



Project Report
Assessing Democracy
Assistance

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Assessing Democracy Assistance: Kenya¹

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This report is FRIDE's contribution to a project entitled 'Assessing Democracy Assistance' that is being carried out by the World Movement for Democracy. The project aims to gather views on how democracy support can be improved and its impact enhanced. Other case studies and a synthesis report can be found at www.fride.org.

In early 2008 Kenya was almost on the brink of an all-out civil war after the outcome of a heavily disputed presidential election led to large-scale violence between the country's main ethnic groups. During eight weeks of both ostensibly spontaneous and more organised political violence in January and February 2008, more than 1,300 people were killed and an estimated 650,000 internally displaced.² Despite a long history of election-related violence in Kenya, the speed and intensity of the attacks were unprecedented and shocked the world. The post-election crisis made it clear that the country that had been described as a 'beacon of stability and democratic hope in a region of chaos and authoritarianism' actually had a highly unstable political system; a system controlled by power-hungry politicians that failed to address the structural problems of extreme socio-economic inequalities, rising crime, corruption and impunity pervading Kenyan society.³

Only after intense pressure from international actors led by former UN Secretary-General Kofi Annan and threats of personal sanctions against senior Kenyan politicians did the two opposing parties – the Party of National Unity (PNU) and Orange Democratic Movement (ODM) – agree to a power-sharing agreement. The so-called National Accord established a new 'Grand Coalition' in which PNU leader Mwai Kibaki became President and ODM leader Raila Odinga was appointed as Prime Minister. As a result, violence subsided and a National Dialogue and Reconciliation process was started. However, almost two years later those responsible for the violence have still not been prosecuted and its root causes (the so-called Agenda 4 of the National Accord)

¹ The project 'Assessing Democracy Assistance' is supported by the United Nations Democracy Fund, the UK Department for International Development, the Arab Democracy Foundation, the Taiwan Foundation for Democracy, the Netherlands Institute for Multiparty Democracy, the National Endowment for Democracy and the Smith Richardson Foundation. The research methodology for this report is explained in an appendix at the end of the main text. Responsibility for this report and the views expressed are solely those of the author(s), and do not necessarily represent the positions of either FRIDE, the World Movement for Democracy, or the funders.

² See Philip Waki, Gavin McFadyen and Pascal Kambale, 'Report of the Commission of Inquiry into Post-Election Violence' (CIPEV, 2008).

³ With the richest 10 per cent of the population earning approximately 42 per cent of the national income, Kenya has one of the highest rates of income inequality in the world.

continue to be ignored.⁴ While local civil society organisations and international agencies are grappling with the adjustment of their programmes to the fragile post-2008 context, the majority of Kenya's politicians continue with the same old 'wheeling and dealing' of tribal coalition politics.

In all fairness, the political reform process is continuing and significant progress has been made in the last year or so with the constitutional review process. Moreover, Kenya today is a much more democratic country than it was in the early 1990s, despite the post-election violence of early 2008. Nevertheless, the country remains deeply divided and prone to conflict. With continuing large numbers of disillusioned, unemployed youth and recent reports about the re-arming of ethnic militias, the risk of a new outbreak of violence is still considerable.

This report analyses the role of international agencies in Kenya's faltering democratisation process and assesses the impact of different types of international engagement since the 2002 elections. It highlights the various governance challenges in Kenya, especially in the context of the 2008 election crisis, and gives an overview of the large number of international actors and aid programmes working in the field of democracy and governance assistance. The paper discusses the main instruments used by the international community to improve aid effectiveness, including coordination, conditionality and basket funding. Most importantly, it presents an assessment of the impact of international democracy assistance based on the views and experiences of key local stakeholders as well as the recipients themselves of aid programmes. Finally, particular attention is given to three key areas of international democracy support, including governance and justice sector reform, strengthening parliament and political parties, and civic education.

The report makes three key points. First of all, it shows that strong fluctuations in the level of critical engagement and assistance from the international community have given a mixed message to consecutive Kenyan governments, each of which has failed to follow through initial democratic reforms due to an absence of political will. Secondly, it argues that the focus of international assistance programmes on Nairobi-based elites and specialised NGOs has come at the expense of more community-oriented, traditional civil society actors with large memberships. Finally, the report argues that the current design of aid modalities (such as basket funding) and organisational profiles of many aid agencies fall short of what is required in terms of the flexibility and political savvy needed to support democracy in Kenya today.

A history of shallow democracy

Between independence from Britain in 1963 and the early 2000s, Kenyan politics were dominated by the Kenyan African National Union (KANU). Under both the first president, Jomo Kenyatta, and his successor, Daniel Arap Moi, initial political freedom was severely curtailed and opposition party activism violently suppressed. Rivalries between the more than 40 ethnic groups over access to natural and political resources (land and water but also government funds) were controlled by an intricate system of divide and rule and forcefully kept in check through the provincial administration, police and other branches of the state security apparatus.

In the early 1990s, President Moi capitulated to strong domestic and international pressure to end Kenya's de facto one-party system. In 1991 a constitutional amendment introduced a more pluralist political system and paved the way for the first multiparty legislative and presidential elections in 1992. The elections were deeply flawed, characterised by poor organisation, a high incidence of violence, and an uneven playing field. These irregularities, in combination with damaging splits in the opposition, enabled KANU and President Moi to hold on to power in 1997 as well. By the end of the 1990s, civil society organisations, opposition parties and international actors had become more united in their denunciation of the poor record of human rights violations, endemic corruption and impunity of the Moi government. Internationally supported domestic election monitoring efforts played an important role in this. A few years later, more than 14 opposition

⁴Agenda 4 of the National Accord comprises a number of principles and commitments by the PNU and ODM on long-term issues that are seen as crucial in achieving sustainable peace, stability and security in Kenya. These include principles on 1) constitutional, institutional and legal reform; 2) land reform; 3) poverty, inequity and regional imbalances; 4) unemployment, particularly among the youth; 5) consolidation of national unity and cohesion; and 6) transparency, accountability and impunity. 'Statement of Principles on Long-Term Issues and Solutions', available at: http://www.dialoguekenya.org/docs/S_of_P_with_Matrix.pdf

parties, as well as leaders from different ethno-regional communities and various prominent civil society representatives, came together in the National Rainbow Coalition (NARC). In Kenya's first truly democratic elections in 2002, NARC secured a comfortable parliamentary majority and its popular presidential candidate Mwai Kibaki easily defeated KANU's Uhuru Kenyatta.

Whipped up by a euphoric feeling of 'arrival' and the announcement of a series of headline-grabbing reforms, both Kenyan civil society organisations and international agencies stepped up engagement with the new government. The Kibaki administration introduced free universal primary education, dismissed almost half of Kenya's senior judges, established several new commissions to look into major corruption scandals (including those involving Goldenberg and Anglo-Leasing) and nominated the respected local Transparency International director John Githongo as Permanent Secretary for Governance and Ethics; all this was widely seen as proof of the new political will to reform. However, many of the reforms were quickly brought to a halt by the old guard of Kikuyu politicians and senior civil servants, backed by the Kikuyu professional and business class, who were contemptuous of donor efforts on the one hand and reformists on the other. As a result, few high-level politicians suspected of corruption were prosecuted. Matters grew worse when it became clear that State House was increasingly dominated by Kikuyu – Kibaki's ethnic group – together with allied ethnicities. Infighting over the distribution of power within the coalition put pressure on the already fragile NARC. A new draft constitution prepared by Kibaki supporters did little to reduce the powers of the president and proposed only a weak prime ministerial position. The draft constitution was rejected in a referendum in November 2005.

When the NARC finally collapsed in 2006, and a new opposition in the form of the ODM united itself behind the 'No' voters of the constitutional referendum, Kibaki was forced to restore ties with KANU and other former political adversaries to prepare for the 2007 elections. The subsequent electoral campaign was marked by violence and verbal abuse, with supporters of Raila Odinga's ODM on the one side and Kibaki's PNU on the other. Although the parliamentary elections were won by the ODM by a wide margin, many smaller parties were allied with the PNU and the outcome of the presidential elections proved less certain. When the Electoral Commission of Kenya (ECK), amid its own publicly expressed doubts about the validity of the voting numbers, declared Kibaki the winner of the elections, tensions over alleged electoral irregularities soon escalated into violence.

Overview of donor activities

The international donor community is still grappling with the political and societal fall-out of the 2008 post-election crisis after almost two years. At the political strategic level, attention is focused mainly on the prosecution of those held responsible for the post-election violence as well as the implementation of Agenda 4 of the national power-sharing accord. At the programmatic and technical level, a shift is underway from government-oriented funding to that which targets civil society. The hope of many Kenyan civil society organisations is that after five years spent strengthening the supply side (i.e. the government) the pendulum will now swing back and donors will increasingly strengthen the demand side (i.e. civil society).

As a result of its strategic location, transport facilities and relative stability, Kenya has long been the East African hub of a large number of international development and emergency aid organisations. After New York and Geneva, the United Nations (UN) Office in Nairobi's Gigiri district, for example, is the largest UN regional centre in the world. Between independence and 2004, Kenya received an estimated USD 18.4 billion in official development assistance (ODA) from a variety of international agencies.⁵ Over the five-year period 2002–07 it received more than USD 4.1 billion in aid. Though these are huge sums of money, international aid in Kenya accounts for only 5–7 per cent of the national budget, in contrast to other countries in East and Central Africa.

In an attempt to achieve the Millennium Development Goals (MDGs), the majority of this assistance is spent

⁵ Ministry for Foreign Affairs of Denmark, 'Kenya – Denmark Partnership: Strategy for Development Cooperation, 2006–2010', p.17.f

in sectors such as health (including HIV/AIDS), infrastructure, education and agriculture. Less than 10 per cent (roughly USD 408 million) of aid focuses on democracy and governance activities. According to the latest figures for 2007, bilateral donors contributed 84 per cent of ODA to Kenya, while multilateral donors provided 16 per cent. In the same year the US was the largest donor, followed by the European Commission (EC), the UK and Japan.⁶

International agencies active in Kenya can be divided roughly into four major groups: multilateral agencies; bilateral agencies; non-governmental organisations (NGOs); and private and political party-affiliated foundations. Each of these has its own modus operandi, types of programmes and modalities of assistance. It is important to mention here that most of the international agencies are active in a broad range of assistance areas, including healthcare, education, infrastructure and the environment, with the latter increasingly under threat in Kenya. However, this paper limits itself to democracy and governance assistance. In line with the Kenya Joint Assistance Strategy (KJAS), democracy and governance assistance is divided into several sectors, including human rights and administration of justice, legislative strengthening, anti-corruption, electoral processes, local governance, civic education and gender. Activities related to youth, reconciliation, and conflict prevention and mitigation are also included, as they have been especially relevant since the 2008 post-election crisis. The following section gives an overview of some of the most prominent actors in these areas.

Multilateral actors

The first group of democracy and governance assistance actors in Kenya comprises multilateral agencies, particularly the UN Development Programme (UNDP) and the Delegation of the EC. The World Bank is also active in the area of public sector governance but is not included here.⁷

United Nations Development Programme (UNDP): UNDP has been represented in Kenya since 1964. With more than a dozen senior project staff working on governance-related programmes, it is one of the largest organisations in this field. Under its Empowerment Component, UNDP supports a large number of governance programmes, focusing on public service reform, civil society capacity-building, and electoral assistance.⁸ When drawing funds from its Target for Resource Assignments from the Core (TRAC) as well as the various thematic trust funds managed by its headquarters in New York, UNDP's role is not unlike that of other donor agencies, despite the fact that most of these funds rely on contributions from individual member states. The USD 46,000 Women's Advocacy Project, for example, is funded by UNDP, implemented by the Federation of Women Lawyers in Kenya (FIDA) and supports the social empowerment of women by building capacity in government and NGOs for the mainstreaming of gender issues. In addition, UNDP acts as an intermediary that manages the financial contributions from various donor agencies. This task is often carried out by specialised project management units (PMUs), as was the case with the 2007 Elections Assistance Programme. Established to strengthen the capacity of the Election Commission of Kenya (ECK), civil society and other agencies, as well as to improve citizen participation, this programme is an example of 'basket funding' from nine different donors, and brought together more than USD 13 million. Another case in point is the USD 10 million Amkeni Wakenya - Civil Society Democratic Governance Facility (CSDGF), supported by Norway, Sweden and the Netherlands.

⁶ Amounts calculated from the Aggregate Aid Statistics of the Development Assistance Committee (DAC) of the Organisation for Economic Co-operation and Development (OECD), available at: <http://stats.oecd.org/Index.aspx>. Owing to different donor definitions of democracy and governance assistance and variations in the way in which assistance activities are classified under the OECD's creditor reporting system (CRS), these amounts are indicative only. CRS codes used for democracy and governance assistance include 151.1.5a Government & Civil Society General (EUR 336 million), 920X Support to NGOs (EUR 66.9 million) and 152.1.5.b Conflict, Peace and Security (EUR 4.4 million).p.17.f

⁷ Important World Bank projects in the area of public sector governance are the USD 25 million Institutional Reform and Capacity Building Technical Assistance Project (aimed at strengthening public financial management systems) and the USD 18 million Financial and Legal Sector Technical Assistance Project (focusing on creating a sound financial system and strengthened legal and judicial capacity). However, according to the World Bank website, "the largest share of commitments is in infrastructure (USD 770 million) including transport (USD 460 million), energy (USD 160 million) and water and sanitation (USD150 million); followed by agriculture and rural development (USD 360 million)". See <http://www.worldbank.org>

⁸ Other UNDP-funded and/or coordinated programmes include the Public Service Reform and Development Secretariat in Kenya (PSR&D; USD 672,501), the Kenya Youth Empowerment Project (USD 132,293), People-Centred Governance – Assisting Communities Together (ACT;USD 74,548), Human Rights Strengthening for Indigenous Communities (HURIST; USD 107,430), Constitutional Review in Kenya (USD 12,884), and Africa Governance Forum–Media's Role in APRM (USD 198,905). Information obtained from <http://www.ke.undp.org/>.

European Commission (EC): The Delegation of the European Commission serves as the official political and aid-coordinating body of the European Union (EU) in Kenya. Its office opened in 1976 following the signing of the first Lomé Convention. EC governance-related programmes are mainly financed through contributions from the multi-annual European Development Fund (EDF), which in Kenya has primarily focused on agriculture and rural development, roads and transport and macro-economic support. Despite the fact that governance was recognised as ‘a priority for all’ under the Cotonou Agreement, democratic governance support is considered a ‘non-focal sector’ in the EC’s country strategy paper for Kenya, representing less than 3–5 per cent of total EC assistance and managed by only two governance experts. Nevertheless, civil society grants provided by the EC are generally much larger than those provided by UNDP, with a typical grant amounting to EUR 100,000–400,000 for two to three years. Under the 8th EDF (1995–2000), the EC funded the EUR 6.6 million Democratic Governance Support Programme (DGSP), which from 2003–2006 supported 31 NGOs on issues including empowerment of local communities, community monitoring of grassroots development projects, lobbying and advocacy and human rights defence.⁹

Under the 9th European Development Fund (2003–07), EC governance support included EUR 6 million for the Non-State Actors programme (NSA-NET) of which EUR 500,000 was committed to support the activities of the Kenyan Elections Domestic Observers Forum (KEDOF). Of the total EUR 383 million available under the 10th EDF (2008–13), EC governance assistance will increase to EUR 9.2 million, focusing on activities related to democratic governance including anti-corruption, access to justice, elections and civic education, local governance and policy and legal reform; promotion and protection of human rights; public sector reform; and institution and capacity-building. At least EUR 4.6 million will be allocated to non-state actors and there will be flexible funding to support activities related to the National Dialogue and Reconciliation (NDR) process. Separate civil society funding is also available under the European Instrument for Democracy and Human Rights (EIDHR) as well as from the ‘Non State Actors-Local Authorities in Development’ budget. The EC is also an active supporter of the multi-donor Governance, Justice Law and Order (GJLOS) programme (see below). Finally, it is important to note that the EC is the only development partner that gives general budget support to the Kenyan government. Out of the EUR 125 million allocated for that purpose between 2003 and 2007, only the first two tranches (EUR 50 million and 40.6 million respectively) have been disbursed. The final tranche is still pending. Over the period 2008–2013, a total of EUR 127 million has been allocated for general budget support. The EC has recently carried out a mid-term review of its Kenya Country Strategy Paper and budget allocations under the 10th EDF, which ‘might lead to adjustments benefitting the governance sector’s supply side.’

Bilateral actors

The second major group of donors consists of the various bilateral aid agencies and diplomatic missions. The most active in the field of democracy and governance are the US, the UK, Germany, Sweden, Denmark, the Netherlands, Canada, Norway and Finland. A considerable part of bilateral assistance to Kenya is put into large ‘baskets’ often coordinated by UNDP or specialised financial management agencies, such as KPMG and Pricewaterhouse Coopers. In response to the 2008 post-election crisis, all bilateral donors are currently reviewing their aid programmes. Many of them claim to be bringing their programming more in line with Agenda 4 of the National Accord, aimed at the implementation of constitutional, legal and institutional reforms related to land, poverty and inequality, youth unemployment and social cohesion, as well as transparency, accountability and impunity.¹⁰ The following paragraphs give an overview of all the main bilateral donors and their governance programmes, to the extent that information was available.

United States: With an overall aid budget of more than USD 666 million in 2008, the US is by far the largest bilateral donor in Kenya. The vast majority of this budget, however, is taken up by the President’s Emergency Plan for AIDS Relief (PEPFAR) consisting of USD 500 million channelled through the State Department. In addition, the US provides support for military education, training and security sector reform (USD 1.2 million)

⁹ Republic of Kenya and European Community, ‘Country Strategy Paper and Indicative Programme for the Period 2008–2013’. See also <http://www.delken.ec.europa.eu/>.

¹⁰ ‘Acting Together for Kenya. Agreement on the Principles of Partnership of the Coalition Government: Statement of Principles on Long-Term Issues and Solutions’, Agenda Item 4 (also referred to as ‘the National Accord’). Available at http://www.dialoguekenya.org/docs/Signed_Agreement_Feb281.pdf.

and counter-terrorism activities in Kenya (USD 5.7 million), reflecting the strategic importance of Kenya in the US's Africa policy. Without these programmes, USAID Kenya's annual assistance budget amounts to approximately USD 40 million.

Coordinated by six full-time governance advisers, USAID's democracy and governance (DG) programming accounts for about USD 5–8 million per year (15–20 per cent of the total 'normal' budget) and focuses on four thematic areas: good governance (including anti-corruption and legislative strengthening); civil society; political competition and consensus-building; and conflict mitigation and reconciliation (not discussed here). During the Moi regime, the US gave most of its DG assistance in the form of direct grants to Nairobi-based civil society organisations (CSOs), which at the time were considered as 'the de facto opposition'. After the democratic elections in 2002, the US continued giving direct grants to local CSOs but also started engaging with the new Kenyan government. On the civil society side, between 2002 and 2007 USAID was a major supporter of some of the most prominent Kenyan NGOs, including the Kenyan chapters of Transparency International (TI-K) and the International Commission of Jurist, the Centre for Governance and Development and the Institute for Policy Analysis and Research. Whereas other (mostly European) donors opted to participate in the GJLOS basket fund, the US has supported judicial reforms and the implementation of anti-corruption measures by working directly with the Department for Public Prosecutions (the Attorney-General's office) as well as the Judicial Service Commission.¹¹

On the basis of an assessment that the advocacy capacity of Kenyan civil society had weakened between 2003 and 2005, USAID decided in 2006 to fund the multi-year, USD 32 million, Kenyan Civil Society Strengthening Programme (KCSSP), managed by the US-based capacity-building NGO, Pact.¹² Since 2000, the US has also been supporting a large parliamentary strengthening programme in Kenya. Implemented by a local branch of the State University of New York, USAID spent approximately USD 6 million on this programme from 2004–2009.

In the area of political competition and consensus-building, the US has supported a multi-year (2002–05) programme by the International Foundation of Election Systems (IFES) for the provision of technical assistance and commodities (computers and other electoral equipment) to strengthen the capacities of the Election Commission of Kenya (ECK). In the run-up to the 2007 elections, the US also contributed to the joint donor Elections Assistance Programme managed by UNDP. The US also supports the strengthening of political parties, civic and voter education and the development of opinion polling in Kenya. However, owing to their potentially sensitive nature, these programmes are generally not implemented by USAID directly, but through specialised organisations such as the National Democratic Institute (NDI) and previously, the International Republican Institute (IRI). Both of these organisations also receive funding from the Washington DC-based National Endowment for Democracy (NED).

United Kingdom: In 2008/09 the United Kingdom (UK) gave over GBP 102 million in bilateral assistance to Kenya, including more than GBP 10 million in emergency relief aid following the post-election crisis. The regular annual budget of the Department for International Development (DFID) for Kenya hovers around GBP 50 million and focuses on health, HIV/AIDS, education, social protection and pro-poor economic growth. With a total of 10–12 full-time programme staff, including 2 governance advisers, 2 programme management officers and 5 political and conflict advisers, DFID is one of the best-staffed bilateral missions in Kenya. The UK's chairmanship of the Democratic Governance Donor Group (DGDG) and deputy-chairmanship of the Elections sub-group has further added to its important role in the donor community in the country.

In 2008/09, DFID's GBP 5 million governance portfolio concentrated both on government-focused (supply side) and civil society-focused (demand side) programmes. Government-focused programmes include public sector reform activities by the National Bureau of Statistics and the Prime Minister's Office and monitoring and evaluation support to the Ministry of Planning (as part of the NEPAD/APRM process). In addition, DFID used to

¹¹ See the following publications for more information: Department of State, 'Kenya: Foreign Assistance Program Overview,' Congressional Budget Justification for Foreign Operations. Fiscal Year 2010, Book II, pp.75–82; Testimony of Katherine J. Almquist, Assistant Administrator for Africa, United States Agency for International Development (USAID), before the Senate Foreign Relations Subcommittee on African Affairs on 7 February 2008, concerning 'The Immediate and Underlying Causes and Consequences of Flawed Democracy in Kenya'; and <http://www.usaidkenya.org/>.

¹² See the separate project website at: <http://www.kcssp.org/index.html>.

form part of the GJLOS basket (with GBP 5 million), but decided to suspend its contribution 'because of a lack of clear milestones'. Nevertheless, engagement with GJLOS is ongoing in the context of security sector reform and police training. Through the multi-year (2000–07) Political Empowerment Programme (PEP), DFID spent more than GBP 7.5 million on elections (UNDP's Elections Assistance Programme basket), civic education (via the National Civic Education Project, NCEP) and gender (Gender and Governance Programme, GGP, now run by UNIFEM). Under PEP, DFID gave 4–5-year core funding grants to Transparency International in Kenya (GBP 1 million), the Institute for Education in Democracy (IED, GBP 500,000) and the Institute for Economic Affairs (IEA). Smaller grants were given to the Africa Centre for Open Governance (AfriCoG), Mars Group and the Louis Otieno Talk Show.

Under the Parliamentary Strengthening Programme, DFID contributes approximately GBP 830,000 to the USAID/SUNY parliamentary strengthening project as well as GBP 70,000 to similar activities coordinated by the Westminster Foundation for Democracy (WFD), NDI and others. The Conflict Programme amounts to GBP 4.2 million and is funded through the UK's Global Conflict Prevention Pool. Under this programme DFID has been the largest donor to the Coordination and Liaison Office (CLO) of the Kenya National Dialogue and Reconciliation (NDR) process led by Kofi Annan. This programme also supports activities of the National Response Initiative (NRI) and investigations into human rights violations through the Kenya National Commission on Human Rights (KNCHR).

Finally, DFID is currently considering setting up a new Drivers of Accountable Governance programme together with the Canadian International Development Agency (CIDA) and the Danish International Development Agency (DANIDA). A more innovative, action-oriented financing mechanism (in contrast to the more conventional, reactive 'call for proposals' approach, as for example under UNDP's CSDGF) is said to be one of the key motivators for this programme. The programme will focus on the identification of key drivers for change in four 'results areas': impunity (anti-corruption and human rights); constitutional and electoral reform; government responsiveness (budgetary reform); and citizen participation.¹³

Canada: The Canadian International Development Agency (CIDA) has been active in Kenya since 1970. A significant part of CIDA's aid programme is aimed at the government and is spent on programmes related to public finance management (CAD 4 million), public sector reform (CAD 4 million), education (CAD 40 million) and gender, with the remaining aid going to civil society organisations. Funding for this comes largely from the new Democratic Governance Fund, which is designed to be more responsive and flexible and will have a budget of CAD 5 million for four years (2008–12). In addition, CIDA has participated in a number of basket funds, such as NCEP/II/Uraia (it is currently the largest donor, with CAD 3 million), the NCEP/NRI (CAD 350,000), the UNDP's Election Assistance Programme (CAD 2 million plus CAD 350,000 for a new electoral reform initiative) and the UN special account for Constitutional Review (CAD 350,000). On the basis of a recent policy decision CIDA – like most bilateral donors – favours programme over project funding, with most of its programmes ranging from four to five years. Out of the 43 organisations funded under previous programmes, 5 received core funding support (including TI, IEA and KNHCR).

The Nordic countries, the Netherlands and Germany: Sweden, Norway, Finland, Denmark (often grouped together as 'the Nordic countries'), the Netherlands and Germany each have their own aid structures and governance programming priorities.

Sweden has an annual overall aid budget in Kenya of EUR 34 million. With more than 56 staff, including 19 Swedish expatriates, working on a broad range of development cooperation activities covering six East African countries, the Swedish embassy in Nairobi is the third-largest in Sweden's Foreign Service (and its largest in Africa). Reflecting Sweden's strong commitment to a human rights-based approach to development, approximately 30 per cent (EUR 10 million) of its overall bilateral assistance budget (EUR 34 million) is spent on democracy and human rights activities. Of this amount, one third (EUR 2.9 million) goes to civil society and two-thirds (EUR 6.8 million) to the government. Through its Swedish International Development Agency (Sida), Sweden currently contributes approximately EUR 480,000 per year to NCEP/Uraia, EUR 1.4 million

¹³ Department for International Development (DFID), 'Public Service Agreement (PSA) Country Report: Kenya' (London, 2009), p.1; and <http://www.dfid.gov.uk/Where-we-work/Africa-Eastern--Southern/Kenya1/>.

to UNDP's CSDGF, EUR 20 million for advocacy on democracy and human rights to a large number of civil society organisations, and EUR 1.4 million to UNIFEM. Its government-oriented support focuses on public finance management and public sector reform (EUR 1.4 million each). In addition, Sweden has long been the lead donor of GJLOS (EUR 2 million per year).¹⁴

Norway kept a low profile for almost two decades after it was expelled from Kenya in the early 1990s for criticising human rights abuses. The Norwegian embassy only began to expand staff numbers again in 2003, though it is still one of the smaller diplomatic missions in Nairobi. The current Norwegian bilateral aid budget includes some EUR 4 million for governance-related activities targeted at gender issues, democracy and human rights, and anti-corruption. Similar to most other bilateral donors, Norway is scaling down its government-oriented assistance, while increasing its funding for civil society activities. Norway's future involvement in GJLOS, for example, is currently being reviewed and is unlikely to be continued in the same form. This is also the case for Sweden, Denmark, Finland and the Netherlands. In order to support 'grassroots pressure', the Norwegian embassy is supporting the work of several rights-oriented civil society organisations, including the Kenyan Human Rights Commission (KHRC) (EUR 170,000), the Kenyan National Commission on Human Rights (KNCHR) (EUR 170,000), the Kenyan Community Paralegal Association, Transparency International (core funding contribution of EUR 228,000) as well as contributing to UNDP's NCEPII/Uraia (maximum EUR 1.8 million), the CSDGF (maximum EUR 1.6 million) and UNIFEM's GGP (maximum EUR 1.8 million).¹⁵ Finally, Norway is one of the few bilateral donors active in the field of political party development and political dialogue in Kenya. Between 2003 and 2006 it funded three projects (in total EUR 455,000) to strengthen party secretariats and branch structures, as well as one larger project (EUR 1.1 million) to work on fostering inter-party dialogue and coalition-building before the 2007 elections, both executed by the US-based National Democratic Institute (NDI). It also supports the Kenyan branch of the regional AMANI-Forum (EUR 228,000), which aims to engage MPs in conflict management and peace-building activities.

Denmark has been present in Kenya since 1963 but, like other donors, had a minimal relationship with the Kenyan government during the 1980s and 1990s. After 2002 Denmark decided to give Kenya a 'democracy dividend' by increasing its level of assistance by 40 per cent. Today, Denmark's annual aid budget for Kenya is EUR 34 million, of which the largest part is spent on sectoral programmes in the areas of health, water and agriculture. In addition, Denmark supports a large private sector development programme in Kenya. Just over 10 per cent (EUR 3.8 million) of the aid budget is allocated to the Kenya Good Governance Programme (KGGP), which is managed by the Danish International Development Agency (DANIDA). The KGGP includes support for the GJLOS reform programme and anti-corruption activities, as well as civil-society-oriented funding focusing on human rights, elections and gender. On the basis of an assessment of its comparative advantages, Denmark also supports the Peace, Security and Development Programme aimed at promoting dialogue, tolerance and inclusion of marginalised local Muslim communities in the Kenyan democracy.¹⁶

Finland has had a development cooperation agreement with Kenya since 1975 but significantly reduced its engagement between 1998 and 2002, the final period of the Moi regime. Since then Finland has been one of the smaller bilateral donors, with an annual aid budget of approximately EUR 10 million. Since 2004, Finland has focused on three aid sectors, namely governance, forestry and energy, while poverty reduction (in compliance with the MDGs) is seen as a universal issue cutting across all areas of action. In the area of governance, Finland is currently the lead donor in the GJLOS reform programme. In addition, it contributes to the GGP basket (managed by UNIFEM) and the Public Sector Reform (PSR) basket (managed by UNDP).¹⁷ In the period 2008–11, Kenya will receive EUR 63 million from Finland.

The Netherlands spends approximately EUR 6 million (out of a total annual aid budget of EUR 15 million) on governance-related programmes. These benefit both government and civil society institutions. The Dutch governance programme is managed by a small team of foreign affairs counsellors, who are also responsible for political and cultural affairs. Since 2003, the Netherlands has been an active member of the group of GJLOS donors, with an annual contribution of EUR 2.1 million. However, with its 2009 GJLOS contribution

¹⁴ See http://www.swedenabroad.com/Page_____7794.aspx; and Swedish Ministry of Foreign Affairs, 'Strategy for Development Cooperation with Kenya, January 2009–December 2013'.

¹⁵ <http://www.norway.or.ke/>. See also Mutahi Ngunyi, 'Civil Society in the Post-Amendment Context: Consultant's Report, Final Draft' (Nairobi: The Consulting House, 2008); and Scanteam, 'Review of Norwegian Support to National Democratic Institute (NDI) in Kenya. Final Report' (Oslo, 2009).

¹⁶ <http://www.ambnairobi.um.dk/en/>; and Danish Ministry of Foreign Affairs 'Kenya–Denmark Partnership: 'Strategy for Development Cooperation, 2006–2010'

¹⁷ <http://www.finland.or.ke/Public/Default.aspx>.

(together with that of other donors) suspended because of disappointing results, the Dutch embassy is now considering diverting some of its funding to better functioning institutions such as the KNCHR and the Kenyan Law Review Committee. The Netherlands has been one of the lead donors of the Governance and Gender Programme (GGP) (EUR 500,000 per year) and also provides assistance to NCEP/Uraia (EUR 600,000 per year), juvenile justice programmes (EUR 200,000 per year), the International Centre for Transitional Justice (EUR 500,000 per year) and UNDP's CSDGF (lead donor, with EUR 1.5 million per year). To reduce 'administrative hassle for organisations as a result of project funding', the Netherlands prefers to provide support on a multi-annual (3–4 years) basis. Two organisations (Transparency Kenya and Media Focus on Africa) receive core funding from the Dutch embassy, of EUR 600,000 per year each.

Germany is, after the US and UK, the third-largest bilateral donor with an overall aid budget in 2007 of EUR 45 million. Germany's development cooperation funds are managed through a relatively complex structure of institutions. The German embassy carries the political and economic responsibility on behalf of the Federal Ministry for Economic Cooperation and Development (BMZ). The aid programmes themselves, however, are managed by a number of specialised German agencies, including the KfW development bank, the German Development Service (DED), the Centre for International Migration and Development (CIM), and the German organisation for Technical Cooperation (GTZ). Although its priority areas are private sector development, water and sanitation, and health, Germany has gradually become a significant player in the field of democracy and governance as well. For example, through the EUR 5.4 million Good Governance Support project (2005–10), GTZ is providing a range of management support and advisory services on coordination, anti-corruption and access to justice activities as well as giving financial and capacity-building support to non-state actors. This project also includes a EUR 2 million contribution to the GJLOS donor basket fund. As of summer 2009, GTZ was also considering a new EUR 5 million project on Promotion of Justice, National Cohesion and Peace in Kenya aimed at addressing the causes of the 2008 election crisis and avoiding the outbreak of a fresh round of violence around the elections in 2012.¹⁸

Non-governmental organisations (NGOs)

The third group of grant-giving agencies working in Kenya is made up of large international NGOs, such as MS (from Denmark), Pact (from the US) and Hivos, Cordaid and Oxfam Novib (three so-called 'co-financing' organisations from the Netherlands). Although these organisations are not technically donor agencies – since most of their funding comes from governments or private donations – they are often perceived as such by many Kenyan organisations because of the grants they offer. Hivos, for example, has had a 10-year programme of core funding support for six Kenyan civil society organisations, including the Citizens' Coalition for Constitutional Change (4Cs), the National Convention Executive Council (NCEC), the Legal Resource Foundation Trust (LRFT), Centre for Law and Research International (CLARION), Community Based Development Services (COBADES), and Constitution and Reform Education Consortium (CRECO). As with the support from private and political foundations discussed below, this type of support tends to focus more on lobbying and advocacy activities which are critical of the government than is common with multilateral and bilateral donors.¹⁹

Private and political foundations

The final group of international actors active in democracy and governance activities in Kenya are private and political foundations. Here, only a few of these organisations with an office in Nairobi are discussed.

The Open Society Institute (OSI) has been in Nairobi since 2005 through its Open Society Initiative for East Africa (OSIEA), which focuses on public participation in democratic governance, the rule of law and respect for human rights. Although it also supports activities in Tanzania and Uganda, OSIEA's Kenya programme budget amounts to USD 1 million per year and is managed by a small team of three to four people. OSIEA

¹⁸ GTZ, 'Good Governance Support Project, Kenya', 2009; GTZ, 'Promotion of Justice, National Cohesion and Peace in Kenya: Project Concept Note' (2009); <http://www.nairobi.diplo.de/Vertretung/nairobi/en/Startseite.html>; and <http://www.bmz.de/en/countries/partnercountries/kenia/zusammenarbeit.html>

¹⁹ See 'Hivos' Support to Human Rights and Democratisation in Kenya (1996–2007). Programme Evaluation: Final Report' (Nairobi: South Consulting, 2008).

grants are typically not more than USD 100,000 for a one-year project. However, OSI is gradually introducing two-year programmes as well, exemplified by its support to the Kenyans for Peace, Truth and Justice (KPTJ), a coalition of civil society organisations established after the 2008 post-election crisis. Like the Ford Foundation and Friedrich Ebert Stiftung (FES), OSI claims to focus on more innovative programmes in order to facilitate and stimulate rapid opportunities for change. As a result it often works with non-traditional civil society organisations, such as Bunge la Mwananchi (the People's Parliament), the Muslim Human Rights Forum (MHRF), the Citizens' Assembly and Koch FM, a community radio station set up in Nairobi's Korogocho slums by young unemployed residents.²⁰

The Ford Foundation is one of the oldest private foundations in Kenya and has provided more than USD 270 million in grants since 1962. Its small Nairobi office, which also covers Tanzania and Uganda, has an annual budget of approximately USD 15 million and has a core staff of nine people. Originally renowned for its international fellowships, it also makes grants in the areas of education and sexual health, environment and development, governance and civil society, human rights and social justice and the media, arts and culture. The Ford Foundation's governance and civil society grants focus on the strengthening of institutions that share knowledge on democratic constitutions, increase participation and representation of marginalised groups, and develop the leadership skills of young people, women, legislators and community representatives. Its human rights and social justice grants help the women's rights movement and support the improvement of citizens' security and safety. Grants are generally for one year, typically amount to USD 100,000 and concentrate on innovative programmes. Examples of recent recipients are the Kenya Human Rights Commission (for research, documentation and outreach to promote human rights and democracy), and Fahamu (for the development of Pambazuka News, a critical electronic news weekly focused on social justice issues).²¹

Finally there is FES, which has been active in Kenya since 1962 and now has an office with 12 full-time staff. Initially, FES focused on conventional agricultural development programmes, such as supporting sugarcane farmers and facilitating the provision of credit to farmers' associations. During the 1980s, FES shifted its attention to more politically oriented activities and since then it has developed working relationships with several political parties, including (since 2002) NARC, the Ford Foundation, LDP and ODM. Its political party support has consisted of policy development and sharing of experiences with regard to the organisation of internal elections and the establishment of youth leagues. In addition to its political party work, FES also focuses on the strengthening of trade unions, monitoring of local governments, land reform issues, youth issues and constitutional reform. Most of its programming is coordinated with the other German foundations, each of which has like-minded local partners. Along with other private foundations it is said to be relatively flexible and quick in its funding decisions. Based on its philosophy of dialogue instead of funding, FES grants are usually small (around EUR 10,000–20,000) and generally do not involve cash transfers to project partners; FES pays the invoices for conferences, seminars, publications and other activities directly.²²

Local views on the impact of democracy assistance

The net effects of the above-mentioned assistance programmes are difficult to measure. As political changes are influenced by a multiplicity of factors, they cannot easily be attributed to a specific assistance programme or donor agency. Nevertheless a number of observations can be made.

Strengthened organisational and lobby capacity of CSOs

With the support of the international community, Kenyan civil society organisations played a critical role in the introduction of multiparty politics under Moi in the early 1990s and in later years as the political arena in Kenya slowly opened up and the media's freedom of speech increased. As Kenyan opposition political parties are still weak, the reform agenda has mainly been conducted by civil society, who together with the opposition, have played a crucial role in the dialogue around constitutional reform, in the sacking of corrupt ministers and in sustaining pressure on the government. International support was crucial in this regard. According to one interviewee, if it had not been for the assistance from donors over many years, 'Kenyan civil society would

²⁰ [Http://www.soros.org/initiatives/osia](http://www.soros.org/initiatives/osia).

²¹ [Http://www.fordfound.org/regions/easternafrika/overview](http://www.fordfound.org/regions/easternafrika/overview)

²² [Http://kenya.fes-international.de/index.shtml](http://kenya.fes-international.de/index.shtml).

not be as alive as it is today'. Another local observer said that long-term support from international donors 'has created a pool of well-educated, critical and articulate Kenyans, who in the future will play an important role in debates over the future of the country'. Another added that 'based on the outcome of independent evaluations, I believe that with donor money and relationships results have been achieved. For example, certain legislation that partners lobbied for has been implemented. Reports they have written have been picked up by the media.'

It is the practical support that is particularly appreciated by many civil society activists. As one civil society leader pointed out, 'financial support is obviously very important, but it's not everything. Learning and exchanging experiences with people from other countries is also very valuable; teaches us how to be more creative. This type of exchange would not have been possible without donor support. In addition, our strategic funding partner also helps us to identify potential donors which can support our work.' But despite these ostensibly positive outcomes, there is a degree of uncertainty about the impact that international assistance has had on Kenya's political life, both within the donor community itself and among certain civil society actors. 'The exact impact of our programming is difficult to measure', as one said. Most interviewees stress the need to be realistic. As one donor representative put it:

'Reform will not happen overnight. We recognise that there is a need for a complete overhaul of the current governance system in Kenya and nothing short of a revolution could achieve that. But revolutions generally mean violence and instability. We cannot afford to have that in Kenya, especially in view of the already high instability of the rest of the region. So that's why we are investing in building the capacities of the next generation of critical professionals and of organisations outside the Nairobi bubble so that change might come from different sides, but gradually'.

The current priority of most international actors in Kenya is to address the issue of impunity, by ensuring that those responsible for the post-election violence are prosecuted. Due to the inability of Kenya's politicians to agree on the establishment of a domestic Special Tribunal, the International Criminal Court (ICC) started investigations in November 2009 to ensure that proper follow-up is given to the recommendations of the Waki Commission. According to one observer 'this can act as an important lever for further reforms, but it has to be used judiciously. Apart from public statements, a lot of work still needs to be done through lobbying to keep the government under pressure.' Having said that, another observer stated that:

'When using a long-term perspective, it is clear that Kenya will not revert to a one-party state. Also, political parties themselves now think and discuss the problems of democracy in Kenya and what should be done to listen to and satisfy the needs of the electorate. In some the parties this new type of thinking has even become institutionalised. The presence of a locally-run Centre for Multiparty Democracy has also had a big impact. For example, together with other partners working in this field (such as NDI) it has facilitated the development, formulation and adoption of the Political Parties Act. In addition, CMD played a crucial role as a conflict-mitigating mechanism during the post-election crisis'.

Donors mainly follow their own agendas

There were mixed feelings among representatives of CSOs regarding the relationship between them and the donors. As one representative said, 'Kenyans appreciate the partnership with international donor agencies and value their support in the 1990s to help create political space. At the same time, however, Kenyans also feel let down by donors'. Although the level of donor funding for civil society activities has arguably remained the same, there is a strong perception among civil society representatives that the overall level of donor engagement with civil society declined between 2002 and 2006. When asked about this, donor representatives indicated that their funding to civil society has actually stayed more or less the same and in some cases has even risen. But the belief remains among some civil society activists that donors have become less critical of the government, leaving several civil society actors with the feeling that they have lost a crucial ally. In addition, there is also a feeling that donors often 'come with their own ideas and try to push their own agenda.' As a result of the Paris Declaration, one interviewee said:

‘We have seen that donors are paying more attention to aligning their aid with a recipient country’s “national agenda”. But in many countries, including in Kenya, the agenda that is put forward is the government’s agenda, which is not necessarily the same as the people’s agenda. In Kenya this has resulted in the strange situation that donor money has helped the police to become more efficient and effective, not in normal policing, but in the putting down of protests, harassment of human rights defenders and extra-judicial killings of criminals and other supposed law breakers’.

In addition, according to many, the Paris Declaration has actually made things more difficult for aid recipients. ‘Much of the support in the past was quite easy and flexible. Now it comes through UN agencies, which are extremely bureaucratic. Under the Paris Declaration donor support is supposed to be harmonised, but it’s local organisations that are paying the price for this. Some of them have collapsed, as donors stopped their funding without giving recipient organisations any notice or period of phasing out.’ The complaint was voiced that ‘we are often not consulted on these issues [...] Aid packages are too often labelled “Do it this way”.’ Therefore, the idea behind the Paris Declaration ‘was noble, but implementation is problematic’.

There is a marked difference, however, in the way different donors are regarded. According to several local stakeholders:

‘OSI and Ford Foundation really stand out. Primarily because they aim their funding at the real drivers of change, focus on a smaller group of Kenyan people and organisations and are more engaged with them [and] treat them as real partners. One of the main reasons for this is that these foundations have very good staff who specialise in democracy support. Many of them have themselves been democracy activists in the past and have the right type of connections and [a] critical attitude. Bilateral agencies, by contrast, often employ generalists that are good at managing programs but have little understanding of how to foster democratic change and mobilise people. The local staff they employ serve mainly as brokers and are not given any real responsibilities. In my view, with one or two exceptions, there is a total lack of creativity within the bilateral missions’.

Over emphasis on capital-based, professional NGOs

Interviewees felt that the biggest problem with civil society support is that over the years, the bulk of donor support has gone to a select group of NGOs based in Nairobi – often referred to as ‘the usual suspects’. For most donors these generally well-managed organisations have proven themselves to be trustworthy partners, in that they can handle substantial amounts of assistance responsibly and have professional staff specialised in writing proposals, developing programmes and organising activities in line with the thematic areas identified by donors. However, it is unclear whether any of the international financial assistance actually trickles down to community-based organisations and activities with a real ‘rural reach’. Among the few exceptions are the National Council of Churches of Kenya (NCCCK) and the Centre for Governance and Development (CGD) which are active throughout Kenya. A recent evaluation of DANIDA’s civil society programme reportedly reveals that there is huge potential among politically-oriented protest movements and community-based organisations in the various provinces. But despite their rhetoric, most donors still remain reluctant to engage with these organisations as they are unsure how to do so and are afraid of the political risks it would involve. Nevertheless, some of these organisations are slowly receiving some international support, including the Movement for Political Accountability (MoPA), the Bunge la Mwananchi and the Partnership for Change.²³

Ineffective use of the media

It must be acknowledged that most Kenyans are unaware of the work of international agencies, in part due to their failure to use the media effectively. One senior media executive interviewed for this study stated, ‘to me it is surprising that international organisations do not make more use of private media in their activities. We have more capacity than any other type of organisation to reach people in the rural areas. We can create access, especially through vernacular radio, and inform the public about issues like corruption and the fight

²³ In its call for non-violent action, the Partnership for Change uses the same symbol of a clenched fist as the Otpor protest movement that helped remove the Serbian leader Milosevic at the end of the 1990s.

against HIV/AIDS.’ Some aid programmes, such as Uraia and the World Food Programme’s child feeding programme, do take advantage of free advertising time on radio stations. There is generally a cost to air-time but, the interviewee stressed, ‘if these organisations would come to us I am confident that there is room for negotiation and that we are willing to meet them half-way’.

Ignoring the importance of local radio and TV stations, the vast majority of donors address their communications to the elite, focusing on leaflets, brochures and reports that are read by a very small number of people. Radio is a much more powerful medium and local TV programmes are hugely popular. Although vernacular radio programmes will have to be monitored for the potential use of hate speech, they are undoubtedly more effective at delivering a particular message to the majority of the population than the print media. However, donors do acknowledge this shortcoming:

‘I agree that we as donors do currently not engage the media in a structural, effective manner, trying to influence them. It is just not easy to convince our bosses [in donor capitals] to give tax-payers’ money to private media companies. Nevertheless, if we really wanted to work with the most popular radio stations, that is what should be done. In our new programming, we are looking at possibilities on how we as well as CSOs can make a more effective use of the media in order to hold the government accountable’.

Multilateral donor bureaucracy hinders flexibility and innovation

In interviews conducted for this study, the EC and UNDP were often singled out for their slow response, bureaucratic procedures and emphasis on financial management. In the case of the EC, all assistance, including programmes aimed at civil society, goes via the government, for example the Ministry of Justice and Constitutional Affairs. Because of civil society resistance to this arrangement, and also as a result of the post-election crisis, much of the EUR 6 million allocated to the NSA programme had not been disbursed at the time of writing. Another bone of contention is the use of expensive accounting companies, as their emphasis on financial management and reporting is believed by many stakeholders to come at the expense of programmatic issues.

Invited to comment on these criticisms, UNDP and the EC acknowledged that their funding arrangements are relatively rigid and can sometimes be problematic for small and medium-sized civil society organisations. Both organisations indicated that there is an ongoing debate among their staff on how certain procedures can be simplified, as well as how the capacity of local NGOs to respond to calls for proposals can be improved. There is also the dilemma of wanting to work with grassroots organisations, but at the same time knowing that the more established NGOs are better equipped to deal with the national-level advocacy issues that UNDP and EC want to work on. At the same time, both organisations also defended their procedures on the basis of necessary accountability standards, often imposed on them by bilateral donors. In addition, both indicated that the strict rules were also a response to several cases of misappropriation of funds by certain NGOs.

A related issue often mentioned by interviewees is the mechanism of basket funding, which has become increasingly popular among donors in Kenya. Although it is acknowledged that it does have certain advantages such as policy coherence and programme coordination, basket funding is also regarded as an extremely problematic mechanism for democracy support. As one grantee explained:

‘Most basket funds are designed on the basis of certain assumptions and political realities. Yet, when these change, the basket and its criteria for funding do not change with them. This is one of the key problems that dogged GJLOS. Because of their bureaucratic nature, the baskets that are so popular among the donors are extremely ill-suited to what is currently needed in the field of democracy support in Kenya, namely speed, flexibility and not being afraid to take risks’.

However, some organisations use different mechanisms. The organisations that are the most valued by recipients and local stakeholders are OSI and Ford Foundation. This preference is largely due to their use

of knowledgeable Kenyan staff and a more flexible, 'risk-taking' approach when it comes to funding non-traditional organisations (e.g. Bunge Mwananchi). In addition, these organisations are also appreciated for their flexibility in reporting requirements and their support to new civil society coalitions and networks.

Factors that have weakened the impact of democracy assistance

Lack of political will: There was an overwhelming feeling among interviewees that 'democratic governance has never received much support from the government. The biggest challenge in Kenya is the lack of political will. There is only lip-service [...] no genuine commitment'. Reform cannot be speeded up and, as one interviewee stated, 'it is very difficult to identify where change will come from. Our government is a network; individual change agents cannot do much by themselves as corruption is so ingrained'. Corruption is perceived as an incurable disease as 'everybody has something on everybody. As people are afraid that if they touch one person, the situation will escalate, nothing is being done. The result is political deadlock'. There is also a lack of political will among donors as 'because of the high level of regional instability and the ongoing war in Somalia, "keeping Kenya stable" is seen as a main security priority by most international actors based in Nairobi. Donors therefore feel they cannot push the government too hard as this might alienate their Kenyan partners'.

Failure by international actors to optimise political influence: Many interviewees were pessimistic about the amount of influence donors could have in pressing for reforms. 'The government of Kenya does not give a damn about what donors think and want, so frankly the leverage that donors have is very limited. Also, it has proven difficult to make civil society effective in its role to hold the government accountable'. On the other hand, the one thing that has influenced the Kenyan government a little is the mediation by Kofi Annan. At any rate, the government has reacted positively to the tactful approach taken by Annan during the post-election crisis last year. Much of what he does is behind-the-scenes diplomacy. Kenyans in general respected him for this and were motivated by his intervention. This stands in sharp contrast to the impact of most donor agency activities, which the majority of Kenyans are often not aware of, raising serious questions about the appropriate mode of engagement. One critical observer argued that:

'Just issuing critical press statements and threatening to cut aid [as some ambassadors like to do] has little effect on the government. Instead, issuing targeted travel bans to senior officials is much more effective. Also, donors should invest much more effort in improving their engagement and communication with ordinary Kenyans and make clear to them that they are paying for their smooth roads so that when international agency representatives speak out, Kenyans can somehow relate to them'.

Because of this lack of effective communication the promise by the UK government to investigate financial holdings and other assets of rich Kenyans in the UK – a crucial step in anti-corruption reforms – 'just didn't resonate with the Kenyan public. This could have been "sold" much more effectively'.

In the opinion of one interviewee, donors' limited influence with the government is partly due to their own shortcomings, including poor recruitment by donor agencies of either civil servants or contractors who implement their respective democracy assistance programs:²⁴

'The frustration of donors in Kenya with certain programmes, such as GJLOS, largely stems from ignorance about how governance in Africa works. Although all donors will say that institutional and behavioural change takes time, most of them show surprisingly little respect for the practical implications of this. When a new administration arrived in 2002, all of them believed change would come quickly and ignored the long history and struggle between reformists and anti-reformists. In fact what was taking place in 2002 was not a transition; it was part of political evolution. Even though conditions were much better than they had ever been, they were not yet ready for a real transition. Despite the sackings [of 60 per cent of the senior judges and other officials], the reformers were still vastly outnumbered by the anti-reformers, especially within Kenya's largely conservative civil service'.

²⁴ According to one long-time Kenya observer, few donor agencies except for USAID, DfID and the Ford Foundation recruit social scientists with a knowledge about these countries. Most rely on civil servants who are often economists and others for whom an understanding of politics has not been necessary to date.

In addition, crucial opportunities seem to have been missed. At the end of the first Kibaki administration (2006/07) the international community, according to one interviewee:

[...] actually underestimated its influence. It only focused on the slow pace of reforms within its aid remit. International actors ignored other crucial aspects of international engagement, such as international trade and tourism, which were having a major impact on the Kenyan economy. Somewhat paradoxically, Kenyan politicians overestimated the influence of the international community and, feeling that Kibaki was being treated with disdain, started a PR offensive about the government's performance. As a result, soon everyone was playing poker and bluffing. What I am trying to say is that aid is not always the most effective instrument and that other, broader issues also matter. To me it is clear that Kenyan politicians are sensitive to criticism and pressure, but [it needs to be done in a certain way].

A weakened and unfocused civil society: During the 1990s the mood of civil society was confrontational and aimed at combating the authoritarian Moi regime. When the Kibaki administration arrived, the government appeared to be interested in reforms and co-opted several prominent civil society leaders into working with them. With its enemy largely gone, civil society suddenly had to re-adjust its method of engagement. In addition, the departure of civil society leaders to government posts and parliament left many CSOs with a serious lack of skilled leadership. There is a sense that civil society has 'run out of steam' and is lacking focus. Although many NGOs have become more professional and better organised, civil society as a countervailing force to the power of the state has not become stronger. Reasons cited by many include the lack of a 'common enemy' (in contrast to the 1990s during the Moi regime), an ostensibly reform-minded government and increasing ethnic polarisation. But also, as one interviewee complained, because of a 'brain drain': 'Development partners are the biggest poachers of high-quality CSO staff; government comes second'. Finally, many CSOs have become much more professional in their organisation, the downside of this being greater bureaucratisation, and less grassroots activism. The result of all this is that 'the critical voice of civil society became quiet for some time, as many organisations no longer felt the need – and nor probably did they have the capacity, or else they were too divided – to come out on the streets'.

Different approaches to and understandings of democratic reform: A final challenge to democracy assistance is the tension between Kenyans' concept of democratic reform and that of donors, as one long-time civil society activist explains:

'In the 1990s we believed constitutional reform was the most crucial issue in the struggle for democracy. Most donors did not recognise this and also did not agree with our methods of demonstrations to challenge the government on this issue. The same thing is happening again now. There are a small number of Kenyan civil society activists that see the need for a different, more activist approach. Yet, in many NGOs and among donors there seems to be a degree of "intellectual laziness"; people keep coming up with the same ideas and methods: writing reports, organising workshops, etc. Innovative ideas [such as] documentaries, use of the media, and mobilising people via the internet or SMS are met with scepticism'.²⁵

This difference in views is also visible when it comes to governance reform:

'For donors, reform means a new way of doing things. For them it is about a change in behaviour, attitudes and values. This contrasts with the way in which many Kenyan government officials will define reform. In their view it is mainly about improving efficiency, by trying to reduce petty corruption, for example, but without tackling grand corruption. For many government agencies reform stands for modernisation, which is why they see spending on computers, offices and vehicles as an entirely legitimate part of the reform process'.

All these factors combined make democratisation in a place like Kenya a tortuous, politically charged process

²⁵ By contrast, others indicate that Kenya has recently become 'a model for innovation, particularly when it comes to the use of information technology in areas such as election observation and violence monitoring'.

which moves at an extremely slow pace.

Coordination, conditionality and other aid instruments

The coordination of the large number of activities and initiatives by international agencies in Kenya is a complex affair and takes place in different forums and at different levels. The most ambitious initiative in this regard is the Harmonisation, Alignment and Coordination donor group (HAC) established in Kenya in 2004 in response to the Paris Declaration. This group was set up as part of the Donor Coordination Group (DCG), to streamline donor coordination and now comprises 17 donor agencies. One of the sectoral coordination groups, the monthly Democratic Governance Donor Group (DGDG), is intended to 'promote coordinated technical support and policy dialogue on strategic sectoral issues with the executive, legislative and judicial branches of government, civil society and media', and is seen as the technical-level coordination body for governance aid specialists of the various donor agencies.²⁶ DGDG – in existence since 1992 – now comprises seven thematic sub-sector groups, focusing on: public finance development; Governance, Justice, Law and Order (GJLOS); elections; National Civic Education Programme (NCEP); parliamentary strengthening; gender and governance; and civil society and media.

A different type of coordination takes place at the level of the EU in the form of regular political coordination meetings between the Nairobi-based political counsellors of EU member states as well as between the various EU heads of mission. According to one observer, 'Reaching agreement among all of the 19 locally represented EU member states is not always easy, with the northern EU member states being much more active and critical towards the government than the southern EU member states'. In practice, much of the political coordination takes place through the Like Minded Donors-Politics (LiMiD-P) group, which includes not only most of the northern EU member states (Denmark, Finland, Sweden, Germany, the Netherlands, the UK), but also Norway, Switzerland, the US and Canada.

The effectiveness of the various types of coordination is difficult to measure. With regard to the technical-level DGDG coordination, views were somewhat mixed. Although most of the international staff interviewed for this study indicated that they were pleased overall with the degree and quality of information-sharing, some felt there were 'still too many overlapping projects and baskets' and criticised certain donor agencies (particularly the World Bank) for 'not attending meetings or sharing information'. USAID and CIDA were other agencies that were singled out for their strict financial regulations that make it difficult to coordinate with them. Finally, it was mentioned that coordination tends to be a priority only on key areas or during certain periods, for example the elections.

Interviewees were slightly more positive about political coordination. The relatively unified international response to the post-election crisis was cited most often in this regard. January and February 2008 saw a flurry of activities within the diplomatic community, including statements from most bilateral and multilateral missions to condemn the violence, and support the work of the Panel of Eminent African Personalities, consisting of Tanzanian president, Benjamin Mkapa, women and child rights advocate Graça Machel and former UN Secretary-General Kofi Annan. The African composition of this panel was widely seen as a crucial success factor. According to one observer, 'it not only raised the level of acceptability [among the Kenyan parties] but also made the negotiations much easier'. Recognising the value of the African-led initiative, 'donors therefore stood behind the efforts of the panel and were quick to fund its secretariat'.

Other initiatives after the crisis included public statements as well as visits by the EU High Representative, Javier Solana, and the EU Commissioner for Development and Humanitarian Aid in Brussels as well as the French presidency (Chair of the European Union in the first half of 2008). But, according to one observer, what 'probably helped most at that time was the strong pressure from [former US Secretary of State] Condoleezza Rice'. Her strongly worded statements around the time of the election crisis as well as more recently, by President Barack Obama, put real pressure on Kenya's top politicians to respect the commitments made during the 2008 National Dialogue and Reconciliation process.

Coordination among EU member states worked well in 2008 under the French presidency, which chaired

²⁶ 'Terms of Reference for the Democratic Governance Donor Group (DGDG)', unpublished document.

the EC during the whole year – with Slovenia, the EU chair for the second half of 2008 – not represented in Kenya. One observer said that ‘the EU did have indirect influence, despite the fact that it was not directly involved in the negotiations themselves. For example, we actively supported the work of Kofi Annan’s team by issuing statements from the EC in Brussels and the European Parliament in Strasbourg.’ In contrast, the Czech EU presidency was considered less successful in Kenya, primarily because, in the view of several observers, ‘they did not seem to have a clue what was going on.’ When Sweden took up the EU presidency in the second half of 2009, the expectation was that ‘most of the EU coordination will probably go through the LiMiD-P mechanism and will also focus more on human rights issues, perhaps less on political issues.’

At the time of writing, 18 months after the post-election crisis, coordinated political pressure from the various international actors continues to be strong, although differences in approach are slowly becoming more visible. The multilaterals (especially the World Bank and the IMF) and some bilateral donors (such as Japan) seem to have gone back to a ‘business as usual’ approach. The Scandinavian countries, the Netherlands and others still seem to prefer ‘quiet diplomacy’, consisting of a subtle, behind-the-scenes approach to exerting influence which stands in sharp contrast to the often publicly critical statements by the German and US ambassadors, described by some as ‘bull-horn diplomacy.’ According to some interviewees this difference in approach can have a negative impact on political and technical-level coordination. Worse still, if political pressure is too public, it could lead to retaliatory measures against pro-democracy activists. In the words of one interviewee:

‘Currently, the government actively discourages activism. We know that there are between 30 and 40 Kenyans whose life is in danger, because they have certain incriminating evidence against powerful politicians. We are trying to support but also protect these people. We are also careful not to back them too openly and forcefully or to push them to speak out too vocally. Doing so would quite literally mean “the kiss of death” for some of these people. We therefore do not agree with the approach of the US and German ambassadors who speak out very critically at every occasion and often only communicate through the media. We do not believe this is helpful and does more damage than good. Why? Because they directly interfere in the domestic power struggle between reforming and conservative forces and thereby become an actor in this dynamic. This does not mean that that we shouldn’t exert pressure publicly. [...] But we should try to present our criticism in a more balanced way [...]’.

Because international aid represents only a relatively small percentage of Kenya’s national budget (estimates range between 5–7 and 10–12 per cent), the potential leverage of aid conditionality is seen as limited.²⁷ Given the limited government response to the periodic suspensions of aid over the past ten years, most of the local stakeholders interviewed for this study feel that aid conditionality is no longer an effective instrument to stimulate governance reform. In addition, many bilateral agencies are reluctant to cut aid, for fear of losing whatever contact there is with the government. This is confirmed by one donor agency: ‘If we cut aid, we lose the few remaining dialogue partners in the government. Access to Kibaki has already become minimal, and nowadays probably only the UK and US can still reach him’. Another representative of a bilateral donor said:

‘We have done both, invested in personal as well as systematic change, and we recognized that change would be incremental. As donors we fully supported the difficult reform process. As bilaterals we need a governmental dialogue partner, that’s why we continue to engage the government. But this government is so fragile, so the effect of our instruments is limited. Moreover, in the end it is a Kenyan problem and we can only do so much. Kenya cannot be bullied or forced into change’.

Key sectors of international democracy assistance

As indicated above, international actors have funded a broad range of programmes, activities and initiatives to support the process of democratisation in Kenya. Some of these programmes have been more successful than others. The section below describes the dynamics and outcomes of three major areas of international democracy support: governance reform; parliamentary and political party strengthening; and civic education.

²⁷ Before the 2008 crisis ODA accounted for 5–7 per cent of the national budget. Since then it is put slightly higher at 10–12 per cent as a result of the sharp drop in tourism revenues as well as the negative effects of the global economic crisis on the Kenyan economy.

Governance, Justice, Law and Order Sector (GJLOS) reform programme

The GJLOS programme has been billed as ‘one of the most ambitious governance reform programmes ever tried in Africa’ and is supported by a substantial donor basket fund of approximately EUR 44 million. It brings together more than 32 Kenyan government institutions (ministries as well as departments, ranging from the Administrative Police to the Judicial Service Commission), more than 5 semi-autonomous government agencies (such as the Kenya Anti-Corruption Commission and the KNCHR), a large number of non-state actors (covering civil society and private sector), and 15 international development agencies. The core aim of GJLOS is to improve the functioning of the ‘chain of justice’ in six so-called key results areas: responsive and enforceable policy, law and regulation; improved service delivery; reduction of corruption-related impunity; improved access to justice, especially for the poor, marginalised and vulnerable; a more informed and participative citizenry and non-state actors; and an effective management of the GJLOS reform programme.²⁸

The Ministry of Justice and Constitutional Affairs (MoJCA) was selected as the overall coordinating body for the GJLOS programme. Based on a sector-wide approach, the programme had an innovative design and reflected the latest thinking about a network of reform. According to one donor representative, ‘in the beginning it worked very well; thematically and organisationally there was a lot more coordination than there had ever been. Before GJLOS most of the government departments had been working as ‘silos’ and hardly communicated’. As part of the programme, there were different inter-agency mechanisms to stimulate consultation and coordination between the participating government agencies, donors and civil society actors. In addition, there were several periodic reviews, executed by both internal and external evaluation bodies.

However, despite its innovative design the GJLOS programme soon ran into problems. As one interviewee recounted, ‘[with the arrival of the new Kibaki administration] donors thought there was an opportunity for change and wanted to push reforms from both angles, i.e. from civil society as well as the government. At first there was clear momentum and we had almost weekly GJLOS meetings. But it soon proved that government reforms were not forthcoming’. Most donor agencies held the view that the problem with GJLOS was quite clearly the lack of political will within the various government agencies. In the words of one: ‘There was no problem with the design of the programme. We actually went in with a realistic results framework, we had put a lot of effort into establishing good indicators and there was a lot of trust between us and the government. So most of us felt something like “let’s see how it goes”. But unfortunately, some within the government let us down’. Another donor representative put it more bluntly:

‘Some good things have happened such as in the area of prison reform, but the majority of reforms have been cosmetic. Of the EUR 20 million that has been disbursed already a large portion has gone to furnishings of offices, cars, workshops, visits abroad, etc. Initially, when these practices came to light we kept believing in the possibility of reform [...]. We assumed that Kenyan politicians also had an interest in democratisation and reform. However, we were wrong. Sure, during workshops and meetings they all talked the right language, exactly the jargon we as donors wanted to hear. In doing so, they kept up the image that they were interested in democratic reform. Unfortunately, however, their practices showed otherwise’.

However, many civil society representatives and government officials interviewed for this study disagreed with this view. According to one, ‘the expectations of donors were wildly optimistic from the start. Donors should not have been so excited; instead of showing “guarded optimism” (as some donors said they did), they actually showed full optimism. They did not put in place any safeguards’. Others felt that the institutional base and implementation of GJLOS had clear problems as ‘at first, it was coordinated by a South African and the government felt the programme was being imposed on them’ but that ‘the situation improved when the management was taken over by Kenyans’. Another argued that the ‘most problematic issue is that donors had little regard for the political circumstances [...]. The original design of the programme assumed that there was a united government. However, after one year the government was already divided. When conditions

²⁸ http://www.justice.go.ke/index.php?option=com_content&task=view&id=35&Itemid=52.

changed, donors should have gone back to the drawing board, analysed what it meant for reforms, and adjusted their planning. But instead they keep referring to the “good old plan” and lament that it is not being realised’.

When in mid-2009, the donor agencies remaining in the GJLOS basket (DFID and CIDA had already left in 2006) indicated they wanted to discontinue the programme (and requested return of the money not yet spent), reactions were similarly mixed. For most civil society actors the donors’ refusal to continue with the GJLOS programme was seen as a vindication of their view that ‘the government cannot be trusted and the reform process is dead.’ However, other civil society actors and most government officials indicate that the need for reforms continues to exist, but requires a different approach, suggesting that ‘instead of just pulling out, donors could also make a review of what went wrong and what, given the difficult conditions, can still be done. There are still niches where positive things can be done.’ Despite the recognition by senior NGO staff that the new Kibaki government showed a much greater commitment to reform and was relatively open towards civil society, most of the civil society representatives interviewed for this study expressed their scepticism about GJLOS. Many stated they had warned the donors ‘not to put all their eggs in the government “basket”,’ given the ‘historical lesson’ that ‘in Kenya the real power in government lies with anti-reformist hardliners, who cannot be trusted’.

Strengthening of Parliament and political parties

Another important, but in monetary terms much smaller, area of democracy assistance is the technical support aimed at strengthening Parliament and political parties. This type of aid – often regarded as two separate activities – is provided by only a handful of specialised agencies, including the Center for International Development of the State University of New York (SUNY), the Association of European Parliamentarians for Africa (AWEPA), the Netherlands Institute for Multiparty Democracy (NIMD), the National Democratic Institute (NDI) and the International Republican Institute (IRI).

The main project focusing on the Kenyan Assembly is the State University of New York’s Parliamentary Strengthening Program, which is funded by USAID with an annual grant of USD 1.5 million and DFID with a three-year grant of GBP 1.2 million. It was started in 2000 after the adoption of the Parliamentary Service Act, which guaranteed the independent and autonomous status of parliament vis-à-vis the government. The programme was established to ‘strengthen the institutional capacity of the Kenyan National Assembly to enable it to more effectively fulfil its constitutional mandate of lawmaking, constituent representation and oversight of the executive branch’.²⁹ In the beginning the programme faced serious problems. According to one interviewee, ‘in the first few years they tried to manage the programme with several American project directors, who failed spectacularly. Then they brought in someone else, which also didn’t work. It was not until a Kenyan with good political connections and a clear vision was allowed to direct the programme that it became a success’. However, another interviewee indicated it had more to do with the difficult working relationship between the expatriate project directors and the then speaker “who was dead set against any genuine donor support for parliament (as distinct from computers or study tours for MPs)”... Other challenges highlighted included ‘the absence of parliamentary work plans, poorly staffed committees, a limited number of champions for reform as well as a problematic working relationship with the Speaker [of Parliament]’. However, according to observers, as well as people directly involved in the programme, the Parliamentary Strengthening Program has gradually become more locally owned and more targeted at solving practical problems. Not until a significant number of Kenyan MPs themselves started developing their own strategic plan for parliament in 2004 did the program achieve some traction. Since then the program has focused heavily on strengthening the committee system and has arguably achieved much with respect to about one third of the committees. The ‘solution-focused, creative, and above all respectful advisory instead of prescriptive approach’ is seen as one of the key reasons for this reasonable rate of success. The fact that some reform-minded MPs have bought into this approach is another important reason. However, the real impact of these types of assistance programmes remains in dispute. Whereas some claim that international support has ‘helped in making our parliament stronger,’ others argue that ‘our parliament is now able to assert itself and has developed a lot, but not because of donor support’.

²⁹ Center for International Development SUNY-Kenya, ‘Parliamentary Strengthening Program: 2005–2009 Program Activities’.

There have been a number of international initiatives aiming to strengthen political parties. With funds from USAID and the National Endowment for Democracy (NED), NDI and IRI have strongly focused on building the organisational, parliamentary and election campaign capacities of the main political parties in Kenya. IRI, for example, has worked with political party caucuses to review their performances in the 2007 elections, provided technical assistance for the development of new legislative agendas and training for young, female and Muslim MPs on parliamentary procedure, communications, lobbying and leadership. More recently, it has concentrated on opinion polling. NDI has concentrated on organisational training of party secretariats and the development of party policies, manifestos and constitutions (at national level) as well as the development of organisational structures and communication between HQ and the various branches (at local and regional level, for example through Inter-Party Provincial Committees; IPPCs).³⁰

Another actor in this field is the Centre for Multiparty Democracy-Kenya (CMD-K), which was established in 2004 by 16 major Kenyan political parties with financial and technical support from the NIMD. The CMD-K has an annual budget of approximately EUR 1.2 million – almost half of which comes from the same NIMD – to strengthen Kenya's multiparty system, to help institutionalise political parties and to improve relations between political and civil society.³¹ Until 2008, the NIMD was the only organisation that provided direct bilateral support to political parties (through the CMD-K) for organisational capacity-building purposes. At the same time, the NIMD has also resolutely supported efforts to introduce public funding for political parties in order to stimulate greater transparency and accountability in the political arena. This contributed to the adoption of the Political Parties Act in July 2008. As political parties in Kenya since then receive public funding – and are not allowed by law to receive direct financial support from foreign-based institutions – the NIMD has stopped its bilateral funding. However, the NIMD has continued to support the CMD-K and Kenyan political parties on the implementation of the Act and the strengthening of the party system. The CMD-K itself is now focusing mainly on the promotion of cross-party dialogue as well as facilitating discussions on constitutional reform and providing substantive input to that process. Thanks to its multiparty composition and its proactive and widely respected Kenyan director – and despite high risks to its staff, including death threats – the CMD-K played an important mediating role during the 2008 post-election crisis not just between the main political parties, but also in ensuring civil society participation in the discussions around the National Accord. Nevertheless, despite its achievements, the CMD-K has found it difficult to diversify its sources of income. Most donor agencies remain reluctant to fund its politically sensitive party strengthening activities and its organisational costs.

Other challenges in this area of democracy assistance include: the low level of institutionalisation of political parties; the tendency of most donors to focus on elections rather than on the electoral process or electoral actors; the prevalence of factions and shifting alliances among political parties; and the current political deadlock between the main parties. These factors make it difficult for assistance agencies to find good reform counterparts within Kenyan parties and promote real dialogue on issues of substance.

Civic education

The last major area of donor involvement is civic education. By far the largest programme in this area is the National Civic Education Programme (NCEP), which has been around since the early 1990s and has been an important element of international civil society support for the creation of a better election environment. In its more recent second phase, the NCEP has become better known by its Swahili name 'Uraia' (citizenship). Uraia focuses on the building of nationhood, democracy, good governance, constitutionalism and human rights, and has three universal, cross-cutting issues, namely gender, environment and HIV/AIDS. Funded through a basket fund supported by ten donors, Uraia has a complex programme-management structure comprising a technical assistance team (TAT) supported by a financial management firm (KPMG), four (secular and faith-based) coordinating consortia and 43 implementing civil society organisations. Between 2006 and 2007 Uraia organised 'some 79,000 discrete workshops, poetry or drama events, informal meetings, cultural gatherings, and other public events, as well as extensive programming on democracy, governance, and rights-related topics through television, radio and other mass media outlets. Documents

³⁰ <http://www.iri.org/>; <http://www.ndi.org/>; and the NED Democracy Projects Database, <http://geniehost25.inmagic.com/dbtw-wpd/projects-search.htm>.

³¹ NIMD, 'Annual report 2007', available at: <http://www.nimd.org/>.

indicate that some 10 million individuals were trained in some form or another in face-to-face civic education activities'. According to one recent evaluation report, Uraia 'improved the capacity [of CSOs] through financial management training and the establishment and improvement of management structures'. At the same time, however, 'partnerships seem not to have developed between CSOs and the media, despite the fact that there is a working relationship that is emerging in some instances.' Regarding the overall impact of the programme, it was reported that 'NCEP-II Uraia was a relatively effective long-term agent of political empowerment, but a relatively ineffective long-term agent for value and issue advocacy', especially on the above-mentioned universal issues.³²

After the post-2008 election crisis, a significant part of Uraia funds were diverted to the National Response Initiative (NRI). The NRI was originally set up as a six-month framework to coordinate the donor-supported civil society response to the post-election crisis. In a short period of time it received over 100 proposals from different civil society organisations to work on a broad range of peace-building activities. However, owing to regulatory and financial management requirements, the initiative was unable to respond quickly. In some cases it took almost a year for the initiative to transfer funds to the recipient CSO. In the eyes of several local stakeholders interviewed for this study, the NRI was a prime example of the inability of large basket fund programmes to respond quickly to new situations and opportunities.

Conclusion

On the basis of the above analysis we can draw a number of conclusions. First, it has become clear that there have been marked fluctuations in the level of critical engagement and assistance on the part of the international community, which have given mixed signals to consecutive Kenyan governments about the international commitment to democracy promotion. The combination of strong political pressure on the Moi government, and financial support and backing for democracy activists and politically oriented civil society actors was critical in fostering the democratic opening of Kenya's authoritarian political system in 2002. However, the subsequent shift towards government-oriented reforms under the GJLOS programme and the simultaneous perceived disengagement from civil society reduced the reform pressure on the new Kibaki administration. Unfortunately, it seems that many donors have overestimated the domestic political will to reform.

Second, the majority of people interviewed for this study emphasised that international democracy programmes have concentrated almost exclusively on Nairobi-based elites and NGOs. The availability of considerable sums for democracy and governance assistance has led to a proliferation of governance NGOs, training workshops and seminars attended mainly by well-paid professionals but not by representatives of mass-based organisations such as churches, women's groups, student movements, trade unions, associations of teachers and other public workers. Many feel that by focusing on capital-based and elite-oriented NGOs, international donor agencies have missed important opportunities to strengthen the voice of those organisations that – because of their large memberships – have a far greater reach and potential political clout.

Finally, the evidence from this study indicates that current aid modalities and organisational structures of aid agencies are ill-suited to the deeply political and high-risk nature of promoting democracy in Kenya. What is seen as particularly problematic in this regard are the negative side effects of the aid effectiveness agenda towards harmonisation of aid programmes and basket funding. Although the advantages of harmonisation (coordination and clarification of procedures) are recognised and appreciated, local stakeholders claim that in practice the harmonisation of policies and procedures mainly benefits donor agencies and their agenda. The use of basket funding, for example, lowers the transaction costs for individual donor agencies, enables the design of more comprehensive and better coordinated aid programmes. But to ensure that the large sums of pooled funding are spent in an accountable and transparent manner most donor agencies subsequently attach stringent accounting and reporting requirements to their contributions – to satisfy the demands of

³² Stephen Orvis, Richard Bosire and Nicolas Van de Walle, 'National Civic Education Programme II. Final Report' (Washington DC: Management Systems International, 2009), p. iv; and Steven E. Finkel and Jeremy Horowitz 'The Impact of the Second National Kenya Civic Education Programme (NCEP II-URAIA) on Democratic Attitudes, Values and Behavior. Draft Report' (Washington DC: Management Systems International, 2009), pp. iii–iv.

their own parliaments and constituencies back home. The financial management of basket funds then takes precedence over the more important content-related matters and becomes an extremely complex affair. Staff recruited for this job often have a lot of experience in project management but they do not always fully appreciate or understand Kenya's political and economic situation. Although this strong focus on financial reporting can reduce the misappropriation of funds and indirectly help build CSO financial management capacity, the net result is an increase in bureaucratic procedures and a reduction in flexibility and attention to content; at least, this is the experience of the majority of aid recipients and local stakeholders interviewed for this study.

In addition, the findings of this study point to a number of other conclusions:

- In contrast to other aid recipient countries and to the situation in the early 1990s, donor assistance nowadays only constitutes a small part of the Kenyan government's budget. However, the related limited political leverage of aid (or aid conditionality) on government policy and the speed of reforms has been insufficiently taken into account. While conditions on the ground have changed, donors have not always adjusted their policies accordingly. What now appears to be more effective is political pressure through statements by high-level international leaders. The threat of issuing travel bans targeting individual senior-level officials and ministers is widely considered as the most effective instrument in this regard;
- It is clear that aid has played a critical role in the emergence of a vibrant Kenyan civil society and remains indispensable for the survival of a large majority of civil society organisations, especially NGOs and charitable trusts;
- In contrast to multi-donor basket funds, financial support from private and political foundations is considered much more flexible, dynamic, responsive, quick, open to new ideas and innovation and able to maximise opportunities in a positive manner;
- According to several observers, 'there are still opportunities for positive change that need to be seized (the "windows of opportunities are closing but still there")'. What the international community is advised to do now is 'to swing behind the critical mass of people who can enable such change to take place. The demand side remains strong. Aid dependency in Kenya risks becoming self-perpetuating unless governance is improved'.

Other recommendations put forward by local stakeholders:

- Change should come from both directions: at government level, change agents who can 'stand up and be counted' must be identified; at the same time, there needs to be a lot of pressure from below. Donors can play a role in this, by supporting CSOs and putting pressure on the government, but they need to know where and when to apply pressure;
- Most local stakeholders agreed that 'there should be much more focus on non-traditional groups, i.e. community-based organisations and movements with large constituencies. However, the problem is always "how do you do it?" Of course, groups must be professional, accountable; but their work should also be cutting edge. In Nairobi, the pendulum has now swung too far in the direction of professionalisation. Many of the NGO staff could just as well be bankers or corporate managers. There are very few people that have the necessary commitment and "fire in their belly," that characterises real democracy activists';
- Another thing that could make a big difference in anti-corruption, for example, is if international actors started investigations into the assets and accounts held by Kenyans in their own countries. Efforts in this direction would probably be just as effective, if not more so, as pushing for reform within Kenya. Yet according to some, 'there are reasons why this is not happening, such as economic interests and cynicism, but also a lack of creativity among international agencies. This

type of action is just not seen as part of the 'standard recipe' of democracy assistance';

- There are only a few strong and credible politically oriented think tanks in Kenya that focus on democracy and governance issues and come up with good evidence based analysis. The institutional funding to make their work relevant to policy is often a problem;
- Related to this is the paucity of credible political-economic analyses that offer insight into how power relations are organised and how they can be changed. In order to design improved context-specific programmes, donors should have a clear 'theory of change' that is discussed and, where possible, formulated jointly with domestic stakeholders;
- Political parties, especially opposition parties, are being sidelined when it comes to decisions around long-term policy-making (PRSPs) and budgeting, which are often negotiated directly between ministries or even between the Ministry of Finance and donor agencies. There should be much more involvement of MPs in public decision-making and donors should insist that major decisions are always passed by Parliament; domestic accountability should precede international accountability.

Appendix: Country Report Methodology

Scope and aims of this report

This report assesses external democracy assistance in one country according to the views of local democracy stakeholders.

The report does not aspire to provide an exhaustive record of external democracy assistance to the country in question. Neither does it aspire to be a representative survey among local civil society at large. The scope of this project allows reports to provide only a rough sketch of external democracy assistance to the country assessed, and of the tendencies of local civil society activists' views on the latter.

Sample of interviews

The report's findings are based on a set of personal interviews that were carried out by the author between spring and autumn 2009.

For each country report, between 40 and 60 in-country interviews were carried out. The mix of interviewees aimed to include, on the one hand, the most important international donors (governmental and non-governmental, from a wide range of geographic origins), and on the other hand, a broad sample of local democracy stakeholders that included human rights defenders, democracy activists, journalists, lawyers, political party representatives, women's rights activists, union leaders and other stakeholders substantially engaged in the promotion of democratic values and practices in their country. Wherever possible, the sample of interviewees included representatives from both urban and rural communities and a selection of stakeholders from a broad range of sectors. While governmental stakeholders were included in many of the samples, the focus was on non-governmental actors. Both actual and potential recipients of external democracy support were interviewed.

Donors

The term 'donor' is here understood as including governmental and non-governmental external actors providing financial and/or technical assistance in the fields of democracy, human rights, governance and related fields. Among all the donors active in the country, authors approached those governmental and non-governmental donors with the strongest presence in this sector, or which were referred to by recipients as particularly relevant actors in this regard. An exhaustive audit of all the donors active in this field/country is not aspired to as this exceeds the scope of this study. While many donors were very open and collaborative in granting interviews and providing and confirming information, others did not reply to our request or were not available for an interview within the timeframe of this study. While we sought to reconfirm all major factual affirmations on donor activities with the donors in question, not all donors responded to our request.

We do not work to a narrow or rigid definition of 'democracy support', but rather reflect donors', foundations' and recipients' own views of what counts and does not count as democracy assistance. The fact that this is contentious is part of the issues discussed in each report.

Anonymity

External democracy assistance to local activists is a delicate matter in all the countries assessed under this project. It is part of the nature of external democracy assistance that local non-governmental recipients, especially when openly opposed to the ruling establishment, fear for their reputation and safety when providing information on external assistance received to any outlet that will make these remarks public. In a similar vein, many donor representatives critical of their own or other donors' programmes will fear personal consequences when these critical attitudes are made public on a personal basis. In the interest of gathering a maximum of useful information from our interviewees and safeguarding their privacy and, indeed, security, we have ensured that all interviewees who requested to remain anonymous on a personal and/or institutional basis have done so.

Interview methodology

In order to carry out field work, authors were provided with a detailed research template that specified 7 areas of focus:

1. A brief historical background and the state of democracy in the country;
2. A short overview of donor activities;
3. A general overview of local views on impact of democracy aid projects on the micro, meso and macro levels (including best practices and variations of the local and international understandings of the concept of 'democracy');
4. Local views on specific factors that have weakened the impact of democracy aid;
5. Local views on diplomatic back-up to aid programmes (including conditionality; diplomatic engagement; donor coordination; relevance, quality, quantity and implementation of programmes, etc);
6. An illustration of the above dynamics in one or two key sectors of support;
7. A conclusion outlining the main tendencies of local views on external democracy assistance.

Along these lines, semi-structured one-on-one interviews were carried out by the authors in the country between spring and autumn of 2009.

Key sectors of support

Transitions to democracy are highly complex political, economic and social processes. No study of this scope could aspire to fully justice to them, or to external assistance to these processes. Aware of the limitations of our approach, we have encouraged authors to let their general assessment of local views on external democracy support be followed by a closer, slightly more detailed assessment of the dynamics in one or two key sectors of support. These were chosen by the respective authors according to their estimated relevance (positively or negatively) in the current democracy assistance panorama. In none of the cases does the choice of the illustrative key sectors suggest that there may not be other sectors that are equally important.