations with partners or that even may expose the external consultants undertaking the assessments.
27. Finally there is the need for donors to regularly update the governance assessments so as to be able to effectively respond to emerging issues. The CIDA governance assessment proposes operational and strategic indicators to monitor progress made at commitment and implementation levels to good governance.

ANNEX I : SECTOR PRESENCE OF DONORS IN KENYA

(Sourced from *The Kenya Joint Assistance Strategy 2007-2012, Annex 2: Division of Labour Among KJAS Partners*, pages 62-65)

This chart and the division of labor exercise provides an indication of which agencies are able and willing to lead the donor work and engagement with government in the various sectors over the period of this KJAS. The symbol  represents the current lead/chair of each sector. The symbol , for potential lead/chair, means that the agency is prepared to lead the sector in the KJAS period. Some issues such as gender, environment, and youth are mainstreamed across an agency's entire program; therefore, no indication for presence in a cross-cutting sector does not mean no involvement.

The chart is based on responses to the comparative advantage questionnaire, follow on survey, and subsequent updates. The chart is current as of September 2007, and is subject to change during the KJAS period. Sector participation of some KJAS partners is subject to approval by parliament and cabinet.

Democratic governance sector and program management groups

Sector Groups (as of October 2007)	Lead Ministry	AFDB	CANADA	DENMARK	EC	FRANCE	FINLAND	GERMANY	ITALY	JAPAN	NETHERLANDS	NORWAY	SPAIN	SWEDEN	UK	UN SYSTEM	US	WORLD BANK	Total current and proposed leads	Total leads/ active in each sector
Africa Peer Review Mechanism	Planning	●	●											○	●	□			1	4
Elections			●	●/⊖			●				●	●		○	●	●	□		1	8
Gender and governance*			●	●			●	○			●	□		□	●	●			2	8
Governance, justice, law and order	Justice and Constitutional Affairs		⊖	●	●		□	●	○		●	□		□/●		●	●	□	4	10
National Civic Education Program			□	●/⊖	●		●				●	○		○		●			1	6
Parliament			□												●		●	●	1	4
Public financial management	Finance	●	●	●	□			□	●	●		●		□/●	●	●	●	●	3	13
Public service reform	Office of the President		□	●	●		●							●	□	●		□	3	8
Statistics and M&E	Planning, National Bureau of Statistics	●													●	□	●	□/●	2	5

□ Current lead donor/chair

□ Potential future lead donor/chair (see note above chart)

● Active donor

○ Delegated partnership

⊖ Phasing out

* Reports to the Gender Roundtable.



ANNEX II : KENYA: GOVERNANCE ASSESSMENTS MATRIX

DONOR (when assessment done)	COVERAGE		METHODOLOGY			PARTICIPATION	
	Period covered	Areas of Assessment	By Whom	How	Tools used	Who Consulted	Dissemination
DFID (2004, 2007)	2007-?	Governance	Consultants	Survey–factual and experiential data, historical political and social analysis, other credible reports 2. ?	1. Drivers of Change 2. conflict assessment tool	1. Govt, NSAs and donors 2. ?	?
World Bank(2006 ,2007)	Nk	Nk	HQ staff	Nk			
EC (2006)	Every 5 years, but to be reviewed regularly and in the Mid term review of the CSP	The 9 criteria developed under the Governance Incentive Tranche. Programmatic assessments also undertaken e.g on NSA Programme	Country staff	Survey- –factual and experiential data, historical political and social analysis , other credible reports	EU Communication on Governance Incentive Tranche	Govt, NSAs and donors	Donors Only identified areas of weakness shared with govt
Cida (2006)	2002-2006	GJLOS, Public Sector, Public Finance Management, Corruption, Human Rights and NSAs	Consultant	Survey- –factual and experiential data, historical political and social analysis , other credible reports	Public Expenditure and Financial Accountability Assessment (PEFA)	Govt, NSAs and donors	Donors only
Sida(2004)	2204-2008		Consultants	Survey- –factual and experiential data, historical political and social analysis , other credible reports	?	Govt, NSAs and donors	Public document
AfdB (2004)		Financial accountability and Transparency, Participatory Governance, Legal and Judicial Reform and	Bank staff and Consultants	Desk research and validation	Nk	Govt, donors, NSAs	Nk

DONOR (when assessment done)	COVERAGE		METHODOLOGY			PARTICIPATION	
	Period covered	Areas of Assessment	By Whom	How	Tools used	Who Consulted	Dissemination
		Corruption					
Netherlands Embassy	Put on hold		Consultants	Workshop	SAGCA	Govt, NSAs and donors	?

Notes:
Nk=Not known

ANNEX III: LIST OF PERSONS INTERVIEWED

NO.	NAME	DONOR AGENCY	TELEPHONE	EMAIL ADDRESS
1	Ibrahim Laafia	EU	254-020-2713020	Ibrahim.Laafia@ec.europa.eu
2.	Vannessa Dick	EU	254-0720-260848	vanessadick@yahoo.com
3.	Okero Otieno	CIDA	254-020-3755324/5	otieno@cidakenya.org
4.	Ibrahima Sakho	Canadian High Commission	254-020-3663000	Ibrahima.Sakho@international.gc.ca
4.	Sue Lane	DFID		SM-Lane@dfid.gov.uk
5.	Annika Jayawardena	SIDA		annika.jayawardena@foreign.ministry.se
6.	Balt Marije	Netherlands Embassy		Marije.Balt@minbuza.nl