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ROLE AND IMPACT OF CIVIL SOCIETY ON KENYA'S DEVELOPMENT AGENDA

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DECLARATION

I, hereby declare that this research project is my original work and has not been presented for a degree in any other University.

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This project has been submitted for examination with my approval as University Supervisor;

Signed…………………………………… Date……………………………………

Dr. Winnie W. Wairimu

University Supervisor

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DEDICATION

I dedicate this project to my husband, Levi Nyamu and my parents, Erastus and Bibiana. This

has been made possible by your unending love, care, support and always believing in me.

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I would like to express my sincere gratitude and appreciation to my family for the help and understanding they showed me during the whole period of this study. For this knowledge impartment towards the successful preparation of this research project, it's through this guidance and advice from my supervisor that I was able to prepare this project. All members of the Institute of Diplomacy and International Studies (IDIS), both: students, teaching and none teaching staff for the much needed support they gave me.

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ACRONYMS AND ABBREVIATIONS

CSOs	Civil Society Organizations
DDG	Danish Demining Group
EITI	Extractive Industries Transparency Initiative
ERC	Energy Regulatory Commission
FoLT	Friends of Lake Turkana
HMK	Haki Madini Kenya
HSE	Health, Safety and Environment
IHRB	Institute for Human Rights and Business
ILA	International Institute for Legislative Affairs
ILEG	Institute for Law and Environmental Governance
KCSPOG	Kenya Civil Society Platform on Oil and Gas
KHRC	Kenya Human Rights Commission
KI	Katiba Institute
KLA	Kenya Land Alliance
KOGWG	Kenya Oil and Gas Working Group
NAFFAC	National Fossil Fuels Advisory Committee
NGOs	Non-governmental Organizations
NOCK	National Oil Corporation of Kenya
NUPA	National Upstream Petroleum Authority

NUPAC	National Upstream Petroleum Advisory Committee
PPC	Peace Pen Communications
PBO	Public Benefits Organizations
SEATINI	Southern and Eastern African Trade, Information and Negotiations Institute
TISA	Institute for Social Accountability
TI	Transparency International
UPRA	Upstream Petroleum Regulatory Authority
UN	United Nations
UNEP	United Nations Environment Programme

ABSTRACT

Civil Society Organizations (CSOs) are crucial players in any county's developmental agenda. They play crucial roles socially, economically and politically. For any country to grow economically, it requires large presence of actively involved CSOs most of it sectors if not all. The effectiveness and efficiencies of such CSOs can transform any economy to an upwards trend with little ease. This research paper evaluated the developmental impact of civil societies and their contribution to sustainable economic development. The paper also examined the challenges faced by CSOs and how these challenges affect their performance in impacting developmental agenda setting. The research adopted a descriptive case study research design while adopting both primary and secondary data collections tools. It adopted questionnaires and interviews guides to help in collecting primary data. The research used agenda setting theory and framing to help put the theoretical review into perspective. On data analysis the research adopted content analysis to help summarize any form of content by counting various aspects of the content. The research examined that developmental agenda setting is a crucial function of civil societies. The legal, policy and institutional frameworks of these CSOs plays a very important role in impacting the developmental agenda setting. Likewise it was observed that the challenges affecting CSOs negatively impacts on the developmental agenda setting role of these CSOs. It recommends that the government and other sector players need to strengthen and sanitize the CSOs to help improve their output capacity through incorporation of good governance principles which includes both transparency and accountability. It concludes highlighting the need for an interference free environment for CSOs to enable their smooth functioning.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Civil Society Organizations (CSOs) are key players in the push for universal values around human rights, labor standards, environment and anti-corruption. They are agents of development in any given economy as they play a significant role politically, socially and economically.[1] Politically, this development role can be viewed from three perspectives. First, improving the quality of governance; second, developing governments systems to apply the principles of accountability, transparency and openness; lastly, working towards gaining the allegiance and loyalty of all elected officials, public servants, and CSOs to good governance.[2] Socially, the development role can viewed in two ways. First, improving decision making processes within the society of their operation through provision of education, up to date and relevant information. Secondly, providing social protection by implementation of social protection systems through integration of human rights. Economically, CSOs have played a major development role. CSOs have helped bridge the unemployment gap through providing employment to many individuals in developing countries. Better financial systems have been implemented with the help of CSOs helping local governments to curb misuse and stealing of resources.

CSOs have, vastly given in to democratic consolidation and sustainable development. The major challenges facing the world community Kenya included, as it seeks to replace untenable development patterns with environmentally efficient and sustainable development. Globalization

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[1] An International *Multidisciplinary Journal, Ethiopia Vol. 8 (1), Serial No. 32, January, 2014:205-227*

[2] Yohannes, D. (1997). Opening Remark at a UNDP and UNECA Sponsored Regional Consultation entitled ―Building partnerships towards a common agenda for governance in Africa‖, held in Addis Ababa 23-24 May, 1997.

has changed the environment in which international Civil Society Organizations (CSOs) function. Economic globalization, modern communication technology and growing mobility are creating an increasingly unified and coordinated globe characterized by growing interdependence and new forms of cooperation that transcend national and cultural borders. Similarly, globalization has built composite challenges such as climate change, environmental degradation, poverty, pandemics and economic crises.

The changing environment calls for new agenda-setting tactics and communication strategies. Agenda setting in policy formation is about how civil partakers pursue to impact the perception of policy choices and itinerary. It is an ongoing process thus very important in policy formulation including selection, profiling and search for possible solutions of the problems that are deemed feasible. The various actors in the field i.e. lobbyists, business groups, politicians media devise their own platforms to advocate for their agenda and ideologies.

Kenya has been affected badly due to the ongoing globalization. There has been major changes in climate, environmental degradation due to deforestation is on the increase, poverty levels have doubled and there is an economic crises due to stalled economic growth mainly due to massive corruption. Most of the CSOs operating in Kenya are all engaged in one way or another trying to change these negative effects brought about by globalization. They are involved in development of agendas in their area of operations, including new sectors such as the extractives industry. Kenya Civil Society Platform on Oil and Gas (KCSPOG) is one of the CSOs working in the energy sector in Kenya.

1.2 KCSPOG Case Study

The intricacies of policy making and agenda setting surrounding key sectors in Kenya have played a major role in the economic crisis facing the country. Both political and religious leadership has been largely absent. Senior civil servants have emerged within government; exercising considerable control over the implementation of policies, which in turn may influence negatively the setting of future agendas. However, there has been inclusion of CSOs like Kenya Civil Society Platform on Oil and Gas (KCSPOG), which are forefront in monitoring of policies, advocating for the setting of new agendas and legislations in the energy sector, offering the country a chance to achieve equitable and sustainable development. This research project thus analyses the role of such new entrants into the agenda setting arena, seeking to find out if and how effective their actions have been.

Kenya Civil Society Platform on Oil and Gas (KCSPOG) is an umbrella body working on behalf of civil society organizations and civil society leaders in Kenya. The Platform presently has 13 member organizations that contribute differently to the strengths of the body. These include:

a) The Southern and Eastern African Trade, Information and Negotiations Institute (SEATINI) as a regional non-governmental Organization founded in 1996,

b) Eco News Africa as a non-governmental organization that analyzes global environment and development issues with an African perspective,

c) The Institute for Social Accountability (TISA) as a civil society initiative committed towards the achievement of sound policy and good governance in local development in Kenya,

d) Danish Demining Group – DDG Kenya is committed towards creating an insecurity free environment for remote and conflict-prone communities in Kenya,

e) Katiba Institute (KI) was established to promote the implementation of Kenya's new Constitution.

f) The Kenya Land Alliance (KLA) which is an umbrella network of CSOs and persons dedicated in implementing effective advocacy for the reform of policies and laws.

KCSPOG recognizes the principle and importance of accountability to citizens and more specifically those affected by the oil industry. KCSPOG operates on a set of values and principles that promote good governance in development and other decision making processes. These include:

a) Observance of human rights, transparency, accountability, justice and equality, apolitical non- partisanship and anti-corruption initiatives;

b) Public participation in decision making;

c) Promotion of cultural integrity, social gumminess, environmental and economic sustainability; and lastly

d) Access to information and participation of the local communities

1.3 Statement of the Problem

Due to the ever changing environment brought about by globalization, there have been calls for new agenda-setting tactics and communication strategies.[3]The agenda setting platform is where a problem is singled out and outlined fully, after this process possible policy alternatives

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[3]NGOs and International Organizations. (2007). NGOs and International Organizations. In *Agenda Setting, the UN, and NGOs: Gender Violence and Reproductive Rights* (pp. 163–184). Georgetown University Press. Retrieved from http://www.jstor.org/stable/j.ctt2tt5f5.10

are identified and options evaluated[4]. An agenda is a list, plan, and outline of things to be done or acted upon. There are different kinds of agendas, like traditional, strategic, subject-based and personal agendas

CSOs play and will continue to play a role that complements that of states and governments, including agenda setting. They occupy spaces that governments either cannot or would not fill and, often, produce social services that can support governments work and services.

There has been various debate revolving around CSOs and their role in influencing the development agenda. Due to their large numbers, many people argue that these CSOs have outlived their mandates and that their formation objectives have been realized. Thus the question is whether CSOs in Kenya are still part of the development agenda setting or has their mandate really been realized. This study focuses on the agenda setting stage, the stage in which possible policy options are considered and the policy decision stage. It also seeks to find out whether CSOs in Kenya are taking part in the development agenda setting and if there is positive impact on the society.

1.4 Objectives of the Study

1.4.1   The General Objective of the Study

To assess the role and impact of Civil Society Organization (CSOs) on Kenya's Development Agenda.

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[4]Kingdon, J.W., *Agendas, alternatives, and Public Policies*, 2003, Longman, New York, page 3-5

1.4.2   Specific Objectives

i.   To assess the legal, policy and institutional framework for CSOs in Kenya, and how this influences agenda setting for CSOs.

ii.   To assess the role and impact of CSO's in Kenya's development agenda setting using case study of KCSPOG.

iii. To analyze the challenges faced by CSOs in impacting the development Agenda in Kenya

1.4.3   Research Questions

i.   What is the legal, policy and institutional framework for CSOs in Kenya?

ii.   What is the role and impact of Development policy, planning and accountability on Kenya's Development Agenda?

iii. What are the challenges faced by CSOs in impacting the development Agenda in Kenya?

1.5 Hypothesis

g)   The legal, policy and institutional frameworks of CSOs plays a significant role in the agenda setting role of CSOs.

h)   Challenges faced by CSOs impact negatively on the development agenda setting role of CSOs.

1.6 Significance of the Study

CSOs have been able to fill the gap left by the government despite facing some limitations. This study explores the challenges faced by this CSOs during the process of impacting

development agenda. For the government to achieve its goals it has to develop effective relationships with several different audiences with its citizens being the greatest focus something which this study covers extensively. For CSOs and other stakeholders, the information will be useful as they will be able to self-evaluate themselves and also monitor their impact on the society. Also the study assesses legal, policy and institutional framework laid down for the functionality of CSOs in Kenya thus its recommendations will of much help to both the CSOs and government in improving CSO-state relations as well as agenda setting processes in Kenya.[5]

1.7 Literature Review

1.7.1 The Concept of CSOs

The concept of civil society is and will remain an ambiguous concept with diverse interpretations. The concept was born from the western idea fronted by Alexis de Tocqueville in his analysis of American democracy. Tocqueville introduced civil society as non-political social organizations which can be either "religious, moral, general or restricted, enormous or diminutive" that fortifies democracy curbing misuse of power. Tocqueville argued that civil society promotes social norms through social capital by educating people about benefits of a free society. Through this, individuals are encouraged to form alliances with like-minded organizations not only to pressure governments but also to front their own advocacy messages.

Robert Putnam describes civil society as "features of social life- networks, norms and trust- that enable participants to act together more effectively to pursue shared objectives"[6]He

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[5] Weaver, M. R. (1993). [Review of *Civil Society and Political Theory.*]. *The Journal of Politics*, *55*(2), 542–544. Retrieved from http://www.jstor.org/stable/2132296

[6]Making Democracy Work, and his article, *Tuning In, Tuning Out: The Strange Disappearance of Social Capital in America*

equates civil society to social capital which influences residents participation in the social set ups, thereby determining government's operations. Civil society can also be viewed as a network of voluntary associations of like-minded individuals interested in a common agenda.

1.7.2 History and role of CSOs in Kenya

The term CSOs in Kenya covers a large variety of groups ranging from community groups, grass root activist groups, research organizations, forums, charitable companies, advocacy groups, corporate think-tanks, emergency/humanitarian relief focused groups, etc. Today, CSOs field has a wide range of organizations of different strategy, origin, size, programs, role, funding, linkage evaluation, ideology, etc. There are thousands of these organizations operating under civil society umbrella with wide, varied, complex and uncountable parameters.

The concept of civil society gained prominence in relation to the dynamics of political and economic structures, especially from the late 1970s to early 1990s[7]. The number of civil societies rose significantly after the eighteenth Assembly of Heads of State and Government of the Organization of African Unity (the present African Union) after adoption of the African Charter on Human and People's Rights. The Charter having been adopted in Kenya, gave strength to Kenyan human rights groups registered then to start advocating for the realization of the set human and people's rights standards from the Government of Kenya thus their rise in numbers.

However, CSOs picked up pace in the early 1990's just as multiparty system was been introduced. Many individuals came to the fore after the end of the one party state, which was a dark period for the country where there was massive violations of human and people's rights. This period witnessed rise of many groups which undertook different roles to compliment

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[7] Bratton, M. 1989. Beyond the State: Civil society and associational life in Africa. *World Politics* 41 (3): 407-30.

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government services with human rights group being at the center stage as the rights agenda was on top of the globe development discussions.[8]

CSOs seeking official recognition by the government register with the Non-Governmental Organizations Co-ordination Board which is mandatory under Part III of the Non-Governmental Organizations Coordination Act, 1990. The Non-Governmental Organizations Co-ordination Board is a State Corporation established by the Non-Governmental Organizations Co-ordination Act (Cap 19) of 1990 with the responsibility of regulating and enabling the NGO sector in Kenya. In 1992 more regulations were added unto the Non-Governmental Organizations Coordination Act, 1990 through the Non-Governmental Organizations Coordination Regulations (1992). Further the Non-Governmental Organizations Council Code of Conduct (1995) was formulated to help with the management of CSOs.

In Kenya, there are thousands of CSOs involved in all sectors of national development, notably in education, health, the environment and gender empowerment. The CSO Board of Kenya categorizes CSOs in the following sectors: agriculture; animal welfare; culture; disability; drug and alcohol addiction; education; energy; environmental conservation; health; HIV and AIDS awareness/mitigation; house and settlement; ICT; micro finance; and peace building. In regard to this, it can be deduced that, CSO's have, vastly given in to democratic consolidation and sustainable development in Kenya. They serve as the internal correctional mechanism to check and correct the activities of government to avoid wasteful spending, misappropriation and embezzlement of funds and help determine or prioritize the needs of the people.

The major roles undertaken by all these CSOs include: development of infrastructure, supporting of innovation mainly through piloting of projects mainly in the agriculture sector,

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[8] Prof K. Kanyinga, "Evolution of Kenya's Civil Society", *Daily Nation*, (Nairobi), 28 February, 2015, Online Edition

facilitating communication mainly through highlighting of different problems affecting the society, research, monitoring and evaluation, technical assistance and training and lastly advocacy for and with the less fortunate in the society.

1.7.1   Kenya's Quest for Sustainable Development and Development Planning

The major challenges facing the universe, Kenya included, as it seeks to change unsupportive development patterns with environmentally friendly and sustainable development is the need to push for a sense of equality on all parts of society. To forge such an alliance it will require the willingness of all parts of the society to participate through partnership and dialogue, while keeping in mind their independent roles, responsibilities and special capacities. This social partnership and dialogue is what most if not all the CSOs are involved in, trying to form one voice as a sector and a country.

Kenya's historical pursuit of sustainable development can be traced back to 1965 through Sessional Paper No. 10, entitled African Socialism and its Application to Planning in Kenya. Kenya's objectives were summarized as follows in the Sessional Paper No. 10:

i) Political equality.

j) Social justice.

k) Human dignity, including freedom of conscience.

l) Freedom from want, disease and exploitation.

m) Equal opportunities.

n) High and growing per capita incomes, equitably distributed.

The main focus was on eradicating diseases, hunger, poverty and illiteracy. Since then there have been a number of development plans and strategy papers developed to achieve

development. Kenya was among countries which adopted the Agenda 21 in Brazil in 1992 which entailed the Poverty Reduction and Strategy Paper which was divided into four sections. Section one was conserved with social and economic dimensions to help compact poverty, section two involved conservation and management of resources for development, section three involved strengthening of the role of major groups and lastly section four which involves the means of implementation.

In 2003, the Economic Recovery Strategy (ERS) for Wealth and Employment Creation was adopted by then the National Rainbow Coalition government in an effort to revive the economy. This blue print main purpose was to set the country back on the growth path after years of economic stagnation. Its implementation was viewed as successful as the economy gained a positive growth between 5.9% and 7% compared to the negative growth rate in the previous regime. After its expiry in during the 2007-2008 financial year the developed a new long term strategy to take over from ERS.

Kenya's Vision 2030 is the country's current long term development plan. The vision of this strategy was to transform the country into "the globally competitive and prosperous country with a high life by 2030". Its pillars are economic, social and political pillars. It highlights various challenges that the country has and is still facing in its quest to achieve the Vision's targets. These challenges are: tough competition at the international level due to globalization; ensuring continued macroeconomic stability; minimizing institutional risks (corruption and security); scaling up the quantity and quality of infrastructure; promoting efficiency through adoption of new technologies, improvement in governance and reducing transaction costs to business.

1.7.2 Global Perspective of the role of CSOs in Agenda Setting

The movement of social groups and community organizations around the world started early on in 1950s and 1960s but confined their actions based on religious or charitable considerations, and not development issues. CSOs outside Africa developed as part of a larger neo-economic liberal and political agenda, known as the Washington Consensus, pushed around and spearheaded by the US and Western governments. The agenda main aim was to minimize the role of the state in providing social services such as health and education and to push funding towards CSOs as an alternative to the State. Socio-Economic development was therefore conceived to be a shared responsibility. In this context, the primary role of CSOs would be to mobilize people and their resources at local, national and community levels to help achieve self-sustained development.

In Africa, the coming of colonialism introduced a new set of rules that placed focus on government where it did not see the need to invest resources in the development of social communities unless it contributed directly to the demands and welfare of the colonial administration. However, the situation changed in the 1970s as Africa became worse as the continent experienced severe economic crises characterized with minimal growth or lack of it, high inflation, exorbitant accumulated foreign debts and shortage of essential basic needs and commodities.[9]

This crisis created a gap in the social arena that could only be filled by a private volunteering spirit. Groups and individuals in the social arena realized the need to unite and work

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[9]Jinmi Adisa, 2013.*The Role of Non-Governmental Organizations in Development Support: The African Perspective.* African Union Commission to the Arab-Africa Economic Forum held in Kuwait

together with a common goal of societal development requiring long terms interventions that will help solve the problems facing the society.

In Nigeria which has a long and strong tradition of civil society, attained its independent primarily due to the historic of struggle and resistance by the civil societies.[10] There was much influx CSOs in Nigeria after the realization of period with the numbers tripling. These CSOs "engaged in community self-help 'activities', provided humanitarian assistance at the grassroots level there by setting the agenda in terms of development".[11] The role and behavior of CSOs can be said to be flexible as it changes along with the political and economic development in the country since the period of colonialism to date. The CSOs have been active both in agenda setting and in development activities.

Tanzania on the other hand has a strong civil society movement that has played a key role in national policy development processes, as well as in the development of the people and country. The civil society in Tanzania dates back to the pre-colonial era. In the mid-1980s and early 1990s was the most crucial phase for CSOs in Tanzania. This period was linked to economic hardships due to the need to fill the gap left by the state withdrawal from social services delivery, hence the CSOs initiated restructuring process which compelled government to reduce control of the state over public affairs, including service provision. The CSOs used this space in setting various agenda for common good of the poor in Tanzania. Market liberalization and cost sharing in social services meant that the ability of people to earn a decent livelihood became increasingly challenged.[12]

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[10] AJ Omede (2014) The Impact of Civil Society Organizations on Sustainable Development in Developing Countries: The Nigerian Experience African Research Review Vol. 8,No. 1
[11] CIVICUS Civil Society Index. (2007). Civil Society in Nigeria: Contributing to Positive Social Change. Joint Project of Action Aid Nigeria, Development Information Network (DevNet), CIVICUS: World Alliance for Citizen Participation and United Nations Development Programme (UNDP).
[12]FCS (2009). *The state of civil society organizations in Tanzania. Annual report 2009.* FCS, Dar es Salaam http://www.thefoundation.or.tz/reportsview.php?rTypeID=1&rSTypeID=1

From the above two examples it can be observed that CSOs agenda setting role has been around for long. Many CSOs are currently involved in different sectors of the economy of these countries aiding in development agenda. In Africa, with almost all countries being developing nations much is required development wise to help improve citizens living conditions. Because of this many international CSOs have set shop in this countries to help in the process.

1.8 Theoretical Review

1.8.1 Agenda Setting

CSOs play a very big role in agenda setting in third world countries. In Kenya, CSOs have often targeted poverty eradication through development. This study mainly focuses on CSOs agenda setting on development. What are the CSOs in Kenya doing to aid development? Are they part of the agenda setting? To try and answer these questions, the study will apply the Agenda Setting Theory of the Mass Media.

The Agenda Setting Theory of Mass Media was first developed by Maxwell McCombs and Donald Shaw in 1968 during a study on presidential elections. McCombs and Shaw proposed that the media does not give the public specific thinking points but does give broad space of information for the public to pick from. Agenda setting describes a very powerful influence of the media – the ability to tell us what issues are important. Their suggestion concurred with the views of Walter Lippman newspaper columnist in 1922 who argued that the media had the power to depict imaginations to the public through creations of images in our heads.[13]

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[13] McCombs, M.E. (1972). Mass Communication in Political Campaigns: Information, Gratification and Persuasion. In: Kline, F. & Tichenor, Ph.J. (Eds.) *Current Perspectives in Mass Communication Research.* Beverly Hills, CA. Sage.

During this research on presidential campaigns, McCombs and Shaw based their attention on two elements: awareness and information. They tried to determine the correlation between what voters perceived to be important issues and the actual information projected by the media during the campaign. Their conclusion was that there was strong correlation between emphasis placed by mass media on specific news items and the importance credited to these news items by mass audiences (public).[14]

Agenda-setting therefore is putting fourth of striking and outstanding news items by the mass media for the public awareness. In Kenya, CSOs play an important role where they provide information on different issues affecting the citizens. Some of these issues include: climate change, poverty, development, corruption and bad governance. Just as McCombs and Shaw focus was on the two elements: awareness and information CSOs too have taken up this technique to help push their agendas.

In choosing and displaying information on development, these CSOs play an important part in shaping development awareness to the society thereby increasing the focus of the society on development issues. According to the Theories of Communication[15], agenda setting can be divided into two parts, the first level involves important common dependents while the second level determine what parts of the common dependents are of importance. These two levels of agenda setting form the function of this concept. Rogers and Dearing in their book Agenda

[14]McCombs, M.E., & Shaw, D.L. (1972). The Agenda-Setting Function of Mass Media. *Public Opinion Quarterly, 36 (summer)*, 176-187.

[15] Littlejohn, Stephen W. *Theories of Human Communication. Seventh Edition.* Albuquerque, New Mexico. Wadsworth, 2002

Setting Research[16] divided this concept further into three parts with the first part being the importance of the salient issues that are going to be discussed. Second, is the impact of the issues discussed on the public opinion, mostly referred as public agenda. Finally with public agenda aroused it influences the policy agenda.[17]

1.8.2 Framing

The framing theory is similar to agenda setting theory such that it proposes that the media focuses attention on specific happenings and then places this happenings within a field of meaning. Iyengar and Kinder operationalized framing with agenda setting and priming[18] while McCombs, Shaw and Weaver proposed that framing is an extension of agenda setting. They used "second level agenda setting" to describe framing as the impact of the effects of the media to the public[19]. This theory explains how an idea referred to as a "media frame" is presented to the public, thereby influencing the choices the public make on how to process the given idea. Media frame is "a central organizing idea or story line that provides meaning to unfolding strip of events". Dietram[20] suggests that framing should be divided into two parts. First, it should be seen as a concept embedded in the larger media effects research where its theoretical premises are outlined. Second, a framing research topology to be developed that classifies the applications of framing in media effects research.

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[16] Rogers, E.M., Hart, W. B., & Dearing, J.W. (1997). A paradigmatic history of agenda-setting research.
[17] Littlejohn, Stephen W. Theories of Human Communication. Seventh Edition. Albuquerque, New Mexico. Wadsworth, 2002
[18]Iyengar, S. (1987). Television news and citizens' explanation of national affairs. American Political Science Review, 81, 815-831
[19]McCombs, M Shaw, D.L, & Weaver, D. (1997). Communication and democracy: Exploring the intellectual frontiers in agenda setting theory. Mahwah, NJ: Erlbaum
[20]D. A Scheufele (1999). Framing as a theory of media effects. Journal of Communication Vol. 49, Pg. 103-122

Likewise Fairhurst & Sarr suggested that framing consists of three elements: language, thought and forethought[21]. Language acts as a mode of sharing information and helps us to change in the way in which we perceive situations. To use the given language, the public must have *thought* so as to be able to interact with each other. Lastly, to be able organize (frame) different instances, one ought to be having the *forethought* to predict framing opportunities. Entman gave a more detailed and self-explanatory interpretation of the farming theory[22]. He explained that "to frame is to select some aspects of a perceived reality and make them more salient in a communicating text, such away as to promote a particular problem definition, causal interpretation, moral evaluation and treatment recommendation".

Fairhurst and Sarr suggested various framing techniques. These included:

1. Metaphor: Frame an idea a new meaning through comparison it to something else.

2. Stories (myths and legends): To frame a subject through use of clear and memorable stories.

3. Traditions (rites, rituals and ceremonies): Use of cultural activities too.

4. Slogans, jargon and catchphrases: To frame a subject in a flashy and memorable phrases.

5. Artifacts: To illuminate ideas through physical objects

6. Contrast: To depict a dependent in terms of what it is or it's not.

7. Spin: to represent a concept in such away its positive or negative image is portrayed.

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[21]Fairhurst, G. & Star, R. (1996). *The art of Framing*. San Francisco: Jossey-Bass.
[22]Robert M. Entman (1993). Framing: Toward Clarification of a fractured Paradigm. Journal of Communication Vol. 43, Pg. 51-58

1.9 Research Methodology

This study employed a qualitative case study research design. A case study research design is a useful tool for hypothesis testing on social phenomena[23]. Likewise the design is advantageous as if applied correctly, it is a valuable method in developing theories, evaluating programs and developing interventions. Also it allows the researcher to explore organizations or individuals, through complex interventions and programs.[24] The case study research design fitted perfectly this study as it helped the researcher to carefully and thoroughly scrutinize KCSPOG's operations in Kenya using a variety of data sources.

1.9.1   Data collection

The study collected both primary and secondary data. Primary data was collected through structured interviews with the aid of interview guides guiding and directing the interviewer on the topics of conversion toward the topics and issues he or she will want to know about. The guides were highly scripted to help collect the relevant information.

Secondary data was obtained from secondary data sources including: published material on CSOs, electronic data, government recordings and internet. According to Byrman the advantages of the secondary data analysis is that "both the cost and time involved is less than what could have been incurred if one would decide to collect the data while disadvantage lies with the lack of credibility and lack of familiarity with data"[25].

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[23] Allan Bryman, Social Research Methods 3rd Edition. Oxford University Press, 2008. 603-626
[24] Yin, R K (2003). Case study research: Design and methods (3rd edition). Thousand Oaks, CA: Sage
[25]Bryman A, *Social Research Methods 3rd Edition*, (Oxford: Oxford University Press, 2008) 183 - 190

1.9.2   Data Analysis

The data was analyzed through procedures prescribed by Bogdan and Biklen.[26] This included thorough working with the data, arranging it, disseminating it into small controllable units, synthesizing it, checking for patterns, pointing out what is important and what is to be learned, and deciding what to tell others. Content analysis was used as the main source of analysis involving summarizing any form of content by counting various aspects of the content.

1.9.3   Data Presentation

The research findings were presented in prose form, where available and necessary raw excerpts from the data were used to give illustrations. Most of the findings was connected tothe hypothesis and research questions through narration.

1.10   Chapter Outline

Chapter one provided the background of the CSOs agenda setting in the world with a keen interest in Kenya. It outlined the literature review which examined specifically the evolvement of the CSOs in agenda setting in Kenya with a specific interest in development. The aim of the literature review was to demonstrate how the CSOs have been impacting on development through agenda setting over the years. Further it illustrated the sequence and growth of knowledge in the developmental agenda setting area and identified key areas of existing gaps.

Chapter two focused on the assessment of the legal, policy and institutional framework for CSOs in Kenya, and how these frameworks are impacting and influencing agenda setting for CSOs operating in the country.

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[26]Robert Bogdan, C., and Biklen Sari K. "*Qualitative Research for Education*." Wellington, *Educational Research*: *Contemporary Issues and Practical Research*, London: Continuum (1982). pg. 145

Chapter three examined and assessed the role and impact of CSO's in Kenya's development agenda setting using case study of KCSPOG which is an umbrella body of civil societies operating in the energy sector in Kenya. It examined the legal, policy and institutional frameworks within KCSPOG and how these frameworks are impacting on developmental agenda setting.

Chapter four analyzed the challenges faced by KCSPOG in impacting the development Agenda in Kenya. It also highlighted other problems facing CSOs in the sector and possible solutions to these problems.

Chapter five provided conclusions of the study, giving recommendations and providing suggestions on areas for further study. This chapter is the culmination of the study to tangible policy recommendations based on the findings discussed. The discussion indicated whether the results confirm. From the data analysis in chapter four it discussed the main findings and also exposed the gaps. The chapter summarized the data collected in the previous chapters as a result of the hypotheses and theoretical framework.

CHAPTER TWO

ASSESSMENT OF LEGAL, POLICY AND INSTITUTIONAL FRAMEWORK FOR

CSOs IN KENYA

This chapter assesses the legal, policy and institutional frameworks laid down by the government in Kenya to aid CSOs in their operations in agenda setting. All these frameworks are needed in the smooth running of CSOs thus giving clear guidelines on how the sector should be managed to avoid hiccups.

2.1 Legal Framework

2.1.1 Legal frameworks within the Civil Society Organization sector

Kenya's rich philanthropic culture due to its rooted culture, British colonization and teachings from first Christians Missionaries can be attributed to today's civil society movements. The fast Act of Government to pass in relation to CSOs was in 1968 when the Societies Act was passed as an "Act of Parliament to make provision for the registration and control of societies". However, the statute was seen to be against CSOs operation as it gave powers to the Registrar of Societies and various government officials during investigations to arrest, enter and search the premises of any society. With the Act not giving enough legal framework for the operation of CSOs it was deemed inadequate and a more comprehensive Act was required.

In 1990, the government of Kenya enacted the Non-Governmental Organization Coordination Act No. 19 of 1990 [27] as the first legislation towards limiting and regulating the CSO sector in the country. The Act was a central reference point for registration of all NGOs both local and international seeking to operate in Kenya. Prior to this, information on CSOs was inconsistent, with many of these CSOs registered in different sectors as different entities making

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[27]The Non-Governmental Organizations Coordination Act (1990)

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it hard to keep track of sector. The Act was to work as an operational agreement between the Kenyan Government through the Department of Social Services at the Ministry of Culture and Social Services and the Attorney General's Office and CSOs seeking registration either as Societies, Companies Limited by Guarantee or Trusts. The Act under section 3(1) established the Non-Governmental Organizations Co-ordination Board which was to oversee manage all CSOs operating in the country. Also the Act established a NGO Council to help in regulating operations of CSOs through provision of the code of conduct.

After the promulgation of NGOs Coordination Act No. 19 of 1990, CSOs were up in arms accusing the government of mistrust. The CSOs accused the government of putting in place provisions within the Act e.g. the establishment of the Council under section 23 of the Coordination Act with which every CSO was required to be a member. This made CSOs to question the intentions of the government to control and manage CSO sector and not for the smooth operation of the sector as earlier intended.[28]

In 1992, the Non-Governmental Organizations Co-ordination Regulations[29] was formulated to help with coordination of CSOs within Kenya. It contained regulations pertaining operations of CSOs starting with the NGO coordination board which is the main body mandated to coordinate operations of CSOs in Kenya. It gave guidelines on operations of the Board through the Director by setting up of a Bureau and appointment of officers to serve in it.It gave direction on registration and exception of registration of CSOs within Kenya giving directions on fees charged, conditions of cancelation of certificate of registration and refusal of registration.

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[28]Faith Kisinga "NGO Law in Kenya: The Process of Reviewing the NGO Act 1990 - A Step By Step Road Map" *International Journal for Not for Profit Law* Vol 1, Issue 4, Art 2.
[29]The Non-Governmental Organizations Coordination Regulations (1992)

Later in 1995, the Non-Governmental Organizations Council prepared the NGO Code of Conduct[30] as per powers conferred to it under section 24 of 1990 Act. The Code was enacted to provide CSOs with the code of conduct to observe. It required CSOs to observe the honor, national security, power and independence of the Republic of Kenya and the national policies of the government. The Code established the Regulatory Committee which was to enforce the Code of Conduct through promoting adherence to the Code, reexamining the Code and applications sent to it from potential members.

There are other general laws pertaining of CSOs mostly focusing on regulating different types of associations e.g. labor/trade unions, political parties, religious organizations and co-operatives. Some of these can be found in the Companies Act[31], Trustees Act[32], Societies Act[33] and the Political Parties Act[34]. Moreover registration of CSOs is subject to other laws such as the Finance Act and the Immigration Act for both national and international CSOs seeking operation in the country. Lastly CSOs are subject to tax laws which include income tax, sales tax (VAT), customs duties

In 2010 Kenya got a new constitution. The Constitution of Kenya as the overarching framework has a number of provisions supporting functionality of CSOs within the country. Chapter V of the constitution carries the fundamental rights and freedoms of persons residing in the country. Section 80 of this chapter fronts for the protection of the freedom of association and assembly providing that every individual has the right to freely assemble and associate with other

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[30]The Non-Governmental Organizations Council Code of Conduct (1995)
[31]Companies Act CAP 486 of the Laws of Kenya
[32] Trustees Act CAP 167 of the Laws of Kenya
[33] The Societies Act CAP 108 of the Laws of Kenya
[34]The Political Parties Act, Chapter 7B of the Laws of Kenya (2011)

people and directly affect CSOs operation. Also the same constitution fronts for the right to access information enabling spread of information within individual and groups of people.[35]

2.1.2   The impact of the various legal frameworks on agenda setting

Legal frameworks within any sector are very important as they help give directions pertaining activities to be undertaken. Lack of clear guidelines through lack of legal frameworks can be very detrimental as there is no given order of doing things or regulations on particular things. Before the formulation of the NGO Act of 1990, there was legal vacuum in the country with no clear guidelines on the registrations of CSOs, no regulations pertaining their operation and no code of conduct to help the sector. This raised multiple questions regarding how donors and local groups were to operate. Moreover, there were multiple and overlapping, legal and regulatory regimes thereby presenting difficulties for the Government to attain a harmonized regulatory framework.

After the enactment of the Act various positive good tidings have experienced within the sector. Even though the CSOs felt that the Act was strict and against their operations with very strict penalties, there has been steady increase in the number of CSOs in the country. This is because there are specific laws guiding operations within the sector as compared to other countries with blanket laws on the sector with no clear guidelines. The legal frameworks have positively affected the ability of NGOs to carry out their missions and to sustain themselves financially.

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[35] Chapter V Sec 80(2) of the Constitution of Kenya

The NGO Regulations of 1992 and the NGO Code of Conduct of 1995 have been instrumental as they contain the guidelines on operations of activities within the sector giving regulations to be adhered to especially the observation of the honor, national security, power and independence of the Republic. The code of conduct has enabled NGOs to participate constructively in development agenda throughout the country helping in improving the living standards of individuals living in poverty. After enactment of the policy document on CSOs, there has been good relationship between the government and players in the CSO sector. This has brought stability both within in the CSO sector and in the society in general. Through enabling provisions, the law facilitates the role of CSOs to promote stability while through disabling provisions, the law can hinder the role of CSOs to promote stability.

2.2 Policy Framework

2.2.1   Policy frameworks within the Civil Society Organization sector

After the enactment of the 1990 NGOs Act, many of the CSOs in operation in that time went up in arms blaming the government of enacting and implementing draconian laws to be able to control the CSOs sector. Many saw this as move by the then government trying to limit and suppress the CSOs sector as the laws passed were hush on CSOs operations. This led to many people both in Government and CSOs sector to question the efficacy of having laws on CSOs operation in absence of a national policy on CSOs. Due to this the government in conjunction with the CSOs agreed to form a joint task force to prepare a policy document to govern the CSOs sector.

In 1996, the NGO Coordination Board started the roadman ship towards development of a national policy on NGOs through formation of consultative process with stakeholders to develop a comprehensive NGOs coordination Act that would reflect consultations and affirmed

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agreements within the sector. The executive committee of the NGOs Council affirmed its commitment to establishment of the policy. The CSO sector and government started the process of formulating a policy in late 2002 and by May 2004, an NGO Sector Policy had been agreed upon. It was not until July 2006, that Parliament adopted Sessional Paper No. 1 of 2006 on NGOs.[36] The Sessional Paper calls for a new NGO law. It also:

- Accepted NGOs' impact to the economy;

- Stressed the government's dedication to partner with the NGO sector in development and policy making;

- Highlighted the Government's anticipation of NGOs willingness operate transparently;

- Acknowledges the role of NGO Council and NGO Coordination Board; and

- Suggests better mechanisms for regulation and coordination

2.2.2   The impact of the various policy frameworks on agenda setting

Policy development plays a big role in agenda setting. According to various literature on public policy on agenda setting (Kingdon[37]; Baumgarter et al,[38]) organizations and other actors within the CSO sector have a very big influence on Government Agendas. Kingdon uses his agenda setting model to analyze policies with the use of a metaphor of a soup like environment, with three inter-related streams that permeate the entire process. First, is the problem stream which relates to the issues or problems that have been identified. Second, is the policy stream which houses solutions and alternatives to the problem identified above. Lastly, is the politics

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[36]Sessional Paper No. 1 on Non-Governmental Organizations, Office of the Vice President and Ministry of Home Affairs, 2006.
[37]Kingdon, J. W. (1995) *Agendas, alternatives, and public policies,* 2nd ed.*,* New York: Longman.
[38]Baumgartner, F. R., Berry, J. M., Hojnacki, M., Kimball, D. and Leech, B. (2009) *Lobbying and policy change: who wins, who loses, and why,* Chicago; London: University of Chicago Press.

stream that includes factors such as the national mood, interest group activities and changes in the administration.

Several policies have been implemented as a result of continuous advocacy by the CSO sector. The impact of policy framework formulated has been huge with tremendous growth both on the public and private sectors. This impact can be attributed to following contextual factors which have shaped several policies in the country. These factors include: political ideology, economic crises, historical events and change in climate. These factors have helped policy actors to influence the agenda setting and formulation processes.

Decision making has been greatly impacted leading to change and shift in agendas. With multiple bodies involved in decision making unlike in the past when only a few individuals had the opportunity, there has been tremendous developmental growth. This has helped change many lives as the paradigm shift is now on the poor with the main focus of poverty eradication. Also policies have generated resources to those that are being advocated for by providing information which helps in decision making. There are a number of policies that have been formulated with the aid of the CSO sector.

These include: Heath policy which was designed as an inclusive, balanced and coherent policy with focus on the two key obligations of health: its effect to economic development as captured in Vision 2030; and accomplishment of fundamental human rights, that includes the right to health as per the constitution. It focuses on ensuring equity, people centeredness and participatory approach, efficiency, a multi-sectorial approach and social accountability in the delivery of health care services.

The Agricultural policy formulated in 2008 is aimed at creating a "globally competitive and prosperous nation with a high quality of life by 2030." The policy pushes for increased

productivity and income growth with a major focus on smallholder famers; enhanced food security and equity. The policy highlights that economic development heavily depends on four sectors namely: agriculture, tourism, manufacturing and the energy sector. Thus need to enact relevant formulations to coordinate ecosystem management and the sustainable use of natural resources.

2.3 Institutional Framework

2.3.1   Institutional frameworks within the Civil Society Organization sector

Ministry of Planning and Devolution

The Ministry of Devolution and Planning is the ministry in charge of CSO activity in the country as CSO sector falls under it. The NGO Board and the NGO Co-ordination Bureau all report to the cabinet secretary who heads the ministry. The ministry through its different departments ensures timely disbursement of funds to the NGO Board, provides support in the enactment of the relevant policies and legislation and provide proper communication on policy issues from the national government. It also provides man power through provision of staff to the NGO Board to help it perform its mandate without failure.

NGO Co-ordination Board

The Non-Governmental Organizations Co-ordination Board is a State Corporation established by the Non-Governmental Organizations Co-ordination Act (Cap 19) of 1990. The Board has the key responsibility of coordinating activities, regulating and enabling the NGO sector in Kenya. The Board is constituted of government nominated and elected members from different sectors who are professionally qualified to enable it discharge this mandate effectively. The Board takes responsibility for the operational issues relating to registration, deregistration and other matters as per the NGOs Act. The Board is mandated to establish mechanism at

provincial, district, division, location and village levels to enable it be effective in its functionality. The Board has powers to investigate any complaints pertaining to any given CSOs through the Regulatory Committee and recommend for actions which might include dismissal e.g. in 2015 the Board threatened to deregister 959 local CSOs for not accounting properly for their funding.

Also the Board is required to have a Secretariat to support its operations. The secretariat is to support the Board's operations in matters regulation e.g. registration/deregistration, monitoring and evaluation, and in operational functions such as quality of programs, setting of operating standards, information sharing and in operational aspects such as establishment of linkages/partnerships and in all matters relating to the implementation of this policy.

Non-Governmental Organizations Council

The NGOs Council was formed in 1993 under section 23 of the Non-governmental Organizations Co-ordination Act, 1990[39] (Laws of Kenya). Its main role is to advise the Board on the code of conduct of CSOs in Kenya helping in self-regulation, capacity building and policy intervention for the CSOs Sector. Membership to the Council is automatic immediately CSOs is registered thus membership is by default for any CSOs wanting to operate in Kenya. The Council operates through the decisions of the General Assembly (GASS) held annually which elects an Executive Committee, a Regulatory Committee, and a Board of Trustees. The NGO Council membership includes international, regional and national NGOs operating in Kenya and working with a host of CBOs and groups.

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[39]Non-governmental Organizations Co-ordination Act, 1990

2.3.2   The impact of the various institutional frameworks on agenda setting

The set institutional frameworks within the CSO sector have significantly helped in agenda setting in the sector. The Non-Governmental Organizations Co-ordination Board which is tasked with managing activities within the CSO sector has initiated various formulation making processes by inviting stakeholders to discussions on how to deal with various issues arising with time. For example, in 1996 after the players in the CSOs showed displeasure with some laws within the NGO Act, the board kick started a process to formulate a policy document for the CSO sector. The Board invited various stakeholders who met agreed on the formulation of the policy document on the sector. This came to pass as in 2006, parliament adopted The Sessional Paper No. 1 of 2006 on NGOs which was aimed to enhancing regulation of the sector amongst other things. The NGOs Council helps the Board in its activities thereby helping in self-regulation, capacity building and policy intervention within the CSOs Sector.

2.4 Stakeholders involved in formulation of the Legal, Institutional and Policy frameworks

There are various actors involved in formulation of legal, institutional and policy frameworks within the CSO sector. The government is the main player as it governs and controls CSO activity within the country. The first CSO Act the NGO Act of 1990 was formulated by the government with intentions of streamlining operations within the sector.

The Non-Governmental Organizations Co-ordination Board working as a representative of the government has the key responsibility of coordinating activities, regulating and enabling the CSO sector. The Board staff help in implementation of the NGO Board's strategic plans and mandates through carrying out their duties with diligence, efficiency, integrity and professionalism. The Board of Directors of the Board provide strategic plans, relevant policies, approve budget and ensure implementation of strategic plan procedures and policies.

The NGO Council fosters to promote best practices within the sector through advising on the code of conduct of CSOs by submitting quarterly reports to the Board helping in self-regulation, capacity building and policy intervention for the CSOs Sector. The Secretariat within the Board support the Board's operations in matters regulation. The general public being the recipients of the services from the Board give timely feedback on Board services to enable better performance both by the staff and the Board of Directors. CSOs which are managed by the Board are to effective implement their mandate while complying with the legal and regulatory framework and other enabling laws. They are also to give feedback on Board services.

The Ministry of Devolution and Planning being the parent ministry ensures timely disbursement of funds, provides support in the enactment of the relevant policies and legislation and provide proper communication on policy issues from the national government. Other ministries and Government provide partnership, collaboration and relevant technical support to the Board through sharing of information through consultations with relevant authorities within the sector. The private sector provides the CSO sector with efficient products and services that will help improve operations within the sector. Also the private sector offers corporate social responsibility.

Professional Organization in the country ensure professional standards and integrity within CSOs sector is maintained through by setting specific minimum standards and also through updating the Board on current professional standards and practices. The Media being the center of information within the society is obligated to professionally report the timely and correct information pertaining the CSO sector and at no any given time provide misleading information that might demean the sector. The County governments are to provide an enabling environment for charitable work through working with CSOs to align their activities within the county plans

and also by promoting civic society participation in governance. Financial Reporting Centre are to monitor and investigate acts of money laundering and criminal and terrorist financing within the CSOs sector by putting in place systems for monitoring and collecting and analyzing financial data on NGOs.

2.5 Conclusion

CSOs play a major role in development agenda in throughout the world. In Kenya these CSOs have been at the forefront advocating for development changes. Weak legal, policy and institutional frameworks for CSOs opens them up to abuse internally and from government thereby representing a major a challenge to the work of civil society as a watchdog over governance and human rights issues. Therefore, legal, policy and institutional frameworks are very important in management of CSOs. These frameworks provide a series of guidelines which manage smooth flow of activities within the sector. With smooth running of activities within the sector were are guaranteed to witness quality services with one of them being agenda setting.

CHAPTER THREE

KENYA CIVIL SOCIETY PLATFORM ON OIL AND GAS (KCSPOG) A CASE STUDY OF AGENDA SETTING WITHIN THE CSO SECTOR

This chapter takes a deeper look at the CSO sector and how they impact on agenda setting. The chapter undertakes a case study of Kenya Civil Society Platform Oil and Gas (KCSPOG) to try and show how developmental agenda setting is being impacted on by different players in the CSO sector. KCSPOG is a platform of different CSOs working in the energy sector whose main aim is to assist in pushing for accountability among players in the energy sector especially the national government through influencing its strategies and actions.

3.1 Case Study: Kenya Civil Society Platform on Oil and Gas (KCSPOG)

3.1.1 The history of the Energy sector in Kenya

Petroleum is Kenya's major source of commercial energy accounting for over 80% of sector and 25% of all imports. Consumption of petroleum has been on the rise increasing by about 3.7% annually. This gradual increase in consumption has continued to mount pressure on existing facilities with the only refinery in the country being shut down due to inefficiency making the country to stop importing crude oil and switch to already refined products. The high consumption rates have also made the country's economy vulnerable due to ever changing oil prices in the world market.

Since independence, the energy sector has grown significantly even as the country strives to find a sustainable, eco-friendly energy source. The demand for both power and petroleum has been on the rise creating a great deficit hence rise in living standards. The journey of finding a sustainable energy source started in the late 1950s with a series of oil and gas explorations in northern and coastal regions of the country. In 2012, significant oil reserves were discovered in

northern Kenya with feasibility still on going to determine if it's economical. The government has since gazetted 46 blocks for exploration with 44 of them already licensed out to different firms. 39 wells have been drilled with three of them containing enough reserves for commercial extraction.

This discovery has been a welcomed development with more exploration being undertaken in a bid to make further discoveries to realize the full prospectively of the rift basins. The discoveries are welcomed developments as the country through its Vision 2030 blueprint recognizes that the energy sector plays a crucial role in helping attain the vision. Also the discovery if economical will help earn the country more income improving the social economic well-being of the citizens.

Discoveries of oil and gas in the country pose both new opportunities and challenges for the country which requires a lot of expertise in their management. Kenya faces an uphill task in developing this energy sector while keeping in mind the needs of its citizen being the sole beneficiaries. With no laid down laws and policies to govern this new frontier, CSOs help comes in handy with capacity building, policy and legislation formulation.

3.1.2   Brief history on KCSPOG

Kenya Civil Society Platform on Oil and Gas (KCSPOG) is a platform for a select CSOs working in the energy sector whose main agenda is advocacy and impact. The Platform was formed in 2012 after the discovery of oil in the country to work on behalf of civil society organizations and civil society leaders. The platform has a membership of 16 national and county-based organizations working mainly in Turkana, Lamu, Kwale and Kajiado. The members include: The Southern and Eastern African Trade, Information and Negotiations Institute (SEATINI), EcoNews Africa, The Institute for Social Accountability (TISA), Danish

Demining Group Kenya, Kwale County Natural Resources Network **(**KCNRN), Oxfam, Katiba Institute (KI), Kenya Land Alliance (KLA), Peace Pen Communications (PPC)**,** Friends of Lake Turkana (FoLT), Transparency International, International Institute for Legislative Affairs (ILA) and Kenya Human Rights Commission (KHRC).

KCSPOG works around four theme objectives which include:

a) Transparency and Accountability;

b) Environmental and Human Rights;

c) Local Content;

d) Legal and Regulatory framework

The platform engages in policy dialogue and advocacy towards "influencing policies and legislation affecting oil and gas resource management through public mobilization, capacity building, as well as effective knowledge management and information sharing"[40]. It operates on a set of values and principles that enhance good governance in development and other decision making processes, namely:

a) Observance of human rights, transparency, accountability, justice and equality, apolitical non- partisanship and anti-corruption initiatives;

b) Public participation in decision making;

c) Promotion of cultural integrity, social gumminess, environmental and economic sustainability; and lastly

d) Access to information and participation of the local communities

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[40] www.kcspog.com

The platform has created a stage on which members "access and share information, plan, and strategize together for the purposes of conducting joint advocacy and engaging with government agencies, companies, and the media"[41].

3.1.3 Influencing the positive Policy and practice within Kenya's oil and gas sector

KCSPOG has been on the forefront advocating for transparency and equal distribution of resources within the oil and gas sector in Kenya as per the Extractive Industries Transparency Initiative (EITI) principles and UN minimum standards on joint ventures. The platform has been pushing for the adoption of the EITI principles within the energy sector in the country especially oil and gas subsectors. These principles set in 2003 in London by a diverse group of countries, companies and civil society organizations at the Lancaster House Conference to increase transparency over payments and revenues in the extractives sector.

The Platform has been more concerned with a number of principles which include: Management of natural resource wealth for the benefit of a country's citizens and not only for national development interests. The platform has pushed for all the resources to be shared as per the recommended percentages as per the Petroleum bill 2015 with a major focus on the local community making sure that they are included in the sharing model. During the parliamentary committee meetings the platform was very categorical with transparency of information pertaining contracts in the sector by suggesting that the cabinet secretary to gazette all contracts. It also suggested the publishing of all financial results by both the government and individual companies involved in the sector.

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[41] www.kcspog.com

The platform has also pushed observance of the UN minimum standards on policy and practice within the energy sector in the country. It has pushed for the joint ventures to adopt the Health, Safety and Environment (HSE) policy help in compliance with local laws where the respective players operate. This helps the companies involved to establish and follow a risk free model that will preserve human rights aspects thereby not affecting local communities or employees working for the companies.

3.1.3.1 Legal Framework

KCSPOG and its partners have been involved in various formulations and amendments of laws within the energy sector to help in better management of resources at hand. Since the discovery of oil in Kenya, various bills have been introduced in parliament with regards to management of the oil and its production. These include the Energy Bill of 2014[42],The Petroleum Exploration, Development and Production Bill of 2014[43] and the Petroleum (Exploration, Development and Production) Bill of 2015[44].All these bills were formulated with intentions of helping put in place legislations to enable smooth flow of activities with the energy sector.

The Energy Bill of 2014 was an integrated bill for the whole energy with little provisions on petroleum production and distribution. Due to this a more detailed bill was required to help and expound on various issues which had not been covered adequately e.g. licensing, sharing of the profits between the various players and regulatory body with enough powers to monitor the sector. This led to formulation of The Petroleum (Exploration, Development & Production) Bill 2014 (the Bill) which contains the Petroleum, Exploration Development and Production (Local

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[42]The Energy Bill, 2014
[43]The Petroleum Exploration, Development and Production Bill, 2014 (Upstream Bill)
[44]The Petroleum (Exploration, Development and Production) Bill, 2015

Content) Regulations, 2014 (the Regulations). The bill did seek to introduce various regulations e.g. establishment of the Upstream Petroleum Authority (the Authority) and the Local Content Development and Monitoring Unit which will monitor, coordinate and implement the provisions of the Regulations, a new production sharing contract model, it stipulated the cabinet secretary's powers, the operations of the National Oil Company and provided provisions on environmental management.

The Petroleum (Exploration, Development and Production) Bill of 2015(also called the upstream bill) was to add more regulation in the petroleum and gas exploration sector. The bill introduced new sharing regulations pertaining to the profit acquired from production with the national government getting the lion's share of 75% while county government to get 20% and the local community 5%. The bill also introduced the National Upstream Petroleum Advisory Committee (NUPAC) and Upstream Petroleum Regulatory Authority (UPRA).

KCSPOG has been very instrumental during the processing of this bills through giving and sharing information with different players and stakeholders during enactment of this bills. For example, during the processing of The Petroleum (Exploration, Development and Production) Bill, 2015the departmental Committee on Energy, Communication and Information invited comments and suggestions from the public by placing advertisements in the dailies pursuant to Article 118 of the Constitution.[45] KCSPOG proposed various amendments to the bill including in section 17, 22, 23, 42, 44, 45 (1), 45 (2) and 49 etc. In section 42 which gives the cabinet secretary power of zoning the country into zones the platform proposed the clause to include public participation and final zoning be published so that it can be general information to all citizens. In section 17 and 23 the platform proposed that all staff appointed by the authority

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[45] Chapter 8 Part 5 Public access and participation

under Section 17 and Section 25 shall comply with the Leadership and Integrity provisions of the Constitution.

Under section77 (3)[46] the platform proposed that the local content plan should also ensure "that a person carrying out upstream petroleum operations shall ensure marginalized, minority groups especially women and youth are provided for opportunities. In Section 72[47] pertaining to disclosure the platform pushed for transparency in that all key petroleum sector production, revenue and expenditure data are to be published in the Gazette by the cabinet secretary.

The Platforms push for amendments in the 2015 bill show cases its determination in securing the energy sector with productive laws and regulation. Being at the forefront during the parliamentary departmental meetings, the platform showcased zeal within the CSO sector. Its proposals during the meetings were targeted towards transparency within the sector and inclusion of the locals within the ranks of productions. This indeed sets the agenda more so a development one as the local content development model will positively affect the economy of the various areas under exploration more the citizens if included as required.

3.1.3.2 Policy Framework

The current surge in oil exploration being experienced in countries in Africa is a clear indication of the expectations placed upon this new sector. Kenya, one of the countries in the exploration surge estimates to make US$1 billion in capital per year once oil production starts. Even though the governments estimates to make such big sums of money, the country is ill prepared to deal with the complexities of petroleum revenue management and its potentially devastating impact on the economy especially inflation and corruption.

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[46]Section77(3)
[47]Section 72

Due to this members and players within the civil society sector have called upon the government while working in collaboration with parliament, oil companies and civil society to formulate relevant policy, legal and institutional frameworks for the openness and better management of the country's oil and gas resources. The government through the Petroleum (Exploration, Development and Production) Bill of 2015[48] proposed the National upstream petroleum policy and plan, a policy document to be developed by the cabinet secretary to publish national policy on upstream petroleum operations which was to be reviewed at least every five years. The policy was to be developed by a team of relevant stakeholders selected from different sectors of the economy.

In July, 2014 KCSPOG released a report entailed Setting The Agenda For The Development Of Kenya's Oil And Gas Resources– The Perspectives Of Civil Society[49] where it faulted the government for inadequacy of the various legal, policy and institutional frameworks in the energy sector to deal with the impending oil boom. In the report KCSPOG details various solutions the government can undertake to help set the ground for the commencement of oil production including to incorporate the best governance principles that involves transparency and accountability standards in all petroleum and revenue management legislations through parliament. Develop a comprehensive spending, investment and savings policy through a Long-Term National Development Plan to prevent ad hoc spending. The Platform's resolutions give the government and other players in the sector a proper framework clearly dividing policy making, regulation and commercial operations.

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[48]The Petroleum (Exploration, Development and Production) Bill, 2015 section 5
[49]Setting The Agenda For The Development Of Kenya's Oil And Gas Resources– The Perspectives Of Civil Society

The Platform pushed for a policy frame that included: Reduction of powers of the cabinet secretary in charge of energy to only focusing on policy making, proposing and developing bills for parliament, developing regulations for the sector and granting licensing rights. The Platform points out that cabinet secretary currently wields excessive powers ranging from licensing of petroleum contracts, appointing heads and boards of regulatory agencies to performing regulatory functions thereby it argues that merging of the two roles: policy making and regulatory roles, is subject to abuse by the cabinet secretary.

The report has stressed on the need for the government to develop a "comprehensive spending, investment and savings policy to ensure that revenue management reflects national consensus" to avoid funds embezzlement. In particular, the report pushed for the formation of various spending frameworks which included: the Budget Fund, which would be instrumental in capping spending of petroleum revenues by giving clear expenditure procedures, the Stabilization Fund would be used to restore stability in case of any crude oil market price volatility, and the Future Generations Fund to help safeguard the welfare of future generations of Kenyans.

The Platform through the report tasks the government to create a clear and concise formulae/model. This model/formulae is for sharing petroleum revenues between the central government, counties and local areas, in accordance with the Constitution of Kenya 2010 and this sharing model should be enshrined in law to avoid future collisions. The Platform insists on transparency through disclosure. It pushes mandatory disclosure of payments including profits, corporate social responsibility, human rights, anti-corruption and anti-bribery as well as Environmental and Social Impact Assessments. It also pushes for better management of

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resources within any exploration and production facility through protection of the environment and community land rights. This was to be done through passage into law of the Community Lands Bill and empowering county governments and communities to take part in discussions in Oil Field Development Plans and Environmental Impact Assessment processes and ensure they are part of the decision makers or are briefed on the decisions reached at.

3.1.3.3 Institutional Framework

Within the energy sector there are a number of institutions tasked with carrying out a variety of functions to aid with smooth running of activities. This institutions include: Ministry of Energy and Petroleum which is overall body with supervisory powers over then energy sector. The ministry is headed by a cabinet secretary who has powers to supervise all departments and agencies within the ministry and has powers to oversee policy formulation within the sector.[50] More so the cabinet secretary is mandated to negotiate and grant petroleum contracts and also provide regulatory powers.

National Oil Corporation of Kenya (NOCK) is a government agency that represents the government interest in all petroleum undertaking. Previously, it had regulatory powers but that has since been removed and it's now a mainstream oil company taking part in oil and gas exploration even though it does provide policy advice to the cabinet secretary through making of recommendations pertaining issues at hand. Energy Regulatory Commission (ERC) established under the Energy Act of 2006[51] a state corporation responsible for regulating the energy sector. It approves operational permits and enforces compliance and has wide-ranging power to "issue,

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[50]Petroleum Act, 1986
[51]Energy Act, 2006

renew, modify, suspend or revoke licenses and permits for all undertakings and activities in the energy sector."[52]

The National Fossil Fuels Advisory Committee (NAFFAC) is a board formulated to aid in licensing within the energy sector. It is an inter-ministerial committee comprised of the ministry's principal secretary as chairperson and NOCK's managing director as secretary and other individuals who assist the cabinet secretary in negotiations with potential contractors. Lastly is the Parliament which provides oversight on all undertakings within energy sector as stipulated under the constitution on natural resources.[53]

KCSPOG has been fore front in matter institutional framework implementation within the energy sector. It has raised various issues pin pointing areas that require amendments and changes to ease operations within the sector. The platform has been very worried with the lack of separation of powers of the Cabinet Secretary between regulatory supervision and policy making. His/she powers range from licensing of petroleum contracts, appointments of heads and boards of regulatory agencies to supervision of regulatory functions. This brings about conflict of interest and even corruption as they are not answerable to anyone regarding contracts awarded.

The platform has raised issues regarding the ability and capacity of NOCK to harness the full potential of the hydrocarbon basins of the country. According to its report[54] it was evident from a series of interviews it carried out with NOCK officials that agency lacked capacity and it required an upgrade of its internal systems to be able to meet the standards. This will definitely affect its ability to operate and provide the much required service it is mandated to. Moreover its

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[52]Energy Bill, 5th draft, Part III.13.1.a.
[53]Article 71 (1), New 2010 Constitution
[54]Setting The Agenda For The Development Of Kenya's Oil And Gas Resources– The Perspectives Of Civil Society

policy-making function is a conflict of interest as it helps to formulate policies which it's supposed to operate under bring about biasedness.

KCSPOG raised a red flag over lack of an independent agency help in regulating petroleum operations in the country. All the bodies present at the time responsible for management of regulatory activities all had a conflict of interest. The Energy Regulatory Commission which regulates the entire energy sector lacked independence as its structure and appointments were all subject to manipulation while the cabinet secretary also with the regulatory powers had conflict of interest.

Lastly KCSPOG argued that Parliament's lacked expertise in its role of ratifying Petroleum Agreements s its function under Article 71 (1) of the new constitution. It argued that the sector needs a body with professions with expertise to understand the complex and technical matters involved in the petroleum sector who can effectively scrutinize Petroleum Agreements.

As response to the issued raised by KCSPOG and other players both in CSO sector and private sector the government initiated a set of institutional reforms within the sector to address the issues raised. In the new Upstream Bill of 2014 the government proposed to create new institutions
and realign the roles of some of the existing institutions. The two new institutions proposed to be formed are the National Upstream Petroleum Authority (NUPA) in charge of regulation of upstream operations by collecting, maintaining and managing upstream petroleum data and National Upstream Advisory Committee (NUAC) which was to take the entire role of the National Fossil Fuels Advisory Committee (NAFFAC) by advising the Cabinet Secretary in regards to negotiations of petroleum agreements and in the granting and revocation of licenses.

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3.1.3.4 Enhancing Transparency and Accountability in the oil and gas sector

Even though there has been much lobbying pertaining to some laws that other players in the sector feel are over the board, substantial progress has been achieved. Establishment of regulatory bodies to help in regulating the activities of the sector was achieved after setting up of National Upstream Petroleum Authority (NUPA) and National Upstream Advisory Committee (NUAC) which are to provide a strong institutional environment for regulating the upstream petroleum sector. This implementation helped in separation of powers between advisory and regulatory powers within the sector.

Inclusion of the local content and training, in the Petroleum bill 2015 will go a long way impacting the local communities and country at large. This inclusion specified that "priority to be given to services provided and goods manufactured in Kenya where the goods meet the specifications of the petroleum industry and also priority is given for the employment or engagement of qualified and skilled Kenyans at all levels of the value chain". Where there is no local expertise, through the Training Fund trainings shall be undertaken to build knowledge and technical capacity in upstream petroleum operations.

Sharing of profits from petroleum ventures have also been documented with national government obliged to share the profits with the local government and local community in accordance with the Public Finance Management Act, 2012.[55] Also a dedicated petroleum fund was developed to specifically deal with revenues got from petroleum to promote revenue accountability.

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[55]Public Finance Management Act, 2012, No. 18 of 2012

3.1.3.5 How does KCSPOG achieve this?

a) Research and Publications – Information sharing

As a result of its research work, the platform has published various reports pertaining its discoveries on the oil and gas sector. In 2014, it published its first report: Setting the Agenda for the Development of Kenya's Oil and Gas Resources– the Perspectives of Civil Society. In this report it highlighted various issues affecting the sector followed by suggestion on how to tackle them. It has also published other reports e.g. Revenues from Turkana Oil Report, a report seeking to enlighten the locals of their rights on sharing of the resources and also give suggestions on how the revenues can be shared equally. The report on the Departmental Committee on Communication and Information was to help highlight the various considerations it had made with regards to the Petroleum Bill of 2015 e.g. on the contradicting powers of the cabinet secretary where he had both advisory and regulatory powers hence bring about conflict of interest.

b) Holding meetings/workshops

Likewise the platform has had various workshops, seminars and meetings to help deliberate various issues within the oil and gas sector. It has held various meetings with its partners including Kenya Oil and Gas Working Group (KOGWG), Haki Madini Kenya (HMK) and Kenya Chamber of Mines Members to share information and help forge a common ground in advocating matters energy. For example in the Extractive Sector Forum 2016, Understanding the Kenya Extractive Sector: The Players and Their Roles, a forum held by Institute for Human Rights and Business (IHRB-Nairobi Process) and the Institute for Law and Environmental

Governance (ILEG)held to facilitate regular dialogue among businesses from the extractive sector and other stakeholders with an interest in the sector KCSPOG was among the players who attended and did present in the forum focusing on laws in the sector adhere to international best practices and human rights standards and transparency in the sector with disclosure of contracts being one of its agenda.

c) Engaging the government

The Platform has engaged the government in various ways mainly during committee meetings of parliament when various stakeholders are called upon to present their suggestions on various bills. In 2015, the platform made a lengthy submission with regards to views on the Petroleum (Exploration, Development and Production) Bill of 2015 during the forum hosted by the Departmental Committee on Energy, Communication and Information. It highlighted several issues including transparency within the sector with respect to sharing of crucial information with the public.

The Platform suggested that the cabinet secretary to publish all information pertaining to contracts signed and financial statements inclusive of taxes paid and profit accumulated be published on the Kenyan Gazette. E.g. according to Part V Section 72 the platform suggested that "All disclosures of payments under this Section shall be reported to an independent administrative body and shall be published and verified in accordance with the principles of the Extractive Industries Transparency Initiative as prescribed in the regulations and with Section 111"

d) Lobbying and advocacy

The Platform has engaged in several lobbying and advocacy to help further its mandate of agenda setting within the CSO sector. The platform has released various reports to help its advocacy and lobbying agenda. On the report on revenues from Turkana oil the platform suggests on the sharing model among the three beneficiaries. The report tries to enlighten the public of the estimates of scale of the revenues from the Turkana oil and how these revenues should be shared out among the national government, county government and the local community. The paper highlights key issues in the including production sharing, windfall tax and government participation. Through its partner Transparency International the platform has advocated for transparency within sharing of revenues and also publishing of contracts signed in this joint ventures to help minimize corruption and associated dealings.

e) Engaging the private sector and the media

The Platform has engaged other players in the sector including the media to help in setting the development agenda. During the launch of its report: Setting the Agenda for the Development of Kenya's Oil and Gas Resources– the Perspectives of Civil Society the platform invited the media to present to help it spread its agenda to masses who follow them. Through its partner Peace Pen Communications (PPC) the platform has fronted responsible reporting by advocating for a pro-active media culture that pushes for sustainable peace and stability in potential areas of conflict through media. PPC has pushed for professional accountability and responsibility by media to enhance stability within the sector and country at large.

3.2 Conclusion

As observed throughout the chapter KCSPOG is a champion of change with its advocacy role in developmental agenda setting. The platform has set the ball rolling in all the three sectors of legal, policy and institutional framework through suggesting of various methods to be adopted to help in better operations of the energy sector. Some of the suggestions adopted e.g. in formulations of an independent body to supervise regulatory functions in the sector has been instrumental in the turn round of performance with improved services.

CHAPTER FOUR

THE CHALLENGES FACED BY KCSPOG IN IMPACTING THE DEVELOPMENT

AGENDA IN KENYA

This chapter takes a deeper look into challenges faced by KCSPOG as it tries to set the developmental agenda in the oil and gas sector in the country. Being a new frontier where the country lacks experience, there bound to be problems both affecting the government, contractors and other interested partners where the CSOs fall. This chapter observes different partners involved in the Platform and the challenges they are facing while carrying out their duties as CSOs. Also the chapters looks at other challenges faced by other CSOs in operation in the different sector of the economy in the country.

4.1 Problems faced KCSPOG

The discovery of oil and gas in Kenya put the national government at the center of attention with many watching how it will carry out itself as it prepares for production and eventually processing. In a country where corruption is very rampant, issues are set to arise. The government already is on the offensive with its reluctance to add transparency amendments in the Petroleum (Exploration, Development and Production) Bill, 2013which is to monitor all operations in the oil and gas sector in the country. This shows that all is not well for this sector as already lack of transparency sets the sector to manipulation.

4.1.1   Government Interference

The energy sector is a new frontier for the country requiring policy and legislation reforms to help better manage the operations in the sector. Due to this, the private and CSO

sectors have been requested to come on board and collaborate to help the government with formulation of new policies and laws to govern the oil and gas sector. To aid reform the sector, CSOs have been undertaking capacity building measures to aid improve transparency and strengthen institutional frameworks in the different sectors of operation. In spite of this the government has continued to criticize CSOs advocacy campaigns accusing the CSOs for blackmail as they took part in formulation of some of the policies they were lobbying or advocating against.

Even though the government through the position paper at the World Summit for Social Development (March, 1995) promised to enhance social integration with CSOs, pressure groups and other political groups, little has been achieved.[56]Through the proposed Public Benefits Organizations (PBO) Act 2015, the government proposes several measures including a 15 per cent cap on the amount of resources CSOs can mobilize externally and channel it through a single government-controlled agency. Many have argued that if this is implemented, it will open avenues for monitoring and manipulation as the government has control of the sector's finances and worse of corruption incidences.[57]

This has put CSOs at cross roads with the government leading to an even more soiled relationship. More than 40 CSOs have come together to oppose this planned move by forming a group to lead the response and petition strategy moving forward. The group has already developed a petition to collected signatures to counter the government if it goes ahead in publishing the bill into an act.

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[56]ICSW (1990), The Copenhagen Papers No. 6 An East and Southern African Regional Forum on Social Development, Mbagathi Nairobi, Kenya. March 13-14. 1999

[57]Trevor Analo, "NGOs in Kenya urge taskforce not to alter sector law", The East African, March, 2015

4.1.2 Restriction of field of Operation

During registration of any CSO in Kenya, the management specifies its sector of operation. The various sectors of operation include: agriculture; animal welfare; culture; disability; drug and alcohol addiction; education; energy; environmental conservation; health; HIV and AIDS awareness/mitigation; house and settlement; ICT; micro finance; and peace building. Any CSO found operating outside its fields of operation faces dire consequences including deregistration as CSO.

Various players in the sector have been victims of the government's full force in found to have gone against this. An example is KHRC which has been attacked violently severally by police through government directive while holding peaceful demonstrations to intimidate its members and scare them to stop their advocacy towards several issues. Moreover, the CSO has been banned in a number of occasions by the government to stop some of its preplanned demonstrations and meetings.

4.1.3 Lack of funds

CSOs only develop programs when they are well funded and better quipped. Without funds most if not all the CSOs are unable to carry out their mandates. Most of the CSOs operating in sub-Saharan Africa lack financial sustainability with most of them depend on donors to help through donations. Moreover these donors has specific agendas and priorities which the CSOs have to help sell to be able to receive the donations. The Platform is equally affected by lack of funds like other CSOs. For it to manage and push it agenda which advocacy and impact the oil and gas sector, it requires sufficient resources in terms of financial support. The Platform has to move around to different sites where exploration is being undertaken to monitor and

access the social, financial and environmental impact of the ongoing process to the local community. Also the platform requires resources help in advocacy through holding of empowerment meetings, running of advertisements in the media and printing resources to be shared out.

4.1.4 Ability to access and influence internationally and publicly quoted companies

Most of the contracts and companies involved in the oil and gas sector are multinational companies spread in several countries and most likely listed in major security exchange platforms around the world. This companies have followings and experience in several countries hence respectable reputations. These companies have a reputation and shareholder to worry about therefore local CSOs just like KCSPOG have little resources to counter these big multinationals and they are doomed to fail in their quest to bring change in such sectors. The big multinationals using their influence counter any advocacy by the local CSOs perceived to be negative to their reputations by neutralizing it using advertising which portrays them as good.

4.2 Challenges facing other CSOs

4.2.1 Misuse of funds

The CSO sector has been at the fore front helping alleviate poverty, foster democracy and fight corruption. In spite of this not all players are in the business of helping the society. There are unscrupulous elements within the sector whose intentions are to make money. There have reports of misuse of funds within the sector as most of those involved squander the funds donated to help in various activities. Other individuals float CSOs by recording what is called 'briefcase CSOs' (CSOs with no physical addresses) and use them to solicit funds from donors which they then use for personal gains.

4.2.2   Inadequate Trained Personnel

Even though the rate of unemployment in the country is at its highest, most of the CSOs operation in local and remote regions of the country lack well trained personnel. This is due to unwillingness of trained personnel to go to such regions as most of them prefer urban settings with almost all amenities. Likewise security situations in some of the regions has made many to shun any requests to go work in those regions. This has forced the CSOs operating in this regions to employ locals mostly who are untrained as they are the most available with little compensation.

4.2.3   Area of Interest

Most of the CSOs operating in the country only work in specific areas where many know it's easy to attract donor funding. This has made most new CSOs starting out in the country to target these areas which are already filled up with other CSOs. This has made some areas of requiring advocacy and lobbying for isolated with very little help. With many CSOs in operation in a given area the quality of service deteriorates due to lack better monitoring and supervision from relevant bodies involved. Moreover, certain donor also have preference for some areas with which they are ready to fund. Due to this, the CSOs benefiting from their donations are mandated to stick to the area of interest of the donor and not to undertake any other activities out of that. Likewise, this hinders CSOs operations and eventually poor quality of work and service will be experienced.

4.2.4   Poor Governance

Leadership qualities of the leaders in any organization always determines the quality and condition of the services rendered by the respective organizations. For an organization to operate successfully it requires healthy leadership from its management. Poor governance leads to poor

service being rendered and eventually dismal performance of the sector. In the CSO sector the NGO Council is mandated with providing of governance, however there have been issues relating to poor leadership from the council. Individual CSOs are not left out either as most of them lack boards in place which are monitor and provide governance. Some are individually started CSOs hence most decision making processes are individual something which may hinder its operations as accountability and transparency may not be a key focus.

4.3 Possible solutions

4.3.1 Local Resource Mobilization

CSOs have a problem with raising enough funds to help in implementation of its agenda. This can be managed if these CSOs can be given opportunities to raise resources and funds through managing of businesses, donations individuals and government. The CSOs to be able to manage this should has strong and tested governance and accountability mechanisms in place to help counter mismanagement. Also these CSOs should have clear strategies and goals pertaining their operations. The CSOs can be encouraged to use their extra resources to generate capital to help in their operations. International CSOs can form partnership with local CSOs to help them in terms of expertise and financial support.

4.3.2 Effective support from the NGO Board and NGO Council

The NGO Board and NGO Council are responsible for management of operations within the CSO sector. For smooth flow of activities within this sector there must be good working environment enabled by this two bodies. These bodies are supposed to promote the work done by these CSOs through advertisements and lobbying. They should also help in capacity building through an enabling environment by providing good governance characterized by clear laws and no witching hunting.

4.3.3 Enabling Environment

The government being responsible for the management of CSOs activities in the country should provide an enabling environment for their operation. Laws enacted by the government should be of good intentions but not micro manage the sector and punish the CSOs in operation. The NGO Act of 1990 was seen as witch hunt by the government to the sector and also the unpublished Public Benefits Organizations (PBO) Act of 2013 shows the unwillingness of the government to have a free and non-controlled sector. The government should provide tax incentives to these CSOs to help save cash and focus more on developmental agenda setting.

4.3.4 Local Networking

CSOs should be encouraged to meet up and share experiences, information and opportunities for the better good of the sector and country at large. Such opportunities provide mutual learning and identifying of new untapped development initiatives within the sector and outside. The networking aids improvement in services as the players interact giving each other new and relevant information. Some of the CSOs form common causes with which they embark to work together thereby strengthening the relationship within the sector and with local authorities. This brings about flow of activities in the sector with minimal interference.

4.4 Conclusion

There are many problems facing both KCSPOG and other CSOs working in the oil and gas sector and other equally important sectors in Kenya. However, as seen this problems can be solved effectively if there is enough communication and consultation between CSOs and government both directly and with bodies mandated to work with them.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

This research project sought to assess the role and impact of Civil Society Organization (CSOs) on Kenya's Development Agenda. CSOs are agents of development who if utilized well can bring about substantial change and improvements in the country's economy. Specifically, the project sought to: assess the legal, policy and institutional framework for CSOs in Kenya, and how this influences agenda setting for CSOs, assess the role and impact of CSO's in Kenya's development agenda setting using case study of KCSPOG and to analyze the challenges faced by CSOs in impacting the development Agenda in Kenya.

This study is important as it highlights the challenges faced by this CSOs during the process of impacting development agenda which is relevant and important information which can be used by CSOs to self-evaluate and monitor self-progress Likewise the study assesses legal, policy and institutional framework within the CSO sector which are very important entities in agenda setting and recommendations from the study will be instrumental in helping better the operations within the sector.

Chapter one introduced the agenda setting theory, the theoretical review of the study with a keen look at agenda setting and framing. This theory help introduce the developmental agenda setting of CSOs using comparisons of the main media in agenda setting theory. Also, the chapter introduced qualitative case study research design which has been used in the study through KCSPOG to demonstrate developmental agenda setting within the CSO sector.

Chapter two focused on the assessment of the legal, policy and institutional framework within the CSO sector in Kenya, and how these frameworks are impacting and influencing agenda setting for CSOs operating in the country. It was observed that the sector has made

tremendous efforts towards equipping the sector with required legal, policy and institutional frameworks. Various laws governing the sector have been formulated, aided by amendments in areas where the laws deemed to be weak. More proposals are underway to help smoothen operations in the sector. Various institutions have been set up e.g. the NGO Council and NGO Coordination Board have been strengthened to help manage activities of the CSOs. Adoption of the Sessional Paper No. 1 on Non-Governmental Organizations has been welcomed being the reference policy document with respect to operation of CSO sector.

Chapter three examined and assessed the role and impact of CSO's in Kenya's development agenda setting using KCSPOG an umbrella body of civil societies operating in the energy sector in Kenya as a case study. Through the case study KCSPOG, it is evident that CSOs are doing exemplary work are the country in aiding developmental agenda setting. The chapter highlighted various formulations e.g. the Petroleum Bill of 2015 with which KCSPOG has been fore front in aiding its formulation. The Platform has been advocating for transparency within the sector with much focus on companies publishing all their financial statements while government to publish are contracts it enters into with any company.

Chapter four analyzed the challenges faced by KCSPOG while impacting the development Agenda in Kenya, as well other challenges faced by other CSOs in other sectors. It was observed that financial hardships and government are the main challenges limiting agenda setting in the sector. In addition to these, bad leadership and management, misuse of funds and lack of trained personnel has also negatively impacted the sector. To aid the sector, the government has been advised to create any enabling environment that will encourage CSOs operation instead of limiting it.

5.1 Summary of the Main Findings

5.1.1 Impact of Developmental Agenda Setting

Evaluations of KCSPOG's advocacy and lobbying in the country's oil and gas sectors shows that it has had a tremendous and positively impact on the developmental agenda setting in the energy sector within the country. According to Ndegwa (1996), CSOs can operate as efficient agents of sustainable development and good governance if they are given the essential structure and operational focus[58]. Likewise, World Bank (2003) acknowledges that empowering CSOs makes them more efficient which translates to better services thus positive developmental agenda setting.

Legal frameworks are an important factor any sector as they help give directions touching on various activities and processes. Lack of clear guidelines through lack of legal frameworks can be very detrimental as there is no given order of doing things or regulations on particular things. The impact of legal framework is evident with clear flow of activities within the sector. Legal frameworks bring about regulations and restriction regarding the way of doing things which imposes a regulatory framework to help in management of operations. Moreover, through enabling provisions, the legal framework facilitates and promotes stability.

The impact of policy frameworks formulated has led to tremendous growth for both the public and private sectors. This impact has shaped up various policies with major attribute being the contextual factors. These factors include: political ideology, economic crises, historical events and change in climate. These factors have helped policy actors to influence the agenda setting and formulation processes.

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[58]Ndegwa S. 1996: *The two faces of civil society: NGOs and politics in Africa*. Kumari Press: Connecticut

The impact of institutional framework has led to stability and self-regulating sector. Well founded and strong institutions can be realized if good institutional frameworks are established and applied. Established institutions help in capacity building and policy intervention within their area of operation.

5.1.2 Testing the Hypothesis

1. The legal, policy and institutional frameworks of CSOs plays a significant role in the agenda setting role of CSOs.

KCSPOG's involvement in agenda setting through advocacy and lobbying has positively influenced operations in the oil and gas sector of the country. The platform has been on the fore front pushing for better legal frameworks in sector through helping in the formulation of The Petroleum (Exploration, Development and Production) Bill, 2015. The platform presented its proposals after the departmental Committee on Energy, Communication and Information advertised in the local daily for submissions to be made regarding the bill. On its proposal the platform raised key suggestions pertaining the bill touching on the conflict of interest of the cabinet secretary on regulatory, supervision and policy making roles. On policy framework the platform with other sector players have pushed for the need to have a comprehensive policy document to govern the sector. This led to the inclusion of the National upstream petroleum policy and plan in the Petroleum Bill of 2015. Weak institutional framework in the sector has been captured in the Platforms report[59] regarding the need to have independent bodies to deal with regulatory matters in the sector. With help of other sector players there has been major changes in the institutional framework front with the introduction of National Upstream Petroleum Authority (NUPA) in

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[59] Setting The Agenda For The Development Of Kenya's Oil And Gas Resources– The Perspectives Of Civil Society

charge of regulation of upstream operations and National Upstream Advisory Committee (NUAC) in charge of regulation of upstream operations in charge of advising the cabinet secretary in regards to negotiations of petroleum agreements and in the granting and revocation of licenses

It is evident enough that the legal, policy and institutional frameworks of CSOs plays important role in developmental agenda setting in the oil and gas sector.

2. Challenges faced by CSOs impact negatively on the development agenda setting role of CSOs.

CSOs face deferent problems during their day to day activities. The platform equally it's also affected with these problems. The main challenge has been monetary support as it lacks a primary source of income to support its activity and mainly depends on various donors to help in funding. Lack of resources does impact negatively operations. The platform requires resources to aid in its advocacy role e.g. putting of advertisement in the media, booking of venues for meeting and printing of materials to be shared out during advocacy meetings. Therefore lack of funds does heavily affect CSOs activities. Likewise government interference has pushed many CSOs to leave the country for good and others to reduce their advocacy efforts. Government interference does affect operations of CSOs operations making CSOs to abandon most of their activities which in turn affects different sectors that they operate in. From this it is evident that challenges faced by CSOs does impact negatively on their developmental agenda setting role.

5.2   Recommendations

5.2.1 Recommendations for the government

As per findings and conclusion above, some issues have come up regarding the government that need to be looked at. The following are some of the recommendations:

a) Government should strengthen institutional frameworks for spending petroleum

b) Incorporate good governance principles including transparency and accountability standards in all the legislations it undertakes.

5.2.2 Recommendations for CSOs

The research findings pointed out on various issues the CSOs are to observe:

a) Support independent institutions and Parliament to actively exercise their oversight responsibilities over the different sectors of their operation.

b) Help set up awareness programs and actively take part in such programs at national, county and community levels to raise awareness

5.2.3 Recommendations for Local communities

Local communities are encourages to engage through its leaders any preplanned development activity within the community so that it can be included in the planning of the planned development, take part in its execution and share profits of the proceedings.

5.2.4 Recommendations for further research

Agenda setting is a broad topic with an always changing focus which must be constantly be monitored. Therefore researchers should continue to monitor this especially with the change of

focus to social media where there is much developments which must be monitored well and documented.

5.5 CONCLUSION

CSOs interest in local and national development process while at the same time linking these processes to global and international processes can lead to the realization and internalization of international development goals contained in the new sustainable development goals. CSOs capacity to internalize the international processes and apply them to national and local processes puts them at an easier position in development agenda setting.

Agenda setting has tremendous effect on any county's operations. It has been observed that indeed, the legal, policy and institutional frameworks of CSOs plays a significant role in the agenda setting role while the challenges faced by CSOs impact negatively on the development agenda setting role of CSOs.

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