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Thematic Learning Visit

Civil Society and legitimacy in Kenya

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Abbreviations:

PATC: Project Advice and Training Centre

CS: Civil society

CSS: Civil Society Strategy

CSO: Civil Society Organization

CBO: Community Based Organization

RDE: Royal Danish Embassy

CDTF: Community Development Trust Fund

TLV: Thematic Learning Visits

Executive Summary

Denmark and Danish CSO's are very active in Kenya. Both within sector programs and within civil society a number of Kenyan CSO's have partnerships with or direct funding from Denmark. This report summarizes some of the main findings from a Thematic Learning Visit to Kenya in 2010 by the Project Advice and Training Centre, a Danish umbrella organization for Danish CSO's working with development cooperation. The main findings from the Learning Visits are:

- The RDE's collaboration with CS in Kenya could be more integrative and structured. There is a need to strengthen the transparency of the work with CSO's and allow for the RDE to have the necessary resources to do this. At the same time the RDE's engagement should be seen in relation to Kenyan CS, which is:
- Complex and dynamic, relevant and pulsating. But is also characterized by competition and fragmentation. There seem to be a lack of understanding of interconnectedness also within the different but very intertwined and interdependent relevant ongoing processes which might lead to a stronger and independent CS.
- Legitimacy in Kenyan CSO's come from a number of different and supplementing sources. We need to recognize that legitimacy differs depending on the context and the ongoing processes that legitimacy is reacting upon and influencing. Organizations do not exist in a vacuum – rather they exist in a complex reality where they constantly try to define and redefine priorities and sources of legitimacy which are most beneficial and relevant for them at any given time. This complexity within legitimacy and priorities should be debated and discussed within PATC, as should our relation to it and our influence on it.

Background

The Project Advice and Training Centre (PATC) is a Danish umbrella organization that has 250 members among Danish civil society organizations (CSO's). All of these organizations work with international development cooperation.

The focus area of PATC is capacity building of the Danish member base of through training, counseling and discussions. Besides, PATC advocates on behalf of the member base regarding the general framework for Danish civil society organizations and attempts to stage relevant debates and discussions among the members and Danish civil society in general. Finally PATC administers the Project Fund on behalf of the Danish Foreign Ministry.

In order to better understand the context that PATC members are working in through partnerships in the global south PATC attempts to build up context and country specific knowledge, relating this to an area of interest for members in Denmark, their partners in the Global South and PATC.

Thematic Learning Visit to Kenya

As a part of the continued development of capacity in PATC and members in Denmark, PATC introduced the concept of Thematic Learning Visits (TLV) in 2009. The purpose is to build capacity within PATC and to enter

into a dialogue with PATC members, their partners, CSO's with connection to Danish Development Cooperation and the Danish Embassies focusing on the implementation of the Danish Civil Society Strategy.

Each TLV has a thematic focus area, as well as a number of general themes that form the basis for analysis and understanding. The thematic focus for the TLV in Kenya has been Legitimacy among CSO's in Kenya and the general themes encompasses the role of RDE, the organization of Kenya CS, national funding structures and CS analyses available in Kenya

The TLV is process oriented allowing for participation in relevant processes and discussions and the planning and execution of the mission according to the interest of local CSO's, PATC and the Royal Danish Embassy (RDE).

Factors of relevance in choosing Kenya as focus for a TLV have been that Kenya is a Danida Program Collaboration country, 35 of PATC members are active in Kenya, and there are 14 active projects in Kenya financed through the Project Fund. Besides MSActionAid and Danish Red Cross – Danish Framework Organizations are active in Kenya.

Objective

There were two main objectives for the TLV in Kenya:

1. To build knowledge of the context for CSOs operation in Kenya and the sources of legitimacy that they base their work upon in:
   o PATC
   o Danish CSO's working in Kenya
   o RDE in Kenya and

2. To inspire to and provide initial frame for dialogue between:
   o Danish CSO's working in Kenya
   o Partners in Kenyan Civil Society
   o National Networks in Kenya
   o RDE in Kenya

Besides these objectives the TLV included analysis of the synergy between the RDE's engagement with civil society (CS) and the work of partners with Danish CSO's and analysis of a number of ongoing processes among CS stakeholders, and their relation to legitimacy among CSO's.

National Context

The national context is dominated and influenced by the new constitution which was decided upon by the people of Kenya in August 2010. The new constitution has a number of potential windows for CS development in Kenya but has also carried with it a complex and sometimes rather confusing political scene. The constitution remains to be implemented. Among the people of Kenya there seem to be a quiet

optimism and hope that the government will deliver and manage to implement the new constitution to the benefit of the people of Kenya.

In general CS in Kenya is vibrant, dynamic and active. Broad specters of CSOs are active in a variety of sectors within development cooperation and in the bottom up self initiated organization of communities across the country. CS is very influenced by political interests and also by tribal aspects, which has a tendency to divide CS and create tensions and frustration among CS actors themselves. To a certain extent the ongoing discussions and tension in CS has meant that some parts of CS is suffering from a lack of legitimacy in the eyes of the general public.

CS in Kenya is dominated by and mainly revolves around the development agenda. That means that a lot of the organization around CS is related to this particular area and the development cooperation agenda is taking up a lot of space within CS organization.

Embassy Practices

The RDE is mainly active in Civil Society Cooperation in Kenya within the following sectors:

Program	Budget (DKK Million)	Period	Civil Society Component – budget (DKK Million)
Natural Resource Management	375	2010-2014	120,3 (CS + private sector, 32,1%)
Business Sector Program Support (1)	155	2006-2010	?
Good Governance	165	2005-2010	38 (23%)

The new Good Governance program has been approved in fall 2010 in Danidas board.

The Business Sector Program Support is expected to grow from 2011.

Besides the RDE has a local grant authority of DKr. 5 million every year, which may be used to support innovative CS projects.

Models of engaging CS:

In general the RDE is only engaging CS in the three sector programs funded by Danida– namely the Natural Resource Management, Good Governance and the Business Sector Program Support programs. The involvement of CS in these programs in general is done within one of two possible models:

A. The RDE selects CSO's whom they consider legit and whom they consider can help implementing the priorities within the program in question.

The selection process is determined by the embassy and it is the embassy that chooses whom to approach. This model has some build in advantages – it does not require the embassy to get into a long and costly screening process of a number of potential CSO's looking for funding within the

particular sector, and they are able to freely choose the best strategic partner among CSO's to work with.

Of course there are also a number of challenges in this model:
  - o It did not seem as there was any systematized or formal input from Danish CSO's or their local partners' active in the particular sector regarding the formulation of the program or the choice of CS partners.
  - o In general CSO's criticized the model for being non-transparent and promoting a competition agenda between CSO's.
  - o There is a possibility that the selection of partners become an instrument for priorities within the Danish Foreign Ministry. This could jeopardize the continuity in partners and focus in the RDE's engagement.

B. The other model is based on an attempt to reach CS or Community Based Organisations (CBO's) through economic support to a specific organization or institution, and then having that institution or organization administer a fund with the money based upon an open application process and guidelines that are in line with the priorities within that program. There are elements of basket funding in this approach.

An example of such practice is within the Community Development Trust Fund (CDTF), which the RDE is supporting through the Natural Resource Management Program. The intention with this set up is to get the money out working with the "end user" and have as efficient implementation of the development program as possible. There are some obvious advantages to this model. For instance the use of established forms of funding modalities and pooling money together with other donors, which gives a possibility of a greater impact. It is positive that the embassy is trying to reach the end users in this way as well. A few critical remarks regarding this practice raised during the TLV were:
  - o It is important to consider carefully who is doing the implementation of the programs. It is worth considering whether it should be CS itself administering this kind of programs, or whether the programs will benefit more from being implemented by a state institution such as the CDTF. This is also very dependent on the CSO's available to be in charge of implementation.
  - o When entering into a collaboration of this sort, it is important for the embassy to look into the other existing modalities of funding that is available within the same sector or the same institution. It is necessary to consider the modalities of funding and how it "fits" with the aim of the program – for example the implementation of advocacy oriented projects may in general take longer time than mere service provision, and the "frame" for such programs should then allow for that.
  - o The next phase of the Natural Resource Management program carries with it continued funding for CDTF for the next 5 years period. The CDTF explained that their general implementation costs, including the training that they do with CBO's who receive funding, etc. run between 25 and 35% of the budget that they receive. The RDE only allows for the

CDTF to use 10% of the budget on the implementation, and therefore the cost of "running and implementing" the grant from the RDE is in a way supplemented by other funding sources that CDTF receive from the EU. It might be worth considering if the RDE should allow for such programs to use the actual amount needed to implement the programs, in order to give a realistic picture of the implementing costs of "reaching the end user".

One important consideration for the RDE is how to link the two models better. If the two models are applied independently from each other the may add to the "on the ground (grassroots)" ><"professional Nairobi based" dichotomy which unfortunately is well established in Kenya. It would be an area of potential exploration for the RDE to look for inspiration within organizations that manage to bridge this gap.

Local grant authority (LGA)

The local grant authority in Nairobi is currently at 5 million DKr. Pr. year. The embassy could have a larger grant, but have chosen not to because it doesn't have the necessary human resources to implement the LGA. Presently the grant is primarily used to support one or two initiatives pr. year, which can be within CS or another sector.

There is no information about the LGA on the embassies website besides the "mini-projects" which are small projects mainly within service provision. It might be a possibility to include or disseminate information about the LGA to a wider audience, if the RDE wishes to start to use the LGA in a more dynamic way inspiration might be secured from the RDE in Tanzania.

The LGA could also be focused on engagement and involvement of CS actors and in that way contributing to a more structured and formal involvement of CS in the implementation of programs in Kenya.

National Dialogue with CSO's

There is no standardized practice at the RDE in Nairobi at the moment to conduct official national dialogue with CSO's whom have a Danish representative or whom have a Danish partner. Rather the dialogue takes place within the different sector programs, where organizations that the RDE reckons to be relevant are included in discussions. There seem to be no systematized way of doing this, and it seems that it is up to the individual sector programs, and the people that are responsible for them, to decide if and how to engage CS in dialogue on the content of programs etc.

There are a number of overlapping interests and areas of focus between the RDE and Kenyan CSO's partnering with Danish organizations. Both the RDE and local organizations could benefit from an exchange of experiences and views on common priorities.

At the end of my mission in Kenya, I did have a one-day workshop with different stakeholders from CS having a relation to a Danish organization, the RDE and other relevant stakeholders. After the workshop there was support for and interest among CSO's to continue having such meetings on a yearly basis, where issues of mutual interest and different experiences could be discussed.

In the later debriefing meeting with RDE we did discuss the potential of such annual meetings, which the embassy found interesting and they also expressed willingness to participate in. At the same time they did

not think that they have any opportunity to finance the "frame" for such a national dialogue with CSO's who have Danish representatives, or who have a Danish partner.

The workshop which I had with participation of 21 different organizations and 28 people came to a total cost of approximately 60.000 KSH or less than 5.000 DKR. This price included reimbursement of transport for the ones needing that.

As both the RDE and the CSO's working with Danish partners believe that it makes sense to meet once a year to inform each other of priorities and issues, and discuss a topic of mutual interest, this might be an area of exploration that would be worthwhile to look into for the RDE.

Also the RDE asked for feedback and follow up on the different project applications that they screen as part of the application process. Official feedback has to be through the Danish Foreign Ministry, but a yearly meeting with organizations working with Danish Partners might also be beneficial in this respect.

The organizations that the RDE chooses to focus on and have direct collaboration with, supplement the work of Kenyan CSO's partnering with Danish organizations in a constructive way. The RDE is focusing on large national organizations within their areas of priority. These organizations working for example within Human Rights are supplementing the work done by CSO partners in a positive way. The CDTF has also proven to supplement the efforts and initiatives financed through Danish partners.

Conclusion: RDE's engagement with CS

In general the engagement that the RDE has with CS is determined by the limited human resources available at the embassy. It seems the necessary resources to engage with CS in a systematized and well-structured manner are not available. CS is included in programs where it is possible, but still conceived as an add-on to the rest of the program, which is proportional to the part that CS plays in the overall implementation.

In order to further improve the RDE's work with CS and benefit from this potential it is necessary to make more resources available for the embassy to engage with and benefit from CS.

If the RDE wants to fully explore the potential in CS it should work with CS on its own premises, linking this engagement to and coordinating it with the bigger bilateral engagement.

If it is not possible to allocate resources to let the RDE engage with CS as it is recommended in the Civil Society Strategy, it should be considered in future revision of the strategy to allow for a calibration of the expectations and demands made towards the embassies to be in line with the overall CS strategy and the expectations to the RDE's in the implementation of this strategy.

The focus of the RDE supplement the work of Danish CSO's and their partners only it would be constructive with more dialogue to secure this synergi.

CS's organization and networks

Kenyan Civil Society - a Danish Perspective:

Kenyan CS draws on a number of different but supplementing legal frameworks and legitimacy structures (members, conventions, constituents, grass roots, professionals, deliveries etc.)

…which gives a CS that is vibrant, active, diverse, and has room for a variety of organizations

…but also for politization, tribalism, individualization and fragmentation

Civil Society is characterized by a quiet optimism in Kenya. The new constitution with its guaranteed fundamental rights provides a firm starting point for a continued positive development for CS in Kenya. The new constitution also provides a space for CS which is wider than what was the case earlier. So within those aspects there is reason for optimism.

But CS in Kenya is also facing a number of challenges that has to be dealt with over the coming years.

A. **Fragmentation**. Kenyan CS is fragmented. There are several different alliances of CS organizations, some more legit than others, but there is not one organization or alliance or network that can claim to be the only one, and depending on who you talk to, one, two, three or no alliances or groups of organizations are legit representatives of CS.

Having different CS networks representing different parts of CS would not be a problem, if it was not for the ongoing process of trying to establish one national legit organization with whom the government and other can communicate. Currently the NGO Council, which is established by law, and which has several functions regarding CS, holds this position. But there are several competing fragmentations and NGO Councils, which somehow have to come together. In fall 2010 there was two "competing" councils, an original (the 1st council) and a newer (the 2nd council).

A few questions to consider is whether it is possible and desirable to establish one CS organizational structure, that captures "all" of CS and is able to balance between the government interests and CS interests.
Another questions is what the relation of this network or structure should be to the state – whether formalized as the official network or more loosely structured and non-formal?

B. **Several ongoing processes**. There are a lot of parallel and mutually dependent ongoing processes in CS in Kenya. In September/October/November the following processes were going on:
   a. Restoration of the CS legitimacy process including the election of a new board for the 2nd NGO Council
   b. Elections for a new board for the 1st NGO Council
   c. Discussion among the CSO Reference Group and a wider specter of CSOs regarding the new CSO bill. This discussion took place amongst the CSO's, but at the same time a parallel discussion was taking place within the government, about the same law, and both groups (the CSO lead and the government one) were drafting a new CSO bill. This discussion is also related to the general understanding of CS in Kenya. A lot of focus and organizations are working within the social development and rights sector of CS. Both CS as a whole and the large parts of CS having a social development and rights orientation focus, might benefit from the inclusion and self-understanding that CS also includes all other CS organizational forms and focuses.
   d. Protecting CS space. In Kenya as in other parts of the world there is an ongoing discussion about the protection of space for CS. This process is not yet very outspoken in Kenya and the general impression is that the new constitution protects CS space.

e. The implementation of the new constitution. This process, which is broadening up the role for CS, is also interfering with the above-mentioned processes, because several actors have an interest to have a stronger CS role, which requires some kind of CS organizational development and structure.

C. **Tendency to demean other CSO's**. In general there is a tendency for CSO's to see themselves as legit and transparent while questioning the foundation of other CSO's. This might be influenced by the strong sense of competition amongst CSO's. A competition that is also created and maintained by the donor community. Nevertheless it is deconstructive for the sector as such, and the continued articulation of these issues between CSO's will possible be an obstacle of and for constructive internal discussion. This is also related to the next characteristic.

D. **A number of dividing lines**. Most of the above can be seen and analyzed in connection to a number of defining lines in Kenyan CS, which we also discussed on the 4th of November workshop in Nairobi. These defining and sometimes dividing lines are among others:

CS defining and dividing lines	
Professional Orientation	Grass Roots Orientation
Nairobi based	Field based
Researching and advocating	Active on the ground
Easily accessing funding	Hard to acces funding
With the system	With the people
Promoting careers	Promoting social rights

CSO's exist in a multitude of combinations and variety of these defining and dividing lines and of course a lot of organizations manage to combine the "gaps". What is needed is the understanding that there is a need for different types of organizations among CS actors, and that it is important that among these defining lines we do not establish ourselves as THE LEGIT organization, but that my organization exist in a continuum with other organizations that has other focuses, another rationale and another way of being legit with their members, board, constituencies, and target groups.

The above-mentioned challenges are of course already being dealt with in a number of different forums and debates, and as such Kenyan CS is very well underway. Some of the issues need to be dealt with on a shared basis, while others have to do with self-perception and reflection upon the particular organizations place and collaboration and linkages to other organizations and structures within CS.

It is worth mentioning that representatives from all part of CS including the two different NGO Councils with whom I had an opportunity to meet, expressed intention of overcoming differences and move towards establishing a firm foundation for CS in Kenya.

Sector based networks

One thing that is already in place and seems to be working well in Kenya is sector-based networks. There are networks among organizations working with children and children's rights, environment based organizations, community based organizations, youth based organizations, human rights based organizations, faith based organizations, etc. These networks are organized in different structures with different levels or formalization. Overall they provide an opportunity for organizations within a certain sector to engage in dialogue with other organizations within the same sector.

The sector-based networks might provide a framework and an entry point for engaging CS as a whole. This approach is already integrated into the existing legal framework for CS, but it might need to be strengthened.

Conclusion – CSO organization and networks

Overall CS is not well organized on a national level, and the ongoing efforts and processes suffers a bit from confusion about who is running the processes and the legitimacy within each process. Also a general tiredness with trying to establish a legit platform building on experiences that seems to have a short-time history of corruption scandals and politicization is influencing the attempts to strengthen CS organization.

The general tiredness has resulted in some processes not being given priority by CS organizations, which have the necessary power and influence to become drivers and initiate and take lead on CS processes that will eventually lead to a better understanding of the role of CS as a whole.

In order for the process of CS national strengthening to move forward it might be beneficial to have a discussion of what is to be expected and gained by a national platform, in order to allow for CSO's to see how they are to benefit. Also it might be an opportunity to define and install a neutral and legit organization or a network of respected and trusted organizations to take lead on the process, ensuring an inclusive process involving all stakeholders.

Kenyan CS would benefit from considering how to "legitimize" ongoing processes, both as CS in general and as individual organizations. It could be attempted – though absolutely not easy - to establish more legit and transparent processes and structures. If this is done successfully CS will also benefit by gaining legitimacy among the general public and the state alike.

Funding Mechanisms

A multitude of funding mechanisms exists for CSO's in Kenya. Some are very local and others are of a national scale. One of the largest funds – the Constituency Development Fund (CDF; http://www.cdf.go.ke/) is financed by the Kenyan Governments revenues, and targets community development projects.

The UNDP also has several funding programs, some of which targets CS as well, UNIFEM amongst others.

The RDE mainly support basket funding mechanisms through the Community Development Trust Fund (CDTF; http://www.cdtfkenya.org/) which might be relevant for some CBO's working with Danish partners as well. The CDTF primarily work within the CBO sector, but there are several possible ways of engaging with the institution and seek funding. A new call for proposal has been issued in end 2010.

In general the funding modalities in Kenya are many and it is hard for any one organization to gain a full impression of all the different possibilities. Donor coordination and transparency within this aspect of CS might be beneficial both to Kenyan CS and to donors alike, but requires careful investigation and analysis.

With the new constitution and the implementation of it new possibilities might be opened up for CSO's at county level. It is important that Danish CSO's inspire and allows their partners to follow this development, and work actively to build capacity within local partners allowing them to:

- Have the necessary knowledge of the possibilities within this new framework and the capabilities to explore the opportunities there
- If possible have the necessary knowledge and understanding to track the budget at the county level, where increased funding will go to as a consequence of the constitutions implementation. It is hard to say when this becomes evident "on the ground"

Available CS analyses

The CS analyses available in Kenya are not very updated. When questioning organizations in Nairobi about the issue of existing analysis, they acknowledged that there is a need to have a substantial analysis done.

Different sources that are relatively updated include analysis done by NORAD in 2009 (http://www.norad.no/en/Tools+and+publications/Publications/Publication+page?key=134242) which has a relatively thorough analysis of the economic and political situation in Kenya in 2009.

Updated on a regular basis though not as thorough and in depth is the ICNL – International Centre for Non for Profit Laws page about Kenya which provides a good background for understanding the different registration options for CSO's and also describes processes that are ongoing in Kenya. (http://www.icnl.org/knowledge/ngolawmonitor/kenya.htm)

Besides it is worthwhile to keep a look out for the Government Program of the RDE which probably will be available on the website of the RDE in the near future, now that the program is approved and also agreed upon between the government of Kenya and Denmark. The former program which is already available from the RDE website has a thorough analysis which of course is rather outdated by now.

The Kenya Vision 2030 might be another analysis worth looking into, as it sets some visions for Kenya and gives an idea of the general development that the country might take. http://www.safaricomfoundation.org/fileadmin/template/main/downloads/Kenya_VISION_2030-final_report-October_2007.pdf

Thematic Focus – Legitimacy in CSOs

Introduction to legitimacy

Legitimacy is an increasingly important characteristic of CSO's both in the north and the south. Legitimacy in CSO's covers a wide variety of aspects, and encompasses issues of transparency and accountability as well. Suchman (1995) defines legitimacy *as "… a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions"*. CIVICUS stresses that *"Legitimacy refers to perceptions by key stakeholders that the existence, activities and impacts of CSOs are justifiable and appropriate in terms of central social values and institutions."* (Turning Principles into Action, CIVICUS – world alliance for Citizen participation).

The definitions and understandings points toward broad understandings of legitimacy, which has to do with the structure of the organization, deliverance on key issues and perception in the eyes of stakeholders and the general public. It implies that a legit CSO has a better change of impact. The understanding also implies that in achieving the things that an organization has set out to do the organization reinforces the perception of legitimacy from both internal and external stakeholders.

Some aspects of legitimacy – such as transparency and accountability should in general be practiced by all CSO's. Other characteristics are based upon decisions in the individual CSO's regarding what they choose to prioritize and strengthen.

In my work in Kenya during the TLV I started out focusing on shared or general perceptions of legitimacy, related to structure, democratic processes, inclusion of members, transparency, accountability etc. As my understanding and perspective were broadened I began to focus on legitimacy aspects that are also dependent upon context, ongoing processes in CS and focus and history of the individual CSO's.

Legitimacy and legit organizations – Danish Perception

Among Danish CSO's there is a tendency to be focusing on particular legitimizing factors in an organization. One of the parameters that we tend to pay particular attendance to is the democratic control and structure within an organization. This parameter has to do with organizational setup, election of board members, inclusion of target group in board, and is closely connected with an "ownership" discussion and considerations within that organization.

All of those aspects are important, and if it is possible to set them in place, they most likely will contribute positively to the effective implementation of the work being done by that particular organization. We might have to broaden our understanding though and accept that these characteristics in some cases can also be a hindrance to or jeopardize an organization. In some cases we might be looking at other organizational cultures that do not "value" the same characteristics as we do, due to different circumstances and context.

Legitimacy in CSO's in Kenya

People are constantly learning and adapting to the circumstances that surround them. So are organizations. Kenyan CSO's are not different in this aspect. Organizations like people have different priorities and

opinions on the direction they want to take. As they have different perspectives on the legitimizing characteristics they choose to strengthen and base their organization on.

This was indeed the case in Kenya. A lot of organizations do have all the democratic and ownership characteristics that we perceive as positive when discussing what makes an organization "legit". Others were working on getting these characteristics. Yet others proclaimed that they did not have those characteristics and neither were they working on getting them. They saw themselves as supporting/gaining/getting legitimacy from other sources. For example the actual work that they are doing within their area of focus, and the recognition that they were getting due to this work.

The organizations with these characteristics were both large professional organizations, which choose to have a professional board which could actively be used and support the work of the organization. And smaller organizations with a structure, which engaged people who were active within the deliverance of services as part of the board in the organization.

This clearly poses a challenge to our perception that a democratic structure within an organization is the best way of supporting that organizations legitimacy and securing deliverance. In the Kenyan context that is not necessarily the issue. Some organizations claim that they provide better deliverance and represent their constituency better when they do not have the "vulnerability" of getting dragged into political speculation, processes and procedures, but instead have a appointed board, that support the work of the organization professionally, and/or a charismatic leader, whom is able to deliver both on services and advocacy according to the need of the people, members and target group.

Context defined legitimacy priorities

The findings from Kenya points towards legitimacy priorities that are defined by the particular context that an organization is working in. If there is a history and risk of democratic organizations being used as political instruments or power-basis for furthering ones own agenda and personal ambitions, there might be a tendency to look for other sources of legitimacy. This could be a focus on one individual whom has the ability to bring the organizations forward and deliver on priorities, or it could be involving a professional board in the organization, which have the ability to contribute with key competencies to the organization.

The legitimacy considerations in this regard become dependent on the experiences, context and priorities that an organization has. As the context and the organization changes – that is there are changes internally such as growth and externally, such as a more conducive environment for CSO's – the priorities related to legitimacy changes as well.

The figure illustrates how organizational decisions are affected by context and processes in the surrounding context. In this way a lot of organizational priorities are a mixture of external and internal influences and not merely internal decisions. The core of it all – the heart of the organization is affected by and influenced by the choices made based on internal and external factors.

PATC might have to be better at acknowledging this relationship and respect that organizations structure their legitimacy according to internal priorities and choices and external factors.
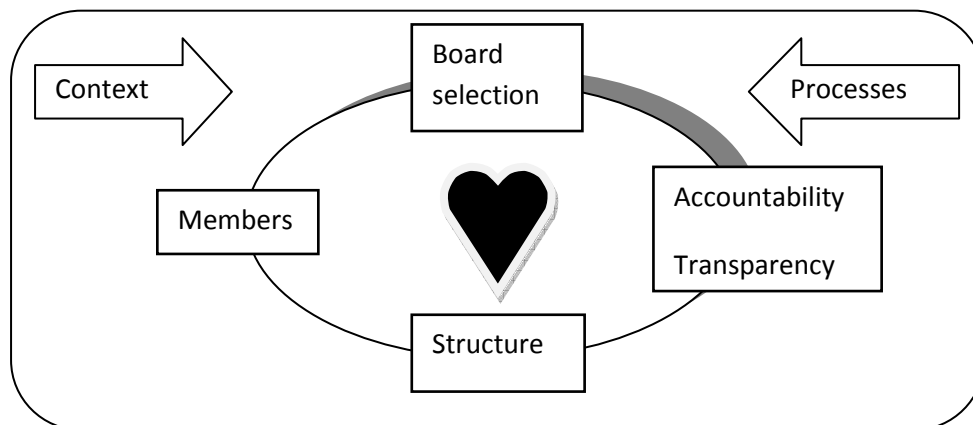
Supporting legitimacy – strengthening diversity

The understanding that legitimacy is context dependent reflects back on Danish strategies for development cooperation within CS – the Civil Society Strategy (CSS). As with all other strategies, some priorities can end up being contradictory. The results- and poverty orientation within the Danish CSS can in some cases "clash" with the intention to support democratic organizations, that provides an opportunity for people to organize themselves and raise their voice.

The possible confusion about what is "most important" reflects back to some of the challenges within CS in Kenya, and also links closely to priorities within the Danish CSS.

In Denmark it is namely the perspective of a diverse CS, which allows for a number of different CSO's to organize themselves in the way that they find most proper and rewarding based on the context that they are based and active in, that can be a challenge to the notion of support to democratic organizations.

Both in Kenya and in Denmark we might have to further strengthen this understanding, and accept that while we have chosen the best possible set-up, structure, activities, board, focus and people to work within the organization we are involved in, other people have choosen differently based upon their understanding and the context they work in.

That does not necessarily make one organization better than the other or more legit, but it means that sources of legitimacy and priorities within possible sources varies from organization to organization, based upon the context and history of that organization – internal and external.

This understanding should not be an excuse to "stop learning" and critically evaluate if there is a need to or possibility to strengthen the legitimacy within an organization. Rather the existence of other organizations and a constructive exchange of ideas and mutual challenges and challenging other organizations, requires organizations to "stay alert" and be aware of possibilities to strengthen own legitimacy in order to build support.

Legitimacy in civil society in Kenya

The legitimacy of individual CSO's are also influenced by the general legitimacy that other stakeholders – namely the state and the market and the general public correlates with the sector as a whole.

In Kenya civil society is dominated by organizations that focus on social development. Due to different historical circumstances and the abuse of power and resources within some CSO's, as in some other institutions, the general (public) perception of legitimacy towards CSO's is challenged. This might be an advantage as it is possible that a critical approach in many ways is better than a non-critical, as it hopefully helps and supports the establishment of legit organizations in a longer perspective.

At the same time it poses a challenge for the sector as a whole, if it is viewed as partly illegitimate in the eyes of the people, the state and the market. Therefore the earlier mentioned processes that are taking place in Kenya are all crucial in the establishment of an overall understanding that CSO's are contributing positively to society, and not merely looking to support themselves.

The first step towards supporting the general legitimacy in CS in Kenya is probably to ensure as transparent and legit processes as possible. Donors have an interest in supporting these processes as well, as it will eventually lead to a better understanding of the role, strengths and possibilities that lies within CSO's from a public and state/market perspective.

Conclusion – Legitimacy in CSO's in Kenya

Legitimacy is a complex issues, and it is neither desirable nor possible to be talking about one form of legitimacy as more correct than another. The notion does cover some general characteristics that should be taken into account and dealt with in most organizations, such as transparency and accountability.

Besides these general perspectives legitimacy also requires and involves a number of choices. Based upon context, history, focus, etc. CSO's should discuss and decide what they build their legitimacy on, and then work actively to strengthen that perspective within the organization, or supplement it if necessary.

It is important that Danish CSO's understand the need to respect the nature of legitimacy in a local partner. The local partners choices and decisions regarding priorities might be discussed and debated of course. If found to be outside of what the Danish CSO believes in, maybe the partnership should be phased out, rather than the local partner trying to "fit" into our understanding of priorities within legitimacy. PATC should of course be very aware of what and how we inspire and relate to this understanding – what are we promoting, suggesting and inspiring to?

Accepting and recognizing that legitimacy also involves a lot of prioritizing and decision making, does NOT mean that CSO's should not learn and continuously try to improve. This goes for CSO's that build their primary legitimacy on delivering on certain services, as well as CSO's that primarily build their legitimacy on a strong and supportive member based.

Organizations that manage to combine a strong and involved member base with delivering on focus area have a strong position of course, and are drawing on various sources of legitimacy, which gives them a lot of possibility to facilitate change. The point here though, is that it is not possible for all organizations to combine these perspectives, and that we have to accept that CSO's choose the legitimacy sources that are most rewarding to their cause.

In Kenya a diversity of CSO's all work towards supporting their own and mutual legitimacy. The processes which support the shared legitimacy needs to be considered carefully, as they carry with them the future to a strong and independent CS, which can grow to become a recognized key player in Kenyan society.

In the cases where legitimacy structures that we perceive as desirable support the efficiency of the local partner, the Danish CSS, PATC's orientation towards this strategy, and the input from the Danish partner, is probably and most likely a welcome contribution. We need to recognize though that this is not always the case, and have to consider the instances where our perceived desirable legitimacy structures are not the ones that are considered desirable from a South perspective, and might even be considered contra-productive. We need to gain a better understanding of these instances, and be well aware of the norm-set that we are pushing and what it is doing to local partners. PATC should have a role to play in an understanding of these processes.

When returning to the objectives of the TLV in Kenya it seems to me that the objectives have been met. Some of the dissemination requires a longer perspective, and it remains to be seen whether the TLV results in communication beyond inspiration to dialogue among stakeholders.

Outputs and dissemination

The outputs and dissemination of the knowledge from the TLV in Kenya, is brought into play and activated in a number of different ways. Some outputs are of a direct link to the Kenya TLV while others are integrated into ongoing discussions and work of PATC, allowing us to have more informed discussions.

Knowledge and understanding from the TLV is integrated into the following discussions and processes in PATC:

- Building a database with country profiles (input February 2011)
- Input to discussions on trends in the south. A number of the trends experienced in Kenya are also part of general tendencies. In that way the TLV in Kenya has helped broaden and support PATC's understandings of some of the general south processes and trends. This is particularly the case within:
  - Policy interconnectedness, especially security policy, trade policy and development cooperation policy
  - Implications of the aid effectiveness agenda
  - Implications of shrinking space for CSO's
  - Possible implications from direct south funding
- Development of PATC guide for organizational development of CSO's
  - The legitimacy understanding that the Kenya TLV has contributed to is actively feeding into the understanding that is reflected in the guide, and integrated in courses, counseling etc.
- Clarity about legitimacy and understanding
  - The discussion and understanding from the LTL in Kenya feeds into PATC discussion on the complexity of legitimacy in CSO's, what we promote and how we promote it
  - Feeds directly into meetings on legitimacy in CSOs in spring 2011
- Special focus area for PATC 2011 – 2012 – Poverty oriented growth and CS's role

      o   Interconnectedness between focus on poverty oriented growth and the role of civil society

The processes above will contribute to improved training and advisory services being delivered to the members of PATC on contextual factors in Kenya, general trends in the South and information on development of organizational legitimacy.

The TLV to Kenya has directly resulted in the following dissemination and output in Kenya:

- Workshop and discussion with organizations in Kenya, presenting and discussing the findings from the TLV with participants from CSO's and the RDE
- Debriefing with the RDE in Kenya, following the workshop, with discussions on possible future relations between Kenyan CSO's and RDE
- Discussions with several organizations in Kenya, hopefully contributing to the understanding of PATC role and priorities, and also allowing these organizations to address issues of their interest

Whether the TLV in Kenya will be followed up by further contact between organizations with Danish partners, and potentially contact to the RDE remains to be seen. If considered worthwhile the RDE or Kenyan organizations are able to take up the effort from here, using contact information that will be shared among stakeholders. At the workshop and at the debriefing at the RDE interest in such follow up were expressed, but not without some hesitation. Sadly enough it is not possible for PATC to facilitate such follow-up within the present framework.

Where it was possible to spend longer time with local partners, and engage in a mutual learning process, I believe that local organizations as well as PATC has benefitted from a direct knowledge of each other, and this opportunity has definitely helped broaden up PATC perspective on a number of issues.

Observations and considerations

1. The aid effectiveness agenda is very relevant and we all have an interest in seeing as large proportion of the money invested in development cooperation as possible "working on the ground". At the same time it is a build in premise that it costs money to make good development, and that it is necessary with "professionalism" at the different "levels" of the development cooperation structure – no matter what funding modalities we are using. We should be very considerate not to let the aid effectiveness agenda move to far in the "get the money to the ground as cheap as possible" direction, so that the quality of the development cooperation implemented on the ground suffers from the lack of resources to implement in a considerate and most rewarding way. If we move to far in this direction the "value for money" that we end up with will be less than if we acknowledge that it does cost to implement in the best possible way.

2. It seems that sometimes there is a tendency to "limit" the understanding of civil society to NGO's. It is highly limiting the scope and understanding of CS, and in everyday work and in processes relating to CS, the public, the government and CS itself, would probably benefit from a broader understanding of what CS is and the possibilities that lies within this understanding. This would

help facilitate an understanding of CS as a possible collaborator and a connection point for critical voice for the public, which can help holding the government and its institutions responsible.

3. It seems from the little evidence that I have been able to gather on this TLV that the presence of strong, informed and active CBO's are one major stabilizing factor during processes that could unfortunately lead to terrifying situations such as the Post Election Violence after the 2007 elections. It is imperative to support and build such structures that allow for CS to organize itself around issues of interest, and thereby be a strong contributing factor in situations that can potentially turn out violently.

4. Kenyan funding modalities are very complex and it is hard to get an overview of them. It might be worthwhile to consider for the RDE if it is possible to identify strategic legit partners together with other donors – possibly among CS itself as well – who can administer funds on behalf of the RDE and other donors and involve other CSO's in the implementation efforts. This could hopefully lead to not "inventing" new funding modalities but rather strengthen existing ones and only supplementing where appropriate. CDTF now has three different schemes of funding modalities, and they seem to be supplementing each other well. But the overall picture of funding mechanisms in Kenya is very confusing with numerous donors and numerous different funding opportunities, of which organizations have a hard time getting an overview and where the distribution of funds can seem non-transparent and very centralized.

5. Communication and exchange of experiences tend to be good. It would be worthwhile to make sure that there is the necessary resources to have meetings among partners with Danish CSO's to give input to discuss issues of mutual interest.

6. Sometimes strategies tend to clash. The Aid Effectiveness Agenda and the Danish Civil Society Strategy do so in some aspects. This is particular the case when we according to the Aid Effectiveness Agenda try to cut down on expenditure between donor and end user. The Danish Civil Society Strategy to be implemented properly requires a certain level of resources to be used at implementation level. The resource use at these "intermediary" levels should be limited as much as possible of course, but not to a point where the end result is less development because of lack of resources to implement strategically and structures. I think that donors, civil society, the RDE and Kenya will benefit from an alignment of the demands and expectations towards the Danish Embassies involvement with CS to match the resources that are made available to the embassy to involve itself actively with CS. This might mean addressing the issue of personnel at the embassy that is focused primarily and cross sectored on involvement of CS in the RDE's work.

Comments and questions

Comments and questions to this report are very welcome. They should be forwarded to Nicolai Houe at nh@prngo.dk. The report does not necessarily reflect the official perspective of PATC but reflections made in the report are discussed by PATC secretariat.

Annexes

A. ToR for LTL in Kenya. Final.
B. Notes from workshop in Nairobi. 4. November 2010.