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POSITION PAPER ON THE IMPACT OF DECENTRALIZED FUNDS IN KENYA

The Institute of Certified Public Accountants of Kenya – September 2014
THE IMPACT OF DECENTRALIZED FUNDS TO ECONOMIC GROWTH AND DEVELOPMENT

Background Information

Fiscal decentralization consists primarily of devolving revenue sources and expenditure functions to lower tiers of government. By bringing the government closer to the people, fiscal decentralization is expected to boost public sector efficiency, as well as accountability and transparency in service delivery and policy-making.

Decentralization also entails greater complexity in intergovernmental fiscal relations. Coordination failures in fiscal relations are likely to have a bearing on the fiscal positions, nationally and sub nationally.

During the 1990s, fiscal decentralization programmes became the most widespread trends for development in Africa and developing countries. However, many of these initiatives have made only modest progress toward meeting their stated goals. Given this uneven performance, there has been extensive debate about the desirability of fiscal decentralization and how to approach it.

Proponents of decentralization argue that it improves governance and local public service provision in several ways. First, proximity to the citizens provides better understanding of their needs and hence improves efficiency of resource allocation. Secondly, it promotes accountability through provision of information to local residents. Thirdly, it reduces corruption in national government by distributing authority over public goods and services to different actors who provide checks on each other. Fourthly, it improves cost recovery by increasing the willingness of service consumers to pay for the services as they match their preferences. Fifthly, by enhancing the voice of citizens in decision making processes, decentralization can facilitate equitable distribution of services especially to marginalized and poor communities (Muriu 2013).

Decentralists draw on liberal democratic principles of the state to link decentralization to the promotion of social and economic development at the grassroots. They advocate strengthening of national economic systems as a requirement to meet basic needs of livelihood rather than strengthening the health of the political system. Most of these researchers and practitioners identify greater accountability and responsiveness of state institutions to the public, good leadership with good policies, reduction in the rate of official corruption through local

1 See http://opus.kobv.de/ubp/volltexte/2013/6508/pdf/master_muriu.pdf
participation; and the creation of political space at the local level for civic engagement as among
the main benefits of decentralization.

Opponents of decentralization on the other hand offer arguments to counter almost all the
positive assumptions made by supporters of decentralization. They often prefer strict limits to
decentralization in order to maintain tight control over fiscal discipline, the types of investments
and the regional distribution of investment.

With reference to African experiences, it is said that decentralization programmes have failed to
solve the political, economic and institutional problems of African development. Turner (1999)
summarized the adverse effects of decentralization to include: parochialism; inadequate funding;
maintenance of central control; capture of benefit by local elites; poor managerial and technical
capacity; failure to adjust supply-driven practices; insufficient information institutional rigidity;
the absence of civil society; attitudes of officials and unpopularity.

Secondly, critics see decentralization as an affront to democracy. Because it appears parochial,
separatist, anti-egalitarian, a threat to national unity, reinforces narrow sectional interests and
promotes exploitation of local power to the advantage of a few dominant groups (Smith, 1985).
Norris (1983, p.57) in a study of decentralization in Sudan pointed out that Sudanese politics is
the politics of the elite.

Predictably, local government, outside the few major urban centres, became subject to the
dominance and total control of traditional elites, leading to the accusation that local government
was no more than 'native administration' in a modern disguise. This means that decentralization
in African countries have not resulted in empowerment of local communities, mostly it tended
rather to concentrate power in the hands of an individual or a single tribal group. The promise of
participation and accountability is completely lost to the masses of the population. Substantiating
this point, Lavinge Delville (1999, cited in Ninjehuis 2003) in a study on Mali finds that
devolving power to existing local authorities can run contrary to democratic, accountable and
transparent management. Decentralization is seen as a chance to strengthening the power of
locally based traditional rulers over the village territory (Nijenhuis, 2003, p.71).

Apart from concentrating power in the hands of few local elites, local power structures are likely
to influence the way in which participation of the poor and the disadvantaged is organised.
Newly decentralized bodies can be manipulated by any one group or individual at the cost of the
community. Thus, benefits such as consultation would not be necessarily empowering the
people. An evaluation study of social funds in Jamaica, Malawi, Nicaragua and Zambia by the
World Bank (2003) reveals that the process was dominated by prime movers. Therefore
contrary to the good objectives of decentralization to empower and mobilise the poor in
development efforts, we see in practice that many such programmes, especially in Africa (e.g.
Uganda, Tanzania, Ghana, Gambia, Nigeria, Botswana, Zambia, Kenya, Zimbabwe and Sudan) have simply provided yet more resources and power to be commandeered by already powerful elites and propertied interest (Smith 1985; 1990). In short, decentralization has the tendency to make local government vulnerable to the control of locally dominants groups (Collins and Green 1994, p. 465) especially political elites control over the decentralized bodies, thus defeating the democratic argument of the decentralists.

Critics of decentralization further note that if we drop the assumption of a benevolent state, then the benefits of reasonably dispersing political power and social equity and social harmony that underpin theories of liberal democracy are likely to be eroded. In such a situation decentralization has the propensity to destabilize the nation either by encouraging the appetite of certain regions and ethnic groups for autonomy or it may encourage wealthier regions to operate as self-sufficient territories to the disadvantage of poorer regions. In other words, decentralization has the potential to intensify secession tendencies leading to political instability.

This paper examines the practice of fiscal decentralization in Kenya. First, it considers various fiscal decentralization programmes their enabling statutes and funds. Second, it assesses their impact to the society and some of the challenges that have hindered the realization of fiscal decentralization programmes. The paper concludes with recommendations on how to design the programmes effectively and make them realize their intended objectives for economic development and in tandem with the constitutional provisions.

Rationale for Fiscal Decentralization in Kenya

Decentralization initiatives 1963-2010

In Kenya, decentralization started as early as 1963. The Majimbo Constitution provided for devolution of Government to regional assemblies in the context a bicameral, Westminster-type Parliament with a Senate and National Assembly. Several other decentralization programs have been instituted since independence to combat growing regional disparities. These include the Special Rural Development Program (1972), The District Focus for Rural Development (DFRD) in 1983, and Regional Development Authorities (RDA's).

However, it is from Mid-90s, that the government introduced numerous decentralized initiatives, namely the Constituency Development Fund (CDF) and Local Authorities Transfer Fund (LATF), Poverty Eradication Fund (PEF) and Women Enterprise Fund (WEF) among many others in bid to decentralize decision making and participatory governance.

Currently, the government of Kenya has set up several funds aimed at serving specific functions including easier access to public services. These funds are created through either the government

There are various objectives for the establishment of these funds including but not limited to:

i) Most of the funds are aimed at bringing public services closer to the people;

ii) improving service delivery through addressing developmental needs and inequalities;

iii) enhancing decision making at the grass root on development initiatives and improving community involvement in meeting their development needs;

iv) Some may also exist to Fund Accounts may also exist to protect some important programs from budget cuts or other short term considerations in the context of the annual budget cycle.

**Devolution - post 2010**

Kenyans adopted this form of governance as a means to improved service delivery and accountability in the utilization of public resources. In 2010, Kenyans voted overwhelmingly for the current Constitution that ushered in a devolved system of government. This system devolves political and administrative powers to the counties. Article 174 of the Constitution provides the objectives of devolution as follows:

a) To promote democratic and accountable exercise of power;

b) To foster national unity by recognizing diversity;

c) To give powers of self-governance to the people and enhance the participation of the people in the exercise of the power of the State and in making decisions affecting them;

d) To recognize the right of communities to manage their own affairs and to further their development;

e) To protect and promote the interests and rights of minorities and marginalized communities;

f) To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;

g) To ensure equitable sharing of national and local resources throughout Kenya;
h) To facilitate the decentralization of State organs, their functions and services, from the capital of Kenya; and

i) To enhance checks and balances and the separation of powers.

Schedule 4 of the Constitution delineates agriculture, health services, water, county planning and development among others as functions that shall be undertaken by county governments.

**Ward Development Fund? (New Debate)**

However, with devolution, the County Assemblies are also demanding for the establishment of Ward Development Funds\(^2\) at the ward level to facilitate local access to development. The fund, modeled like the Constituencies Development Fund (CDF), is aimed at facilitating development of projects falling within the functions of the county government as contemplated under Part 2 of the Fourth Schedule to the Constitution. In addition, the projects must be community based in order to ensure that the prospective benefits are available to a widespread cross-section of the inhabitants of a particular area.

However, this move is bound to undermine the principle of separation of powers, especially, if the Members of County Assemblies (MCAs) who held legislative and oversight powers are granted executive roles in implementation of development projects.

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**Impact of Decentralized Funds on Economic Growth and Development**

Some studies have indicated a significant impact of decentralized funds to development in Kenya. For Instance, Bagaka (2008) noted that through the CDF funds, many schools have been built and equipped. This has aided the government’s policy of providing free primary school education. In the health sector, many hospitals, dispensaries, maternity wings within existing health facilities and clinics have been built in record time. This has helped decongest larger district level hospitals. Additionally, the CDF has helped crime prone areas to construct police

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posts which the central government has been quick to bring into operation to reaffirm its commitment to public safety\(^3\).

However, a look at the implementation of CDF in recent years reveals a mismatch between the local nature of capital expenditure decisions and financing for the operations and maintenance of such projects with local benefits\(^4\).

Several other studies have indicated that, though the government has allocated substantial resources to decentralized funds since the 1990s, it has not significantly improved the national response to poverty, inequitable resource distribution and general livelihoods of Kenyans. Nonetheless, some success in terms of capital development projects, roads and hospitals have been build and rehabilitated using the CDF and LAT funds.

A study in 2010 by ActionAid International-Kenya, *How are our Monies Spent? The public expenditure review in eight Constituencies, 2006-2008*\(^5\), indicated that the number of people living below the poverty line has increased with increase in allocations. The findings of the report indicated that there was a 30% increase of people living below the poverty line despite CDF and LATF funds. According to the Kenya Integrated Household Baseline Survey (KIHBS) 2005/06, Malindi had 65% of the people living below the poverty line in 2009 compared to 61% in 2006, while 83% of people in Galole were living below the poverty line in 2009 compared to 42% in 2006. In Mandera 90% of people were living below the poverty line in 2009 compared to 60% in 2006.

This dismal performance of the funds was attributed to persistent challenges, such as lack of effective participation of local communities in selecting, prioritizing and implementing development projects, poor public finance management at national and sub-national levels and lack of institutional monitoring and evaluation mechanisms among many others. The study further observed that weaknesses such as limited public oversight on existing resources, weak absorptive capacity, and mismanagement of the funds at the sub-national levels have not translated into desired outcomes against poverty and inequality.

Equally, a study by the Parliamentary Budget Office, Kenya in 2011 revealed a lack of transparency and accountability in the management of these funds. In most of these funds, some

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\(^3\) http://mpra.ub.uni-muenchen.de/11813/1/

\(^4\) The mismatch between projects benefits at the constituency level and the operating cost of such projects creates long-term challenges to the central government such as the high operational costs.

\(^5\) see http://www.actionaid.org/sites/files/actionaid/expenditure_report.pdf
expenditures and cash balances cannot be accounted for and there is continued failure in submitting documentary evidence on various transactions for audit purposes in consecutive years.

This was be attributed to lack of a single institution to coordinate the funds projects across the country and the lack of vertical and horizontal accountability by implementing agencies and government ministries.  

**CHALLENGES AND POLICY RECOMMENDATIONS**

<table>
<thead>
<tr>
<th>Challenge Issue</th>
<th>Description</th>
<th>Policy Recommendation</th>
<th>Responsible Institution</th>
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<tbody>
<tr>
<td>1. Duplicity and overlap</td>
<td>Due to the large number of funds created, there has been lack of clarity on administration and implementation leading to overlap of roles and responsibilities. Studies indicate that there are cases where funds are used to fund projects that are already financed by other sources resulting in fund leakages (IEA, 2006). The multiplicity of funding channels for local service delivery and development has led to the following: (i) Imposed high administration and transaction costs;</td>
<td>▪ Need for the development of a policy on the establishment and management of all decentralized funds. The policy should be in line with the constitution and the devolved system of government; ▪ The government should start with consolidating some funds in the same sector that overlap to enhance service delivery and reduce duplication of functions; ▪ There is need for a</td>
<td>National and County Executive; Parliament and County Assembly; Kenya Law Reform Commission Professional Bodies-ICPAK The Private Sector in Kenya</td>
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(ii) Led to lack of comprehensive and composite planning and organization of the development projects at the local level;

(iii) Resulted to fragmentation of resources and duplication of projects thus undermining the service delivery and developmental objectives of the funding (KHRC-SPAN 2010).

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<tr>
<th>2. Weak Accountability structures</th>
<th>Lack of transparency and accountability in the management of the funds</th>
<th>Proper mechanisms of transparency and accountability will be provided by the National and County Executive;</th>
</tr>
</thead>
</table>

thorough restructuring of some of these funds in order to ensure that they are in line with the needs of the targeted beneficiaries and that all resources are actually reaching these targets;

- The government should develop a clear framework on the setting up, accounting for and abolishing of funds;

- Reform all enabling funds legislation to provide for a single overall framework for the establishment, management, utilization and reporting of all funds. The framework should be aligned to the Constitution, the Public Finance Management Act 2012 and the County Government Act 2012.
Position Paper on Impact of Decentralized Funds on the Economy in Kenya

| has derailed the realization of the funds objectives. Funds such as the Local Authority Service Trust (LATF) Fund failed to deliver as planned due to weak accountability. | go a long way in enhancing management of the funds and plug resource leakages;  
- The government should institute *stringent mechanisms and sanctions* for non-compliance and corrupt practices. |
| --- | --- |
| | Parliament and County Assembly;  
| | Oversight Institutions-OAG/OCoB/EACC |

### 3. Political Interference

Political Interference, particularly in the appointment of funds managers at the sub-national level has hampered the realization of the intended objectives. This in turn has interfered with the administration and management of these funds. For Instance, combining and vesting the roles of oversight and implementation of these funds into individual Members of Parliament removes important checks and balances in their governance and accountability.

**Depoliticize the management and utilization of these funds by instituting the following:**

- The appointment of fund management should be based on *merit and competitive recruitment*;

- *Continuous Training of respective fund manager* on planning and priority setting, budgeting, administration and effective supervision, monitoring and evaluation should be set up at the sub-national level to equip them for better funds management.

- Reform enabling legislation to clearly provide *separation of powers mechanisms*.

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<td>Professional Bodies-ICPAK</td>
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</table>
### 4. Weak monitoring and evaluation frameworks

Lack of strong monitoring and evaluation structures both at the national and sub-national levels has impacted negatively on the management of these funds.

- Simple performance indicators should be developed for monitoring and evaluation to define and measure progress towards achieving their goals in development;
- Performance indicators should be developed to facilitate assessment of the performance of the decentralized funds;
- Institute timely audits by the Auditor General.

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<td>Professional bodies-ICPAK</td>
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<tr>
<td>The Private sector and Civil Society</td>
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### 5. Poor public participation

(i) Lack of or poor public participation in project identification, planning, executing and monitoring. The

- Develop a public participation framework to guide this process in all

<table>
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<tr>
<td>Scenario has contributed to lack of ownership thus putting sustainability of the projects in question.</td>
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<tr>
<td>These weaknesses are both from the demand and supply sides i.e. the public is lethargic and the implementers of these funds have taken advantage and not cared to consult them.</td>
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<td>Development initiatives at both levels of government;</td>
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<td>(ii) Need for civic awareness on the rights and avenues for citizens to meaningfully participate</td>
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Muriu, Rugo (2013), *Decentralization, citizen participation and local public service; A study on the nature and influence of citizen participation on decentralized service delivery in Kenya;*


**Case laws:**

The Constituencies Development Fund 2003;


**Website:**

2. [www.cdf.go.ke](http://www.cdf.go.ke)
3. [http://www.wef.co.ke/](http://www.wef.co.ke/)
# Annex 1: Types of Decentralized Funds in Kenya

The table below gives an overview of selected devolved funds in Kenya.

Table 1: Selected decentralized funds in Kenya

<table>
<thead>
<tr>
<th>Fund</th>
<th>Year created</th>
<th>Statutory Status</th>
<th>Socio-economic and political objectives</th>
<th>Source and Formula of the Fund</th>
<th>Status of Implementation post-2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Asiatic Widows And Orphans Pension Fund</td>
<td>1942; Further amendments 1966</td>
<td>The Asian Widows and Orphans Pensions Act (CAP 193) Revised edition 2012</td>
<td>The purpose of the fund is to make provisions for granting pensions to widows and children of deceased Asian public officers. Contributions to the Fund shall be at the rate of five per centum of the contributor’s annual salary or pension; all annual contributions shall be paid in monthly installments and shall be payable until the contributor reaches the age of fifty years or up to the date of his retirement from the service.</td>
<td>Currently implemented</td>
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<tr>
<td>2. Rural Electrification Programme (REP) Fund Accounts</td>
<td>1973</td>
<td>None</td>
<td>support the electrification of rural areas and other areas considered economically unviable for Electricity by the licensees.</td>
<td>Its funds are obtained from the Rural Electrification Fund Accounts in Kenya: Managing Complexities of Public Financial Management Page 14 Programme Levy Fund (REPLF)</td>
<td>Currently implemented</td>
</tr>
<tr>
<td>3. Road Maintenance Fuel Levy</td>
<td>1994</td>
<td>Roads maintenance levy fund Act (1994); Kenya</td>
<td>• Maintenance of the condition of roads; The Fund consists of the proceeds from the levy and the transit tolls levied</td>
<td>Currently implemented</td>
<td></td>
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<tr>
<td>No.</td>
<td>Fund Name</td>
<td>Year</td>
<td>Act/Provision</td>
<td>Description</td>
<td>Status</td>
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<tr>
<td>4.</td>
<td>Local Authority Transfer Fund</td>
<td>1999</td>
<td>LATF Act No.8 of 1998</td>
<td>Provides resources to local authorities to supplement their own resources in the financing of services and facilities required by citizens.</td>
<td>Wound-up with the defunct local authorities and with the commencement of the devolved system of government</td>
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<tr>
<td>7.</td>
<td>Free Primary Education</td>
<td>2003</td>
<td>Based on NARC election manifesto, Kenya Education sector support program</td>
<td>Full enrolment and retention of primary school age cohort</td>
<td>Currently implemented</td>
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<tr>
<td>No.</td>
<td>Fund Name</td>
<td>Year</td>
<td>Description</td>
<td>Details</td>
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<td>8</td>
<td>Youth Enterprise Development Fund</td>
<td>2006</td>
<td>The Fund was gazetted on 8th December 2006 and then transformed into a State Corporation on 11th May 2007. Sole purpose of reducing unemployment among the youth who account for over 61% of the unemployed in the country. The target of the fund is young people within the age bracket of 18 to 35 years who number 13 million.</td>
<td>The government has so far released Ksh. 3.8 billion to the Fund. Currently implemented</td>
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<td>9</td>
<td>Women Enterprise Fund (WEF)</td>
<td>2007</td>
<td>None. The principal objective of the fund is economic empowerment of women through loans.</td>
<td>The funds initial capital was Kshs.1 billion. Currently implemented</td>
<td></td>
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<tr>
<td>10</td>
<td>Uwezo Fund</td>
<td>2013</td>
<td>Legal Notice No. 21 of the Public Finance Management Act, 2014. The Fund seeks to expand access to finances and promote women, youth and persons living with disability led enterprises at the constituency level.</td>
<td>Over 5.3 billion allocated to the 290 Constituencies New fund, Currently implemented</td>
<td></td>
</tr>
</tbody>
</table>