

Review of Swedish Support to Human Rights and Democracy through Partnership with CSOs in Kenya

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Department for Africa

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Sida Evaluation 04/07

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Table of Contents

Executive Summary	5
Part A: Introduction	11
The Context of Civil Society Development in Kenya	11
Situating Kenya in the Context of Regional Trends	12
Sida Interface with Civil Society	14
Review Background	16
Review Rationale	17
Review Methodology	17
Review Limitations	18
Part B: Modes of Co-operation	19
Introduction	19
General Funding Mechanisms	20
Direct Funding Mechanisms	22
Programmatic Co-operation	26
Recommendations	27
Part C: Programme Analysis	30
Introduction	30
Overall Findings	30
Specific Programme Findings	32
Partner Analysis	35
Recommendations	38
Part D: Case Studies	41
Introduction	41
FIDA	41
LRF	44
ECWD	46
ICJ	48
Annexes:	
Terms of Reference	51
List of Interviews	56
List of Litterature	61

List of Abbreviations

CSO	Civil Society Organisation
CLAN	Child Legal Advisory Network
Cradle	Child Rights Advisory, Documentation and Legal Centre
ECWD	Education Centre for Women in Development
FGD	Focus Group Discussion
EPPP	Engendering the Political Process Programme
EPZ	Export Processing Zone
FIDA	Federation of Women Lawyers (k)
HDG	Human Rights, Democracy and Governance Sector
HR Network	Human Rights Network
ICJ	International Commission for Jurists
KANU	Kenya African National Union
KAACR	Kenya Alliance for Advancement of Children
KHRC	Kenya Human Rights Commission
LFA	Logical Framework Analysis
LRF	Legal Resource Foundation
LKWVs	League of Kenya Women Voters
MPs	Member of Parliament
Narc	National Rainbow Coalition
NCEP	National Civic Education Programme
NGO	Non-Governmental Organisation
OD	Organisational Development
PAT	People Against Torture
RBM	Results Based Management
RPP	Release Political Prisoners
TORs	Terms of Reference

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Executive Summary

Introduction

- 1) Swedish support to the Human Rights and Democracy sector in Kenya was initiated in 1990/91. This was expanded the following year in view of the first multi-party elections of 1992. Support rose from 1–2 million SEK during 1990/91 to 7 million SEK in 1994/95. During 1995–1997 Swedish support amounted to 6 million SEK, with an additional contribution of 6 million SEK for an election monitoring project for the second multi-party elections held in 1997. The local strategy was prolonged during 1998 and support that year amounted to 5 million SEK. During 1999 a revised action plan on human rights and democracy was developed and was allocated support amounting to 4,5 million SEK. The review for which this report is generated focuses on the period between 1999 and 2002 only.
- 2) The overall purpose of this review was to make an examination of the **strategic focus** and **relevance** of Swedish direct support to Human Rights and Democracy in Kenya. This was to be done with the intention of teasing out some recommendations, which would focus on improving Swedish support to human rights and democracy through partnership with CSOs. The review was to comprise of three principal components. The first one was a performance **analysis** of the Swedish supported interventions between 1999 and 2002. The second was a set of four in-depth **case studies** of supported interventions, while the third was a review of the **mode of co-operation** between Sida and the beneficiary CSOs.
- 3) The review for which this report is produced was meant to provide a trustworthy account of the effectiveness, relevance and results of Swedish support to the HR and Democracy Sector of civil society. We were meant to ask the questions: what was done, with whom, and with what results? We were meant to ask a further question – What do the results tell us? Out of this question, the review was meant to disaggregate what has worked, what has not, and why. From the results, we were further required to tease out lessons learnt, and best practices. A total of 45 person days were shared by three consultants (two based in Kenya and one international consultant based in Zimbabwe). They visited partners and beneficiaries in Nairobi and upcountry. They also held discussions with strategic partners amongst the donors, government and other civil society actors. To supplement the primary sources of information, the consultants further reviewed some literature in the form of reports and publications

The Findings

Overall Assessment

- 4) **Strategic Focus, Relevance and Effectiveness.** All the objectives of Swedish support were met with varying degrees of results. In relation to the changing legal and political environment, the focus of support remained strategic. It is the position of this report that during the period under review, Swedish support was also relevant in terms of its design, thematic choices, choice of partners and the achieved results. The Embassy's flexibility and lack of bureaucracy helped the CSO partners to navigate a rapidly changing and volatile political terrain. The women sector for instance attributes the high presence of women in the ninth parliament to Sida support to Women

political candidates¹. Similarly, Sida has been credited with supporting the establishment of the rights-based juvenile sector of civil society.

- 5) **Some Limitations.** The main limitations of Swedish framework of support were in the way it was designed and rolled out. The review team was not convinced about its *laissez faire* nature and in particular, its lack of a structured approach. Similarly, its implementation focused primarily on how the funds were spent. There was little programme dialogue. According to the team, this was largely as a result of limited capacity at the Embassy.
- 6) **Modes of Co-operation.** Sida modes of co-operation with civil society are built on a deep understanding of social processes². According to the partners, they comprise of a true ‘**Democracy Contract**’ between Sida and the CSOs. This ‘contract’ is about a normative understanding between Sida and the CSOs that the Embassy is committed to supporting the process of expanding democratic space. And that this commitment is ‘bankable’ and allows partners to plan for long-term activities.
- 7) **Some Limitations.** The funding relationship between Sida and the partners is more *personalised* than *institutionalised*. In case a new programme ‘person’ replaces the current one, the relationship could also change. This poses a risk. The partners are also of the view that Sida’s approach is ‘hands-off’ and this does not augur well for implementation. One partner noted that “...the heat donors give organisations tends to energise them. Sida is denying us this heat”.

The Specific Findings

Modes of Co-operation

- 8) Sida’s support to civil society organisations has changed in character, from support to a large number of short term projects, towards long term partnership arrangements with a limited number of selected organisations, based on shared commitment to joint strategic objectives. This cooperation has included support for more extensive programmes, but also capacity building, institutional development and improved management of the organisation. Although these partnerships are long term in perspective, agreements mostly run for one year.
- 9) Sida has concentrated in the past on a limited number of relationships with well-established partners that operate in the three thematic areas. The criteria for the selection of partners include partners’ commitment to the international conventions on Human Rights, their track record, level of institutionalisation and outreach capacity.
- 10) Sida’s mode of funding include support for the strategic plan priorities for partner organisations, including programme, capacity strengthening, institutional development and improved management, support to Kenya government and institutional agencies such as the Judiciary, Kenya Police, the AG, DPM and Prisons Department using partners and Basket funding for specific events or processes.
- 11) Characteristics of Sida’s relationship with partners include short term engagements although there is an understanding that the relationship is longer. This understanding is however verbal and not institutionalised. In spite of this, the quality of relationship between partners and Sida was described as excellent, not patronising but based on mutual respect. Other aspects that were considered very good included: Sida’s contribution to internal capacity strengthening of partners; commitment to gender, particularly women, the trust and authority for use of resources and making

¹ This support was criticised by some of the donor partners of Sida. However, the review team is of the view that it was both appropriate and relevant given the male-dominated nature of the Moi succession.

² This is the sum total of partner assessments of Sida.

decisions; support to projects originated from partners needs not imposed; management style of Sida staff; transparency of operations.

- 12) Suggested areas of improvement included more structured exchange of information with partners, including sharing of lessons learned; not using PWC for capacity building; need to standardise the reporting format and more effective and timely feedback.
- 13) This relationship between Sida and partners is based on mutual respect, a high degree of understanding of the needs and priorities of partners, clear understanding of Kenyan situation and the needs of civil society, agreement on values and philosophy and commitment to justice, human rights and particularly the rights of women and other marginalized groups.

Programme Analysis

- 14) **Effectiveness.** Support by Sida was effective both at the level of delivery and costs. At the level of delivery, the team is of the view that there is a direct cause-effect relationship between support and the results delivered by the CSOs. The review of the *Children's Act in 2001* was for instance as a direct result of the work of CLAN, which is funded largely by Sida. Regarding costs, the team was persuaded that the support had gone to the most deserving and that there was 'value for money'. However, we are not convinced of the sustainability of the results accruing to the support.
- 15) **The Results.** On specific programmes, a number of results were recorded. NCEP and the Human Rights Programmes raised the levels of civic competence in individuals and groups of individuals. In Laikipia, and as a result of the work of ICJ, *Mwenje Muungano Wildlife Group* that brings together peasant farmers has finally decided to sue a group of ranchers for the destruction of their crops. This is one case of 'group competence' created by the Laikipia paralegal scheme under ICJ. The competence created in worker organizations at Del Monte, the Naivasha Flower farms and the EPZ by KHRC is another case in point. In the women and children programmes, the team recorded some results as well. Levels of women participation in political processes have been increased. But this has to be scaled up from *instrumental* to *transformative* participation³. The two programmes have also achieved much in the areas of legislative and policy reforms. They have placed children and women on the legislative reform agenda and in the draft constitution. The other remarkable achievement is in the area of access to justice for the indigent through representation.
- 16) **Some Challenges.** The first challenge has to do with the political transition in Kenya. The CSOs have to balance between playing the role of watchdogs to the new state, and engaging with it. The other challenge here is about positioning. Given that some government ministries will deliver some of the services delivered by the CSOs, the latter must avoid 'displacement' and look for strategic positions from which to operate. At the interventions level, the CSOs face the challenge of consolidating their achievements in the pre-transition period. More so because there are far too many new players who need to be sensitized and lobbied.
- 17) **EPPP.** Unlike NCEP, which was event-based, EPPP is different in the sense that engendering the political process must be a continuous process. However, it is probably difficult to engender a changing political process using the 'static' approach of the past. Ways of meshing the engendering 'content' with the changing political process should be sought.

³ Concepts and the progression from one to the other defined in the main text of the report.

Summary of Recommendations

Overall Recommendations.

- 18) *Grant Making Approach.* We recommend a more structured approach to grant making. Although the current Sida approach has its benefits, it leaves much to chance. In particular, the assumption that the partner CSOs share in Sida's strategic objectives is not necessarily true⁴. The view of the team is that the programme should have a structured implementation framework with a mechanism for tracking programme results. This should be developed with the requirements of the Sida Performance Analysis Framework (introduced in April 2002) in mind.
- 19) The implementation framework should advance by first decomposing the strategic objectives into outputs, effects and indicators for monitoring results. It should then move on to develop more structured criteria for partner selection. This should be followed by a rationalisation of existing partner portfolio to ensure that they are consistent with the Sida aspirations.
- 20) Two of the objectives of the programme should remain, while the objective dealing with corruption and good governance should be done away with. Sida should explore new ways of interfacing with the new government and should in particular consider supporting the Justice Ministry's new programmes⁵
- 21) The thematic areas remain relevant to the political situation in Kenya. However, the approaches supported under this programme might have to change in light of the political transition and change of government.

Modes of Cooperation

- 22) **Event and Process Basket Mechanisms.** For any Basket funding that Sida is involved in, there should be clear and documented procedures for decision making. Operational framework should also include clear definition of roles and authority levels. In addition the information requirements should be determined for each level including the communication channels, frequency of communication and the mode.
- 23) Any Basket fund should have a well-documented strategic framework with clear milestones.
- 24) The selection of partners for the Basket support, the synergy among the implementing organisations should be one important criterion for selection.
- 25) As much as possible Basket members should have compatible development philosophy and operational procedures. The like-minded donors may have fewer operational difficulties when forming a Basket.
- 26) **Liaison Point Mechanism.** A team made up of at least three consultants should support the Liaison Point Mechanism. The functions of the three would include, financial appraisal and monitoring, programme monitoring and evaluation, and capacity strengthening. That way, the administrative costs would be kept low, while adequate support can be provided.
- 27) **Strategic Plan Support.** Support to partner strategic plans should continue and be strengthened. Although MoUs can be signed with individual partner member, there should be one reporting to a "lead development partner". Sida should therefore be able to act as a silent partner with some partners and "lead development part" with others.

⁴ The team is not persuaded that sharing a rights-based approach necessarily translates to the sharing of 'intent' as expressed through CSO outputs and Sida objectives.

⁵ Supporting this ministry would open up forums in which CSO partners can access the government and influence its policy positions.

- 28) When Sida is a lead development partner it can outsource certain routine functions to an outside consultants and concentrate on more strategic programmatic issues and exchange of lessons learned.
- 29) Sida should concentrate more on partners that operate at levels of participation and control as it has established credible partners that are making significant difference and wish to continue this cooperation. This way both Sida and partners can benefit from each other's expertise.
- 30) Expand the duration of MOU from current one year to three years.
- 31) Sida can use partners such as Diakonia to reach out to smaller community based organisations for innovative projects and activities. Diakonia could work with NGOs and community based organisations that operate mainly at the level of access and conscientisation.
- 32) The evaluators recommend that relationships be institutionalised without losing the advantages of the current flexibility. Sida and partners should establish simple procedures for written channels of communication that should then be adhered to.
- 33) **Outsourcing.** While Sida can outsource technical and programmatic levels it should not outsource the strategic level. Choice of consultants for outsourcing is important. As much as possible Sida should outsource to reputable local consultants who share similar values with partners. Large organisations whose primary motive is profit and who lack the flexibility to meet the needs of NGOs may not be acceptable to partners.
- 34) **Performance Analysis system.** Given the introduction of the performance analysis tool in April of last year, the Embassy should consider streamlining a number of things in its programme design and implementation. The team makes the following suggestions.
- The Country Programme strategy objectives should be shared with the partners; this has not been the case as the framework was developed after the current strategy was already being implemented;
 - The partners should be chosen on the basis of their potential contribution to the achievement of the CP objectives. Although this has been the case, the choice of partners has been based on very broad assessments.
 - The partner contributions should be translated into project/programme objectives which are smart and agreed with those of the Sida country programme strategy.
 - There should be a statement of indicators of the achievement of the partner objectives (first level) and the CP strategy objectives (level two)
 - That these two levels of objectives are linked to the sector level objectives defined in the context of the development priorities of Kenya.
- 35) **Reporting.** The reporting system should be based on the above variables; this is not the case as partners report in their own format of choice which varies from one partner to the other; while this flexibility is appreciated by partners, they also agree that it imposes a heavy burden of reviewing the many and sometimes long reports and providing feedback to the partners. As a result, there is no clear evidence of the use of the reports for performance tracking of partners by Sida.

Partner Related Recommendations

- 36) *Support Revision of Strategic Orientation.* In the immediate post-transition period, Sida should support a re-thinking of the strategic orientation of partner CSOs. The team is convinced that in their present formulation, the orientation of some of the partners is viable⁶. And if the Sida ‘basket mechanism’ is to be built on the idea of the strategic plan, these must be re-aligned
- 37) *Benchmarking.* The process of reviewing the strategic plans should be accompanied by the development of new programme benchmarks. The research component of the Sida framework of support was probably the weakest during the period under review⁷. This component of support should be given priority this time around. Research for baseline studies⁸ and the development of **post-Moi programme benchmarks** should be supported. This will define the base “lines” from where the CSO partners will advance as they engage with the new regime.
- 38) *Needs Analysis.* This should apply to especially PAT and RPP. Given the new dispensation, the two should make an assessment of the needs they will address in future. This should be done before they revise their strategic plans and support for this transition should be provided. Partners in the Child rights sector should also consider doing a needs analysis. In their case, this would be used for purposes of selecting the high impact needs that require the strategic intervention of the sector.
- 39) *Community-based Pro-poor Initiatives.* Sida partners have created a layer of actors and institutions at the community level from their interventions. The recommendation of this report therefore is that the partners should develop an ‘adoption strategy’ through which they would provide technical services to these community initiatives⁹. Similarly, Sida should consider replicating the KHRC *Community Initiatives Support Fund* in other partners. Although in its formative stages, this Fund is an example of ‘best practice’ in sustaining community activities. But in replicating it, the KHRC model should also be upscaled to the KAACR model. Through Sida support, KAACR is currently administering small grants to CBOs. For Sida support to ‘percolate’ to the communities directly, this model should be considered for replication in other partners as well¹⁰.
- 40) *Partner Graduation*¹¹. A scheme for graduating partners and adopting new ones should be developed. Criteria for graduation¹² should be generated and it should distinguish between **programme** and **institutional** capacities. This is critical because some CSOs may have institutional capacity to administer funds but limited programme capacity and *vice versa*. Partner graduation and future pre-disbursement assessments should not focus on only one of these. They should be done with this duality in mind.
- 41) *Consolidate Good Practices.* This programme has many good practices that are scattered amongst the partners. And this is partly because of lack of a structured approach. The recommendation of this report is that these practices be **collated, consolidated** and made **accessible** to the partners. This should also be done as part of knowledge management and institutionalisation of memory within Sida.

⁶ This includes almost 70% of the partners and they admitted to the view.

⁷ Research was conducted alright, but the team is not persuaded that it was put to meaningful use.

⁸ These studies do not need to be organisational, they can be programmatic. That is, each organisation can decide to conduct programme-based benchmark studies.

⁹ We are referring specifically to ECWD, LRF, and ICJ here.

¹⁰ This model has been used successfully by grant makers in Rwanda, the Basket Fund in Tanzania and by some International Development NGOs all over Africa.

¹¹ This recommendation is made in full awareness that Sida does not have a graduation scheme as a matter of choice. The consultants are inviting the organisation to consider this choice for future grant-making.

¹² This should be in the form of a grading system. Arguably, this system exists and it is what distinguishes support to KHRC for instance and that to FIDA. This system should however be institutionalised.

Part A

Introduction

A.1 The Context of Civil Society Development in Kenya

A.1.1 Some Preliminaries

- 1) Studies on the African civil society tend to define it in *institutional* rather than *functional terms*¹. Civil society growth is in turn measured by its institutional and numerical expansion, as opposed to the level and quality of its civic engagement with the state. Similarly, it is analysed by assessing the nature of its structures as opposed to its activities. The position of this report is that this form of analysis is problematic.
- 2) Civil society should be defined in terms of its “organised activities” as opposed to the institutional make-up of its organisations. Its development should therefore be measured in terms of the complexity of its responses to state actions as opposed to the growth of its institutions. Similarly, it should not be viewed as a frozen ‘space’ occupied by a group of non-governmental organisations. This report views civil society as comprising of dynamic exchanges between the state and non-governmental institutions. These exchanges are both in the form of engagement with the state and disengagement.

A.1.2 Civil Society Sectors

- 3) According to this report there are five sectors of civil society in Kenya. These are categorized in terms of the nature of their civic engagement with the state as opposed to their structure and form. The five sectors are:
 - **The Development² Sector.** This sector of civil society is populated by the development NGOs and the co-operatives. It is the oldest and probably the most differentiated sector of civil society. The co-operative sector for instance has many forms, while the development NGOs can be further categorized into the international, local and issue-specific NGOs. These NGOs were the prime movers during the push for competitive politics in Kenya in the early 1990s³.
 - **The Human Rights and Democracy Sector.** This is a fairly new sector of civil society, with most of its organisations formed in the 1990s. It is also the fastest growing sector with close to 180 fully-fledged CSOs by 2001⁴. During the second transition cycle⁵(1993–97), this sector served as a ‘political incubator’ for the nascent opposition parties. This alliance is credited with the gains achieved in the constitutional review process.

¹ Transition without Transformation: Civil Society and the Transition See Saw in Kenya. By Mutahi Ngunyi, (IDS, University of Sussex Global Civil Society Study, 2002)

² Development here is defined broadly as human development. This includes inter alia, the provision of Emergency services, and the graduation of the same to sustainable livelihood options for the beneficiary communities. It also includes the empowerment of communities through organised action (ie co-operative movements) to control their economic choices.

³ These include the development departments of the Catholic and Anglican churches for instance. Groups like the NCCK should also fall under this category

⁴ Democratic Audit Report 2001, (SAREAT, 2001)

⁵ This is the period leading to the second transition elections. Details of the cycle discussed in Mutahi Ngunyi, Civil Society and the Two Transition Cycles in Kenya (SAREAT: Nairobi, 2000)

- **The Market Sector.** This sector comprises of corporate interests groups, professional associations, business associations and the labour movements. The basic function of this sector is to articulate market related interests using civil society as a platform. In the past, this sector was essentially moribund. But during the second transition cycle, the sector came alive with industrialists, interest groups and labour unions engaging in civic action. The most pronounced of these were the activities of the teachers union.
- **The Religious Sector.** Like the development sector of civil society, this is also one of the oldest. During the first transition cycle (1988–91)⁶, this sector was dominated by the Christian formations. And indeed, together with the Law Society of Kenya (LSK), they were responsible for eliciting debate on multi-party politics⁷. But during the second transition cycle, the other faith-based organisations joined the sector and were involved in agitating for change including the constitutional review process.
- **The Green⁸ Movements.** This sector comprises of the peasant formations articulating agrarian or agro-indigenous questions. This has also been called the ‘invisible sector’ of civil society⁹ in that organisations in this sector exist more in form of sporadic activities that are held together by some simple structures. These activities are not formally recognised and in analysing civil society in Kenya, they remain invisible. Associations that fall under this category include groups like *Muungano wa Wanavijiji*, and the original *Mungiki Cultists*¹⁰.

4) **The Sida Support** The support by Sida has basically gone to the Human Rights and Democracy Sector of civil society. This support has gone to three distinct sub-sectors, which include the Human Rights, the Women rights, children rights, and good governance sub-sectors. This report provides an analysis of this support between 1999 and 2001.

A.2 Situating Kenya in the Context of Regional Trends

- 5) An analysis of civil society growth in East Africa provides two general conclusions¹¹. One, where civil society is strong, political parties tend to be weak. Conversely, in a situation where the parties are strong, civil society is weak. Two, political transitions favouring ‘progressive forces’ tend to weaken civil society in post-transition periods. These two conclusions carry important lessons for Kenya; more so, after the change of government in December 2003. We examine these conclusions by looking at trends in Rwanda, Uganda and Tanzania¹². The report focuses on three trends and systems that speak to the emerging situation in Kenya.
- 6) **The Zero-Party Systems.** Rwanda and Uganda represent military regimes that have ‘constitutionalised’ their existence. To a limited extent, they also represent a case in which the greater civil society within the country and the Diaspora has taken over the reigns of power. The big question here is, what happens to civil society when its actors migrate to the other side of the divide to constitute the state?

⁶ This is the period after the ‘mulolongo’ (queue-voting) elections in 1988 and the repeal of section 2(a) of the constitution allowing for multiparty democracy.

⁷ This debate was kicked off by Rev Timothy Njoya during a new year message to his congregation at the St Andrews Church in Nairobi in 1991. It was then picked up during Easter of the same year by the late Rev Dr Henry Okullu of the Maseno Diocese. By December of 1991, the constitution was reviewed to allow for more parties.

⁸ By “Green” we mean agrarian-related activism and not environment-related activism.

⁹ See *Transition Without Transformation: Civil Society and the Transition Seesaw in Kenya* (A publication of the Global Civil Society Project, IDS Sussex, 2000)

¹⁰ There are arguments whether illiberal organisations like Mungiki are actually part of civil society. But in our view, although their approach is crude, they are part of associational life.

¹¹ IDS Sussex Study by Mutahi Ngunyi, op cit

¹² The TORs asked the team to provide a regional trend analysis. The team chose the three countries for this analysis.

- 7) *Case of Rwanda*. In the case of Rwanda, the post-genocide civil society is either going through a process of co-optation or 'statisation'. Regime consolidation under RPF has resulted in state encroachment of civil society space. The challenge for civil society in Rwanda is therefore two-fold in this regard: (a) pushing back the frontiers of a 'compelling' state and developing independence from its agencies. This is an uphill task partly because some of the architects of state encroachment are leading civil society actors.¹³ This is a challenge Kenya is likely to face. With a new regime in power and civil society actors positioning themselves in government, state encroachment of civil society will inevitably happen. (b) Given the post-genocide sensitivities in Rwanda and the introduction of the *Gacaca* justice system¹⁴, levels of ethnicisation are bound to rise and those of political tolerance to drop. This being a definitive moment for Rwanda, the challenge for civil society is therefore that of expanding the 'tolerance space' as part of the *Gacaca* response.
- 8) Kenya is likely to face the challenge of tolerance as the new regime re-aligns the administration. The role of civil society here would therefore be that of expanding the 'tolerance space' and keeping state aggressors at bay. This will pose a major challenge should a Truth and Reconciliation Commission be constituted. Like in the case of *Gacaca* justice, this could lead to ethnicisation of politics and civil society processes.
- 9) *The Case of Uganda*. The zero-party system in Uganda has 'de-partisized' the National Resistance Movement (NRM). As a result, the NRM structures are identified more with associational life and less with political control – atleast on the surface. The implication of this is that the bonafide civil society formations on the ground become 'bastardised' by the Local Resistance Councils (LRCs). Unlike the CCM in Tanzania, the LRCs are seen as the legitimate people-to-people forums and therefore tend to stifle the development of the civil society formations at the local settings. Similarly, because of the legitimacy some of them enjoy, the LRCs tend to 'de-voice' the CSOs on the ground and to take the thunder away from their civic engagement.
- 10) The possibilities of Narc in Kenya 'de-partisizing' itself and assuming the profile of an association are almost nil. However, the emergence of a new actor on the political terrain in the form of Narc is likely to take the thunder away from civil society. The Green movements in slum areas have begun lending themselves for co-optation by party structures. Their argument is that the parties that constitute Narc are likely to access resources for them much faster than the civil society formations. If this trend continues, the space occupied by civil society groups is likely to be taken over by party structures. The problem here is that when parties engage in associational life, genuine civic engagement dies away. This is what has happened in rural Uganda and the trend could happen in Kenya as well.
- 11) **The One-Party and 'A bit': The Case of Tanzania**. Tanzania has a strong party structure whose entrenchment in rural society goes back to the 1960s following the Arusha Declaration of 1967 and the conversion of TANU to CCM. In fact, the model of organising for politics in Uganda and Rwanda is a replica of the CCM experiment in Tanzania. The idea of *Majumba Kumi*¹⁵ in the two countries borrows directly from the CCM model. The existence of such strong party structures tends to stifle the vibrancy of associational life. The local party cells have occupied the political space that civil society organisations would have naturally occupied. As such, the space for alternative¹⁶ civic engagement has either been non-existent in some places or greatly restricted.

¹³ Some of these people sit in the Presidential Commission on Civil Society.

¹⁴ This is a traditional court system that is meant to try the perpetrators of the 1994 genocide. It is hoped by some that it will ultimately serve as a truth and reconciliation forum.

¹⁵ These are village cells comprising of 10 house holds. This is the local platform for organised politics and associational life in Tanzania.

¹⁶ Alternative to CCM.

- 12) In Tanzania however, the CCM cells are increasingly failing to provide the heat and light of action in rural arenas. As a result, this has opened up space for civil society formations to take on the processes of development, advocacy and rights advancement. Although the democratic wave is still ‘weak’ and has only resulted in the development of a ‘one party and ‘a bit¹⁷’ the growth of civil society is increasingly providing the forum for opposition politics in rural Tanzania.
- 13) With Narc arguing for the dissolution of its constituent parties, Kenya might be moving towards a ‘one-party and a bit’ system. The pre-supposition here is that this movement will lead to one strong party and a weak Kanu. But if this happens, it will open up space for civil society to flourish. Like in the case of Tanzania, the challenge for civil society will therefore be that of occupying this space.
- 14) **The NGO-nisation of Politics: The Case of Kenya.** Unlike in the other three countries, the growth of civil society in Kenya has stifled the development of opposition politics. Civil Society formations have been the prime movers in national and local opposition politics and the political parties have had to ‘piggy-back’ on their activities in order to remain relevant. The result of this has been the ‘NGO-nisation’ of opposition politics. The opposition parties have become *de-facto* human rights groups¹⁸. Failure to distinguish between raw politics and rights advancement is partly responsible for opposition failure in Kenya.
- 15) But this trend is likely to change. With the recent change of guard, we are likely to have a greater inclusion of civil society actors into government and political society¹⁹. Like in the cases of Rwanda and Uganda, the fear here is that the government might end up becoming much more ‘clever’ than civil society actors. But the fundamental lesson that civil society should tease out from the cases of Rwanda and Uganda is that of ‘universalising’ its agenda. Civil society should assume a universal profile that is neither oppositional nor state-driven. This is the only way it can avoid co-optation by the opposition, or collapse in the event a CSO-friendly government comes to power.

A.3 Sida Interface with Civil Society

A.3.1 A Preliminary Note

- 16) Sida has undoubtedly been at the forefront in the pioneering of new areas of civic engagement through support to CSOs. The review for which this report is generated comes at an appropriate time because civil society is currently in transition. For Sida support to be relevant in the future, an analysis emerging trend is a *sine qua non* and must precede further engagements with CSOs. This report does not pretend to understand the emerging trends in *toto*. However, the team points out at some possibilities and makes recommendations on areas whose support is likely to give Sida ‘value for money’ and to advance the cause of democracy in Kenya.

A.3.2 Background to Sida Support

- 17) Swedish support to human rights and democracy in Kenya was initiated in 1990/91. This was expanded the following year in view of the first multi-party elections of 1992. Support rose from 1–2 million SEK during 1990/91 to 7 million SEK in 1994/95. During 1995–1997 Swedish support amounted to 6 million SEK, with an additional contribution of 6 million SEK for an election monitoring project for the second multi-party elections held in 1997. The local strategy was prolonged during 1998 and support that year amounted to 5 million SEK. During 1999 a revised action plan on human rights and democracy was developed and was allocated support amounting to 4,5 million SEK.

¹⁷ See One Party and ‘A bit’ Professor Lionel Cliffe, (Working Paper, University of Leeds. 1997)

¹⁸ IDS Sussex Study, Mutahi Ngunyi Op.cit

¹⁹ There are debates as to whether political society should be distinct from civil society. But in this report we define this as the arena occupied by non-governmental political institutions such as parliament, and political parties.

A.3.3 Objectives and Components

18) The Sida framework for support has three distinct objectives, which further translate into three components. The objectives are as follows:

- Political and legal empowerment of the majority poor.
- Strengthen the women's rights and the rights of the child.
- Combat Corruption and promote good governance.

A.3.4 Support Components and Partner CSOs

19) *The National Civic Education Programme*. This programme is the initiative of four consortia of Civil Society Organisations, which include:

- The Constitutional Reform Education Consortium (CRE-CO), a network of human rights advocacy and pressure groups and urban squatter movements;
- The Gender Consortium, a network of organisations and gender activities working for the promotion of women's rights;
- The Ecumenical Constitutional Education programme (ECEP), a joint programme of the catholic church and the National Council of Churches of Kenya
- Constitutional Education for Marginalised Categories (CEDMAC), a network of recently formed interest groups representing Muslims, pastoralists and indigenous peoples, mostly from the coastal and northern regions of the country.

20) This programme was jointly funded by a number of bilateral donors within the like-minded donors group and co-ordinated by the Donor Steering Committee (DSC). The funding was done through a basket fund mechanism and managed by a Financial Management Agent who handled the disbursement of funds and the financial monitoring. A Technical Assistance Team assessed applications and provided continuous project management support.

21) *Human Rights and Access to Justice Programme*. The Human Rights and Access to Justice Programme has been implemented largely through co-operation between the Embassy, other donors and a selected number of organisations with well-documented capacity to deliver formal or paralegal aid and education. These CSOs include:

- Legal Resources Foundation (LRF)
- International Commission of Jurists (Kenya Section), ICJ(K).
- Kenya Human Rights Commission (KHRC)
- People Against Torture, (PAT)
- Release Political Prisoners pressure group (RPP)

22) Apart from these organisations, co-operation between the embassy, the Raoul Wallenberg Institute (RWI), and the Department for Personnel Management (DPM) in the Office of the President, has led to a programme of education on administration of justice and human rights for strategically placed civil servants, ministry officials, police and provincial administration officials.

23) *Women's Rights Programme*. The Women's Rights Programme consists mainly of support to a number of advocacy organisations with well documented 'out-reach' capacity for promoting women's rights

in rural areas as well as in national fora. However, the constructive and programmatic engagement by these organisation with various strategic state organs have been actively encouraged and supported. Among the organisations with which the Embassy has been co-operating, together with other grant makers, are:

- Kenya Women Political Caucus (caucus),
- Federation of Kenya Women Lawyers (FIDA),
- Kenya League of women Voters (KLWVs),
- Education Centre for Women in Democracy (ECWD).

24) *Rights of the Child Programm.* The Embassy has developed patnership with a selected number of organisations active in advancing the rights of the child and providing legal aid and education campaigns. These organisations include:

- Kenya Alliance for the Advancement of Children(KAACR),
- Child Rights Advisory,Documentation and Legal Centre (CRADLE),
- Child Legal Action Network (CLAN).

25) *Good Governance Programme.* Together with the World Bank and Dfid Sweden supports the Integrated Financial Management Information System (IFMIS) project within Treasury.The project aims at improving disbursement and reporting routines between Treasury and the districts in order to secure that funds are utilised for intended purposes and properly accounted for.

26) Support to complementing civil society initiatives within the field of good governance and economic policy debate has also been given to prominent organisations such as Transparency International (TI) and Institute for Economic Affairs (IEA).

A.4 The Review Background

27) The overall purpose²⁰ of this review was to make an examination of the **strategic focus** and **relevance** of Swedish direct support to Human Rights and Democracy in Kenya. This was done with the intention of teasing out some recommendations, which would focus on improving Swedish support to human rights and democracy through partnership with CSOs.

28) The review was to comprise of three principal components, which include;

- A **performance analysis** of the Swedish supported interventions between 1999 and 2002. This is to be done using the Sida Guidelines for Performance Analysis and is to be based on intervention reports and evaluations. The end product of this component is to be the Results Report
- Four in-depth **case studies** of supported interventions Criteria for the selection of the case studies are not provided in the TORs. But in qualifying the TORs, the consultant attempts at a criteria for case sampling. This will be agreed upon before the assignment commences and should be discussed at the level of the Inception Report
- A review of the **mode of co-operation** between Sida and the beneficiary SCOs.

²⁰ Details of assignment brief are contained in the TORs attached as Annex I

A.5 Review Rationale

- 29) The review for which this report is produced is an assessment of the achievements of the Sida support to the HRD sector of civil society between 1999 and 2002. The rationale behind the review is to give a trustworthy account of the relevance and appropriateness of the Sida framework of support with special attention to the quality of its design, and implementation. We were to answer the question: **what has worked, what has not, and why**. We were then to ask the question: “what do the results tell us?” From these results, we were to make recommendations for the future direction of support. More specifically, the brief given to the review team was to evaluate the achievements of this support with particular reference to the details provided in the Terms of Reference (TORs) (**See Annex I for the TORs**).

A.6 Review Methodology

- 30) **Primary Sources of Data.** Data for this review was extracted from a wide range of respondents drawn from partner organisations, opinion leaders, other donors and representatives from communities.
- 31) **Questionnaires.** All the partners were administered a questionnaire to assess their perceptions of the quality of relationships with Sida. Their assessment and comments made were further explored during individual interviews.
- 32) **Interview Format.** We used different methods of interviews. The dominant mode of interview format was the Focus Group Discussion (FGD). We however also used the Key Informant Interview (KII) technique to extract data from specific respondents, in-depth interviews to fill in certain information gaps, and a General Discussion format for interviews with groups with mixed expert information. In the FGDs, we used the participatory methodology to tease out assumptions held by communities regarding the effects of the Sida support.. In all the discussions, we used checklists and a proforma. (A list of Interviews is contained in the team’s schedule at **Annex II**)
- 33) **Workshops.** The evaluators conducted three workshops, two data collection and one dissemination one. The first data collection workshop was with the partner organisations. The issues explored included mode of cooperation and assessment of the level of empowerment of partner organisations according to the modified Sarah Longwe’s Empowerment Framework. The second data collection workshop was with the development partners, exploring various modes of cooperation and impact of their assistance.
- 34) The consultants disseminated tentative conclusions and findings during the well attended workshop for partners and received their feedback that was very valuable in finalisation of this report.
- 35) **Field Visits.** The consultants visited projects and activities in the field, interviewing community partners and using observation techniques to verify data.
- 36) **Case Studies.** The evaluators also developed four case studies using a mix of interviews with various partners, communities and review of reports.
- 37) **Secondary Sources of Data.** In order to corroborate positions taken during the primary data extraction process, the consultants relied on secondary sources of information. These included reports, and other publications from Sida, and its partners. A list of literature reviewed and consulted for this review is provided as **Annex III** of this report.

A.7 Review Limitations

38) The review team did not encounter any inhibitions during the process of this evaluation.

The review process was very well facilitated and we met almost all the targeted respondents, with the exception of a few.

Part B

Modes of Co-operation

B. 1 Introduction

B.1.1 The Co-operation Context

- 1) Sida support to civil society organisations has changed in character over the years. This has moved from support to a large number of short-term projects, to long-term partnership arrangements with a limited number of selected organisations. The new support is based on shared commitment to joint strategic objectives and has included support for more extensive programmes. Sida has also supported capacity building, institutional development and improved management of partner organisations. Although these partnerships are long term in perspective, agreements are largely one year.

B.1.2 The Review Issues

- 2) While reviewing the modes of co-operation, the team was to pay attention to four fundamental issues as per the TORs²¹. The issues are:
 - The administrative capacity of the Embassy
 - Existing funding mechanisms
 - The organisational development of partner CSOs
 - The co-operation experiences of other donors
- 3) The team was also meant to assess the overall effectiveness, efficiency and relevance of the Sida approach to grant making and management. Four more issues were to be addressed regarding programmatic co-operation. The four issues were:
 - *Design*. Under design, we looked at how the Sida framework for support was conceptualised and what informed this process. We were also interested in looking at the identification of needs and the benchmarks from which the aims of the Sida support were meant to advance. The review was also meant to look at the cumulative effect of programme co-operation and the factors that either catalyses or inhibit the process of building on its achievements.
 - *Implementation*. The team assessed the modes and strategies of delivery. The question we raised here was: has the organisation of resources in the implementation of the Sida support been most effective? What are the alternative strategies and methods of delivery and how do they compare with the Sida ones?
 - *Tracking Mechanisms*. Under tracking, we analysed the mechanisms of monitoring and verifying the achievement of desired results. We also assessed how experiences and learnings were documented and lessons teased out.
 - *The Context of Transition*. We looked at the effects of the political transition in Kenya on modes of co-operation.

²¹ At TOR 4, bullet (ii)

B.2 General Funding Mechanisms

B.2.1 Basket Funding

- 4) Sida has been involved in two forms of Basket Funding. The first one is the process-driven basket and the second one was event-based. In the two, Sida has deposited funds into a 'basket' administered by a financial intermediary. The job of the intermediary has been to offer financial management assistance, although it has also been used to house a team of programme technical assistants to the project holders.
- *Process-based basket.* There has only been one basket of this type during the period under review. This funding mechanism was the brainchild of four CSO consortia with the intention of providing civic education for constitutional review²². The National Civic Education Programme (NCEP) was supported by a group of donors, including Sida, Price Water House Coopers as the financial intermediary. The overall objective of this fund was to support a *process* of raising levels of civic competence.
 - *Event-based basket.* In the past, this mechanism has been used to support election monitoring. It was used in the 1997 and in the 2002 elections under the Kenya Domestic Observer Programme (K-DOP). Once the *event* is over, the fund is also usually closed.

B.2.1.1 Some Findings about Basket Funding

- 5) **Advantages.** This mechanism has the advantage of releasing Sida from the task of direct fund management. By pooling together, the basket donors have also been able to increase the 'purchasing power' of their grants²³. In situations where the funded processes or events are sensitive, the basket mechanism tends to provide 'political insurance' for its members. That is, in case of any political backlash, the entire basket membership and not a single donor carry the brunt of it²⁴.
- 6) **Disadvantages.** One major shortcoming of this mechanism is its administrative costs. In the case of NCEP, the cost of retaining a fund manager was very high at approximately 22% of the total grant. If the cost of maintaining the focal points and meeting other administrative costs along the funding chain are taken into account, then the proportion of the grant going to administrative expenses increases to about 45%, which is excessive²⁵.
- 7) Other shortcomings of the mechanism are that the financial intermediary tends to widen the distance between the donors and the partners. The process of consensus building amongst the 'basketing' donors takes far too long, hence delaying the implementation of the funded events. The beneficiary CSOs were also of the view that under this mechanism, the disbursement process is slow. And that a financial intermediary²⁶ who does not understand social process, tends to complicate rather than enhance their implementation.

B.2.2 The Liaison Point Mechanism

- 8) This mechanism was developed with the benefit of lessons learnt from NCEP²⁷. As such, its conceptualisation, and design were cutting edge²⁸ at the time. The model was developed around the Engendering Political Process Programme (EPPP). Under EPPP, a liaison office was put in place to

²² The intention of this fund later changed to general civic education.

²³ This is not only true for donors with small amounts of money, but for the big ones as well.

²⁴ This was particularly so in the case of NCEP

²⁵ Estimate given to the evaluation team by DANIDA. A percentage close to this was also given to Royal Netherlands Embassy (RNE). Sida however thinks that this is much lower.

²⁶ This was said in direct reference to PWC

²⁷ Mid-Term Review of EPPP by Gender Links, November 2002

²⁸ EPPP Learning Platform Workshop Report, Centre for Independent Research, March 2003

represent the donors. This office combined fund management with programme monitoring. But unlike the NCEP model, the donors avoided the use of an intermediary and disbursed support directly to the partners. Like NCEP, it used consortia as the grant recipients and key implementers²⁹. The programme was also implemented at a time when women politicians were positioning themselves for the political transition. As such, its intentions, design and results were highly relevant.

- 9) **Advantages.** This is a low cost model. The fact that it engages with consortia only, and does not contract implementing CSOs directly is another advantage. This reduces the administrative functions tremendously.
- 10) **Disadvantages.** Unlike NCEP, which had the functions of financial management and technical assistance, EPPP has a programme officer who combines the two functions. This raises issues of competence. A programme officer in such a position cannot be fully competent in programming and financial matters at the same time³⁰. But since this was a pilot mechanism, the second phase needs to pay great attention to design issues. Attention should also be paid to the disbursement schedules. The team noted that some of the funds under this programme were disbursed long after the project holders had finalised with implementation. The partners also noted that the programme was inflexible and simple decisions could not be made without consulting the DSC. This had the effect of slowing down the implementation at a time when the political terrain was changing by the day.
- 11) **Implications for Sida.** It is the position of this report that Sida achieved its intentions under EPPP³¹. However, the team would want to note two things. One, that the results of this programme would have resonated more if some of the implementing consortia were better organised and institutionalised³². Two, that the programme will have to re-define its relevance in the context of a new government³³.

B.2.3 Other Donor Mechanisms

B.2.3.1 The 'Kinship Model'

- 12) The "Kinship"³⁴ model was developed by DANIDA. In the case of DANIDA, it entered into an arrangement with a Danish NGO (MS Kenya) already operating in Kenya to use it as a channel to fund other NGOs in the sector of human rights. This released DANIDA from direct grant management except for a cluster of CSOs and government related projects, which it continued to administer directly. Overall, the workload became more manageable and the cost to DANIDA is a contribution to the MS Kenya overhead. This amounts to less than 10% of the total grant fund. It should be noted however, that such an arrangement could only be done with a Danish NGO and not any other. There is also a special relationship between DANIDA and MS Kenya where the latter is represented on the DANIDA Board. This can be coined as a "Kinship" model. We explore this model for Sida in the recommendation parts of this section

²⁹ We must clarify here that NCEP engaged directly with partners, but EPPP does not.

³⁰ The current Programme Officer happens to be an accountant as well. And this has worked very well for the programme. But in a situation where such an officer is hired without competency in accounting, the programme is likely to suffer.

³¹ The case studies will demonstrate this point.

³² This position is implied by the Gender Links review of the programme.

³³ The programme is undergoing a process of evaluation and future programming in the context of political transition is one of the areas under consideration. However, the team was not persuaded that the issue of making EPPP 'transition complaint' is been given serious thought through this process.

³⁴ The "Kinship" model means that the parties to the relationship/contract belong to the same nationality. Most Northern NGOs who have both a funding and implementing responsibility have such a relationship with the bi-lateral donors or governments of their own countries. The primary motive being that the level of trust between them is high and the contractee would normally be known "back home".

B.2.3.2 The GES³⁵ Model

- 13) This is a programme support unit under which CIDA administers its funding to the gender sector of civil society. The mechanism combines programme experts with a strong financial and auditing function. Although GES³⁵ is a unit of CIDA, its entire staff is contracted as consultants. The advantage of this is that the support unit is in turn performance-based and payments are based on results. In the case of Sida, the parallel to this is the creation of a project office that does the grant administration for the Sida support.

B.2.3.3 The Firming-Out Model

- 14) Some donors have decided to ease their administrative functions by either firming out to an independent consultant or hiring one on long contract basis. The CIDA governance fund for instance has a hired consultant who is paid a fee to manage the fund. Other than the fee, the consultant has no logistical or administrative support from the High Commission. In some of the foundations, a consultant is contracted occasionally to deal with proposal assessments, report verifications and other administrative work related to programmes³⁶.

B. 3 Direct Funding Mechanisms

Criteria for Partner Selection³⁷.

- 15) Sida has concentrated in the past on a limited number of relationships with well-established partners that operate in three thematic areas. The criteria for the selection of partners have been:
- Partner's ability to deliver; track record including the existence of clear strategic direction and focus.
 - Implementation capacity and institutional strength. Sida cooperates with partner organisations that are institutionalised, and have a significant degree of implementation capacity. Sida does, however, support further institutional capacity strengthening.
 - Sida's partners have an extensive outreach within the communities and operate not only in Nairobi but also in other urban and rural areas of Kenya.
 - Sida's partners receive funding from other funding collaborators. Sida's preference is co-funding with others.

B.3.1 Types of Funding Mechanisms

- 16) From what the team was able to establish, Sida has no preferred funding mechanisms in its relationship with CSOs. The team identified two types of mechanisms with different variations in each type.

B.3.1.1 Strategic Plan Support

- 17) Under this mechanism, Sida and a group of donors constitute a 'basket fund' for an individual organisation. This mechanism commits support to a strategic plan as opposed to a project proposal. Once the strategic plan is developed, the beneficiary partners call for a Donor Round Table meeting every year to get commitments for their operational plans. But even then, support to the plans differs. The team identified two forms of support.

³⁵ Stands for the Gender Equity Support Programme

³⁶ Like in the case of the other donor mechanisms, we shall explore the possibilities of Sida utilising this mechanism.

³⁷ This criteria is not in the strategy paper for the Human Rights and Democracy programme. We recommend a documentation of this criteria for purposes of institutional memory and just in case there is a change in staff at the Embassy.

- 18) *Annual Work Plan Support*. Under this support, grants are made to the partner's operational plan, but the line allocations for administration, and programme components are done by the partner. Two partners fall under this arrangement. These include the Kenya Human Rights Commission and People Torture (PAT).
- 19) This mode of co-operation is built on trust. And to a large extent, it is 'secured' by the personalities managing the CSOs. The team established that there was a high level of self-regulation and consideration as the CSOs apportion the funds to line items on their budgets. But in a situation where the personalities change, Sida cannot be sure that the new management will honour the informal arrangements currently governing the relationship. It is the position of this report that these arrangements should be institutionalised. For instance, a clear-cut rule stipulating the grant percentage that should go to administrative support compared to programme support should be put in place.
- 20) *Component Support*. This is probably the second highest mode of co-operation in the team's view. Under this mechanism, the CSO clarifies what component of its Strategic plan Sida will support. Percentages are worked out. Each donor in the 'round table' takes on a component of the annual budget. Under this mode, we have organisations like FIDA-Kenya, and Law Resource Foundation (LRF).
- 21) According to the review team, this is the safest mode of co-operation under the strategic plan support mechanism. This is so because instead of supporting an entire strategic plan with the belief that it furthers Sida's strategic objectives³⁸, the Embassy is able to choose from a wide array of interventions. It is able to identify the areas that advance its intentions.
- 22) But we must also mention that Sida has been credited with supporting areas that are not necessarily 'safe' in the eyes of an orthodox grant-maker. And it is this spirit that has led to the building of pioneering projects. The 'creation' of a volatile juvenile justice sector is partly as a result of Sida investment in 'unsafe' terrains. The team is of the view that this is a pioneering trait that should be natured³⁹.
- 23) *Mode of Engagement*. Under the partner basket mechanisms, an MOU is signed between the partner and Sida for a period of one year. There is however a verbal understanding that the relationship with Sida is long term. And all the partners we interviewed noted that this understanding has been honoured every year. The mode of reporting is two-fold.
- 24) **Funding Documents**. We must note that what distinguishes the modes of co-operation are the documents presented by CSOs in search of support. Some CSOs will present their Strategic Plans while others present only components of the plans. In this case therefore the CSOs determine the modes of co-operation they want to enter into with Sida. Regarding reporting in this mechanism, some partners have only one reporting channel (to one funding collaborator), other partners send regular reports on Sida's funded activities to Sida.

B.3.1.2 Project Support

- 25) This comprises of support to a specific project in a partner CSO. Here, support is based on a project proposal. Organisations receiving this kind of grants see themselves as not qualified for strategic plan support from Sida.⁴⁰ Within this funding mechanism, there are two variations.

³⁸ We revisit this thought as we analyse the programmatic co-operation in this section of the report.

³⁹ Analysis of donor support to the HRD sector of civil society shows that the bi-lateral donors support the conventionally safe areas. It is the non-governmental donors and the foundations that support the pioneering of new frontiers. That Sida is involved in such a process is indeed commendable.

⁴⁰ For instance, LKWVs expressed this thought.

The first one takes the form of co-funding, while the second one assumes the form of a stand-alone project.

- 26) *Co-funding*. Under this variation, Sida has co-funded certain partner projects with other donors. Partner beneficiaries of project co-funding include ICJ, KAACR, ECWD and LKWVs. The position of this report is that some of these partners should have been upscaled to ‘basket funding’, but because Sida has no graduation scheme, they are still beneficiaries of project support.
- 27) *Stand-alone Support*. Some of the partners have projects that are funded by Sida alone. Most of these are the upcoming organisations and support has gone to certain project interventions and administrative costs. One such beneficiary is CLAN. The team would want to note that one of the good practices at Sida is support to administrative costs.

B.3.2 Relationship Analysis

B.3.2.1 The Positive Aspects

- 28) The evaluators administered a questionnaire⁴¹ to all partners in order to assess the quality of relationship with partners. The results are summarized below.
- 29) Overall **effectiveness** of the support was considered as very good. Partners appreciated that Sida supports the partner basket concept. Overall **efficiency** of support was also considered ‘satisfactory’. The support was described as timely and consistent. The partners were also of the view that Sida is a flexible grant-maker, which worked well for the kind of work they are involved in. The quality of relationship was also described as one that is based on mutual respect. As one partner put it, this relationship is “not patronising, and is probably one of the best a partner can have with a donor”. Other aspects that were considered as very good from this questionnaire included:
- Regular feedback on partners’ suggestions and concerns.
 - Concern and support for internal capacity strengthening of partners
 - Commitment to gender, particularly women
 - Trust and authority to use resources and make decisions
 - Support to projects originated from partners, and not those that are donor-driven.
 - Management style of Sida staff partner-friendly
 - Transparency of operations; procedures are clear and always articulated with openness and clarity
- 30) Extensive interviews with partners further show that this relationship is based on mutual respect, the needs and priorities of partners, clear understanding of Kenyan situation and the needs of civil society, agreement on values and philosophy and commitment to justice, human rights particularly the rights of women and other marginalized groups.
- 31) A sample comments from these interviews are included.

They are the only funding collaborator that I can talk to about our priorities on the mobile phone. They listen and trust us. They have no “attitude”. Some other funders talk of partnership, but their attitude is patronizing. I really feel that they completely trust us. They have been with us for over ten years. We really trust them. That is what I call a partnership. Our priorities are also their priorities.

⁴¹ Questionnaire attached in the appendix

They are very good. We have not experienced any problems. They fund what we ask them to fund from our strategic plan. We give them regular reports. Sometimes I wish there would be more feedback. I suppose that they are very busy and they trust. It is fine with us although I feel sometimes that we could both benefit from more interaction at the strategic, programmatic level. They have a wealth of experience in women's rights that we could share.

Their commitment to women is total. I think that they do not really talk about gender but women. They saw how "low" the situation of women is, how great are the gaps and went into it with full heart.

I wish sometimes that they would work closer with us. We are still a small and young organization. Placing so much trust in us places such a high responsibility on us. I have nightmares that we may disappoint them and misuse their money. This too much trust can be tempting sometimes.

They understand what we are doing and give us full support. The only challenge for us is that we need to get more pro-active about the relationship. We need to benefit from their expertise in the field of social and economic rights.

They really care. I know that they are there for us, Kenyan women. I believe that they want us to succeed. We feel that we have their total support and that they will go out of their way to support us.

B.2.3.2. Areas Requiring Improvement

Some General Areas

32) The partners identified a number of areas requiring improvement. These include:

- More structured exchange of information with partners, including sharing of lessons learned
- More visits to projects and activities; at least annually
- Reporting format could be standardised in consultation with partners
- Some delays experienced in the release of funds.

Some Specific Areas

33) The **"hands off approach"**. Some of the partners we interviewed were of the view that Sida had a hands-off approach. Although this is not necessarily a policy of Sida, its inability to monitor partner activities does not always work well for them. One partner noted that "...the heat donors give organisations tends to energise them. Sida is denying us this energy".

34) Absence of **Programme Dialogue**. Programming dialogue between Sida and partners is minimal. This is primarily because of limited capacity within Sida. And the result of this is that some partners view partnership with the Embassy as a 'financial relationship' only. This is largely because they do not receive sufficient feedback on programme matters. We must, however, note that the idea of 'Sida Partners Forums' is a step in the direction of creating this dialogue. Another possible step is the increase of programme capacity by either firming out some functions of the programme office, or hiring more staff⁴².

35) **Use of PWC and other Market-based Firms**. Pre-disbursement organisational assessments were conducted by PWC on Sida partners. There was some degree of dissatisfaction with the pre-

⁴² We explore all these options in detail later the recommendation sections of this Part.

assessment with two partners saying that the reports they received appeared to have been ‘cut and pasted’ from other CSOs’ analysis⁴³. The partners also noted that market-based firms like PWC were too big to pay individual attention to each partner. Similarly, it was noted that they did not appreciate the NGO environment and the special needs of CSOs.

- 36) **Personalised Relationships.** Most CSOs noted that their relationship with Sida is personalised. Although they have no problem with this, they were worried about institutional memory and the fact that the Embassy staff keeps changing. The fear here is that a new person might assume the programme office and generate new interests. This has happened with many donor agencies and some organisations have collapsed as a result. Partners were therefore of the view that a balance should be sort between an institutionalised relationship and the need to maintain the benefits of flexibility, easy access and the opportunity for spontaneous and quick consultation.
- 37) **Reporting.** Not all CSOs are given timely and written feedback to their narrative reports. And this is probably because of the size and format of the reports. According to the CSOs, they have to generate big reports because this was one way of managing institutional knowledge and developing memory. They were however of the view that an abridged version of their report done on a template would be more useful. That this would attract more structured and timely feedback from Sida. We explore this idea in the recommendations part of the report.

B.3 Programmatic Co-operation

- 38) **Overall Finding.** The team assessed four components of the Sida framework for support and our general conclusion is that this is probably the weakest part of the framework.
- 39) **Design.** The team was not persuaded that much thought had been put into the design of the Sida Framework for Support. Other than identifying the strategic objectives, little else exists. Evaluating impact was particularly difficult because there were no benchmarks, and no strategic indicators.
- 40) *Some Assumptions.* Two assumptions in the design of this framework of support were problematic. The first one was that the partners share Sida’s strategic objectives. And that Sida would be pursuing these objectives if it supported partner strategic plans. This assumption was problematic because some of the partners observed that they do not always follow their strategic plan. But this, in our view was not a big concern. The main concern was in the relationship between Sida objectives and CSO outputs.
- 41) The Strategy Paper for this support framework did not define the outputs to be achieved. The assumption here was that the outputs of partner CSOs would also be the outputs of Sida support. The view of the team is that this assumption was not valid. And this is because some of the outputs from partner CSO had no direct relationship with Sida objectives⁴⁴. As such, they did not necessarily contribute to overall Sida goals.
- 42) **Implementation.** The implementation of the Sida support was not guided by a clear-cut route-map. This posed a number of challenges. The most critical one was that of monitoring the results. In the absence of strategic indicators, Sida monitored what the partners have *done* (activities), and not what they have *achieved* (results).

⁴³ Specifically, there are some things in the analysis of these organisations that did not in the first place exist. For example, an organisation was asked to update its computer accounting package while it had none!

⁴⁴ The team acknowledges the fact that the CSOs and Sida share a common ‘rights approach’ to their work. But we are not persuaded that because of this, the outputs of the CSOs are necessarily in tandem with those of Sida

- 43) **Tracking Mechanisms.** A system based on accounting and reporting processes is in place. This is however not a “tracking” system *per se* Reporting done once a year or more frequently as agreed. Sida has not pre-scribed a reporting format to capture specific data on implementation of funded programmes. Reports submitted are of varying formats and content thereby demanding considerable time and effort to process.
- 44) The definition of performance targets and indicators not clear. The reference points are the Sida Country Programme Strategy, which is very explicit on the strategy objectives but does not specify the performance indicators to be used as a basis to track performance. No performance tracking system was defined at the time the CP strategy was developed. What the reports provide therefore is what was *done* and not necessarily what was *achieved*.
- 45) **Some Challenges Relating to Modes of Co-operation.** Four overall challenges face the Sida support in the team’s view.
- The current arrangements demand much more administrative capacity than is available within Sida to handle all the communications, grant management and performance assessment processes.
 - Discussions on refocusing of programme priorities to meet challenges of transition have not gathered enough momentum.
 - Evolving longer term funding mechanisms to allow deeper engagement between state and CSOs
 - Portfolio restructuring by Sida and partners in relation to new challenges and the need for appropriate partnership arrangements.

B4 Recommendations

B.4.1 Event or Process Basket Funding

- 46) For any Basket funding that Sida is involved in, there should be clear and documented procedures for decision making. Operational framework should also include clear definition of roles and authority levels. In addition the information requirements should be determined for each level including the communication channels, frequency of communication and the mode.
- 47) Any Basket fund should have a well-documented strategic framework with clear milestones.
- 48) In selection of partners for the Basket, the synergy among the implementing organisations should be one important criterion for selection.
- 49) As much as possible Basket members should have compatible development philosophy and operational procedures. The like-minded donors may have fewer operational difficulties when forming a Basket.
- 50) Basket funding should continue particularly for engendering the political process and civic education. The advantages of a Basket including the ability to reach smaller community based organisations.

B.4.2 The Liaison Point Model

- 51) A team made up of at least three consultants should support this model. The division of labour amongst them should be in the functions of financial management, appraisals and monitoring; programming and capacity strengthening. This would ensure a proper skills and competence mix.

B.4.3 Basket Funding for Partners

- 52) Basket arrangements for partners should continue and be strengthened. Although MOUs can be signed with individual Basket member, there should be one reporting to a “lead development partner”. Sida should therefore be able to act as a silent partner with some partners, and “lead development part” with others.
- 53) When Sida is a lead development partner it can outsource certain routine functions to an outside consultants and concentrate on more strategic programmatic issues and exchange of lessons learned.
- 54) Sida should concentrate more on partners that operate at levels of participation and control⁴⁵ as it has established credible partners that are making significant difference and wish to continue this cooperation. This way both Sida and partners can benefit from each other’s expertise.
- 55) Expand the duration of MoU from current one year to three years.

B.4.4 Outsourcing.

- 56) While Sida can outsource technical and programmatic levels it should not outsource the strategic level.
- 57) Choice of consultants for outsourcing is important. As much as possible Sida should outsource to reputable local consultants who share similar values with partners. Large organisations whose primary motive is profit and who lack the flexibility to meet the needs of NGOs may not be acceptable to partners.

B.4.5 Cooperation with Diakonia

- 58) Diakonia is a Lutheran-based Swedish NGO operating in numerous development countries. The office in Kenya operates mostly in Somalia although they are interested to increase their involvement in Kenya and Uganda. The current involvement in Kenya has been in election monitoring with CJPC and NCKK. They have also been involved with groups such as Mungiki and Baghdad Boys, Kenya Women Workers Association, Labour Awareness And Resource Programme mostly through workshops. Current number of partners does not however exceed seven. Although church based, Diakonia recruits staff of any denomination and works with diverse communities. The organisation operates mostly in field of human rights, democracy, gender and capacity building for civil society. Although it started as a relief organisation, it uses very much a rights approach.
- 59) Diakonia has had long association with Sida. The current executive director of Diakonia is also a board member of Sida. Diakonia has in the past received significant funding from Sida for their programmes. Needs assessment for the Lake Victoria Region is being commissioned. Funding will be requested from Sida. Based on needs assessment, strategic intervention areas will be determined. Diakonia would be interested to work with Sida in the areas of common interest. Diakonia is not interested in simple “sub-contracting” but can work with Sida and partners.
- 60) There are several reasons why this proposed relationship might work:
- Diakonia is a Swedish NGO with proven track record.
 - Diakonia has worked with Sida in the past.
 - The two organisations share common values and philosophy.
 - Both organisations work through partners that are like-minded.

⁴⁵ According to the modified empowerment model developed by Sarah Longwe.

- The collaboration would be based on needs analysis and country programme plan that can be developed jointly by two organisations

61) **Some Recommendations on Diakonia.**

- Sida should continue working with existing partners. Diakonia may be reluctant to take over existing partners of Sida. They may also be reluctant to accept the new arrangement.
- Sida can use Diakonia to reach out to smaller community based organisations for innovative projects and activities.
- The issue of using Diakonia may need to be considered further. There may be a feeling among some partners that adequate local capacity exists. And that there is no need to use a northern NGO.
- Diakonia could work with NGOs and community based organisations that operate mainly at the level of access and conscientisation.

B.4.6 Institutionalisation of Relationships

62) The evaluators recommend that relationships be institutionalised without losing the advantages of the current flexibility. Sida and partners should establish simple procedures for written channels of communication that should then be adhered to.

63) The current practice of introducing Sida's new personnel to partners should continue.

B.4.7 Programmatic Matters

64) Given the introduction of the performance analysis tool in April of last year, the Embassy should consider streamlining a number of things in the design and implementation of its support. The team makes the following suggestions.

- The Country Programme strategy objectives should be shared with the partners; this has not been the case as the framework was developed after the current strategy was already being implemented;
- The partners should be chosen on the basis of their potential contribution to the achievement of the CP objectives. Although this has been the case, the choice of partners has been based on very broad assessments.
- The partner contributions should be translated into project/programme objectives, which are smart and agreed with those of the Sida country programme strategy.
- There should be a statement of indicators of the achievement of the partner objectives (first level) and the CP strategy objectives (level two)
- That these two levels of objectives are linked to the sector level objectives defined in the context of the development priorities of Kenya.
- The reporting system should be based on the above variables; this is not the case as partners report in their own format of choice which varies from one partner to the other; while this flexibility is appreciated by partners, they also agree that it imposes a heavy burden of reviewing the many and sometimes long reports and providing feedback to the partners. As a result, there is no clear evidence of the use of the reports for performance tracking of partners by Sida.

Part C

Programme Analysis

C.1 Introduction

- 1) The brief of the team was to analyse the four components of the Sida framework for support against the strategic objectives. The analysis was to determine whether the Sida support has had strategic focus, relevance and effectiveness. To a limited extent, the team was also meant to situate the Sida support in the context of the recent transition in government.

C.2 Overall Findings

C.2.1 Relevance

- 2) Regarding relevance, the team focused on four things. These included the (a) relevance of design, (b) relevance of thematic choices (c) relevance of partner selection and (d) relevance of results.

C.2.1.1 The findings

- 3) *Relevance of Design.* It is the position of this report that, although the support had a design problem⁴⁶, this worked well for the CSOs. The Embassy's flexibility and lack of bureaucracy helped the CSOs to navigate a rapidly changing political terrain. The women sector of civil society, for instance, attributes the high presence of women in the ninth parliament to Sida support to women political candidates⁴⁷. Although this support was criticised by some donors, the view of the team is that it was on the cutting edge. The challenge for Sida is how to balance such accurate and spontaneous responsiveness with a more structured approach. And more fundamentally how to balance this without losing the 'nose' for 'winner initiatives'.
- 4) *Relevance of Thematic Choices.* The choice of thematic areas yielded different results. The juvenile sector⁴⁸ for instance attributes its 'creation' and profile to support provided by Sida⁴⁹. This support was relevant in the sense that it came at a time when the country was going through a process of legislative and constitutional reforms. The sector was therefore able to capitalise on this and place children issues on the reform agenda. In the team's view, this result can be attributed (to a large extent) to Sida support.
- 5) Support to the Women's sector was also relevant. It helped create visibility for women during the male-dominated transition period. But more fundamentally, and through the work of the women consortia, it helped them carve out a niche for the women in the unfolding political arrangement⁵⁰. The good governance objective was outside the TORs of this evaluation and as such we did not review it.
- 6) *Relevance of Choice of Partners.* Sida has worked with the foremost partners in civil society in Kenya. The selection of partners has been strategic and contributes to the overall vision of Sida in Kenya.

⁴⁶ This is discussed in the previous chapter

⁴⁷ We discuss this support in the case study section of this report.

⁴⁸ We refer specifically to this sector as situated within civil society.

⁴⁹ Interviews with Cradle, KAACR and Clan.

⁵⁰ Interviews with Hon Tabitha Seii, ECWD, Jane Kiragu, FIDA, and Cecilia Kimemia, League of Kenya Women Voters.

With change of regime type however, some of the partners might diminish in importance. The significance of the sectors might also change. In order to remain relevant, Sida might also need to revisit its partner selection in the next phase⁵¹

- 7) *Relevance of Results.* The question we were asking here was: did the results coincide with critical political moments? And where this happened, did they cause a change? The answer to the two questions is yes! The work of ICJ for instance was crucial to the judicial reform proposals that went into the draft constitution. Similarly KHRC was an important actor in the transition elections, while ECWD's paralegal workers offered themselves for elections and won.
- 8) While there is no doubt that the results of Sida support were relevant to the developments in the country, the challenge is that of sustaining them. An even bigger challenge is that of sustaining them in the context of a new, and apparently progressive government.

C.2.2 Effectiveness

- 9) Under this, the team focused on two things: (a) effectiveness of delivery and (b) effectiveness of costs. On delivery, our concern was that of attribution. We wanted to establish the cause and effect relationship between Sida support and the results obtained by the CSO partners. And on effectiveness of costs, our concern was with the application of resources. The issue was whether resources had been applied to the most deserving cases and whether there was 'value for money'.

C.2.2.1 The Findings

- 10) *Effectiveness of Delivery.* Overall, the team is of the view that there is a direct cause-effect relationship between support and the results delivered by the partner CSOs. The review of the Children's Act was for instance largely as a result of the work of CLAN. And Sida supported this almost single-handedly. The legislative advocacy and pending reforms in the women and children sectors can be attributed to support by Sida as well⁵².
- 11) *Effectiveness of Cost.* The team is persuaded that there was 'value for money' and that resources were applied to the most deserving CSOs. However, two challenges will have to be addressed here. One, sustaining the results. It is the position of this report that the effectiveness of costs will only be justified if the results commensurate with the grants do not collapse⁵³. Continued support to consolidate some of these gains is therefore a *sine qua non*. Two, given the apparent change in the political terrain in Kenya, Sida will have to re-define the idea of the 'most deserving'. The team is of the view that there could be some innovative ideas from non-partners that Sida should look out for. These ideas risk being locked out of Sida partner list because they have not been relevant in the past⁵⁴.

C.2.3 Strategic Focus

- 12) The position of this report is that the focus of Sida support continues to be strategic. However, some realignment will have to be made in order to make it 'transition compliant'. Corruption is for instance a 'belaboured' area by multi-lateral, and other bilateral donors. This, in the view of the team, is not strategic for Sida to get involved in.

⁵¹ We give some suggestions on how criteria for selection in the partner analysis part of this report.

⁵² We provide more evidence of this and a critique in subsequent sectors of this report.

⁵³ This is probably not within the control of Sida. However, the grooming of these results could secure their sustainability.

⁵⁴ The idea of slum democratisation using savings groups, an initiative of PAMOJA Trust, is probably one such idea. This project has been consolidating the democratic gains accruing to the work of CSOs in urban areas using poverty reduction as a platform. This connectivity between democratic consolidation and poverty reduction is probably one of the ways of the future in Kenya.

C.3 Specific Programme Findings

C.3.1 The Human Rights and Access to Justice Programme

- 13) *The Strategic Objectives*. Although not clearly stated, this programme was meant to address the first strategic objective. It was meant to focus on awareness through civic education, reducing of the distance between the law and the poor, and monitoring of human rights violations. Overall, the programme was meant to work towards the political and legal empowerment of the majority poor.

C.3.2.1 Some Findings

- 14) *Overall Assessment*. It is the position of this report that support to this programme component was both relevant and effective. However, its interventions were built around the idea of a repressive regime. As such, some of its approaches to rights advancement might be rendered irrelevant now that a rights-friendly regime is in power.
- 15) *Civic Competence*. Through the work of ICJ and LRF, the levels of civic competence amongst the beneficiary poor have increased. Evidence of this was obtained from field visits to Laikipia and Kangemi. In Laikipia, the team had an FGD with the *Mwenje Muungano World life Group*⁵⁵. This is a case of Wild life – farmer conflict in which this group is engaged in a conflict with the Laikipia Ranching Company over elephants destroying their crops. Through the work of ICJ paralegal workers, this group has decided to seek legal redress over this conflict. In the team's view, this action is as a result of some form of civic competence. But this competence is subjective: that is, the Mwenje Group has a *belief* that they can access justice through legal means. This belief was absent before the group encountered ICJ.
- 16) In the case of LRF, the beneficiaries have both *subjective* and *actual* competence. The team visited a Law Club at Kamandura Girls high School in Limuru. In this club, levels of knowledge regarding due process and its 'rights content' were very high. The club members exhibited a 'belief' that they can influence the actions of those in authority and access justice because of this knowledge. Similarly, the clubs demystified the law and the justice system through the 'mute courts'.
- 17) Actual competence goes beyond the *belief* that the individual can access justice and influence the actions of government. It is about the ability to do so. And in the case of LRF, we recorded this form of competence at the *Kangemi Paralegal Project*, in Kangemi. This group has not only been able to impact on the justice system in Kangemi, and to influence the actions of government. The government agencies have been known to consult with the group on matters of law and welfare.
- 18) *Distance between the Law and the Poor*. This programme has contributed to access to justice in a significant way. The fact that the *Mwenje Wild Life Group* in Laikipia is now able to sue the *Laikipia Ranching Company* is a show that they have moved closer to law-based solutions. Similarly, awareness on due process and the legal rights of a child in the case of the *Kamandura Law Club* has exposed the youth to the justice system and how it works. This has in turn reduced distance between them and the law⁵⁶. But probably the most concrete and effective contribution here is that of KHRC. By creating Human Rights Communities, KHRC has not only 'collectivised' individual access to justice⁵⁷, the CSO has also brought the access closer to where the people live. A good case here is the Ogiek community and their litigation on land issues in East Mau. The other contribution of KHRC is its campaigns in the labour sector. This campaign has exposed the violation of rights and inhumane

⁵⁵ FGD took place on Saturday, March 22nd 2003.

⁵⁶ We demonstrate this with some examples in the case study chapter of this report

⁵⁷ The Sida partners defined 'empowerment' as the collectivisation of individual action. Definition given during a Sida partner workshop facilitated by the team of consultants on 14th March 2003.

working conditions in the large horticultural and flower farms. But it has gone further than this. It has organised workers to fight this violation through chapters of the 'Workers Rights Watch' and through collective bargaining.

- 19) Two challenges face this component of programme. The first is the challenge of sustainability. The team was not persuaded that the reduced distance between the law and the poor is sustainable in its present form. The second challenge is that of relevance and replicability. Some of these interventions succeeded because of the repressive nature of the Moi regime. In the absence of this repression, the methods used cease to be relevant and are therefore not replicable⁵⁸.
- 20) *Rights Monitoring And Reforms*. The team is not persuaded that the monitoring efforts by CSOs in this programme amount to much. This is largely because the information from the monitoring activities does not reach the relevant authorities on time and in a manner easy to act on. This is largely because some of the information in the monitoring reports is not verifiable.⁵⁹ While support to rights monitoring is highly relevant, the end user must be strategically targeted and lobbied to act⁶⁰. Similarly, the information contained in the monitoring reports must have integrity.
- 21) Regarding reforms, the position of this report is that support to ICJ and KHRC has directly resulted in concrete proposals to the Ghai Draft Constitution.

C.3.3 The Women Rights Programme

- 22) *Strategic Objective*. This programme was meant to achieve parts of strategic objectives one and two. Under strategic objective one, it was meant to achieve the monitoring of human rights while under objective two, it was meant to achieve three things. The first was legislative and policy reform, the second was increasing justice to women through formal and paralegal training, while the third was to increase women participation in politics during the December 2003 elections.
- 23) *The Overall Assessment*. The position of this report is that Sida achieved its most significant results in this programme. There is a direct co-relation between support and achieved results in most cases. Similarly, because of Sida flexibility and responsiveness, the support to this programme was highly relevant.
- 24) *Legislative and Policy Reform*. The programme has helped to push the frontiers⁶¹ of the state in the area of policy and to open up space for legislative advocacy and reform on issues of gender. Through the work of FIDA and LKWVs, the programme was able to sponsor a number of bills in parliament and to develop a high level of buy-in amongst the MPs. These CSOs were also critical players in placing women issues on the constitutional agenda. This is particularly evidenced in the contribution of partners to the draft constitution and pending bills in parliament.
- 25) The challenge for this programme in relation to legislative reforms is two-fold. One, it has to consolidate the gains made in the previous regime. Two, given that majority of the MPs in the ninth parliament are new, the CSOs in the programme will have to lobby afresh for support to the bills when they come up for debate⁶².
- 26) *Access to Justice*. This is one area where the programme has been most effective. Three distinct contributions to the reduction of distance between the poor woman and the law can be cited.

⁵⁸ The achievements of Del Monte cannot be replicated elsewhere because of their peculiarity for instance.

⁵⁹ See for instance the KHRC Mid-term Evaluation and its comments on the HR Quarterly

⁶⁰ KHRC intends to do this during the Operation Plan Period starting in April 2003

⁶¹ This is particularly so in the case of children. See KAACR's Stakeholder's Consultation Workshop Report, August 2000

⁶² The team notes that the ninth parliament has a large number of women MPs. If they worked together, lobbying for the bills will not be difficult.

The first one is the creation of the Family Court at the High Court of Kenya. This was partly as a result of the work of FIDA and LKWVs and is meant to speed up cases that fall in the purview of Family Law and which affect women primarily. The second is the provisioning of legal aid to poor women individually or through public interest litigation. This has led to deterrence amongst men involved in domestic violence for fear of legal action.⁶³ Training women in self-representation by FIDA and monitoring them as they present their cases in court has also increased access to justice. The third one is the process of grass ‘rooting’⁶⁴ legal awareness through paralegal services⁶⁵. The paralegal services provided by ECWD and LKWVs has not only raised levels of legal competence, it has also ensure that women are accessed ‘speedy’ justice through arbitration⁶⁶ and informal conflict resolution by trained paralegal⁶⁷.

- 27) The main challenge to this component of the programme is that of co-ordination and synergy. The CSOs supported under this programme could achieve more if they collaborated.
- 28) *Increased Participation of Women in Politics*. During the December election, Sida supported women candidates directly. The results of this support was that majority of the women beneficiaries managed to get into parliament while the rest have assumed alternative political leadership in the public sphere⁶⁸. Through support to the EPPP and the Kenya Women Political Caucus (KWPC), this programme has also trained women aspiring for different leadership positions. Through the work of KWPC, ECWD and LKWVs, space for women participation in political processes has been expanded significantly. Evidence gathered by the team indicates that KWPC was instrumental in negotiating for women representation in the Constitutional Review Commission for instance. The work of these CSOs is also credited with the inclusion of women in political party structures and subsequent appointments into parliament and government.
- 29) The challenge here is that of translating this achievement from *instrumental* participation to *transformative* participation. Under instrumental participation, inclusion in the political process is an end in itself. When participation becomes transformative, inclusion ceases to be an end, it becomes a means to a greater end. This is what the women CSOs should aspire for in the post-transition period.
- 30) *Rights Monitoring*. The only CSO in this programme doing rights monitoring is FIDA. In the view of the team, rights monitoring at FIDA is more focused than the same at KHRC. The monitoring is issue-based, is done at the source⁶⁹ of violations and a fairly practical monitoring tool has been designed and is in use.
- 31) The review team noted that this monitoring process has led to deterrence on the part of rights abusers and violators. This has also resulted in reforms in policy and practice. Monitoring reports have highlighted cases, which have resulted in high impact public litigation and campaigns. Although some of this litigation is yet to result in case law, there is every evidence that such chances exist⁷⁰

⁶³ Evidence documented in the FIDA Mid-term Evaluation, 2001

⁶⁴ Word used to mean that legal services have been brought closer to the people and that legal awareness is taking root in municipal society.

⁶⁵ C.f. LRF Annual Report, 2002. See also Report of the Independent Evaluation of ECWD Institutional Capacity and Paralegal Training Programme, by Prof Edward Oyugi et al.

⁶⁶ ECWD Institutional Capacity and Paralegal Training Programme, by Prof Edward Oyugi et al.

⁶⁷ The team confirmed this through one of the FGD discussions with ECWD paralegals and beneficiaries in Mugoon, Nakuru District.

⁶⁸ We have a case study on this component of support.

⁶⁹ For instance at hospitals, in police stations and Chief’s Camps. This aspect is not fully refined, but it has potential

⁷⁰ FIDA Mid-term Evaluation, September 2000.

- 32) The challenge here is to systematise the monitoring process and to engage more credible monitors, especially those working at the source of violations.

The Unachieved Objective. This programme was meant to ensure that state organs are entrusted with the monitoring and defence of the rights of the woman. This has been achieved in part through Fida's engagement with the chiefs. But the team was not persuaded that this objective was pursued as a strategic intention by the partner CSOs. As such, although relevant and important, its achievement was far below average.

C.3.4 The Children Rights Programme

- 33) *The Strategic Objective.* This programme was meant to achieve strategic objective two. Specifically, it was meant to achieve two components of this objective. These include: Legislative and policy reforms and increasing access to justice for children.
- 34) *Overall Assessment.* Through its support to CSOs in this programme, Sida has been credited with the creation of a rights-based juvenile sector of civil society. In terms of effectiveness, Sida grants to this sector have had direct results in turn. However, the team was sceptical about the relevance of this programme in the grand scheme of things. Although this is by all means an important sector, the team was not sure it was a strategic one⁷¹.
- 35) It is the position of this report that support to this sector has resulted in the placing of children issues on the legislative and law reform agenda. It has given children visibility in relation to the law and public policy. The programme is for instance credited with the review of the Children's Act in 2001. It is also responsible for the children clauses in the Ghai draft constitution. Through the work of Cradle and CLAN, the child has also been accessed justice by means of litigation and representation
- 36) The challenge for this sector is that of consolidation and sustained visibility. The partner CSOs must bring to a conclusive end the legislative reforms they initiated. This will be a little difficult now because most the MPs they had lobbied for support have been replaced. The challenge is therefore to sensitize the new MPs and develop acceptable levels of buy-in from them. One way of doing this is to remain visible, especially during this period of transition.

C.4 Partner Analysis

C.4.1 Levels of Civic Engagement

- 37) During a meeting⁷² with the senior managers of partner CSOs, the team wanted to determine the levels at which the partners were engaging with the state, the civil society niche they wish to focus on and the issue. The team gave them the following guide to determine the levels of engagement that the Partner CSOs can engage at⁷³:
- *Welfare:* at this level the empowerment is most basic as CSOs may actually be focusing on enabling the target group to meet its basic welfare needs; the effort is generally one of trying to keep "body and soul together".

⁷¹ Strategic in terms of the unfolding Human Rights developments in Kenya.

⁷² Meeting held at the Sida offices on the 24th of March 2003. Details of the meeting are contained in the appendix of this report.

⁷³ The outline is adapted from the original Women's Empowerment Framework developed by Sarah Longwe of Zambia. Symacon, in partnership with Hope Chigudu & Associates adapted the model to their Organisation Development work for the first time in 1997 working with Hivos, Southern Africa Regional.

- *Access*: at this level, there is an attempt at enabling the disadvantaged to actually gain access to services or goods and services, which enable them to meet their needs. This is primarily an intervention to create opportunities.
- *Conscientisation*: even if opportunities to access goods and services to meet the needs of the target group are created in the short term, there is no guarantee that such access may be maintained in the future. Even if the CSO tried to ensure continued access in the future, this leads to a dependence syndrome, which renders the target group to be vulnerable as before. Therefore, a higher form of empowerment becomes necessary to sustain this access beyond this stage. The intervention therefore is concerned with enabling the target group to begin to have some degree of awareness/consciousness as to where the goods and services are coming from, the causes for the previous situation of lack of access and what might threaten continued access and how the target group itself might be able to sustain its access.
- *Participation*: as a result of the consciousness raised in level 3, the target group may begin to feel confident enough to start participation in those processes or structures which are important to their continued access to the goods and services that meet their needs. They may even gain access to structures where decisions that affect their access to such goods and services take place. Their participation in such structures is intended to ensure continued access. It is generally agreed that if participation is not preceded or accompanied by conscientisation, the result could be a major disaster with the target group being used to even reverse the gains they had made in relation to access due to lack of consciousness and being manipulated by those who wish them to remain marginalized.
- *Control*: this is the highest level of empowerment where the target group is no longer at the mercy of some other stakeholders for them to meet their needs but are actually in control of the systems, structures or processes that affect their welfare and development.

38) After sharing the various levels of empowerment, recognising that the ultimate aim of the Sida cooperation in the country programme is empowerment of the disadvantaged, particularly women and youth, it was necessary to apply the analytical framework to the Sida portfolio. In this regard, the participants were asked to reflect on their own intervention since 1999 and determine the level/s of empowerment they were focusing on in relation to the Sida support. The results of the process of reflection are presented below.

C.4.2 Partner Rating⁷⁴

39) **The Cradle and KAARC.** The two organisations have been operating at all levels of civic engagement, including **welfare** (paying school fees, providing medical assistance, counselling); **access** – (enabling children to access justice through pro-bono scheme, self-representation; strengthening capacity of officers so children can access justice, grant giving to CBOs, direct programs with children); **conscientisation** – (legal bazaars, institutional education, open forums, public debates, meetings with political parties); **participation** – (impact litigation, constitutional review presentations, workshops, law reform presentations, through United Nations General Assembly on Children (UNGAC) and advocacy. Participation is broad and diversified including people in the North and there is a deliberate focus on the girl child for purposes of gender balancing). Regarding **control** the examples given included interfacing with members of parliament for purposes of legislative advocacy; change of legislation; mute courts. However, it is not true that there is this level of empowerment in the children being targeted by these CSOs. The focus of

⁷⁴ The rating was done by the CSOs themselves in group discussions.

their effort is indeed at welfare, access and conscientisation with specific areas of participation. There is clearly, an effort and movement towards continued empowerment.

- 40) **ECWD and LKWV.** The two organisations are working at four levels only. At the level of access, they are involved in paralegal aid provisioning and have a referral system for complex cases. At conscientisation level, they are involved in raising awareness through paralegal work and civic education. At the levels of participation, they have mobilised women to participate in the democratic process e.g. Constitutional review and the electoral process. The fourth level they are involved in is control. Through the work of these organisations, women elected into parliament and civic bodies present an opportunity for control. This in the view of the team however, does not amount to a significant degree of control.
- 41) In the view of the team, the interventions in this category are largely at access and participation – to/in structures that affect women e.g. legislature; However there is participation but perhaps without adequate conscientisation of how to focus such participation. Indeed, participation without conscientisation can pose great danger to gains in empowerment.
- 42) **KHRC, LRF, and PAT.** PAT is at the level of welfare and access to justice. And it is likely to continue at this level in the post-transition period. LRF is at the access level through paralegal and conscientisation through theatre, and production of materials. Opportunities to move towards participation and control do however exist. In the case of KHRC, the CSO is operating at the levels of conscientisation through its legal education programme. The rest of its operations are basically at the levels of participation and control.
- 43) **Team Rating.** It is only when individuals act collectively that they can control the structures and processes that affect them in a sustainable way. Control by use of force or by duplicity may not be sustainable. The ascendancy of NARC to power as a result of civil society's concerted efforts is an illustrative example of how collective action can enable civil society to achieve control. However, the challenge here is that of sustainability.
- 44) CSOs may decide to operate at one particular level, or several levels or may move from one level to another. The mix of levels will depend on the issues that the organisation is looking at. There is a need to complement each other at various levels. This is particularly so at the levels of welfare and access. Although these may be the responsibility of the GOK, CSOs can have a role to play at this level.

C.4.3 Transition Challenges to the CSOs.

- 45) *Challenge of 'Watch-dogging'.* With a new government in place, CSO partners see themselves assuming the role of a watchdog. The challenge here, however, is that most of them were in the movement that brought NARC to power and as such, they see themselves as part of the new 'victory'. Given their involvement in the new government, there are doubts as to whether they will become effective watchdogs. The team must however note that a new trend of 'engagement and disengagement' is emerging. This trend was perfected by FIDA during the Moi regime, but groups like KHRC have now begun to engage and disengage with the new regime. The leadership of KHRC is on record disagreeing with the government on pertinent issues⁷⁵, but it has also been given transition tasks to perform on behalf of government.

⁷⁵ For instance, both the Executive Director and the chair of the commission have disagreed with the Justice Minister over the pension scheme for retiring presidents. Yet, both have been appointed to serve in transition task forces and the boards of government institutions since the new government took over.

- 46) *Challenge of Service Delivery.* The role of CSOs in the delivery of certain services shall continue to be critical. However, the challenge for the organisations is that the new government might take up some of these roles or ‘bastardise’ the others. As such, the CSOs will need to re-examine the relevance of the services they deliver (and their approaches) *vis a vis* the programmes of the new government and its disposition⁷⁶. But more fundamentally, they have to interrogate the ‘transition content’ of the new regime on a continuous basis⁷⁷ in order to position themselves *vis a vis* the state.
- 47) *The challenge of Co-optation.* Given that the new government ‘piggy-backed’ on the activities of civil society in the last five years, it is also likely to view CSOs as appendages to its structures. The result of this is the likely co-optation of some CSOs and personalities by the new regime. Historically, TJ Mboya persuaded the labour movement to abandon its combative approach and support the government at independence. This co-optation has crippled the labour movement in Kenya to date. The fear is that if civil society continues to fraternise with the new regime, it might be enfeebled through co-optation. The challenge is therefore that of challenging a well-intentioned government and at the same time keeping it on its toes. Regarding the personalities, the challenge for CSOs is that of replacing the civil society leading lights appointed into government with similarly effective players. And more fundamentally, ensuring that the new players are capable of keeping the new government appointees in check⁷⁸

C.5 Recommendations

C.5.1 Short Term Recommendations

- 48) *The Grant making Approach.* We recommend a more structured approach to grant making. Although the current Sida approach has its benefits, it leaves much to chance. In particular, the assumption that the partner CSOs share in Sida’s strategic objectives is not necessarily true. The team, however acknowledges the fact that both Sida and Partner CSOs have adopted the ‘rights-based approach’ and therefore share similar values. But we further note that this approach is more spoken of and less understood amongst CSOs. In order to connect CSO outputs with Sida support objectives in a more concrete manner, the view of the team is that the support should have a structured implementation framework with a mechanism for tracking results. This should be developed with the requirements of the Sida Performance Analysis Framework (introduced in April 2002) in mind.
- 49) The implementation framework should advance by first decomposing the strategic objectives into outputs, effects and indicators for monitoring results. It should then move on to develop more structured criteria for partner selection. This should be followed by a rationalisation of existing partner portfolio to ensure that they are consistent with the Sida aspirations.
- 50) *Support Consolidation and Re-positioning.* In the immediate post-transition period, Sida should support CSO efforts at consolidating the gains made in the last cycle and to re-position themselves in the new dispensation. This should be done by sponsoring a post-transition reflection process. The end product here would be to make the supported programmes ‘transition complaint’. But more fundamentally, this process should result in the **revision of partner strategic plans**. The team

⁷⁶ For instance, the RPP and PAT’s approach to rights advancement might be ‘bastardised’ by the disposition of the new regime. Similarly, the role of the legal aid providers will have to be redefined should government take on this function through a national legal aids scheme.

⁷⁷ One suggestion that was made at the senior CSO management meeting at Sida offices on March 24th was that a scorecard should be designed by civil society to monitor the way the new government will roll out its programme and character. KHRC is currently developing this scorecard and can be asked to share it with partners other than those in the HR movement.

⁷⁸ The team has the case of Transparency International (TI) in mind here. Whoever takes over as TI Director will have to check the actions of its former Director now in government as a Permanent Secretary and advisor to the president on corruption.

is convinced that in their present formulation, most of these plans are not viable⁷⁹. And if the Sida 'basket mechanism' is to be built on the idea of the strategic plan, these must be re-aligned.

- 51) *Benchmarking*. The process of reviewing the strategic plans should be accompanied by the development of new programme benchmarks. The position of this report is that meaningful programming must be supported by research. Yet the research component of the Sida framework for support was probably the weakest during the period under review⁸⁰. This component of support should be given priority this time around. Research for baseline studies⁸¹ and the development of **post-Moi programme benchmarks** should be supported. This will define the base "lines" from where the CSO partners will advance as they engage with the new regime.
- 52) *Needs Analysis*. This should apply to especially PAT and RPP. Given the new dispensation, the two should make an assessment of the needs they will address in future. This should be done before they revise their strategic plans and support for this transition should be provided. Partners in the Child rights sector should also consider doing a needs analysis. In their case, this would be used for purposes of selecting the high impact needs that require the strategic intervention of the sector.

C.5.2 Mid to Long-term Recommendations

- 53) *Consolidate Good Practices*. The Sida framework of support has many good practices that are scattered amongst the partners. And this is partly because of lack of a structured approach. The recommendation of this report is that these practices be **collated, consolidated** and made **accessible** to the partners⁸². This should also be done as part of knowledge management and institutionalisation of memory within Sida.
- 54) *Community-based Pro-poor Initiatives*. Sida partners have created a layer of actors and institutions at the community level from their interventions. But one observation the team made was that, although promising, these interventions have not been nurtured. This is partly because the partners did not have an exit strategy or because this strategy was not carefully thought through. Examples from LRF's involvement in Kangemi, ICJ's paralegal project in Meru, and KHRC engagement with the Ogiek Community⁸³ can be cited. According to the team, these initiatives are part of the 'percolation' of empowerment from the urban to the rural, from the middle-class formations to people-to-people initiatives. As such, they must be nurtured to become the 'pluralizing' agents of civil society in rural communities.
- 55) *Adoption strategy*. The recommendation of this report therefore is that the partners should develop an 'adoption strategy' through which they would provide technical services to these community initiatives⁸⁴. Similarly, Sida should consider replicating the KHRC *Community Initiatives Support Fund* in other partners. Although in its formative stages, this Fund is an example of 'best practice' in sustaining community activities. But in replicating it, the KHRC model should also be upscaled to the KAACR model. Through Sida support, KAACR is currently administering small grants to CBOs. For Sida support to 'percolate' to the communities directly, this model should be considered for replication in other partners as well⁸⁵.

⁷⁹ This includes almost 70% of the partners and they admitted to the view.

⁸⁰ Research was conducted alright, but the team is not persuaded that it was put to meaningful use.

⁸¹ These studies do not need to be organisational, they can be programmatic. That is, each organisation can decide to conduct programme-based benchmark studies.

⁸² We discuss two such practices at KHRC and KAACR in the following paragraph.

⁸³ In the case of KHRC, this is not wholly true. It has been able to groom such Human Rights Communities as the one in Thika into viable forces in community.

⁸⁴ We are referring specifically to ECWD, LRF, and ICJ here.

⁸⁵ This model has been used successfully by grant makers in Rwanda, the Basket Fund in Tanzania and by some International Development NGOs all over Africa.

- 56) *Strategic Grant Making*. The strategic niche of the Sida support is in the women's sector followed by the human rights sector. The portfolio of partners in the two sectors should not be expanded. But the partners in the women sector should be supported to engage at a higher level than they currently are. Apart from FIDA, the policy engagement of the other partners is limited. Yet they have a pool of allies in parliament, political parties and government who can assist them to push their agenda. Sida should consider supporting these partners to engage upwards with policy and decision makers in a strategic and more consistent way. Regarding the child rights sector, we recommend that partners expand their portfolio of grant makers.
- 57) *Partner Graduation*. A scheme for graduating partners and adopting new ones should be developed. Criteria for graduation⁸⁶ should be generated and it should distinguish between **programme** and **institutional** capacities. This is critical because some CSOs may have institutional capacity to administer funds but limited programme capacity and *vice versa*. Partner graduation and future pre-disbursement assessments should not focus on only one of these. They should be done with this duality in mind.

⁸⁶ This should be in the form of a grading system. Arguably, this system exists and it is what distinguishes support to KHRC for instance and that to FIDA. This system should however be institutionalised.

Part D

The Case Studies

D.1 Introduction

- 1) In order to complement the other two components of this review, we did some four case studies. The selection for the case studies was based on a set of criteria developed by the review team and detailed in the assignment plan⁸⁷. In order to get an in-depth analysis of the work of partner organisations and whether or not the Sida funds were ‘percolating’ to the communities, we selected organisations with community presence. At the community level, we were interested in whether there was a linkage between what percolated to the communities and the strategic objectives of the Sida support under review.
- 2) **Overall Assessment.** It is the position of this report that the beneficiary initiatives at community level contribute significantly to the strategic objective of Sida. The team could not empirically establish that this was a strategic intention of Sida. However, we can authoritatively report that the funding was both effective and relevant to the situation prevailing in the local settings. It has increased access to justice for the poor, raised the levels of participation amongst women, created some levels of civic competence and empowered the administrators of justice. There were short-comings to this, of course, but our overall assessment is that the purpose for which the programme was started was met at municipal levels. And this was not as a result of Sida funding or CSO implementation strategies only. It was because of the quality of partnership between the two.

D.2. Federation of Women Lawyers, Kenya (FIDA-Kenya)

- 3) The Federation of Women Lawyers, Kenya (FIDA Kenya) was established in 1985 after the Third World Conference in Nairobi, Kenya. Its Secretariat was established in 1992 to facilitate the process of providing women with legal aid services and to educate them on their rights through legal awareness seminars. Since 1998, FIDA has been supported by a consortium of donors. Alongside Sida, the other funders to Sida include the Ford Foundation, CIDA-GESP, USAID, DFID, CORDAID, ICCO, the Netherlands Embassy, Carnegie Foundation, and the Global Fund for Women

D.2.1. Overall Programme Achievements and Lessons

- 4) FIDA, through its programmes has developed a working relationship with the government and its agencies. This ability to engage and disengage with the government is probably one of FIDA’s strong points and other CSOs should borrow from this good practice. FIDA is probably the only human rights organisation in Kenya that has managed to develop a *consistent* and *working* relationship with the administrators of justice. Through FIDA’s efforts and programmes, the police force has opened its doors to other human rights NGOs. Working closely with the Attorney General, and Members of Parliament, FIDA has also managed to lobby for legislative reform in numerous areas. We also observed that its collaboration with the Attorney General’s office has enhanced the latter’s capacity to report on international conventions, and in the area of legislative drafting. In the team’s assessment, FIDA’s uniqueness within the Sida portfolio is its ability to deal with both the *demand* and *supply* sides⁸⁸ of justice consistently and with good results.

⁸⁷ Attached as appendix iv of this report.

⁸⁸ The demand side refers to work with the poor women while the supply side refers to the lobbying FIDA does with

D.2.2 The Organisational Development Matters

- 5) FIDA has an identity, which clearly reflects its mission. Its Constitution defines the roles of the governing bodies and managements. In so far as the Management and Council are concerned, the relationship has been professional. The leadership styles at Governance level are democratic and inclusive. Similarly, decisions are consensus based. FIDA has elements of what a learning institution is and needs to strengthen other areas such as policy and strategy formulation accounting and control system. FIDA has made great improvements in the way it has carried out its programme re-engineering⁸⁹ and financial management improvement.

D.2.3 Mobilising Voters for Gender – Sensitive Positive Change

- 6) **The Project Idea.** In addition to being a member of the EPPP, Sida responded to the challenge of assisting women politicians to win the December 2003 General Election jointly with the two partner organisations, FIDA Kenya and ABANTU for Development. The total grant for this component of the assistance was in the range of 18 million Kenya shillings. Sida supported sixteen women candidates in the last General Election out of which eleven contested successfully. The awareness of women's leadership potential has been raised as a result of the Project. Women candidates that collaborated in the Project were professionals that not only pushed the women's agenda forward but also developed and implemented a professional issue based campaign
- 7) **Project Objectives** The long-term objective of the Programme was to strengthen women's political participation through recruitment of community mobilisers in the women contested constituencies and mobilise three million voters to support women candidates. The direct beneficiaries were women leaders at the national levels. The funding supported a total of sixteen women leaders from a cross-section of political parties to present themselves as parliamentary candidates. Women leaders were selected by FIDA Kenya and ABANTU for Development in consultation with other organisations such as Kenya Women Political Caucus, Kenya Women Political Alliance, ECWD and FREDa. Selection criteria included:
- Geographical spread throughout the country
 - Chances of the candidate to succeed based on the survey conducted by FREDa
 - Incumbency – priority was given to women who were already in Parliament although they faced stiff opposition in highly uneven playing field. Women candidates experienced a very high level of violence in these crucial Kenyan elections.
 - Cross-party representation
 - Gender concerns raised in different constituencies
- 8) Based on the criteria, FIDA and ABANTU selected twenty women candidates. Two candidates later dropped out of the race and two could not be conducted. The agreements were then signed with sixteen women parliamentary candidates of whom eleven are now in the Parliament (three are ministers).
- 9) **Main Activities.** Main activities included training workshop in the constituencies for community mobilisers, development of materials promoting women's leadership, mobilisation of voters and some direct financial support.
- 10) **Lessons Learned.** The sixteen women candidates that closely collaborated in the programme highly appreciated the flexibility of Sida in listening to them and address their needs just before the

⁸⁹ In particular, its implementation of the Mid-term Evaluation recommendations of July 2000.

General Election. Although the planning period was very short and the Project did not cover every deserving and potential woman leader, it did support strong women candidates and raised the profile of women politicians. The Project demonstrated benefits of effective collaboration between an understanding and committed development partner, women organisations and women politicians. When women politicians are assisted and their immediate needs and priorities addressed such as lack of adequate resources for mobilisation of voters, the benefits are immediate and substantial. According to partners and women politicians, the assistance made a significant difference in those last stages before the Elections. The assistance was provided by a group of donors including The Royal Netherlands Embassy and the Danish Embassy with Sida acting as the lead donor.

- 11) The team interviewed five out of the sixteen women collaborators, two non-collaborators, two representatives of development partners and two representatives of NGOs. Of those five, four made it to Parliament while one was not successful. There was consensus among the five that Sida's support was highly appreciated and made a significant difference. The ability of Sida to respond to the needs of women leaders has made all the difference, in many cases between winning and losing. Sida's support was praised by all collaborators interviewed including the candidate who did not make it. She felt that she has carried out a more professional campaign because of the support and is determined to "win" in 2007.
- 12) The choice of women collaborators has however met a significant amount of criticism. While all women politicians and NGOs representatives praised Sida for responding to the urgent needs of women candidates, the choice of collaborators was described by some as not transparent and rushed.
- 13) One development partner interviewed expressed reservation of Sida going out of the EPPP Basket programme to assist women leaders. The other development partner expressed the appreciation of Sida and described it as "brave and decisive", but only possible because the support for women political empowerment was very strong at all levels of Sida, starting with the Ambassador.
- 14) The collaborating NGOs felt that this kind of support was only possible with Sida where there is total commitment to women from the lowest to the highest level.

D.2.4 Legislative Advocacy

- 15) Sida in collaboration with UNFPA collaborated with FIDA Kenya in legislative advocacy for the three Bills, Family Protection Bill, Equality Bill and Criminal Amendment Bill 2001. One example of this advocacy was the workshop on Developing Linkages for Legislative Advocacy took place at the Great Rift Valley Lodge from 27th to 29th September 2001. The workshop was attended by the members of Parliament and FIDA Council members and officials. The workshop provided an excellent forum for discussion and reaching a consensus on very sensitive issues of women's rights and equality. FIDA Kenya realises that some of the assumptions made may not have been fully valid and that more dialogue and consensus strengthening efforts may be needed for effective legislative advocacy. The workshop not only provided a forum for discussion of the Bills and thereby proposed several changes to make the Bills more acceptable and more likely to pass but also contributed significantly to the improved relationship between FIDA and legislators. The legislators proposed that FIDA demystifies its image through closer collaboration with constituencies and other grassroots organisations. They also expressed their appreciation for the work FIDA is doing. Some legislators are already using FIDA as a referral points for women whose rights have been violated.

- 16) Sida support contributed to the formation of so-called FIDA's members of parliament that supported women's agenda in the Parliament. The majority of these legislators are currently in the Government and should be able to ensure that women's friendly Bills go through as soon as possible.

D.2.5 Some Lessons from FIDA

- 17) *Management of Knowledge.* When FIDA was evaluated in 2000, the evaluation team recommended a number of changes in the areas of programming and management style. The evaluation noted that the organisation was at a 'strategic inflexion point', meaning that the organisation could either go up or come down as at 2000. This report can confirm that almost all the recommendations of the evaluation were implemented. And FIDA was able to navigate the inflexion point carefully and to surge itself upwards. The lesson here for other partners has to do with knowledge management. Many organisations do evaluations but do not put that knowledge to use. Ability to learn is what has made this CSO a market leader in the women's sector of civil society.
- 18) *Transition Challenges.* The foremost challenge for FIDA and the other CSOs is that of completing the processes began in the previous regime. The temptation of slowing down now that a 'friendly' regime is in place could dog the achievements of FIDA so far. The need to move with speed and cash in on the transition good will is therefore critical.

D.3 The Legal Resources Foundation (LRF)

- 19) LRF was founded in 1993 and for a period of seven years it operated under the umbrella of KHRC as a project. In 2000, LRF was registered as a trust and set up a Board of Trustees and a Secretariat with a total staff of 10. The organisation operates on the basis of humanist values and is committed to enhancing access to justice by the poor and under-represented groups. The most important activity at LRF consists in providing legal, human rights education and support to community based groups. The foundation also offers legal and human rights education and it involved in litigation, networking, lobbying and advocacy for policy change. Alongside Sida, the other funders to LRF include Ford Foundation, HIVOS, Royal Danish Embassy/DANIDA, US-AID, and DFID

D.3.2 Organisational Development

- 20) LRF has undergone a number of reviews to determine its institutional and financial capacity. Sida supported a pre-disbursement review in August of 2001, which was conducted by *PriceWaterhouse-Coopers*, while the Ford Foundation contracted *KPMG Peat Marwick* to carry out an institutional review of LRF. This report corroborates the results of the two reviews and supports the view that LRF is a sound organisation. It has a highly professional staff and a functional board, which provides strategic and policy directions to the Secretariat. Although its systems have a number of weaknesses, the team is of the convinced that this is because they are just evolving.

D.3.3 Schools Outreach Programme – Kamandura Girls Law Club

- 21) The LRF has been running a human rights education programme in schools. The programme centers on the promotion of human rights awareness among school children. The previous government did not permit the teaching of human rights in schools. As a result, the CSO adopted the approach of forming Law Clubs as the vehicle to teach basic human rights. Currently, LRF works in 45 Secondary schools: 15 girls schools, 10 boys schools and 20 mixed schools.
- 22) The club we visited is based at Kamandura Girls in Limuru. It has about thirty pupils covering forms one to four. A teacher in charge guides the pupils in their activities. These involve sessions on children's rights including the right to education, life and child abuse including sexual and physical abuse. They take the form of discussions and 'moot court' sessions. The principal of the schools

was trained together with other school heads on human rights awareness and has therefore actively supported the existence of the Law Club in the school.

23) **Achievements** The following achievements were recorded from the team visit to Kamandura.

- *The two sides of rights.* By focusing on both the school administration and the students, this project empowered both the demand and the supply sides of rights. According to the administration, the relationship between the students and the teachers has improved significantly. She noted that the clubs have not only created *awareness* on rights, they also taught the students what their corresponding *responsibilities* were. In this case therefore, the students can be punished in school and they are able to appreciate this. However, they also know that punishment must be made within the confines of certain rights. This in our assessment has helped reduce the distance between the law and the students at a micro-level
- *Legal Competence.* The clubs have given the students some awareness regarding due process. This has in turn given them some levels of legal competence, although inchoate. Some students told the team that their knowledge of the procedures in the criminal justice system has helped their families and neighbors especially in relation to the police force and the office of the chief. The impact of the work of these clubs has therefore spread beyond the school precincts to the villages.
- *Conflict Arbitration.* As a result of the Law Club, most of the students we met noted that their exposure to the law and rights discourse has made them arbitrators in their local settings. Some noted that this was not only with regards to peer conflicts, but also between their parents in their homes.
- *Individual benefits.* The students told us that the law clubs had boosted their self-confidence, facilitated career choices and created space for them to explore their talents. Law clubs are effective in drawing in pupils with interest. It was evident that their motivation is high.

24) **Some Lessons.**

- There is an opportunity to introduce human rights in the school curriculum and the idea of doing so through the Kenya Institute of Education (KIE) should be pursued. However, CSOs involved in this campaign should emphasize that the methodology of teaching rights issues should be different. Students should be encouraged to learn through projects and experience sharing⁹⁰.
- This school initiative is not integrated into other HR education initiatives in the sector. We recommend that this is done.

D.3.4 The Kangemi Paralegal Network

25) This is a network of paralegals in the peri-urban area of Kangemi. It was started in 1995 through LRF and its purpose was to institutionalize paralegal services in the local setting. As such, it started with the setting up of a Community Resource Centre owned by the community. This center became the focal point for the trained paralegal and is currently used as a 'legal clinic' where poor people from the areas come for support. The Network provides advice, arbitration and mediation, referral services to legal aid providers, legal awareness and activism. It has also been a direct beneficiary of donor support from DANIDA and was one of the NCEP implementing agencies.

⁹⁰ Interview with the principal and a group of teachers at Kamandura.

- 26) **Achievements of the Network.** This network has two distinct achievements in relation to the strategic objectives of the Sida framework for support.
- *Legal Advice and Arbitration.* The Kangemi clinic provides legal advice to the poor and refers them to relevant CSOs and authorities for recourse. The paralegals also use their counseling skills to resolve problems. A lot of the issues that they resolve are in the areas of land and tenancy disputes, domestic conflicts and police harassment. The view of the team is that the work of this clinic has increased the speed with which the poor are able to access justice.
 - *Community Based Activism.* This network is engaged in activism aimed at changing certain practices in the Kangemi areas. The most notable of these is their campaign against land grabbing. In March 2001 for instance, the network organized a demonstration against the blocking of a public road by residents of Bernard Estate in Lavington. According to media reports⁹¹, this demonstration led to the opening up of the road and the exposure of similar practices in the area. Although most of these practices cannot be changed in full, at least they constitute some aspects of policy reforms from below⁹².
- 27) **Some Lessons.** This network is a clear demonstration of how a small civil society initiative can grow into a viable community force. The team is however of the view that this initiative has been left ungroomed and risks extinction as a result. Since LRF ‘graduated’ it to the community, it has received little technical or programming support. Similarly, its financial state is unsustainable.
- 28) The **recommendation** of this report is that the partner CSOs must develop viable exit strategies for initiatives they have started. Such a strategy should include technical and programming backup to these initiatives. A financial plan, which is serviced regularly, should also be part of the exit strategy.

D.4 Education Center for Women in Development (ECWD)

- 29) ECWD was founded in 1993 in response to women exclusion from political and policy-making process in Kenya. Since its inception, ECWD has engaged in interventions that aim at creating an environment for equal participation for women. The main programme at ECWD is the Preventive Human Rights Education-Paralegal programme started in 1997. This programme has grown tremendously with active paralegals in Nairobi, Rift Valley, Western, Nyanza, Eastern and Coastal Provinces of Kenya.
- 30) From our assessment, the center’s governance structures and management practices are up to date. Its financial and management systems have high integrity and are sound.

D.4.1 The Magoon and Koibatek Paralegal Schemes

- 31) The ECWD went to Magoon in Nakuru during 1998 with a programme for training human rights educators. Initially they were just training paralegals who would then be expected to offer legal aid to communities. Since 2001, they have used a method referred to as the Community approach. This approach involves embedding the human rights educators in churches and at village level.
- 32) After training, the human rights educators have focused on creating awareness on the constitution, basic human rights, inheritance and community mobilization as part of the civic education initiative. As of March 2003, only 11 of the 27 trained HR Educators⁹³ remained active. ECWD sup-

⁹¹ The People on Sunday, April 1st 2001

⁹² The argument here is that some CSOs build on some of these small achievements to build their policy reform advocacy work nationally.

⁹³ This fact has not affected the impact of ECWD and its work in the view of the team.

ported the paralegals for about three years after their training then it is expected they will continue on their own with out the stipend from ECWD. There has been no tracer study to find out what the paralegals are doing or why some of them may have become inactive. It might be worth the while for ECWD to conduct such a study as part of a follow-up mechanism.

- 33) In Koibatek district, the paralegals have set up a Human Rights Office where they are actively interacting with the local magistrates, the chiefs and the police. There is much evidence to show that they have handled dozens of cases of human rights abuses including domestic violence, rape and abuse of power by the magistrate, the police and some of the local leaders. They have written to the relevant ministers in Nairobi to request their intervention in some cases where the local justice delivery apparatus is deemed to have failed. It was reported that the local magistrate now 'lives in fear of paralegals'. A number of the paralegals from both districts have become councilors, assistant chiefs and some more are expected to be appointed as assistant chiefs as there are reported to be seven vacancies at present. One of the Chiefs confirmed that he always invites the paralegals to use his "barazas" as platforms to propagate human rights education.
- 34) The output rate of the paralegals in the two districts is on average 4 cases per person per month. One of the paralegals plays the role of the Coordinator for the two districts. Human rights educators are regarded in high esteem by the local community.
- 35) **Emerging Issues from the Case Study.** The following are some of the issues emerging from the case study in Magoon and Koibatek
 - The human rights educators programme is reported to have changed many people's lives as they have accessed legal aid and had their problems resolved.
 - The paralegals have demonstrated the potential of justice delivery at community level.
 - Discussions on the causes of the high drop out rate revealed that the major cause is lack of motivation and the relocation of some paralegals when they find better paying jobs elsewhere after the payment of a stipend is discontinued.
 - The recommendations put forward by the paralegals to improve the retention rate of the active ones centered on increasing the stipend they get, buying them cell phones to facilitate communication and giving them further training and HR education materials for use in the villages.
- 36) The **conclusions** drawn from this model are the following:
 - Justice delivery through paralegals works at community level and it is possible that with sufficient training and motivation, the paralegals can challenge the local justice delivery apparatus and achieve positive results.
 - There are serious impediments to justice delivery in the two districts especially regarding payments that victims of rape should make to the police for the P3 and to the doctor for the medical certificate before justice is delivered. There is reported to be a high incidence of rape in the plantation communities who are poor and can not afford the charges to access justice.
 - The payment of a stipend is a key motivation but ECWD cannot sustain this.
 - The absence of a systematic follow up on the paralegals by ECWD means that they do not know enough about how the programme is performing and what strategic interventions maybe necessary to sustain the delivery of justice at community level.

37) **Some Recommendations.** The achievements made by ECWD in the last five years are tremendous. Its paralegal network and involvement with grassroots formations has expanded space for women participation in politics at community level. This is particularly so in heavily patriarchal zones which were also patronized by the Kanu regime⁹⁴. The other unique thing about this Centre is its ability to build its civic engagement on development platforms. Connecting development provisioning with rights advancement has proven to have lasting effects compared to situations where each has advanced independent of the other⁹⁵.

38) In order to consolidate the gains made so far, we recommend that ECWD does the following:

- *From Programme to Institutional Focus.* ECWD should consider shifting from independent programmes to an institutional focus. Sida supports the main programme at ECWD, but it should consider supporting ECWD's strategic plan instead of this programme. The team is persuaded that the organization qualifies for 'basket funding' and it should be graduated to that level.
- *Revise Strategic Plan.* In order to motivate for 'basket support', ECWD should revise its strategic plan. The team is not persuaded that a ten-year strategic plan is viable. This should be revised and due to the dynamics of social process, it should run for a period of three years only. The plan should then be decomposed into an operational plan, which should in turn be split into four quarterly plans.
- *Adoption Strategy.* In order to sustain the wide paralegal network, ECWD should consider using an adoption strategy. Under this strategy, the Center should replicate the Koibatek model in which the paralegals have set up a Human Rights Office constituted like a CBO. This should be reproduced as as independent CBOs with potential to grow into local NGOs. The Centre should then motivate for funds for them and give them institutional and technical support. This would be one way of 'pluralizing' civil society from below.

D.5 International Commission for Jurists (ICJ)

39) The Human Rights Education Programme under ICJ is the largest component of the organization's programme portfolio. It is a continuation and re-invention of the Paralegal education venture first established in 1995 in Embu District. The programme has had interventions in Meru, Kitui, Taita/Taveta, Kwale, Laikipia and Transmara Districts. The review team visited the Laikipia intervention where our focus was slightly different from the other projects we visited. In Laikipia, we focused on the paralegals and one of the beneficiary groups of ICJ engagement with communities.

D.5.1 The Laikipia Paralegal Scheme

40) The area of Laikipia has faced many problems ranging from widespread human rights violation among the communities, domestic violence, child labour, land disputes and inter-community violence. The Law enforcement agencies are reported to have discriminated against the community. The local wildlife ranch has continuously caused problems with animals breaking out and wreaking havoc in the communities' field. End of 2001, a group of five members of the community met and discussed how to resolve these many problems. They resolved to look for an attorney to help take up the community's case. One of the G5 members had a lawyer brother. He advised the group to approach the ICJ in Nairobi.

⁹⁴ This means that most of the people in these areas, especially women, were de-voiced.

⁹⁵ See Mutahi Ngũnyĩ, IDS Sussex Study.

- 41) In April 2002, ICJ conducted a baseline survey to establish the problems faced by the community and decide on a response. The above problems were confirmed. A paralegal project was launched in April 2002. Since then, the project has organized three training sessions with paralegals starting with a group of 30 in April 2002. During the second and third sessions, the number has increased to a current total of 40 paralegals, 15 of whom are women. The selection criteria for the paralegals were very specific to address the problems identified. The criteria includes a mix of women and men, integrity, ability to learn/literacy, mix of all the tribes in the area, inclusion of agriculture extension workers and village health workers and teachers. The paralegals have offered services including human rights awareness and provision of legal aid. In less than a year since the first training was conducted, the following were shared as the achievements of the project:
- 42) **Some Achievements.** This group of paralegal workers has achieved a number of things.
- The committee of the paralegals prepared a *memorandum on the constitutional reform* process and submitted it on behalf of the communities they work with. The Paralegals also participated in community mobilisation to create awareness about the elections and some worked as observers and clerks in the elections.
 - Paralegals have given legal advice to farmers on land issues and how to challenge the ranch owner whose game is destroying their fields. Legal advice has also been given on domestic violence and child labour.
 - The paralegals have also engaged in high profile cases of rape and child rights referring cases to FIDA and some to ICJ. The successful intervention in the cases has now increased awareness in the community that there are consequences for violating children's and women's rights.
 - Tribes that had previously engaged in clashes are now co-existing in peace and incidences of domestic violence is reported to have reduced.
- 43) **The Threats.** The team asked the paralegals what they saw as the major threats to the continuation of the provision of legal aid to the communities.
- Inability to continue financing their own travel and other field expenses.
 - Pressure to do other household and income earning activities since they do not get any stipends for their paralegal work.
 - Ill health of some of the paralegals.
 - Resource materials for use in field and to increase knowledge to understand more complex cases inadequate.
- 44) **Some Lessons from the Laikipia Group.** A number of lessons were teased out from this group and are enumerated below:
- The paralegals have been able to deliver services without any stipend unlike in Nakuru. Although this may be more cost effective for ICJ, it is clear that the paralegals do expect some form of relief at some point if they have to sustain the delivery of legal aid.
 - There is sufficient demonstration that paralegals can make a real difference in the human rights situation of the communities and women and children given the cases that the Laikipia paralegals have handled.

- The referral strategy for linking up with ICJ and FIDA is effective as they can deliver on high profile cases which will assist in raising awareness of rights issues.

D.5.2 A Case of ‘Voice Poverty’⁹⁶: Mwenje Muungano Wildlife Group.

- 45) The Mwenje Muungano group is one of the formations involved in the fight against the ranch owners of Laikipia. This group of peasant farmers boarder the Laikipia Ranching Company whose elephants break out of the ranch into their small-scale farms destroying their crop. This has been on-going for decades and the Mwenje Group had no way of engaging the ranch owners or the state for compensation and protection of their produce.
- 46) *Creation of Civic Competence.* Through the Laikipia ICJ paralegals, this group has become empowered. But this empowerment is still at the level of subjective competence. That is, the farmers have developed the *belief* that they can engage the ranch owners and the state and get positive results. But they have not taken this *belief* a step further to actual *ability* to engage their antagonists. Although they still have some doubts that they will succeed in their suit against the ranch owners, the team is persuaded that they are now an empowered lot.
- 47) *Constitutional Referencing.* ICJ has taken the issue of farmer-wildlife conflict for constitutional referencing. The intention here is to have a judicial interpretation of the constitution that will favour the farmer and affect the entire jurisprudence dealing with the issue. If achieved, this will resolve the problem of the Mwenje group and others once and for all. This would also provide for some compensation for destroyed farm produce. While this is a long-term plan, in the short term, ICJ should consider doing a number of things with this beneficiary group.
- 48) *Strategic Linkages.* ICJ should consider linking this group with CSOs involved in public interest litigation. This would serve the advocacy purpose of highlighting their plight and would also provide them with litigation services from a group. Currently, the association is represented by a lawyer, but they expressed fear that he could be compromised given the stakes involved in their case⁹⁷. Representation by an organization is therefore safer according to them. In the alternative ICJ should take up their case for public interest litigation⁹⁸. This is one way of linking ICJ community work with law reform advocacy.

⁹⁶ Defined simply as the absence of voice. When we talk about poverty, rarely do we discuss the absence of voice as a form of poverty.

⁹⁷ According to the ICJ programme officer in charge of this programme, this lawyer is above reproach. However, it makes sense to provide litigation from a group for purposes of building their confidence in the due process.

⁹⁸ The only limitation here is that ICJ cannot litigate as an institution because it does not have the status of a law firm. One suggestion of going through this is to use the FIDA model in which the lawyers use their licences to represent clients and FIDA offers them indemnity. Another suggestion that came from ICJ is to register a law firm and litigate through it.

Appendix 1

Terms of reference for an Evaluation of the Relevance, Effectiveness and Results of Swedish support to Human Rights and Democracy through Partnership with Civil Society Organisations (CSOs)

1. Objectives for Swedish development co-operation with Kenya

The objectives for Swedish development co-operation with Kenya, as stated in the current country strategy, include improving the conditions of the poor and supporting a democratic development of the Kenyan society. A democratic development and the application of human rights shall be actively promoted within all aspects of the development co-operation. Special attention shall be given to strengthening the situation and rights of women and children, and to support other vulnerable and marginalized groups.

This will also lead to an increasing engagement with the state within the direct support, which so far almost exclusively have been targeted to civil society. It is foreseen that a more balanced composition of the support with increased engagement with the state will develop, however, without necessarily reducing the scope and volume of the support channelled to civil society.

2. Objectives for Swedish direct support to human rights and democracy

The following three objectives have been identified for guidance of the support to human rights and democracy.

– Political and Legal empowerment

Based on the analysis and conclusions contained in the Country Strategy, one prioritised objective for the Swedish direct support is the political and legal empowerment of the poor majority. As political demobilisation, ignorance of rights, and the inaccessibility of the judicial system have been mentioned as some of the factors contributing to the marginalized situation that most Kenyans are in today, the aim for Swedish support in this area should be to address and contribute to a change of these conditions.

Within this objective it is of special interest to increase the general socio-political awareness among the Kenya public, especially the poor majority, through large-scale comprehensive programmes for civic education. Further more, focus is given to reducing the distance between the poor and the law and to strengthen their access to justice, as well as to monitor the human rights situation and advocate for reforms.

– Promotion of Women's Rights and the Right of the Child

Another conclusion from the analysis of the human rights situation, is the need to strengthen women's rights and the rights of the child, which is also an explicit objective of the Country Strategy. To reach this objective support is concentrated on legislative and policy reforms, research and lobbying; state organs entrusted with the monitoring and defence of these rights; increasing the access of justice for women and children through formal and paralegal aid and education. With regard to women's rights, support is also given to strengthen their participation in politics in view of the impending General Elections scheduled to be held before December 2002.

– *Good Governance*

As indicated above the combat of corruption and promotion of good governance are fundamental for the democratisation process in Kenya. State resources have become an important instrument for the gaining of individual political power and control. One important objective is thus to support the introduction and strengthening of democratic, transparent and countable governmental institutions.

3. The Programmes

The civil society has continued to be the principal channel for Swedish direct support, even though efforts were made to initiate co-operation with state organs. Furthermore, constructive contacts, and possibly programmatic co-operation between the state and CSOs has been encouraged within the support to civil society.

The direct support to organisations within civil society has changed in character, from support to a large number of short term projects, towards long-term partnership arrangements with a limited number of selected organisations based on shared commitment to joint strategic objective. The co-operation has included support for more extensive programmes, but also capacity building, institutional development and improved economic management of the organisation. It should be mentioned that although the partnerships are long term in perspective, most agreements still run for only one year.

– *The National Civic Education Programme:*

The recently ended National Civic Education Programme facilitated large-scale interventions carried out by civil society actors. The extensive programme is the initiative of four major network or consortia of organisations; (1) the Constitutional Reform Education Consortium (CRE-CO), which is a network of human rights advocacy and pressure groups and urban squatter movements; (2) the Gender Consortium, a network of organisations and gender activities working for the promotion of women's rights; (3) the Ecumenical Constitutional Education programme (ECEP), a joint programme of the catholic church and the National Council of Churches of Kenya; and (4) Constitutional Education for Marginalised Categories (CEDMAC), a network of recently formed interest groups representing Muslims, pastoralists and indigenous peoples, mostly from the coastal and northern regions of the country.

The programme was jointly funded by a number of bilateral donors in the Donor steering Committee (DSC) within the like-minded donors group for donor co-ordination. The funding was done through a basket fund mechanism and managed by a Financial Management Agent who handled the disbursement of funds and the financial monitoring. A Technical Assistance Team assessed applications and provided continuous project management support.

– *Human Rights and Access to Justice Programme:*

The Human Rights and Access to Justice Programme has been implemented largely through co-operation between the Embassy, other donors and a selected number of organisations with well documented capacity to deliver formal or paralegal aid and education. These CSOs include Legal Resources Foundation (LRF) and International Commission of Jurists (Kenya Section), ICJ(K). The co-operation has aimed at creating geographically diversified, sustainable and collaborative structures and networks for paralegal aid and education, characterised by close contacts with the formal legal service provision, and by constructive engagement with the Judiciary and local authorities. The human rights advocacy and activism of Kenya Human Rights Commission (KHRC), People Against Torture, (PAT) and the Release Political Prisoners pressure group (RPP) have also been a central part of this programme.

Of direct significance for the objectives of this programme could in the future be the National Legal Aid Scheme and the Legal Sector Reform Programme that are currently being developed by the Attorney General's and Chief Justice's offices. These programmes could, if formulated and implemented in acceptable manner, become a complementary channel for Swedish support.

As part of this programme, the co-operation between the embassy, the Raoul Wallenberg Institute (RWI), and the Department for Personnel Management (DPM) in the Office of the President, has led to a programme of education on administration of justice and human rights for strategically placed civil servants, ministry officials, police and provincial administration officials. A measure of institutional support to bodies like the Police Academy in Kigango, Prison's training college in Ruiru and Kenya Institute of Administration, is being included in the co-operation.

– *Women's Rights Programme:*

The Women's Rights Programme consists mainly of support to a number of advocacy organisations with well documented 'out-reach' capacity for promoting women's rights in rural areas as well as in national fora. However, the constructive and programmatic engagement by these organisation with various strategic state organs have been actively encouraged and supported. Among the organisations with which the Embassy has been co-operating, together with other grant makers, are the Kenya Women Political Caucus (caucus), Federation of Kenya Women Lawyers (FIDA), Kenya League of women Voters (KLWVs), and the Education Centre for Women in Democracy (ECWD).

– *Rights of the Child Programme:*

The Embassy has during the strategy period developed partnership with a selected number of organisations active in advancing the rights of the child and providing legal aid and education campaigns. These organisations include the Kenya Alliance for the Advancement of Children (KAACR), the Child Rights Advisory, Documentation and Legal Centre (CRADLE), and Child Legal Action Network (CLAN).

Support could in the future be given to the Juvenile Justice Programme, which will take a comprehensive approach towards strengthening the situation of the child within the Kenyan judicial system, and which is being established for joint donor funding from 2002. This programme has been identified as an important entry point to work with the state organs such as the judiciary and relevant ministries on the promotion of the rights of the child.

– *Good Governance Programme:*

Together with the World Bank and DfID Sweden supports the Integrated Financial Management Information System (IFMIS) project within Treasury. The project aims at improving disbursement and reporting routines between Treasury and the districts in order to secure that funds are utilised for intended purposes and properly accounted for.

Support to complementing civil society initiatives within the field of good governance and economic policy debate has also been given to prominent organisations such as Transparency International (TI) and Institute for Economic Affairs (IEA).

4. Objectives of the Evaluation

The objective of the evaluation is to provide input for the improvement and strengthening of Swedish support to human rights and democracy in Kenya through partnership with civil society organisations in the period 2004–2006.

More specifically, the scope of the evaluation include:

- Review the strategic focus and relevance of Swedish direct support to Human Rights and Democracy. This should be done against its objectives, the needs of the developing situation in Kenya, other donor-funded initiatives as well as trends within the sector, including regional trends.
- Review various modes of co-operation with civil society organisations. This should be done taking into account the requirement of the organisational development of CSOs, administrative constraints of the Embassy, as well as various mechanisms as core support, multilateral basket funding, and the experiences of other donors.
- Compile a comprehensive report of results obtained in the Swedish supported interventions between 1999 and 2002 covering the specific objectives, effects, planned and achieved outputs based in existing reports and evaluations. The completion will be done in accordance with Sida Guidelines for Performance Analysis.
- Complement the completion above with in-depth case studies of four interventions receiving Swedish support.
- Review the relevance and effectiveness of Swedish supported interventions above mentioned based on the results report, the case studies and the mode of co-operation.
- On the basis of the fore mentioned, make recommendations for the improvement of Swedish support to human rights and democracy through partnership with CSOs.

5. Methodology

On appointment, the consultant will specify the methodology for the assignment, to be agreed with the embassy. It is anticipated that the consultancy may include:

- A desk review of existing policy papers, reviews, evaluations, reports, studies and any other relevant documents and materials.
- Interviews with relevant experts, development partners and civil society representatives.
- Project and field visits, in relation to the case studies mentioned above.
- Two workshops with the Embassy and the CSO partners.

6. Expected Outputs

The consultants will be responsible for the timely and qualitative delivery of the following outputs:

- A draft results report containing an overall account of objectives, effects, planned and achieved outputs and cost outcome.
- A draft final report, including an annexed comprehensive results report, and annex with the four case studies.
- A final report incorporating comments received from Embassy and CSO partners. The consultant shall also convene, organise and facilitate two workshops with the Embassy and the partners, one midway through the consultancy and one to discuss the draft final report.

7. Skills and Competencies of the Consultants

The consultant shall present a proposed team with the required mix of diverse skills with demonstrable co-operation in that context. The team shall include at least one non-kenyan member (preferably Swedish) and both genders shall be represented. Knowledge on Sida practices and management modalities is a merit.

Essential technical and interpersonal skills of the team include:

- Excellent programme planning, financial management, and organisational development skills.
- Excellent writing, communication and inter-personal process-related skills.
- Excellent skill and knowledge regarding gender analysis and mainstreaming.
- Demonstrable experience of grant management and knowledge of other donor funding.
- Good understanding of kenya's contemporary political history and social development.

8. Timeframe and Duration of the consultancy

The consultancy will be carried out during the period of February and March 2003. Although the exact timetable will be decided in an agreement with the Embassy, it is expected that the consultancy will begin in mid-February. The expected time frame for the consultancy is 45 man-days in total. The consultant shall begin with the completion of the results report and a draft shall be ready during the first week of March. A draft final report is to be sent to the embassy for discussion and review not less than 10 days before the expiry date of the consultancy.

Annex 2

List of Interviews

Representatives of Partners

- 1) CLAN – Executive Director
- 2) CRADLE– Executive Director
- 3) ECWD– Executive Director, Programme staff
- 4) EPPP – Programme Officer
- 5) FIDA– Executive Director, Programme Staff
- 6) ICJ (K) – Executive Director, Programme Staff
- 7) KAARC, – Executive Director, Programme Staff
- 8) KHRC – Executive Director, Programme Staff
- 9) KWPC – Executive Director, Programme Staff
- 10) LRF – Executive Director, Programme Staff
- 11) LKWVs – Executive Director, Programme Staff
- 12) NCEP – Executive Director, Programme Staff

List of Donors Interviewed

- 1) DANIDA
- 2) RNE
- 3) CIDA
- 4) HB Foundation
- 5) DFID
- 6) Norwegian Embassy
- 7) Sida

Community FGDs¹

- 1) LRF – Kangemi Paralegal network (Nairobi)
- 2) LRF – Kamandura Law Club (Limuru)
- 3) LRF – Kamandura Paralegals (Teachers)
- 4) ECWD – Mogoon Paralegals (Nakuru)
- 5) Beneficiaries of Mogoon Paralegals (Nakuru)
- 6) Provincial Administration Mogoon (Nakuru)
- 7) ICJ – Laikipia Paralegals (Laikipia)
- 8) ICJ – Mwenje Muungano Wildlife Group (Laikipia)

Workshops

Sida Partner Workshop 24th March 2003 – Sida offices

- 1) Cradle
- 2) ECWD

- 3) LKWVs
- 4) KAACR
- 5) FIDA
- 6) PAT
- 7) KHRC
- 8) LRF

Facilitators

- 9) Mutahi Ngunyi
- 10) Helena Kithinji
- 11) Simon Matsvai

Sida Participants

- 12) John Nderitu
- 13) Per Karlsson

Donor Workshop – Sida offices April 1st Sida offices

- 1) DANIDA
- 2) RNE
- 3) HB Foundation
- 4) DFID

Sida Participants

- 5) John Nderitu
- 6) Per Karlsson

Partner Second Workshop – 4th April Palacina Hotel Nairobi

Partner Institutions Present

- 1) CRADLE
- 2) ECWD
- 3) LKWVs
- 4) KAACR
- 5) FIDA
- 6) PAT
- 7) KHRC
- 8) LRF
- 9) ICJ
- 10) WOWESOK
- 11) FIDA

Others Present

Sida

Consultants

All FGDs had a minimum of 8 people and a maximum of 12

Interview Schedule

(Varied in use)

1. Describe your initial involvement with Sida.
2. How was the grant agreed upon? How did you participate?
Who else participated in the planning process?
3. Were you satisfied with the quality of participation in the planning process?
4. What components did the grant have?
5. How well did the assistance fit within overall strategic plan of your organisation? Give examples.
6. How effective do you consider the overall approach in terms of the achievement of your desired impact? Give examples of effectiveness?
7. How efficient was the Grant arrangements in terms of overheads and administrative support costs?
Give examples of any cost saving measures that could be put in place.
8. What was the quantity and quality of communication with Sida in terms of clarity, timeliness, communication channels and feedback?
9. How were important decisions in relation to the grant taken?
10. How was the quality of strategic decisions? What could be improved?
11. How were the operational decisions taken? Who was involved?
12. We're also interested in strategic good practice is there any aspect of Sida assistance that you think is particularly good?
13. Generally, how did Sida monitor the grant performance?
14. How often did you met with the Sida? What was the agenda? How were the responsibilities for action allocated? Do minutes exist and were circulated promptly? Who did the follow up?
Was it satisfactory? Why?
15. How much budgetary discretion did you have? Give examples.
16. How satisfied were you with the financial reporting and accountability mechanisms?
Give examples of positive and negative aspects.
17. What were the main features and benefits of Sida grant?
18. Can you explain a bit about reporting mechanisms? What worked? What could be improved?
Give specific examples.
19. Assess the level of cooperation between you and Sida. Give specific examples of what went well and what did not go so well.
20. Give us an example of what you consider to be a "missed opportunity" for Sida?
21. What were the major lessons that you learned as a result of the grant?
22. Give any other comment or suggestion.

Assessment of Sida Support to Civil Society – Organisation and Management – Questionnaire for Partners

Assess the organisation and management of the Sida support to the civil society by putting X in an appropriate place. Where you have marked X for “Below expectations”, comment or make a suggestion.

Attribute	Very good	Good	Below expectations	Comments
Overall effectiveness of the support				
Overall efficiency of Sida's support				
Overall relevance of Sida's support				
Sida's overall understanding of the external environment				
Sida's overall ability to monitor trends in the environment and adjust accordingly				
Quality of consultations with partners				
Regular learning visits to projects and organisations				
Exchange of relevant information between Sida and partners				
Feedback on partners' suggestions and concerns				
Sida's contribution to partners' internal capacity strengthening				
Sida's contribution to gender equality within the organisation				
Sida's contribution to the partner's internal management capacity				
Sida's contribution to the development and implementation of financial management policies and systems				
Performance monitoring				
Sida's ability to fund projects that originated from felt needs of the partner				
Sida's contribution to strengthening MIS within the organisation				
Sida's contribution to strengthening project management capabilities of partner organisation				
Quality of Sida's Public relations				
Conflict resolution procedures and practices				
Sida's quality assurance process				
Efficiency of Sida's operations				
Management style of Sida' staff				
Impact of the assistance				
Transparency of Sida' operations				
Overall effectiveness of Sida's policies and procedures				
Effectiveness of the procurement policies and procedures (quality of selection, level of transparency, etc)				

Attribute	Very good	Good	Below expectations	Comments
Efficiency of the procurement policy and procedures (waiting time, cost of procurement, level of complexity)				
Clarity and understanding of reporting requirements				
Adherence to reporting requirements				
Clarity and appropriateness of Sida's financial procedures				
Sida's monitoring mechanisms				

In the space below make any additional comment or suggestion on the management of the support.
Thank you.

Annex 3

The Child Rights Advisory Documentation & Legal Centre (CRADLE)

Name	Date
1. Legal Aid Programme Report to Sida.	Jan–Dec 2001
2. Report on the Pre-disbursement Assessment of Child Rights Advisory and Legal Centre.	Dec 2000
3. Annual Narrative and Financial Report. (1 st Draft)	Jan–Dec 2000
4. Summary of the Cradle’s Final Financial Report on the Funds Received from Sida for the year 2000.	Year 2000
5. The Child Rights Advisory and Legal Centre.	

Children’s Legal Action Network (CLAN)

1. Juvenile Justice in Kenya.	May 2002
2. Juvenile Justice in Kenya.	June 2001
3. Juvenile Justice in Kenya.	Nov 2001

Kenya Alliance for Advancement of Children (KAACR)

1. Progress Report on Implementation KAACR Programme	Jan–Jul 2002 (Submission date) 8 th Aug 2002
2. Progress Report on Implementation of KAACR Programmes.	Jul–Dec 2002 (Submission date) 17 th Feb 2003
3. Report on Implementation of KAACR Strategy Report.	Jan–Oct 2001 (Submission date) Oct 2001
4. Report on Implementation of KAACR Strategy Plan 2001–2010	(Report period) 2001
5. KAACR Stakeholders Consultation Workshop on Children Rights in Kenya: Emerging Issue of Concern: Toward Development of Strategic Intervention for the Next Ten Years.	(Held on) 29 th Aug 2001
6. Report of KAACR Donor Round Table Meeting.	14 th Feb 2001
7. Final Report on: “Development of a Ten Year KAACR Organisation Strategy for Promoting Child Rights in Kenya.”	

Name	Date
8. Report on Implementation of KAACR Strategy.	Jan–Dec 2001 (Submission date) Jan 2002
9. Final Project Financial Report.	31 st Dec 2001
10. Summary of Donor Commitments to the Project.	31 st Dec 2001

Federation of Women Layers – Kenya (FIDA)

1. Report on the Donor Roundtable.	26 th Jul 2001
2. Workshop Report. Consultative Forum for Human Rights CBOs and NGOs.	6 th –7 th Sep 2001
3. FIDA Kenya Annual Report, 2000	2000
4. Supporting Legal Awareness Campaigns for Women. A Progress Report.	3 rd Mar 2000
5. Sida Grant-variance Report	1 st Feb–30 th Jun 1999
6. Consultative Report.	Sep 2000
7. Narrative Report.	Jun–Nov 2001
8. Narrative Report.	Jan–Jul 2002
9. Working Document.	

League of Kenya Women Voters (the League KWVs)

1. Report on the Pre-disbursement Assessment of (LKVV)	Dec 2000
2. Reports on the Strategic Planning Project.	Mar 2001
3. Progress Report of the Project “Enhancing Access to Justice and Rights Awareness in Kenya’s Marginalized Districts through a Parallel Programme”	Mar 2002

People Against Torture (PAT)

1. Mid-term Progress Report	1 st Mar–Aug 31 st 2002
2. Report and Press Cuttings (Photographs of Torture Survivors and Victims)	Jun 26 th (Submitted on) 23 rd Jul 2002
3. Final Report of the Bridging Programme Rapid Response Project.	1 st Feb–Sep 30 th 2001 (Submitted on) 9 th Nov 2001

Name	Date
4. Report on the Pre-disbursement Assessment of (PAT)	Aug 2001
5. Price Water House Coopers Pre-disbursement Assessment Report: Way Forward.	
6. Final Income and Expenditure Account for the Eight Months Ending 30th Sep 2001	

International Commission of Jurists (ICJ)

1. Comprehensive Narrative and Financial Report on ICJ (K) Kitui Project.	Dec 1999
2. Review Report	Sep 1999
3. Comprehensive Narrative and Financial Report on the Human Rights Education Project.	Apr 2002
4. Comprehensive Narrative and Financial Report on ICJ (K) Kitui Paralegal Project.	Oct 1999
5. Report-cum-request for Extension of the Kitui Paralegal Project (Phase-off period)	May 1999
6. Comprehensive Narrative and Financial on ICJ (K) Kitui Paralegal Project.	Mar 1999
7. Narrative Report on ICJ (K) Kitui Paralegal Project.	Apr 2001
8. Comprehensive Narrative and Financial Report on the Human Rights Education Project.	Apr 2002

Education Centre for Women in Democracy (ECWD)

1. Paralegal Programme Internal Evaluation.	Apr 2002
2. Report of the Independent Evaluation of ECWD Institutional Capacity and Paralegal Training Programme.	Feb/Mar 2001
3. Auditor's Report.	31 st Dec 2001
4. Report on the Pre-disbursement Assessment of (ECWD).	Mar 2001
5. Mid-year Progress Report.	Aug 2002
6. End-year Evaluation Report.	Dec 2000
7. Mid-term Report.	Aug 2000
8. Paralegal Induction Training Workshop Report.	Mar 2001
9. Mid-year Progress Report.	Aug 2001

Legal Resources Foundation Trust (LRFT)

Name

1. Report on the Pre-disbursement Assessment of (LRFT).
2. Programmatic and Institutional Evaluation Report (Draft).
3. Annual Narrative Report.
4. LRFT Management Letter.
Year ended 31st May 2002
5. Annual Report and Financial Statements
6. Annual Report.

Date

Oct 2001

Mar 2000

Jun 99'–May 2000

31st May 2002

31st May 2002

Jun 01'– May 2002

Kenya Human Rights Commission (KHRC)

1. Mid-term Evaluation Consultant's Report.
2. Annual Report 1999
3. Progress Report
4. Year 2000 Operation Plan.
5. Directors' Report and Accounts.
(For 15 months ended 31st March 2000)
6. Quarterly Human Rights Report

Nov 2001

May 2000

31st Oct 2000

Apr 00'–Mar 2001

31st Mar 2000

Jul–Sep 2000

Recent Sida Evaluations

- 03/36 Enterprise Development Programmes in Tanzania and Zambia**
Kim Forss, Mikael Lundström, Oliver Saasa, Fortunata Temu
Department for Infrastructure and Economic Co-operation
- 03/37 IOM Regional Counter-Trafficking Programme in the Western Balkans**
Carolina Wennerholm, Eva Zillén
Department for Central and Eastern Europe
- 03/38 The Swedish Helsinki Committee Programme in the Western Balkans, 1999–2003**
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