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Devolution in Kenya: The Establishment of County Budget and Economic Forums

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Executive Summary

In 2012, Kenya passed a new public finance law requiring every county to create a County Budget and Economic Forum (CBEF). CBEFs were intended to facilitate public consultation on issues around the county budget and the broader county economy. The relevant section of the law is as follows:

137. Establishment of County Budget and Economic Forum for county budget consultation process
(1) As soon as practicable after the commencement of this Act, a county government shall establish a forum to be known as the (Name of the County) County Budget and Economic Forum.
(2) The County Budget and Economic Forum shall consist of—
(a) the Governor of the county who shall be the chairperson;
(b) other members of the county executive committee;
(c) a number of representatives, not being county public officers, equal to the number of executive committee members appointed by the Governor from persons nominated by organisations representing professionals, business, labour issues, women, persons with disabilities, the elderly and faith based groups at the county level.
(3) The purpose of the Forum is to provide a means for consultation by the county government on—
(a) preparation of county plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the county; and
(b) matters relating to budgeting, the economy and financial management at the county level.
(4) In addition to the above, consultations shall be in accordance with the consultation process provided in the law relating to county governments.

Due to the slow pace with which CBEFs were being established and operationalized, in March 2015 the Commission on Revenue Allocation (CRA) issued a set of guidelines for the formation and function of CBEFs.

CRA, along with the civil society organizations (CSOs) involved in the drafting of these guidelines, subsequently visited nearly 30 counties to meet CBEF representatives and discuss the new guidelines. After completing these visits, IBP Kenya, one of the participating organizations, concluded that there were roughly four counties that had moved beyond the early stages of setting up a CBEF to establishing functional institutions: Kwale, Kericho, Kisumu, and Taita Taveta. To learn more about what was happening in these four counties we carried out a series of interviews with various stakeholder within and outside the CBEFs.

Following the CRA guidelines from March 2015, we looked at four aspects of CBEFs: nomination, composition, functioning, and public participation.

Nomination

Nominees to CBEF are meant to represent organized interest groups in the county, such as women, business, professionals, labor, and persons with disability. The CRA guidelines anticipate an open process of nomination that allows all organized groups in the county to nominate candidates. In the process of forming the first CBEFs in most counties, however, this is not what occurred. In Kwale and Kisumu, nominations were requested through an open advertisement in major media. In Taita Taveta, the governor reached out to specific groups and asked for nominations. In Kericho, individual nominees were picked by the governors and assigned a constituency to represent.

In all cases, questions of representativeness have been raised. This reflects the fact that there was little awareness of what CBEF actually was when the first nominations were done, as well as the fact that there are few organized interests at county level that are broadly representative of the constituencies in the county. Thus, even if a nominee is fairly chosen by a respected organization in the county, they are still seen to represent only part of the relevant constituency (such as women). In the absence of platforms for women's groups, business groups, etc. that bring together all of the different organizations in the county, it is not clear how this issue can be addressed.

Counties are also struggling to balance the constituent interests in the CBEF with the need for regional balance across sub-counties/wards and political factions, and the need for some level of budget or economic expertise to carry out the roles of the forum.

Composition

In the four counties examined, the composition of CBEF reflects the minimum requirements of the law. However, the members have faced challenges with respect to their educational levels and capacity to engage with county budget documents. Some of the members in these four counties (and many members across the counties) are actually diaspora members, drawn from Nairobi, Mombasa, or other urban centers and not resident in the county. This has raised concerns about how well they can represent the county residents and their availability as the CBEFs begin to meet more regularly.

Discussion of CBEFs has tended to focus on the non-state members because the state members are generally not selected; in most counties, all members of the county executive are part of the CBEF. However, state members often also suffer from lack of knowledge about their roles and the county budget process, and are often not present or active in CBEF meetings. This means they miss out on important discussions around the annual budget. In general, it appears that the lack of county executive committee (CEC) commitment to the CBEF reflects a lack of commitment from the governor. Unless governors take the CBEF seriously, their cabinet members are unlikely to do so.

Function

In most counties, the CBEF has not developed a secretariat or a set of committees to facilitate its functioning. Taita Taveta county, which had formed a House Business Committee, is an exception. This lack of structure has made the CBEF heavily dependent on the governors and/or CECs for Finance to call meetings and share information. This appears to have led to relatively infrequent meetings, called late, and with limited information shared in advance. Again, with the exception of Taita Taveta, CBEFs do not seem to be using formal calendars that revolve

around the key stages in the budget process. This also contributes to the challenges in keeping to a set of regular meetings with clear agendas.

One innovation that has emerged in Kwale and Kericho is to divide non-state CBEF members among the county departments and to involve them directly in preparing department budgets. In lieu of sector committees, this has provided an opportunity for closer engagement between non-state and state actors in the actual budget decision-making process.

CBEF engagement around key budget documents has been fairly limited. While most of the counties were found to have carried out at least some discussion of the County Fiscal Strategy Paper, three of the four CBEFs had not looked at the County Budget Review and Outlook Paper, one of the main documents specified in law for their review. None of the four CBEFs had reviewed implementation reports, and there had been little or no discussion of other key budget documents, such as the Finance Bill.

In spite of these constraints, members did mention some minor impacts on the budget. In Kisumu, projects that had already been undertaken but were budgeted for again were removed by non-state actors who were aware of the duplication. In Kericho, proposed new health centers were shelved and funds were instead used to equip existing facilities. With more regular, scheduled discussion, more capacity and better sharing of information, it is perhaps possible to magnify these impacts.

Public Participation

One of the core responsibilities of non-state CBEF members, implicit in Kenya's Public Finance Management Act, 2012 (PFM Act) and explicit in the CRA guidelines, is to represent and consult with their constituencies. By and large, however, members are not doing this. This reflects both a lack of understanding of who they represent and how they should represent them, as well as a lack of funding for regular engagements with constituents. Some members are not aware of their representative responsibilities; others believe they represent their organizations rather than broad interest groups. For example, a woman leader may believe she represents *Maendeleo ya Wanawake*, a women's group, rather than all women in the county. The lack of

county-wide platforms and overall lack of funding makes it difficult to envision engagement with broader interests. However, it is not clear that members are even consulting regularly with their own organizations during their own (funded) meetings.

The failure of CBEF members to consult constituents undermines the very essence of the forums. Sadly, the existence of a structure in law that is meant to bring together and facilitate consultation with many of the most important interest groups in the county is not being used in that way.

Beyond constituent consultations, CBEFs are also meant to facilitate broader consultations with the public. While this has occurred to a certain extent, consultations have faced numerous challenges. They often lack clear purposes, information is not provided in advance, and outreach is poor. This has resulted in limited public participation.

However, some useful practices are emerging. In Kwale, working with Members of the County Assembly (MCAs) and organized community groups, CBEF was able to consult with the public several times during the annual budget process and achieve high turnout. In Taita Taveta, ward administrators are beginning to help to facilitate public engagement by sharing budget information earlier and organizing discussions prior to visits by CBEF and county officials.

Conclusions

CBEFs are the only specific, legally required mechanism for public participation in the budget. While there has been a surge in the formation and operationalization of CBEFs across the country in the past 18 months, the evidence suggests that most CBEFs are barely functional. Our review of four CBEFs that appear to be above average in their degree of activity suggests that even these forums are falling far short of their potential. Governors have shown only limited enthusiasm for CBEF, and non-state members are not playing their representative role. Until citizens organize themselves to demand more from their representatives in CBEF, and from the county budget process itself, it is hard to imagine this changing.

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Abbreviations

CBEF	County Budget and Economic Forum
CEC	County Executive Committee
CRA	Commission for Revenue Allocation
CSO	Civil Society Organization
MCA	Members of the County Assembly
PFM	Public Finance Management

1 Introduction

Kenya's 2010 constitution introduced a new structure of government that put citizen participation at the core. This included an ambitious devolution process which created 47 counties and an array of new elected positions to represent public views. It also included the introduction of new legal requirements for public participation in decision making, and particularly budgeting at both national and county levels. Devolution has given full budget-making authority for counties to county executives and county assemblies, but the laws also require ongoing engagement with the public.

County governments were established and became operational in Kenya in March 2013. While a number of counties are well on the way to getting to grips with budget making and the budget cycle there are challenges: a limited understanding of the budget-making process, an inadequate appreciation of the different roles and functions of the various bodies responsible for budgeting, and political competition between various actors in the process.

One of the bodies that is meant to ensure an inclusive, transparent, and accountable budget process is the County Budget and Economic Forum (CBEF). As stipulated in Article 137 of the Public Finance Management Act, 2012 (PFM Act), CBEFs should be the main mechanism for county-level consultation with the public on matters relating to budgeting, the economy, and public financial management. Public consultations should occur throughout the budget cycle and be facilitated by two main documents: the County Fiscal Strategy Paper, and the County Budget Review and Outlook Paper. The PFM Act also mentions that CBEFs should engage with "county plans" but is unclear which plans are being referred to. These could include the plans required by the County Governments Act or the annual development plans. Ideally, CBEFs would also engage with county implementation reports, which form part of the overall budget cycle and are a key input into budget formulation.

Despite being a legal requirement, not all counties have established a CBEF. Those that have are still grappling with the structure, functions, and how to support the forum, as well as their relationship with the county governments and County Assemblies.

This paper presents the findings of research conducted in four counties that are among those that have established a CBEF: Kericho, Kisumu, Kwale, and Taita Taveta. It aims to gather lessons that can be shared with other counties, document challenges that the CBEFs and the county governments in the four areas have encountered, and capture how these challenges have been managed.

The practices being employed by the counties in the running of the CBEFs provoke two questions for consideration in the ongoing debate about CBEFs and how they will continue to evolve:

1) What kind of guiding framework should the CBEFs be required to operate under, if any?

2) Are CBEFs an effective mechanism for engaging the public in the financial and economic development of their counties?

2 Methodology

The findings of this paper are based on interviews conducted in September 2015 in Kericho, Kisumu, Kwale, and Taita Taveta counties. The four counties were selected because they were determined to have active CBEFs. This emerged during a series of visits conducted by the Commission on Revenue Allocation (CRA) and civil society partners, including IBP Kenya, in May and June 2015.

CRA and IBP Kenya provided CBEF contacts in each county. As many CBEF members as possible were interviewed, with a focus on county executive committee (CEC) finance members and non-state CBEF members (generally the most active members). Where possible, individuals who were active in county budgeting, but were not from government and not members of the CBEF, were also interviewed. The researcher also attended a public participation meeting held by Kisumu county.

3 Nomination process

According to the PFM Act, a CBEF should be comprised of the following members:

- The Governor as the chair of the CBEF.
- Members of the CEC.
- Representatives from outside government (non-state members). These should be nominated by organizations at the county level representing professionals, business, labor issues, women, persons with disabilities, the elderly, and faith based groups. They should be equal to the number of executive committee members appointed by the Governor.

The government initially provided very little guidance on how to operationalize a CBEF. In response, a group of CSOs collaborated with the CRA and some CBEFs to develop guidelines on the formation and functions of the forums. According to these guidelines, the county governor should begin the process of setting up a CBEF 30 days after the appointment of county executive members. In addition to the membership stipulations in the law, the guidelines also indicate that CBEFs should include a secretary drawn from the non-state members.

Of the four counties examined in this study, Taita Taveta was the first to establish a CBEF in 2013. The other three counties (Kericho, Kisumu, and Kwale) established CBEFs in 2014. This means that the majority of CBEF members examined in this paper have only been involved in one budget cycle, and not necessarily from the beginning of the cycle (the budget formulation stage) that starts in August.

Membership of the CBEF, especially among non-government members, appears to be stable, with limited changes in individual members. Membership changes that have taken place have tended to be among the CECs, where some governors have re-shuffled or removed some executives. It does not appear that these changes have had any obviously adverse effect on the functioning of the CBEF. Rather CBEFs are more affected by the behavior of the non-state members than the actions of the state members. As will be seen in various sections of this paper, the capacity of non-state members and their selection process has had both positive and negative impacts on the effectiveness of the CBEFs.

According to the law, members should be selected on the basis of being representatives of various interest groups. Selection should ensure that, as much as possible, all interests in the county are represented and the selection process should be open. The process may involve media advertisements, targeted invitations to a broad set of actors, and exhorting organized groups to select representatives. It should result in the most capable and representative non-state candidates becoming members of the CBEF.

However, the process has worked slightly differently in reality. Three main practices were observed during the study:

1) Kisumu and Kwale counties took out media advertisements aimed at organized interest groups within the counties.

2) In Taita Taveta, the Governor directly selected and approached organized groups to nominate members.

3) In Kericho, the Governor handpicked individuals who were then allocated responsibility to represent specific interest groups. For example, a well-known professional was picked to represent the interests of professionals groups; a prominent woman was selected to represent the interests of women, even though she is not affiliated to any organized group.

It appears that the first two approaches encountered similar challenges with regard to how representative they were perceived to be of the constituent (interest) groups. But the challenges have been less about the selection process and more about how well organized or cohesive the interest groups are on the ground.

For example, there are two major women's umbrella bodies in Taita Taveta, *Maendeleo ya Wanawake* and *Sauti ya Wanawake*, that each claims to represent women's interest in the county. This was also the case in Kisumu, where representation for women on the CBEF was contested on the grounds that the member did not come from *Maendeleo ya Wanawake*. Two different views on how to manage competition among non-state representatives emerged from the interviews: either members from the competing organizations should be included in the

CBEF; or (the more challenging route) groups should be encouraged to collaborate and to nominate one representative.

When Governors handpick the non-state members directly, there is the risk that the CBEF could be challenged on the grounds of being an extension of the Governor's office intended to shore up their office. Clearly if the handpicked members are not chosen by the constituent groups they are meant to represent, this can lead to questions of who is really represented in CBEF.

In Kericho County, where candidates were handpicked, interviewees reported that the Governor was careful to ensure that the candidates represented different loyalties and, particularly, different political parties. The representation criteria laid down in the PFM Act are meant to minimize some of these risks by stipulating a membership that includes some of the more marginalized segments of the society: women, the elderly, and people living with disabilities. The PFM Act also attempts to ensure some measure of balance in the decision-making process by specifying an equal number of state and non-state CBEF members. These requirements do not necessarily translate into impartiality in practice, but do communicate the spirit with which the CBEFs should operate. As will be seen in this paper, depending on the Governors and the capacity and confidence of the non-state members, the PFM Act and the CBEF guidelines do provide a mechanism through which the CBEF structure can be inclusive.

The study recognizes that the ability of the non-state representatives to engage with as wide a spectrum as possible of the groups they represent is vital if their participation is to be as expansive and representative as was envisaged. In all the counties visited, the CBEFs have very little funding. For the majority – as also happens with funds allocated to civic education – it was reported that funding suggestions were being quashed when the budget estimates are presented to the assembly; consequently, the degree to which they can hold consultation and feedback meetings with their members is severely constrained. It is therefore hardly surprising that none of them had been able to do so, even for those CBEFs that were constituted as early as 2013.

From the interviews, it was evident that there was a strong bias towards having the counties provide funding for all consultative activities. On the other hand, it was not clear why, for those

groups/networks that are already organized, discussions could not happen as a matter of course during their scheduled meetings. These could perhaps be arranged in a manner that would allow them to deliberate on issues related to budget and economic affairs in their county. This is an approach that could be pursued more actively by non-state CBEF members. The county governments would then have a role to play in finding a mechanism through which the deliberations from such umbrella platforms could be effectively channeled upwards to the CBEF.

Three challenges would have to be overcome for this to be effective:

1) There are groups that hardly hold such meetings due to lack of funds, which gives an indication of the financial capacity of some of these umbrella organizations.

2) However, there are networks that could manage to hold such consultations. In such cases, it is a lack of understanding about the role that non-state members should play in the CBEF that prevents this from taking place.

3) For the county governments to actively pursue a workable mechanism for the transmission of inputs from the umbrella bodies, they need to better appreciate the role of non-state members. Without this, it will be difficult to elicit the effort required to actively work towards this, especially considering that communication and information dissemination between state and non-state members is already a challenge for some CBEFs.

In relation to regional representation, the Governors in Kericho, Taita Taveta, and Kwale had made an attempt to ensure that non-state members were not only representative across groups but also across sub-counties. Some even tried to ensure representation by ward.

It was evident from the interviews that the selection of appropriate non-state members entails a delicate balance between motivation, sub-county representation, and expertise in budgeting and economic development. It is particularly challenging to fulfil these criteria in counties that suffer high levels of illiteracy.

4 Composition

As mentioned earlier, the PFM Act stipulates what the composition of the CBEF should be:

- The Governor of the county, who is also the chairperson;
- Members of the county executive committee;
- A number of representatives from outside government (non-state members). These should be nominated by organizations representing professionals, business, labor issues, women, persons with disabilities, the elderly, and faith based groups at the county level. They should be equal to the number of executive committee members appointed by the Governor.

Each of the four counties were found to have observed the above stipulations on CBEF membership. Further, in keeping with the CBEF guidelines, each county selected through a consensus a non-state member to be the secretary of the CBEF. Other recommendations, such as members having a basic knowledge of budget and economic affairs, were not so well adhered to. Interviewees pointed out that the call for the nominations did not set the minimum criteria for proposing members, particularly the requirement of having a basic knowledge of budgeting and economic issues. Additionally, respondents mentioned that the education levels advertised were too low – diploma holders as opposed to degree holders.

Further, while the guidelines recommended beginning the selection process within 30 days of appointing the CECs, this was not observed; some CBEFs visited in August 2015 were hardly a year old, yet county governments had been in place since March 2013.

4.1 Decision-making Process

Interviewees at four CBEFs indicated that decisions were made through consensus during meetings, rather than by voting. Despite this, the ability of non-state members to provide meaningful inputs to the process was severely constrained in some cases, most notably by their lack of timely access to relevant documents. In most counties the government provided the documents on the day of a meeting, too late for non-state members to analyze the documents

and provide substantive inputs. Non-state members in Kericho and Taita Taveta eventually insisted on receiving the documents in advance; in Taita Taveta some even threatened to stall the budget approval process by refusing to participate in any public consultations and by taking the case to court if documents were not provided earlier.

This begs the question, why has more of this kind of pressure not been brought to bear? As non-state members begin to understand and appreciate how important their role is in CBEF, they may also be likely to start to gain confidence to make demands of the governments. Taita Taveta's CBEF is one of oldest in the country and also incorporates some members who are active in other prominent county development forums, one of them being the Taita Taveta County Development Forum. Such members draw on their experiences in these forums and they have the profiles and capacity to provide guidance to other members. An understanding of the roles and functions of the non-state members, and the capacity of members, each seem to play a role in how effective a CBEF is.

Assessing the balance of power within the CBEFs is a moot point in counties where the state members do not attend forum meetings. Such cases were also those where the non-state members had the most limited access to documents. In this situation, the decision-making power lies almost exclusively with the county executive and the County Assembly.

4.2 Representation

In three out of the four counties both the regional mix and relevant interest groups were taken into account when selecting non-state CBEF representatives. Political affiliation did not appear to have any significant influence over the selection of members for the most part. The Governor in Kericho handpicked CBEF members, and therefore had to demonstrate inclusivity in political party representation as well as other areas.

In Taita Taveta, two non-state members were found to not reside in the county. As the CBEF does not regularly meet (as of August, most counties had only had three meetings in 2015) their absence from the county was not considered to be a problem, especially as they were present for most of the meetings. Further, the county governments did not yet have enough

funds to facilitate consultative meetings between non-state members and their constituent groups. Should activities increase as the CBEFs mature, however, this will undoubtedly become a challenge that the counties will need to manage. The ability of diaspora members to understand and represent local interests is also an issue. In Taita Taveta, each of the four sub-counties was represented by at least two members. In this way, it was mentioned that the members could represent the interests of their localities and, at the same time, bring lessons from outside the county. The issue of learning from outside the county is quite an important one. As such, a balance could be sought within the Forums between this and the need to consider local interests.

4.3 Understanding Roles and Responsibilities

In those counties where the Governor and the Deputy Governor are active in the CBEF, both state and non-state members appear to make greater efforts to understand their respective roles. It was reported that the division of responsibilities was not always clear in the early stages of constituting the forums, which led to some tensions even between the state members themselves. In some cases, it was believed that the non-state members were selected to help the Governor gain tighter control of the county. The CRA conducted a brief induction session for each of the four CBEFs at their inception, which was said to have resolved some of the misunderstandings. However, many of these sessions only involved the non-state members and not the CECs. It is apparent from the interviews that the role of the CBEF is still not so well understood by some county executives. It was also apparent that the mandate of the non-state members – to facilitate wider public consultations rather than actually being representatives of the public themselves – needed to be communicated more clearly.

In Kisumu and Kwale, non-state members were reportedly more active than state members, with only one or two CECs being able to attend at any one time. Further, a certain level of mistrust between state and non-state members was apparent in most of the counties visited, limiting the effectiveness of the CBEFs. Some CECs were found to be reluctant to involve non-state members more closely in the budget process. This was attributed to their continued lack of understanding of the role of the non-state members specifically, and of the CBEF in general.

4.4 Capacity of Members

Technical capacity in the budget-making process was also found to be lacking. CECs in certain counties were found to lack a firm grasp on the intricacies of the process, which more often resided in chief officers. If the CECs struggle to fulfil their role in the budget process more broadly, it is likely that they would also find it a challenge to undertake their functions in the CBEF.

This lack of capacity was found to be even more marked among the non-state members. The budget documents were said to be too complicated for a number of them, making it difficult for them to engage more meaningfully in the analysis. Of those visited, only Taita Taveta had made an attempt to simplify the documents for use by the CBEF members and the public. In Kwale, the non-state members had made a similar request and the issue was under discussion.

Some members were also unable to understand and engage in meaningful discussions during the CBEF meetings. In a number of counties, a recommendation was made that the skills and expertise of potential members should be more thoroughly scrutinized, and that there needed to be a more rigorous criteria for selecting non-state members. CBEFs have the option to call in technical experts to assist them whenever the need arises, but due to a lack of funds none of them had been able to use this option.

There were five areas that were most commonly mentioned as requiring further capacity for both state and non-state members:

1) Clarification of the roles and responsibilities of state and non-state members in the CBEF.

2) Better appreciation of public participation: how the CBEF should facilitate this, the specific role that the non-state members should have in the process, and how the CECs can facilitate their work.

3) Better understanding of the budget cycle and the format of various documents; specific mention was made of program-based budgets.

4) More recognition of the importance of implementation monitoring, reviews, and citizen feedback.

5) More knowledge of the various legal instruments, particularly with regard to the PFM Act and the County Governments Act.

In considering the above gaps there is a need to ensure that, along with the non-state members, CEC members are also included in the trainings organized for CBEFs so they can better understand the division of responsibilities, and the roles and functions of each group within the CBEF and in the budget cycle. Considering that CECs in some counties do not attend meetings in the first place, getting them to attend joint training could be a challenge. The commitment of the Governors to the function of the CBEF would therefore need to be sought and reaffirmed prior to such sessions taking place.

The need for members to have the ability to deliberate on economic development and opportunities within their county was an additional issue that was followed up. All CBEFs were primarily concerned with the budget and public participation, with very limited engagement on the economic side of their mandate. Where this occurred, it was more on a personal basis, where members expressed an interest in the topic and sought to pursue it either through the county departments concerned with economic planning, or through other county forums separate from the CBEF, such as the Taita Taveta County Development Forum. This omission was said to be caused by a lack of understanding among many of the members about how to go about this.

Economic development differs from the budget, where timings and deliverables are clear and provide a framework of engagement with the process. This means that the CBEFs will need to find a way to get involved in such debates. Working more closely with the departments concerned with economic development and scheduling activities related to economic matters into their calendars may facilitate this. The CBEF guidelines also recognize that there might be a need to bring in subject matter experts for support, and these could be considered for discussion of economic matters.

5 Function

5.1 Forum Meetings

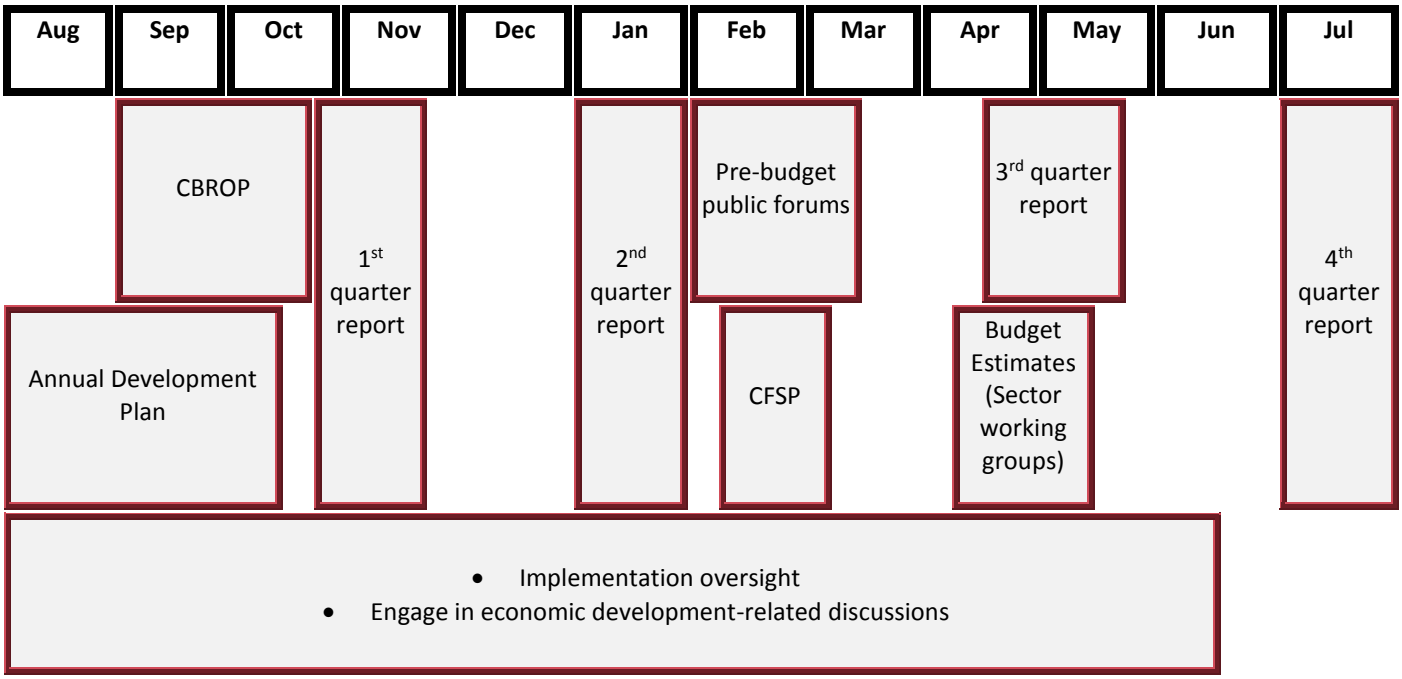
CBEFs are meant to have a calendar to help organize their activities more effectively. These calendars can help to plan meetings and schedule activities concerned with citizen consultation and feedback. Of the four counties, only Taita Taveta had such a calendar. Others primarily organized their meetings around the budget cycle. One challenge of not having a calendar was that meetings at key moments of the budget cycle are sometimes called very late. Besides not receiving relevant documents prior to meetings, the members were not given enough time to analyze the documents and provide sufficient feedback.

As mentioned above, the function of the CBEF is to engage with the budget, as well as with economic development. Such a calendar should therefore also allow opportunities for members to meet to deliberate on economic issues.

Monitoring implementation progress is another important function. None of the CBEFs had been involved in such activities, aside from a single forum organized in Taita Taveta. In Kericho and Taita Taveta, the format such monitoring would take, and how the CBEF members would be involved, was being discussed.

All the CBEF members agreed that they should meet more often. Considering the inputs they are meant to provide during the entire budget cycle, Figure 1 provides an overview of the calendar for engagement sessions corresponding to the cycle.

Figure 1: Proposed Calendar for CBEF Meetings Around the Budget Cycle



The meetings were called and chaired by the Governor or the Deputy Governor in all but one county, where the CEC for finance called and chaired the meetings. The agendas were set by the county officers. However, in Taita Taveta, the Governor had formed a House Business Committee where the CBEF Secretary (a non-state member) also sat. This body has acted as a secretariat for the CBEF, set the agenda for meetings, drawn the timetable for the CBEF, and presented it to members for discussion and approval. This committee has been chaired by the CEC for finance and is composed of members from the Taita Taveta county development forum, with the secretary being the Chief Officer for Finance.

5.2 Motivation of Non-state Members

The CBEF members are paid a sitting allowance. Some members of the public interviewed for this study believed that the request for more meetings was driven more by the money and less by the actual work. However, CBEF members indicated that this was not the case. Indeed, non-state members in Kericho and Taita Taveta had not been paid for a number of sittings due to a lack of funds and continued with their work despite being unsure that they would be compensated.

It was mentioned that there were some members who were driven by money, but these quickly fell away once it became obvious that payment was not guaranteed. In Kisumu and Kwale, some members were motivated enough to undertake CBEF-related activities outside of the official meetings. For example, some non-state members in Kisumu organized *ad hoc* meetings to strategize on matters related to their functions.

In an attempt to have the necessary documentation prior to their CBEF meetings, and due to the delay in receiving such documents from the county offices, some members in Kisumu mentioned meeting informally with some Members of the County Assembly (MCAs) to try and acquire these budget documents. In Kwale, the non-state Chairperson gave examples of meetings held with the CEC for Economic Affairs to discuss strategies for more actively engaging in issues related to economic development. Even though they could do a lot more in terms of, for example, publicizing the role of the CBEFs, or consulting with their constituent members, it appears that there are non-state members who are genuinely motivated and interested in performing their function with the forum.

Many interviewees did mention ulterior motives of some of the non-state members, the most obvious being political ambitions. However, it would be difficult for CBEFs to police such motives and if the work of the CBEF is not adversely affected while they hold their term this may not be an issue of great concern.

5.3 Committees

In each of the four counties, CBEF meetings were organized around specific events in the budget cycle; for example, to discuss the budget estimates. These were primarily one-day meetings. In Kwale, deliberations took between one and three days, with those relating to the annual plan and the budget estimates running longer. The duration of each meeting differed according to how the members were organized. The meetings lasted longer in CBEFs that were not organized either thematically or in other ways, as compared to the meetings of those that had adopted some form of issue-based groupings. Although it is generally acknowledged that CBEFs should have committees organized by sector to make their deliberations more efficient and substantive, only Taita Taveta was found to have attempted to do so. However, these

committees were said to be less than efficient in how they operate. As a result, none of these CBEFs had been able to facilitate sector hearings at the time of writing.

Two CBEFs had found innovative ways to work more efficiently even without the committees. In Kericho and in Kwale, the non-state members had strongly protested the lack of documentation prior to meetings and, since they had not yet formed committees, as a compromise, during the preparation of the budget estimates, the Governor and the CECs agreed that each department would be allocated two non-state members to work together with the chief officers to prepare and interrogate each department's budget. The estimates were then discussed, on a departmental basis, at the CBEF meetings.

This approach had two benefits:

- Non-state members were able to delve more deeply into each department's budget and gain a better understanding of their functions and requirements.
- Time during the CBEF meetings was saved, as members had more background information to be able to analyze the estimates.

Even though Taita Taveta had instituted committees, these were said to not be very effective in how they operated, possibly because the members still needed to gain an understanding of how they should function. To improve the effectiveness of deliberations, the CBEF appeared to be taking a similar route to that of Kericho and Kwale, with departmental-based engagements being arranged most recently in place of CBEF committees. In Kwale, the Government intended to hold sessions in mid-September to train both state and non-state members on how to form sector groups, their functions, and how to use them in public consultations. This would be followed by a launch of these groups later in the month.

5.4 Communication and Coordination

Each of the four counties expressed the need to have a secretariat to better manage communication, coordination, and knowledge management activities. Such a secretariat, they said, could perform the following functions:

- Develop annual calendars and ensure these are adhered to as closely as possible.
- Advocate for timely sharing of relevant documentation with members by ensuring a close liaison with the relevant county departments.
- Coordinate translating and summarizing various documents into popular versions for better public consumption.
- Act as a repository of documentation with a view to better knowledge management.
- Provide a central location for members to meet and, possibly, an alternative location where the public can access documentation and relevant information.

Taita Taveta and Kisumu have established secretariats that are housed at the county offices. The main constraint has been funding to facilitate the functions of such a body.

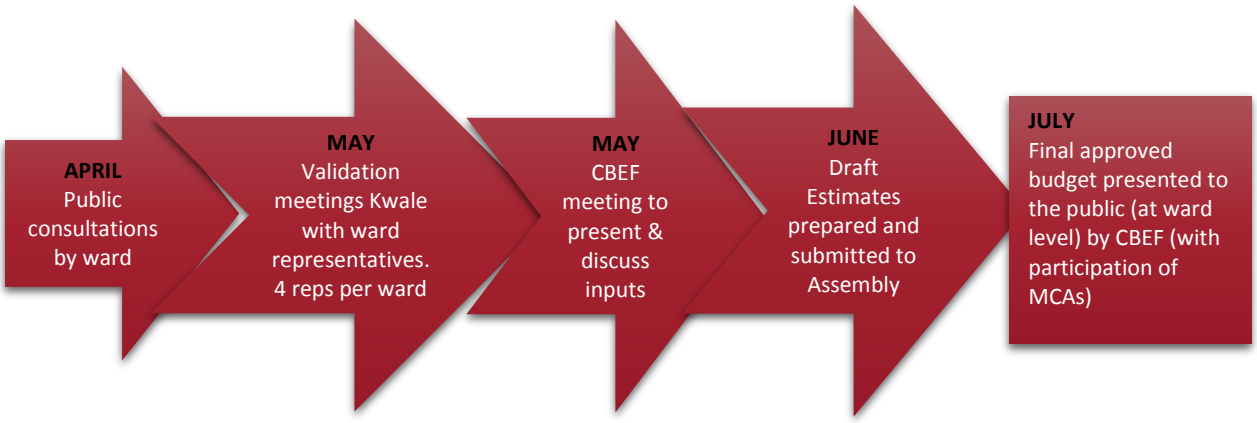
5.5 Effect on the Budget

The CBEF's participation in the budget process is meant to provide insights into citizens' priorities and enable better monitoring, planning, and utilization of resources. Two CBEFs were able to provide specific examples of how their participation had enabled them to make appropriate inputs into the budget. In Kisumu, members gave two examples of how they had managed to influence the revision of projects to be implemented: the fencing of the Kitmikai tourist area, and the fencing of the Oile Market. The budget included funding for these activities, but since they had already been completed, the non-state representatives removed them from the budget and suggested alternative projects for consideration. It was suggested that inclusion of these projects was initially due to a lack of adequate inputs from the public as a result of superficial public consultations, coupled with insufficient monitoring of project implementation. In Kericho, non-state members successfully argued that, instead of constructing new health centers, it would be better to ensure that existing facilities were first fully completed and equipped.

Members in Kwale County referred to the format that their public participation activities took during consultations around 2015/2016 budget estimates. A total of three rounds of

consultations with the public were conducted: one in April to present the proposed estimates, during which they provided the public with an opportunity to assess the implementation of their previous year's priorities against the now proposed activities at the ward level; another in May to validate the citizens' priorities as discussed at the first meeting; and a final one in July to present the final estimates that had been approved by the assembly.

Figure 2: Engagement with MCAs and the Public in Formulating the Budget in Kwale



There were three factors that allowed the CBEF members to go through this extensive consultation cycle successfully.

First, the community members were organized through their own community groups. This enabled them to provide substantive inputs to the process with one voice. CBEF members said they found this to be especially useful, particularly at the prioritization stage. The process was even better organized in those areas where the ward administrators were active and motivated to organize the groups.

Second, the county government made a substantial effort to facilitate the public consultation process.

Third, there was support from MCAs, which can elicit greater interest and turn-out for public events. In Kwale, they collaborated with the CBEF and other county officials in the public participation process and, in this way, the CBEF could comfortably report that public

participation had been high. However, according to some members of the public, participation could be further improved with concerted civic education.

In terms of review of specific documentation, three counties had been able to hold discussions, albeit late in the process, on the Fiscal Strategy Paper. In relation to monitoring the implementation process, only Taita Taveta County said they had been able to review the County Budget Review and Outlook Paper, and none of the counties had been regularly involved in analyzing the quarterly implementation reports.

In addition, visits to the counties point to the fact that, for the CBEFs to be effective, as a minimum the following is needed:

- The Governor and the Deputy Governor should take an interest and be active in the CBEF. It was observed that in counties where the Governor does not participate in the CBEF, the county executives are also only marginally involved and, when they are, it is mainly the CEC for Finance.

- In addition to participating, the Governor should make an effort to quell suspicions held by state members that non-state representatives are there to criticize or to act as watchdogs over the activities of the county. This would allow non-state members to have greater access to information and, conversely, would provide the state members with a useful resource through which they can improve their public participation activities.

- The members selected to the CBEF should have some level of capacity with regard to the budget process in general, as well as some level of experience in participating in this type of development forums, to enable them to engage meaningfully during deliberations.

- There should be a certain level of understanding among both state and non-state members about their roles and functions vis-à-vis the mandate of the CBEF, public participation, and the budget cycle. The majority of members had only gone through a

basic half-day introduction from the CRA about their role and functions and a cursory review of the budget cycle. But, they still have limited understanding of the budget calendar, and how they can engage with it more effectively as a forum.

In as much as the functioning of the CBEF is still constrained by a variety of challenges, they are still able to play a minor role in the budget process. With proper support, CBEF could prove to be a more valuable asset to the counties.

6 Consultations

6.1 Consulting and Informing Constituent Interest Groups

Unfortunately, non-state members failed to hold consultations with their constituent members in each of the four counties. A number of obstacles were found to have led to this.

1) Funding: members complained about the lack of funds to facilitate their activities, especially in relation to holding consultations with the members they are meant to represent. This relates to funding both from the state and, for some, from their own groups. As mentioned earlier, some non-state members had considered organizing consultations with their constituents during their regular group meetings. For this to work effectively, however, county governments would need to find mechanisms through which the results of such deliberations could be systematically shared with the CBEF.

2) A lack of understanding of the need to consult the public: there was a lack of understanding about the need to consult their constituents among some members. Some were of the opinion that, as long as non-state members were represented in the CBEF, this was adequate representation of the public.

3) Disagreements about who the non-state members represented: Members were not so clear about whether they represent themselves, their constituent groups/networks, or the public. Interests groups, such as women's and youth groups, were found to be not organized under a county-wide platform resulting in the queries about who should represent what group.

Both the organized interest groups and the county governments have a role to play. For the county governments, it is important to ensure that there is a clear understanding among non-state members about their role and responsibilities toward the CBEF and their networks. For the groups, there is a need for more coherent organization and representation. The county governments could encourage such networks to agree on a common representative to be included in the CBEF.

Counties where non-state members are selected to also represent their sub-counties are able to provide their views based on, for example, public deliberations made at chiefs' *barazas*, churches, and so on. While this does facilitate representation, it is not an ideal scenario, since such meetings are not structured in a manner that would enable comprehensive inputs into the budget process.

6.2 Consulting and Informing the Public

In Kisumu, non-state members accompanied state members during public participation meetings, and the researcher was able to observe one such meeting held at sub-county level.

A number of concerns were noted:

1) The non-state members did not have prior access to relevant documents. As such, they were not in a position to explain the documents to the public.

2) Members of the public also did not have prior access to relevant documents. The document discussed had close to 80 pages of figures and no attempt was made to organize the data in such a way that they could more easily make sense of the information it contained.

3) The session started almost two hours late. As a result, some of the members of the public lost interest and left before the meeting started, leaving only about 15 individuals.

Related to the above, very few members of the public participated in the meeting. The Budget Officer was said to have visited the community a week in advance and discussed how to

mobilize participants with the Ward Administrator. Three days prior to the meeting the county had placed an advertisement about the meeting in the newspaper and on two vernacular radio stations. However, participants reported that this notice period was not sufficient to allow for greater participation. Further, the newspaper advert was placed in the Star Newspaper, a daily with limited circulation and readership in the sub-county.

In Taita Taveta, the county government has started using ward administrators to facilitate better public participation, providing them with the budget documents at least two weeks in advance for distribution to the public. Through the facilitation of the ward administrators, the public is then meant to organize into discussion groups to deliberate on the documents and provide inputs back to the ward administrators for transmission to the county offices. Such an arrangement is designed to enable the public to engage with the county officers and the CBEF members, as well as to enable better monitoring and feedback on their suggestions. The Taita Taveta government was building the capacity of sub-county and ward administrators to do this, and the first attempt was made during the budget estimates in April 2015.

Although this was a commendable effort, there were two weaknesses to the approach. First, the availability of these documents at the ward level was not widely communicated so that the public could obtain the documents on time. Second, the skills and knowledge of the ward administrators with regard to managing such community-based organization were not sufficient.

As is usually the case, organizing communities into groups increases the risk of elite capture or domination by one or more groups. In as much as this allows for better organized engagement with the public, there should be a mechanism to ensure that participation is actually open, transparent, and representative.

To ensure as wide a consultation as possible, three counties held meetings with the public at ward level. Kisumu held its meetings at sub-county level because of lack of adequate funds to engage at ward level. However, according to the non-state members and non-member CSOs, consultations at sub-county were held far from many wards and villages and were difficult for citizens to reach.

6.3 Engagement with the County Assemblies

It was reported that the MCAs had limited understanding about the role of the CBEF and in most counties little to no collaboration took place. In Kisumu, MCAs were openly hostile to the CBEF and called for it to be disbanded. This was said to be due to the MCAs desire to have more control over the budget to use it to further their political agendas.

Interviewees in Kwale County perceived collaboration with the MCAs as an opportunity for counties to enhance public participation. Collaborating with MCAs could help boost public attendance at meetings and enhance the profile of CBEF's public participation activities.

County officials in other counties reported plans to build a working relationship between the CBEFs and the MCAs. In Taita Taveta, for example, the House Business Committee discussed the issue at a meeting held during this study. MCAs had been informed about the budget process and the role of the CBEF but, considering the large role they have to play in approving county budgets, it would appear that a lot more remains to be done in relation to continued awareness raising and training.

6.4 Alternative Public Participation Avenues

As with non-state members, CECs expressed frustrations at the lack of funding for public participation activities. CECs noted that allocations made in the budget for such activities are most often slashed whenever the budgets are presented to the County Assembly. One way of ensuring that citizen participation is not severely affected by this limitation in funding is to train and engage ward administrators, as one done in Taita Taveta. This was said to be less costly but, unfortunately, also less effective compared to using the CBEF to organize and moderate public meetings.

Each of the four counties has a website, though some were found to be more up to date than others. In relation to the current financial year, the following had published various documents.

- Kericho published its County Integrated Development Plan and approved budget 2015/2016.

- Kisumu published its County Integrated Development Plan, County Fiscal Strategy Paper 2015/2016, and the budget estimates 2015/2016. It did not published the approved budget.

- Taita Taveta published its County Annual Development Plan 2016/2017, approved budget 2015/2016, and County Investment Bill.

- Only Taita Taveta and Kericho had published the current budget 2015/2016; only Kisumu had published its County Fiscal Strategy Paper. No county published their most current County Budget Review and Outlook Paper.

Each county also has a Facebook page, with Taita Taveta's and Kericho's being the most up to date. Besides the regular contact page, two counties also have portals to allow for citizen participation. These did not appear to be very active. During interviews, it was understood that only a certain category of the public can engage with web-based tools and they were therefore not considered to be a substitute for in-person visits.

In some counties, especially those with an active presence of CSOs concerned with governance-related issues, the public has alternative avenues to participate in the budget process. In Kisumu and Taita Taveta, for example, there are a number of CSOs working to educate the public on their rights and responsibilities in relation to the budget and general development. They hold periodic public meetings to elicit citizen inputs into various budget documents. Gaining access to relevant documents early enough in the process to allow for meaningful discussions and inputs from the public has been a challenge, however.

Another avenue for participation, most prominent in Kisumu, was the use of community conversation groups that have been in place for many years through the support of Concern Worldwide. These groups are formed at village level, where they meet to discuss their development priorities. Community action plans are shared with the ward administrators, who should then send them on to the sub-county administrator, and so on. These were said to have aided somewhat in articulating people's priorities to the county government.

For the time being, save for the example provided of Kwale County, the forums organized by CSOs and by the community conversation groups were said to be more effective at allowing comprehensive public discussions around priorities and budgeting than CBEFs. However, the new measures being taken in Taita Taveta and Kwale, if managed properly, promise to offer an avenue for greater public participation. However, enhancing the capacities of the CBEFs and ensuring that public participation opportunities are funded will ultimately strengthen this function so much more, considering that they should be able to directly influence the process at the county government level.

7 Challenges Encountered by CBEFs

This study highlights three main challenges that CBEFs encounter:

- Lack of interest in the CBEF from some Governors and Deputies. This affects the enthusiasm of other state members. Consequently, the role of non-state members, and of the CBEF in general, is reduced to a statutory requirement. This limits the ability of non-state members to engage with, and make meaningful inputs to, the budget process. Public participation is turned into a rubber stamp activity.

- Lack of funding to support CBEF activities. This affects their ability to fulfil their core mandate of engaging the public and their constituents in the budget-making process.

- Low capacity of some CBEF members to engage with the budget process and with economic development activities.

The lack of legal guidance related to the way the CBEFs should operate was identified as an additional constraint. However, the existence of a legal framework does not necessarily guarantee adherence. It may be more important for stakeholders to appreciate the need and benefit of public participation in the budget and economic processes of their counties. Institutionalizing this understanding may be the biggest challenge affecting the support provided to CBEFs and their effectiveness.

8 Lessons

8.1 Nomination

Strictly adhering to the stipulated nomination criteria does not guarantee a higher degree of representation, especially in those cases where groups are not so well organized. For example, a number of groups may claim to represent a particular constituent interest. In such cases, it is important for the Governor to recommend that the groups agree to a common representative and potentially to help organize a forum at which this can happen.

8.2 Composition

Counties have come up with ways that, if not as representative as was envisaged, are still able to provide an avenue for citizen participation. For example, Governors have made efforts that go beyond the law to ensure that representatives of various segments of the county (regional, political, gender, and age) are included in CBEF and bring diverse views.

8.3 Function

CBEF calendars are an important tool for encouraging active membership. They should be developed as early as possible in the financial year.

All the CBEFs recognized the need for a secretariat to better coordinate and manage the activities of the Forum. The major constraint to this is funding. Of interest, Taita Taveta found an approach that serves this function for the time being – the House Business Committee, which consists of both state and non-state members.

Most CBEFs were not organized in sectors, but found effective ways of engaging with the budget process through the county departments. Kwale County reported that this approach was effective in facilitating the process for public participation in the 2015/2016 budget.

Non-state members in some counties are beginning to appreciate their role in the CBEF and they have started to rightly demand that the county governments support their activities more. For example, non-state members in Taita Taveta demanded to receive documents and to be assigned a more significant role in providing inputs to the budget-making process. Better understanding seems to give them greater confidence to make such demands.

8.4 Public Participation

There is still a lack of understanding and appreciation that non-state members are not meant to act as representatives of the public but to facilitate consultations with their constituent members, as well with the wider public. Both state and some non-state members seem to be unclear on this.

When advertising for public participation, it is important to clearly articulate what the focus of the meeting is, the expected inputs from the public, and of what benefit their participation will be.

If nurtured, collaboration between the CBEFs and the County Assemblies can be of great benefit to the public participation process, and could likely translate into a better understanding of the importance of the CBEF among the MCAs.

9 Recommendations

The findings prompt a number of recommendations for ensuring appropriate support to the counties and to the CBEFs as they evolve. Some of these are closely linked to the lessons above, but the following section aims to articulate how lessons learned can be used to the benefit of the CBEFs.

9.1 Train Members of the CBEF

There is a need to continue to develop the capacity of the CBEFs. Rather than a standard package for all counties, training should be tailored to suit the needs of each CBEF based on a capacity and needs assessment. Training CBEF members in all the counties is a costly task. Conducting training according to, for example, clusters of need or by region may help to ameliorate this. One challenge to consider when conducting training is that the term of the CBEF is tied to the term of the county governments. Given that the current governments are already more than halfway through their tenures, there is no guarantee that training carried in the next twelve months will be of benefit to the next group of CBEFs (if the membership changes). This implies that the most appropriate and cost-effective time to plan for such activities would be as soon as the CBEFs are constituted.

The study found that CBEFs were not engaging much with matters related to economic development and that members need to be trained on how they better support economic development in their county. County government can potentially take on this responsibility by involving their departments responsible for economic planning and development

An additional consideration to enhance capacity would be for CBEFs to hold learning platforms where different CBEFs can share lessons and practices from one another.

9.2 Select Members with Knowledge of Budgets and Economics

As indicated in the CBEF guidelines, members need to have a certain level of knowledge and awareness about the budgeting process and economic matters for CBEFs to be a successful citizen participation mechanism. The selection process should be more rigorous in order to identify the most suitable individuals. CBEFs with greater capacity and knowledge have more confidence in discharging their duties and demanding to be supported by the county governments to do so.

9.3 Enhance Communications Between State and Non-state Members

It is vital to enhance the communication and information sharing between state and non-state members. The lack of timely access to relevant documentation severely constrains the ability of non-state members to provide meaningful inputs to the documents and engage the public in an informed manner when it comes to public participation meetings.

9.4 Improve Public Participation

Public participation can be improved in the following ways:

- Ensure relevant documents are provided to the public in a timely way.
- Provide simplified versions of documents and explanations of funds and translate them into Swahili for easy consumption by the public.
- Advertise public consultations in more effective and timely ways to ensure that people have an opportunity to attend and provide substantive inputs. Use of ward administrators and other channels, such as churches and chiefs' *barazas*, to publicize

the events and provide advance information about the content of the upcoming meetings.

- Provide feedback to citizens on how their inputs they gave at consultation meetings are being used.

9.5 Use Existing Networks to Engage the Public

CBEFs should partner with CSOs to engage in wider public consultations. The community conversation groups in Kisumu, for example, provide an avenue through which CBEFs can engage with communities at lower levels without necessarily incurring huge costs in the process. Such groups could also support implementation monitoring at village and ward levels.

9.6 Monitor Implementation

CBEFs need to play a larger role in the implementation phase of the budget, specifically in monitoring the progress of projects. This will enable them to provide concrete feedback to the public and facilitate subsequent budget formulation exercises, as they will be in a better position to assess implementation status at the close of each financial year, and to advise the public accordingly. In addition, this would support and likely strengthen the quarterly county implementation reporting process.

9.7 Broad Questions

What kind of guiding framework should the CBEFs be required to operate under, if any?

There is a clear lack of strict regulations on the formation and functions of the CBEFs. This was a concern for interviewees in all four counties. Despite this, each had found a way to form and manage their CBEFs according to their own contextual needs. Some were more successful at this than others.

Contrary to the views from respondents that stricter rules for CBEFs are needed, allowing the counties the kind of flexibility they have currently could be an effective approach. Consequently, this would mean that it would be sufficient to use guidelines such as the ones that have already been developed. The main focus of the CBEF guidelines could be to establish

minimum conditions without which a CBEF would be considered unresponsive. For example, there could be a mandatory minimum level of representativeness, without necessarily prescribing how that should be done.

On the other hand, setting minimum conditions might also mean that counties only strive to achieve the minimum. The issue then becomes one of enforcing adherence to the existing guidelines where the question is, who should be responsible for this task?

Are CBEFs an effective mechanism for engaging the public in the financial and economic development of their counties?

Although the CBEF formation process is still fraught with challenges, they do provide an opportunity for the public and non-state actors to be involved more closely in the budget formation and implementation process. The kind of access that the non-state members potentially have to the county governments could be a vehicle for the public to have a say in their own development – right down to the village level. However, there is still the largely untapped opportunity for CBEFs to collaborate more with the other public consultation mechanisms, such as those supported by CSOs and by local community groups, to enhance their range and reach. Non-state members could also do more to engage their constituent groups in the budgeting and economic development issues of their counties.

Securing enough resources to engage the public at the village level was a challenge in all four counties. Indeed engaging the public at ward level was proving to be a challenge for some. But, again, there are existing mechanism which could be drawn on. For example, in Kisumu the community conversation groups already engage in development-related discussions at the village level. Through the ward administrators, the CBEF in Kisumu could use these groups to engage in village level consultations.

Other counties have other community organization mechanisms in place that the CBEFs could tap into for public engagement purposes. But county governments, and the CBEFs, would need to commit to ensuring wide and representative public consultations. Ultimately, to achieve such

commitments requires recognition of the important role played by the public, as well as their right to participate in the development efforts of their counties.