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ORGANISATION MONDIALE DES PARLEMENTAIRES CONTRE LA CORRUPTION
ORGANIZACIÓN MUNDIAL DE PARLAMENTARIOS CONTRA LA CORRUPCIÓN
المتظمة العالمية للبرلمانيين ضد الفساد

UNODC & GOPAC PACIFIC REGIONAL CONFERENCE: CONSTITUENCY DEVELOPMENT FUNDS CONFERENCE DISCUSSION PAPER & REPORT

November 2022



This Discussion Paper and Conference Report was written and researched by Kevin Deveaux, with assistance and inputs from Tim Baker & Dila Pant. All opinions and conclusions in the paper are those of the author and are not necessarily those of UNODC or the United Nations.

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List of Acronyms Used

CA	Constituent Assembly
CBO	Community-based Organisation
CDF	Constituency Development Fund
CGC	Constituency Growth Center
CPA	Commonwealth Parliamentary Association
CSO	Civil Society Organisation
DDF	District Development Funds
DPP	Director of Public Prosecutions
DSIP	District Service Improvement Program
FPTP	First Past the Post
GOPAC	Global Organisation of Parliamentarians Against Corruption
JSIF	Jamaica Social Investment Fund
MNA	Member of National Assembly
MPA	Member of Provincial Assembly
MP	Member of Parliament
MPLADs	Member of Parliament Local Area Development Scheme
MMDA	Municipal, Metropolitan and District Assemblies
NGCDF	National Government Constituencies Development Fund
PDAF	Priority Development Assistance Fund
PMC	Project Management Committee
PR	Proportional Representation
PSIP	Provincial Service Improvement Program
SICAC	Solomon Islands Commission on Anti-Corruption
UNCAC	United Nations Convention Against Corruption
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs & Crime
VAT	Valued Added Tax

I. Introduction

A. Context

CDFs

A “Constituency Development Fund” (CDF) is the generic name for a policy tool that “dedicates public money to benefit specific political subdivisions through allocations and/or spending decisions influenced by their representatives in the national parliament.”¹ CDFs are also known as Constituency Deployment Schemes, Earmarks, Electoral Development Funds, Member of Parliament Local Area Development Schemes, and Priority Development Assistance Funds, among others. Regardless of the name, the emergence of CDFs has not been without controversy:

Supporters of CDFs highlight that they can mitigate the imbalance of power between executives and legislatures, redress the “winner takes all” outcome of elections, provide legislators with a means of delivering essential goods and services to constituents, give an opportunity for popular participation in development projects, and strengthen ties of constituents to legislatures and representatives.²

However, critics argue that CDFs actually create an imbalance of power between the executive and the legislature, fragment development-related decision making away from the executive, and result in a lack of accountability regarding how funds are deployed, and the misappropriation of funds intended for development and the delivery of services.³

This paper aims to analyze the adoption of CDFs in various contexts, possible intersections between CDFs and corruption, and lessons learned from the application of CDF systems throughout the Pacific Island Countries (PICs) and around the world.

The PICs

Many Pacific Island nations are characterized by budding democracies, abundant natural resources, frequent natural disasters, and relatively small populations, making them vulnerable to corruption. Tongan MP, Hon. Dr. ‘Uhilamoelangi Fasi, who is also the Chairman of the Parliament Standing Committee against Corruption, expressed that many Pacific Islanders believe incumbent Members of Parliament (MPs) have an unfair advantage over electoral candidates. It is perceived MPs use Constituency Development Funds (CDF) during election years as a means of vote buying.⁴

This is because Members of Parliament (MPs) are often on the frontline of local development, and have their “ear to the ground” and are often the first person to be approached when constituents have an idea or concept for a development project. In some cases, the concepts may not be fully articulated or defined, but MPs are held accountable for what they can deliver through community development effort in their constituency.⁵

¹ Mark A. Baskin, “Constituency Development Funds,” Constituency Development Funds, Retrieved May 30, 2023.

² Ibid.

³ Ibid.

⁴ Adhy Aman and Rajan Murti, “Constituency Development Fund: Can it work?” *Institute for Democracy and Electoral Assistance*, (Wellington: NZ), December 12th, 2022, <https://www.idea.int/news-media/news/constituency-development-fund-can-it-work>.

⁵ For purposes of this paper the term used will be a constituency, but other terms can also be used for the same concept, including electorate, electoral district and riding.

Yet in most political systems, decisions related to capital expenditure or even programming are made centrally by a core group of government officials, usually in the Ministry of Finance or the Office of the Prime Minister. As the Annual State Budget is developed, development projects and ideas are recommended by local officials and MPs, but the final decision with regard to state funding allocations almost exclusively rests with centralised, senior officials.

The disconnect between national planning and development decisions and the allocation of funds on the one hand, and the need to reflect local interests and needs on the other has resulted in many governments adopting broad policies to promote decentralization. Decentralization is a development principle and government policy approach that promotes local decision-making and accountability. In 1999 UNDP noted the following definition of decentralization:

“ . . . Decentralization, or decentralizing governance, refers to the restructuring or reorganization of authority so that there is a system of co-responsibility between institutions of governance at the central, regional and local levels according to the principle of subsidiarity, thus increasing the overall quality and effectiveness of the system of governance, while increasing the authority and capacities of sub-national levels. ... Decentralization could also be expected to contribute to key elements of good governance, such as increasing people’s opportunities for participation in economic, social and political decisions; assisting in developing people’s capacities; and enhancing government responsiveness, transparency and accountability.”⁶

More recently, the World Bank has defined decentralization in regard to its nexus with local development priorities:

“Decentralization transfers authority and responsibility of major government functions from central to sub-national governments — including local governments, civil society, and the private sector.

The community-driven development and decentralization nexus can empower communities to exert influence over local governance and services. CDD and decentralization are both about empowering people at the local level.

The rationale for decentralization in the context of CDD includes economic efficiency, public accountability, and empowerment:

- It gives greater voice and choice to citizens to influence decisions that affect their lives.*
- It allows local governments to respond dynamically to communities.*
- It results in allocative efficiency by matching of local needs and preferences with patterns of local public expenditure (assumes substantial fiscal autonomy).”⁷*

As decentralization grew as a concept and principle by which development assistance has been provided, a number of countries made the link between local development and the division of a country into constituencies. This resulted in local funds being allocated per constituency. This method of local funding also could address the demands being placed on MPs for development funding, where the MP had – both with regard to the projects to receive funding and the amount of funding allocated - input into the allocations being made in their constituency. It is from these core development principles that Constituency Development Funds (CDFs) were born.

Each CDF system is unique to the context of each country in which they operate, but a general definition can be articulated:

⁶ *Decentralisation: A Sampling of Definitions* (1999) United Nations Development Programme; New York, p.2 - http://web.undp.org/evaluation/documents/decentralization_working_report.PDF.

⁷ *Community-driven Development & Decentralisation* – World Bank Blog Post (2013); Washington D.C. - <https://www.worldbank.org/en/topic/communitydrivendevelopment/brief/Decentralization>.



Niue MP O'Love Jacobsen speaks at the Conference

“Constituency Development Fund (CDF) is a source of funds that is made available to a Member of Parliament (MP) to facilitate the implementation of minor projects in his/her constituency. CDF represents a central government transfer to the local authorities, which is in line with fiscal decentralization process. CDFs are funding arrangements that channel money from central government directly to electoral constituencies for local infrastructure projects.”⁸

CDFs have existed since at least the early 1980s, with countries such as Ghana, Papua New Guinea and India being early adopters of the system of development fund allocation. The initial concept was based on the added value of local decision making related to local development. As noted by the Commonwealth Parliamentary Association:

“A central hope behind CDFs is that local input promotes better targeting of projects to the needs of constituents, more attention to implementation and a way of holding government officials responsible for results by giving the capacity for development to MPs whose electoral fate will be locally determined.”⁹

Yet there are also many who see the use of CDFs as problematic. Two perceived challenges with CDFs are:

- The concept of a CDF being flawed, with the role of parliamentarian as a funder and initiator of development blurring the lines between the mandates of the different branches of government. In short, the parliament approves state funding and monitors its allocation. The mandate of identifying, funding, and implementing development projects is the purview of the Executive branch of government.¹⁰

⁸ *Constituency Development Fund: The Case of Public Procurement Act Adherence in Malawi* (2014) Mbeki, G. - https://www.researchgate.net/publication/267395098_CONSTITUENCY_DEVELOPMENT_FUND_THE_CASE_OF_PUBLIC_PROCUREMENT_ACT_ADHERENCE_IN_MALAWI.

⁹ *Handbook on Constituency Development Funds (CDFs): Principles and Tools for Parliamentarians* (2016) Commonwealth Parliamentary Association; London; p.7 - <https://www.cpahq.org/media/cc4alwaf/cdfs-handbook-updated-2016.pdf>.

¹⁰ Recent superior court decisions in Kenya and the Philippines have addressed this issue and have questioned the constitutionality of MPs as development managers.

- The process by which CDFs are allocated. There are many examples of the misuse of CDF funds by MPs. Where CDFs are allocated through a system that lacks strong accountability and transparency measures, the system can be vulnerable to abuse.

Finally, there are those that perceive CDFs as an inefficient means of development funding allocation. The funds are allocated almost exclusively for capital projects. Yet, in many cases, capital projects will require programmatic or operational funding to allow for their use. For example, CDFs may build a medical clinic or a school in a community, but it is the ongoing funding of medical professionals or teachers that will be required to populate such facilities and this funding is more centralised in how it is allocated.

As will be seen in this paper, as CDFs systems have evolved in the past 30 years, many countries have built the architecture around CDFs - legal frameworks; policies; systems – that enabled the funds to be better allocated and, in turn, enabling and empowering local development.

In the Pacific region, several countries have established CDFs (or similar funds with a different name, as a means of promoting local development), with the Solomon Islands CDF being the most well-known. In some cases, the amount of funding for MPs in the region to expend through CDFs is some of the highest amounts (in aggregate and per voter) in the world. In at least two countries in the region – Papua New Guinea and Solomon Islands – the mandate of such funds has been expanded to cover almost all development funding in a constituency (or, in the case of Papua New Guinea, funds are allocated by district or at the provincial level).

UNCAC

In addition to national frameworks for the implementation of CDFs, all Pacific countries have now ratified the UN Convention against Corruption (UNCAC).¹¹ UNCAC is the only legally binding universal anti-corruption instrument which sets out globally accepted anti-corruption standards.

The Convention provides an overarching framework in which to view CDFs. For example, article 9 sets out mandatory, legally binding requirements for all States parties to the Convention regarding public procurement and the management of public finances and includes the following:

Article 9.2: Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

- (a) Procedures for the adoption of the national budget;*
- (b) Timely reporting on revenue and expenditure;*
- (c) A system of accounting and auditing standards and related oversight;*
- (d) Effective and efficient systems of risk management and internal control; and*
- (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.*

Article 10 of UNCAC calls on States parties to take measures to enhance transparency in public administration and includes a list of potential such measures, including

- (a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;*

¹¹ https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.



(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

Article 13 of the Convention is also relevant to the consideration of CDF systems as it requires States parties to take appropriate measures to promote the active participation of actors outside the public sector, such as civil society, in anti-corruption efforts.

In 2019, at the Eighth Conference of the State Parties (COSP) to UNCAC, held in Abu Dhabi, , resolution 8/14 on “promoting good practices in relation to the role of national parliaments and other legislative bodies in preventing and combating corruption in all its forms” was adopted.¹² Two clauses in the resolution of particular note are Clause 1, which “Urges States parties to take effective measures... to support the role and strengthen the capacity of parliaments and other legislative bodies to prevent and combat corruption,” and Clause 7, which “Requests the United Nations Office on Drugs and Crime to develop... a compendium of good practices in relation to the role of parliaments and other legislative bodies in preventing and combating corruption, in order to promote the exchange of good practices and national experiences among parliamentary institutions.”¹⁴

Pacific Conference on CDFs

The Global Organization of Parliamentarians Against Corruption (GOPAC) (Oceania Regional Branch), in partnership with UNODC, held a regional conference from 29-30 November 2022 in the New Zealand Parliament in Wellington, New Zealand, to discuss the use of CDFs in several Pacific Island Countries and the systems that have been established to manage the funds. The conference participants included representatives from five countries: Kiribati; Niue, Papua New Guinea, Solomon Islands, and Tonga.¹³

¹² <https://www.unodc.org/unodc/en/corruption/COSP/session8-resolutions.html>.

¹³ See Annex 4 for a summary of the discussions during the Conference.

This report and the embedded discussion paper were developed based on the discussions held during the regional conference. In addition, one-on-one interviews were held to clarify any issues related to how each country manages its CDF system. A draft of the discussion paper was produced prior to the conference based on the methodology noted below. It was revised and finalised to reflect the content of the conference and the inputs of the participants with regard to the recommendations identified in this report.

This comprehensive report explores the evolution of CDFs and how they align with international requirements and standards through a review of CDF systems in place in select countries, with a particular emphasis on the Pacific region, sub-Saharan Africa and South Asia. Based on lessons learned from other jurisdictions and inputs from those in the Pacific who are part of national CDF systems, this report explores the CDF systems in place in the Pacific region. Based on the juxtaposition of the two, the paper suggests recommendations to enhance CDF systems in the Pacific region.

B. Methodology

The research for this report was conducted primarily through two sources. First, a draft of the discussion paper was originally developed by means of a desk review of key documents. Second, the desk research was enhanced through the content and discussions during the regional conference held in November 2022, including interviews with select participants.

To address the research objectives, the author used a limited number of tools to gather data and evidence and validate findings. These included:

Desk Review: Key documents were identified including the legal framework under which CDFs operate, academic research papers, monitoring reports from oversight commissions or civil society organizations (CSOs), as well as strategic documents and analysis of such systems from key countries.¹⁴

Semi-structured Interviews: Key respondents (CDF managers, MPs; Oversight Institutions; CSOs) were interviewed.

C. Limitations

This paper is an attempt to aggregate the current status of CDFs globally as a means of identifying trends and emerging approaches to the management of CDFs that may be of value to policymakers in the Pacific region who are implementing CDFs, or similar systems, in their country. Every attempt has been made to gather relevant and timely information with regard to the use of CDFs. However, there are some limitations that should be noted with regard to the content of this paper.

First, there was a time limit in the development of the research and production of this paper. Second, despite efforts, there were a number of officials that were asked to participate in an interview for this paper who were unable to participate. This resulted in a small number of interviews being conducted, but could have also resulted in some information not being shared that may be relevant to this research. Third, the paper has attempted to factor in the different contexts in which CDFs are employed by different governments; however, no two countries are the same and, therefore, the conclusions of this paper will require some further adaptation to each political system where CDFs are utilised.

¹⁴ For a complete list of documents consulted please see Annex 2.

II. CDFs Around the World

This section will provide a comparative analysis of the management systems for CDFs in those regions where they are the most prevalent. Though different forms of CDFs can be found in many countries, this paper will focus on those regions and countries where the CDF system has become institutionalised over time and where there are good lessons to learn from their evolution in certain contexts. These include an exploration of how CDFs are managed and allocated in sub-Saharan Africa, South Asia, the Caribbean and South-east Asia.

A. Pacific Region

Papua New Guinea

Papua New Guinea has had some form of CDF system in place since 1984, when MPs in that country were allocated K10,000 (\$2,768 USD in today's currency) to allow MPs a discretionary fund in their constituencies known as electorates. By 1993, the amount of funding allocated to each MP increased to K100,000/MP (\$27,675 USD) and then quickly rose to K1.5 million (\$415,000 USD). By 2012, the funds per constituency had increased to K 10 million (\$2,765,000 USD) where it remains today.

A key aspect of the political system in Papua New Guinea is the Leadership Code,¹⁵ which is entrenched in the Constitution. The Code provides a "Code of Conduct" for senior officials in the country, including elected officials. The Code was further enhanced by the adoption of the *Organic Law on the Duties and Responsibilities of Leadership*.¹⁶ The law requires asset declarations to be filed with the Ombudsman Commission annually and within 12 months of assuming an office covered by the Code. The law also requires officials to declare any personal interests that may create a conflict with their role as a public decision maker and insists on such officials not using their office for personal benefit.

The law does provide some legal requirements that can (and have) resulted in the Ombudsman Commission using its role as a monitor of the Leadership Code to refer some MPs (and Bougainville Assembly Members (see below) for prosecution.¹⁷ The Ombudsman Commission plays an oversight role and ensures compliance in government processes & procedures.¹⁸ The Office has also frozen funds and prevented the distribution of constituency development funds . It was used in 2022, prior to the general election, when the Ombudsman Commission took control of the distribution and allocation of funds during the election campaign.¹⁹

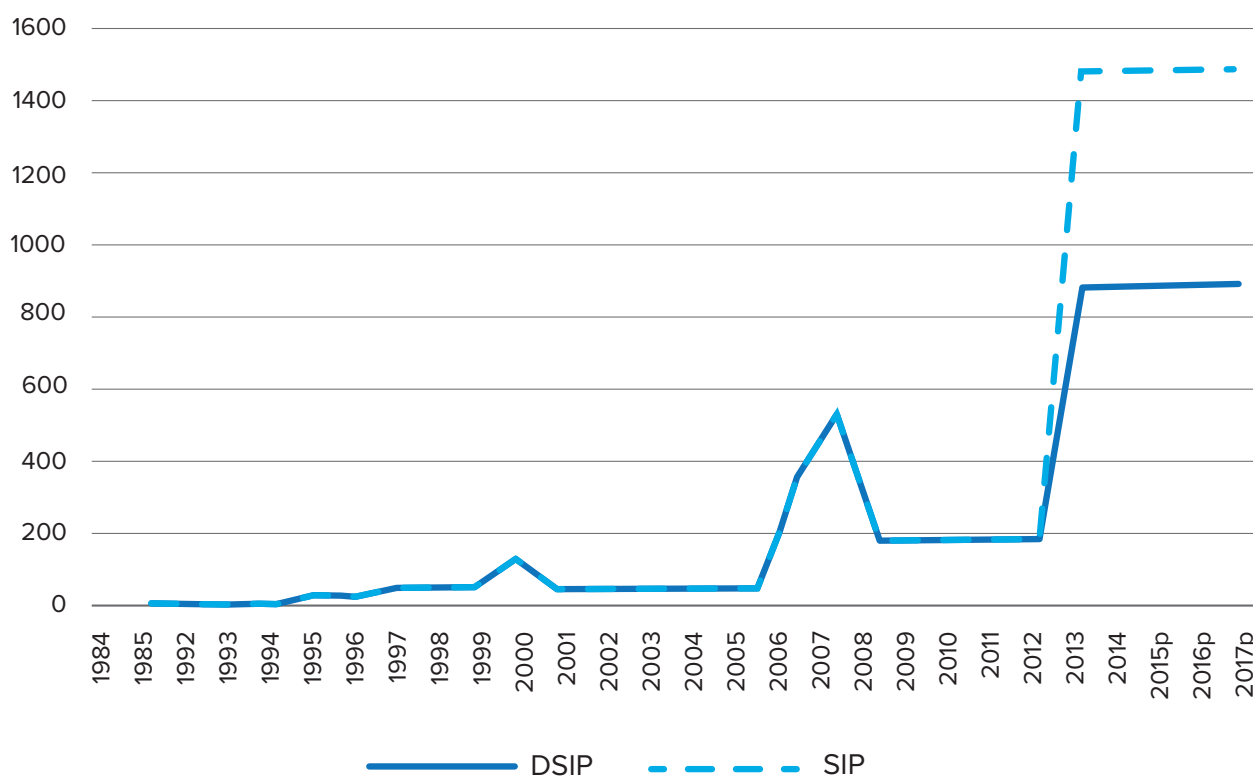
¹⁵ <https://www.ombudsman.gov.pg/wp-content/uploads/2018/07/leadershipcode.pdf>.

¹⁶ <https://www.ombudsman.gov.pg/legislation/organic-law-on-the-duties-responsibilities-of-leadership/>.

¹⁷ <https://postcourier.com.pg/ombudsman-commission-takes-control-of-dsip-and-psip/>.

¹⁸ [Roles & Functions | \(ombudsman.gov.pg\)](#).

¹⁹ Ibid.

Annual Allocation of EDF/DSIP funds per constituency in Papua New Guinea²⁰

Originally, the funds were known as Electorate Development Funds with 50% of the funds being non-discretionary and 50% being at the complete discretion of the relevant MP. The expenditure of non-discretionary funds was managed by a Joint Planning and Budget Priorities Committee established in each constituency. Chaired by the local MP, the committee included appointees made by the MP. Guidelines provided for the expenditure of such funds and required approval of the local joint planning committee and an assurance that any project must comply with public procurement rules. The rules also required the reporting of all funds spent before the next annual allocation of funds was to be delivered to each MP. Reports were sent to the Department of Implementation and Rural Development which then shares such reporting with the Department of Finance and the Ombudsman Commission. The latter has a constitutional mandate to investigate violations of the Leadership Code, in which the misappropriation of CDF funds would be considered.²¹

In 2007 a new system of CDFs was established in Papua New Guinea with the introduction of the District Service Improvement Program (DSIP) and Provincial Service Improvement Program (PSIP).²² The mandate of the DSIP was to allow local decision-making related to public service delivery in each constituency. Therefore, the funds increased, but so did the breadth of the public services to be contributed to by the funds. Guidelines introduced for DSIPs in 2013²³ stated that 100% of the DSIP funds in each constituency were earmarked for different sectors:

²⁰ PEPE Survey (2014); Australian National University; Chapter 7, Canberra; p.128 - <https://www.devpolicy.org/publications/reports/PEPE/PEPE%20Chapter%207.pdf>.

²¹ Under the previous system of CDFs in the country, the Office of the Ombudsman routinely investigated and recommended administrative and criminal authorities to investigate misappropriation of CDF funds.

²² In addition to DSIP funds, each MP who is the provincial governor receives K5,000,000 x all electorates in the province known as the Provincial Service Improvement Program (PSIP).

²³ http://www.inapng.com/pdf_files/ORD%20-%20DSIP,%20PSIP%20etc%20guidelines.pdf.

Public Sector	Percentage of Funds Earmarked
Infrastructure	30%
Health	20%
Education	20%
Law & Order	10%
Economic Support	10%
Administration of DSIP	10%

This makes the DSIP system somewhat different from a traditional CDF system, in that the DSIP is mandated to fund core public services in a constituency. In some cases, the amount of funding allocated for public services in each constituency through the DSIP can be four times the amount of direct funding by National Government departments.

By 2014, the joint planning committees in each constituency were replaced by District Development Authorities. With the adoption of the *District Development Authorities Act*²⁴ in 2014, the approval boards for each constituency were reconstituted. Under the new regime, the MP remains chairperson of the group and the MP can still appoint three lay people as members. However, in addition, each head of a local government within the constituency has an automatic right to membership on the committee.

By 2016, the Government of Papua New Guinea decided to amend the 2013 DSIP guidelines to allow more discretion in the percentage of funds allocated for different public services.

Anecdotally there are stories of MPs who have taken care to use DSIP funds and previous CDF funds in an accountable and transparent manner. In the 1990s, under the old system of CDFs in Papua New Guinea, a number of MPs created an arms-length relationship between themselves and the allocation of non-discretionary funds. Others reported routinely to their constituents on the use of the funds.²⁵ The Auditor-General, however, has highlighted potential risks for abuse of such funds by MPs. In 2016, the Auditor-General was asked to review DSIP funding in Gazelle Electorate from 2007-2016 by the new MP for the constituency.²⁶ The report noted significant discrepancies in the use for the funds, including:

- Lack of records and documentation related to allocation of funding;
- Non-compliance with requirements under the *Public Finance (Management) Act*;
- The blending of funds from different sources into one bank account;
- Lack of a five-year local development plan from which strategic guidance can be provided;
- Non-compliance with sectoral allocation percentages;
- Poor adherence to public procurement rules;
- Lack of monitoring and evaluation; and
- Questionable expenditures not related to the DSIP mandate.

²⁴ <https://www.parliament.gov.pg/uploads/acts/14A-40.pdf>.

²⁵ *The Use and Abuse of Electoral Development Funds and their Impact on Electoral Politics and Governance in Papua New Guinea* (2007); Katen, J.; Centre for Democratic Institutions; ANU; Canberra - https://www.academia.edu/9138198/The_Use_and_Abuse_of_Electoral_Development_Funds_and_their_Impact_on_Electoral_Politics_and_Governance_in_Papua_New_Guinea.

²⁶ Gazelle DSIP Performance Audit 2007-2016 - <https://pngjportal.org/directory/gazelle-district-service-improvement-program-performance-audit-report-2007-2016>.

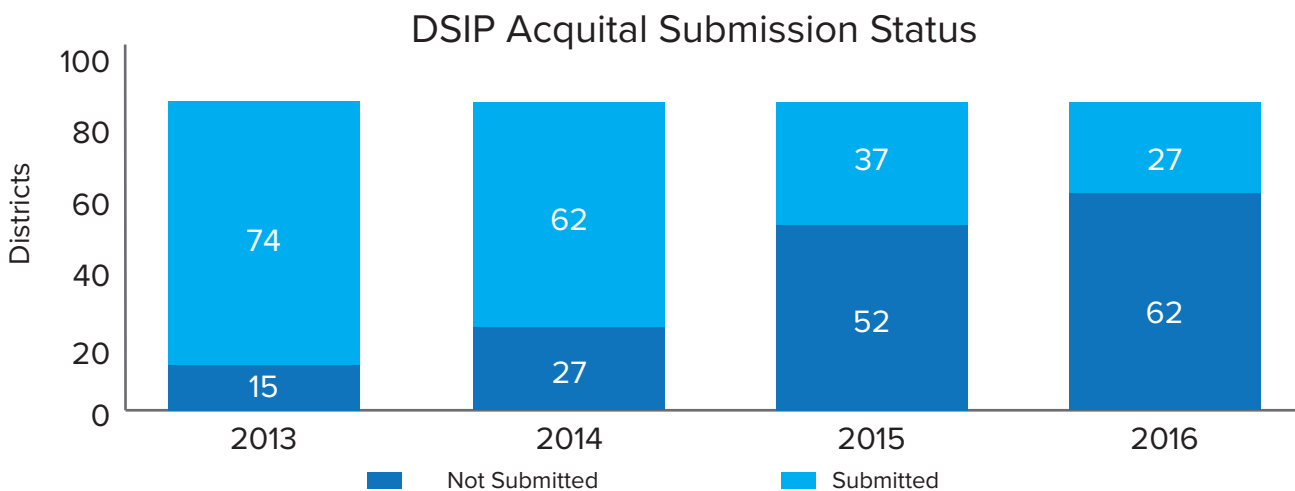


MP Gary Juffa, Governor of Oro Province in Papua New Guinea, addresses the Conference

In 2019, the Auditor-General conducted a performance audit of the entire Service Improvement Program, including DSIPs, from 2013 to 2016.²⁷ The Audit noted a number of challenges with the system:

- Lack of Reporting – Between 2013 and 2016, only 30% of the 111 electorates in Papua New Guinea filed reports for the expenditure of funds;
- Lack of Capacity – There is a lack of staff and capacity to manage records and allocate funding at both the district and central levels;
- Lack of M&E – There are limited capacity and resources which prevents routine monitoring to ensure funds are properly allocated;
- Inconsistent Funding – The amount of funding allocated and delivered, at times, showed a discrepancy;
- Non-compliance with DSIP Guidelines – The DSIP annual allocations are released to constituencies where no reports have been filed for the previous year.

DSIP Reporting by Constituencies (2013-16)²⁸



²⁷ Performance Audit Report on Payments and Acquittals of Service Improvement Programs for Fiscal Years 2013-2016 (2019) Office of the Auditor-General; Port Moresby - <https://ago.gov.pg/wp-content/uploads/2021/07/SIP-Report-2013-2016.pdf>.

²⁸ Ibid, p.26.

Where there are serious concerns with the use of CDF funds, the Ombudsman Commission can initiate a process for investigating such concerns. The Commission initiates an investigation and if evidence is found of concern, the Commission sends the investigation report to the Director of Public Prosecutions (DPP) for consideration. If the DPP determines that there is a *prima facie* case, there are two options. The DPP can seek criminal charges against the MP. Alternatively, the DPP can forward its decision to the Chief Judge of the Papua New Guinea Supreme Court, who, in turn, if they concur, may establish a Leadership Tribunal to conduct a hearing into the allegation. If the Tribunal determines that there is a violation of the Leadership Code, the MP can face a fine of up to K200,000, plus K500 for each future month of non-compliance. The MP can also be subject to a ban from office for up to three years.

Since the independence of Papua New Guinea and the establishment of the Leadership Code, 89 MPs have been referred by the Ombudsman Commission for investigation. Of the 89 MPs referred, 48 referrals were for misapplication of funds .

Lesson Learnt

An effective CDF system requires national and local staff and local volunteers who have the capacity and skills to manage a system which is expending public funds. There is a need to not only deliver funds to local decision-makers, but to monitor how such funds are expended, and ensure the recipients have the skills to effectively implement such funds.

Academics and CSOs have continued to question the value of the DSIP system as it is currently organised. In 2021, two academics from the University of Papua New Guinea produced a paper for Australia National University that delved into DSIPs (and PSIPs) in Papua New Guinea.²⁹ They concluded that there is not a clear legal framework under which such grants are issued³⁰ and encouraged the development of a clear legal basis for the use of such funds. The paper also recommended more monitoring and oversight by the central government in the system's implementation.

Bougainville

Bougainville is in a unique position in the Pacific region. Since the Constitution of Papua New Guinea was amended after the resolution of the conflict in Bougainville, the region has held a level of autonomy that has provided for an autonomous government with jurisdiction over certain areas of public services.³¹ This has resulted in the Bougainville Assembly creating their own form of CDFs for their assembly members. There are two "grants" - the Members' Constituency Development Grant and the Members' Community Support Grants.

As with the Papua New Guinea DSIP system, the Ombudsman Commission of Papua New Guinea has authority to monitor the implementation of the Leadership Code that covers senior officials, including MPs, in their work. Since Bougainville does not have its own Ombudsman, the Ombudsman Commission for all of Papua New Guinea has jurisdiction over the grants issued to Bougainville Assembly members.

²⁹ <https://thepngbulletin.com/news/dsip-funds-are-not-service-delivery-oriented-report/>.

³⁰ The 2019 AG Report noted that such funds were legally constituted in 1995 under Article 95A of the *Organic Law on Provincial and Local-level Government* (<https://www.ombudsman.gov.pg/legislation/organic-law-on-provincial-governments-llgs/>), but since that time the system has been significantly overhauled with no legal framework changes under which such changes were legitimated.

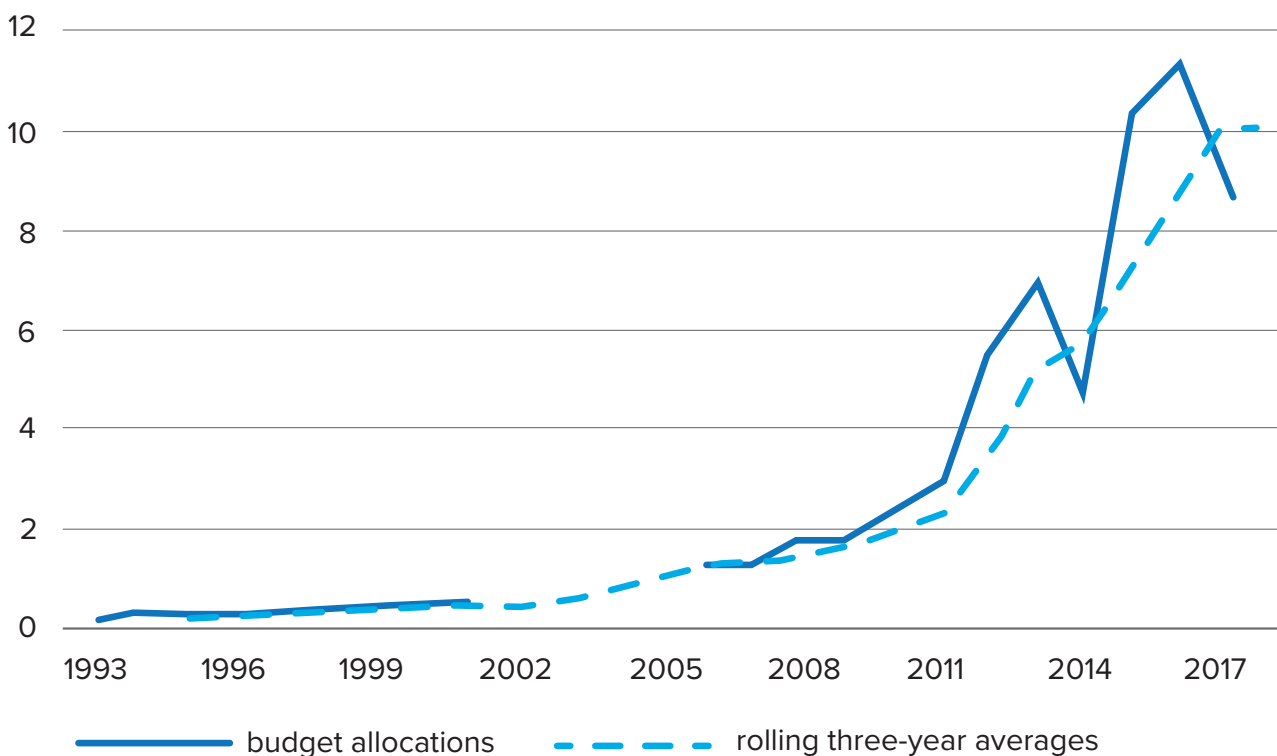
³¹ See Part XIV of the Constitution of Papua New Guinea that defines the autonomy of Bougainville Government - <https://parliament.gov.pg/constitution-of-the-independent-state-of-papua-new-guinea>.

As part of a routine review of the grants system, the Ombudsman Commission directed a freeze on issuing grants to Assembly members in November 2017. The Office stated that there were significant irregularities in the implementation of the grants system.³² In June 2018 the Ombudsman Commission agreed to release the funds to MPs if they were able to comply with grant guidelines, including creating separate bank accounts for the funds, establishing a constituency steering committee to guide the use of the funds, and reporting/acquitting the funds provided for the previous three fiscal years.³³ In 2019 the Ombudsman was informed by the Clerk of the Assembly that compliance had been achieved for all elected officials. However, in 2020, after further review, the Office referred five MPs and the Speaker of the Bougainville Assembly to the public prosecutor for alleged misconduct in office, after the members did not respond to requests for compliance or to clarify any queries.³⁴

Solomon Islands

CDFs in Solomon Islands date back to the early 1990s, when a modest amount of funding was provided to each MP to distribute within each constituency. As the following graph shows, the funds remained relatively small until 2004, when the amount of funding allocated through CDFs ballooned to where it is today – per capita the highest amount of CDF allocated to MPs globally.

CDF budget allocation for individual MPs from 1993 to 2017³⁵



³² The freeze on the funding resulted in a serious altercation between some Assembly members and the Ombudsman’s representative in Bougainville where a group of MPs confronted the staff person in the Ombudsman’s Office in Buka.

³³ See: <https://www.ombudsman.gov.pg/ombudsman-commission-lifts-its-direction-on-the-autonomous-region-of-bougainville-constituency-development/>.

³⁴ <https://postcourier.com.pg/bville-parliament-speaker-mps-referred-by-ombudsman/>.

³⁵ *Research into Constituency Development Funds in Solomon Islands* (2018) Wiltshire, C. & Batley, J.; Australian National University; Canberra - https://dpa.bellschool.anu.edu.au/sites/default/files/publications/attachments/2018-02/ib2018_4_wiltshire_and_batley.pdf.

The CDF budget for the country dwarfs many of the other development programs in terms of funding allocated. By some measures, more than 40% of the national development budget is distributed through CDFs.³⁶ By 2018 each MP was receiving \$8 million SBD (\$1 million USD) in direct CDF funding per year for their constituency.

Despite existing since the 1990s, the first legal framework in Solomon Islands related to CDFs came into effect in 2013 with the adoption of the *Constituency Development Fund Act*.³⁷ The Act provides for a basic structure for the management of CDFs. It:

- Establishes Constituency Development Offices and Officers for each constituency;
- Requires an annual constituency development plan to be produced;
- Establishes a stand-alone CDF bank account;
- Allows for funding applications from individuals, income-generating organisations and community groups, which must be endorsed by the local MP prior to approval and distribution by the Constituency Development Office; and
- Requires monitoring by the Ministry of Rural and Development and auditing by the Auditor-General.

A World Bank analysis of rural development programmes in Solomon Islands from 2014 noted that the Act did not have as robust an administrative framework to manage CDFs as compared to other countries in Africa and South Asia that also managed CDFs.³⁸ The World Bank report also notes that the Constituency Development Officers noted in the Act, though hired by the Ministry of Rural and Development, report to and serve at the pleasure of the local MP. The report also noted that many constituencies had not developed constituency development plans, as per the requirements of the Act.

Lessons Learnt

Legal frameworks under which CDFs are established must include strong oversight and monitoring components to ensure the system can be independently evaluated.

A unique issue with regard to the CDF system in Solomon Islands concerns direct foreign funding of a portion of the CDF funds allocated to MPs, which may unduly influence decision making.³⁹

As with the CDF system in Papua New Guinea, and counter to most CDF systems globally, the amount of funding allocated through MPs into their constituencies is exponentially greater than other countries. And as with Papua New Guinea, the objective of the funds is broader than that of other countries, with core government public goods and services being funded through CDFs, thus requiring a significantly larger amount of funding to be disbursed through each constituency's CDF funds.

In 2022, the Ministry of Rural Development, as the ministry responsible for implementation of CDFs in Solomon Islands, initiated public consultations on the reform of the CDF system in the country.⁴⁰ In

³⁶ *Constituency Development Funds in Solomon Islands: State of Play* (2015) Batley, J., Australian National University; Canberra - https://bellschool.anu.edu.au/sites/default/files/publications/attachments/2016-07/ib2015.67_batley.pdf.

³⁷ <https://solomons.gov.sb/wp-content/uploads/2022/01/Constituency-Development-Act-CDF-2013.pdf>.

³⁸ *Solomon Islands: Towards Better Investment in Rural Communities* (2014) World Bank; Washington, D.C. - <https://documents1.worldbank.org/curated/en/541881468296670369/pdf/937300v20REVIS0aI0Communities000WEB.pdf>.

³⁹ *Ibid*, p.27 (2012 data).

⁴⁰ <https://www.solomontimes.com/news/ministry-of-rural-development-priorities-unveiled/11923>.

June 2002, the Minister noted some expected reforms that were the basis for consultations, including amendments to the CDF Act that would do the following:

- Establish constituency growth centers (CGCs);
- Decentralize government services through the CGCs;
- Establish Constituency Business Companies and Investment Arms;
- Ensure ownership of constituency properties, machines, equipment will remain with constituency companies and the ministry; and
- Formalize local committees.

In September 2022 the Deputy Secretary (Corporate) for the Ministry of Rural Development spoke at one of the public consultations in Central Province and expressed the following key reforms that the Ministry hoped to see in the new legislation (in addition to those points articulated by the Minister in June):

- Narrowing the focus of CDF fund allocation to specific development challenges, such as infrastructure development or social economic improvement;
- Aligning the CDF system with Public Finance Management Act and the Constitution of Solomon Islands; and
- Enhancing accountability and transparency measures.⁴¹

In 2018 the Auditor-General for Solomon Islands produced a special audit report on the implementation of CDFs between 2009 and 2012. The findings were striking in many ways. First, for the 50 constituencies in the country, only six constituencies were able to acquit for all funds provided during the noted period of time. Overall, the total amount provided in CDFs to MPs was SBD \$331,800,000 and only \$227,230,000 in payment vouchers were filed, resulting only 68% of all CDF funding being accounted for.⁴²

The audit also noted some performance challenges, including:

- Failure to account for all funds expended;
- Release of next tranche funding without reports for previous tranche;
- Use of funds outside of the constituency;
- Lack of constituency development plans to guide CDF allocations;
- Failure to monitor CDF implementation;
- Limited knowledge amongst general public about CDF and their allocation;
- Lack of inventory controls on large or costly assets;
- Funding MP personal business interests; and
- Unfinished projects due to
 - Lack of capacity to deliver; and
 - Lack of due diligence in approving projects.

⁴¹ <https://www.solomontimes.com/news/toiraena-robust-framework-needed-to-achieve-better-outcomes-in-constituencies/12169>.

⁴² In 2018 as a result of the review of the CDF system at least one MP was charged with misappropriation of CDF funds for his own benefit, yet he was not convicted as his constituency officers was found to be the cause of misappropriation - <https://www.sibconline.com.sb/forestry-and-research-minister-arrested-and-charged/>.

Lessons Learnt

A system of CDFs must have controls that are rigorously enforced to prevent misuse of funds. This must include a clear red line – no new funds are to be delivered unless and until the constituency or MP has reported and such reports have been audited to ensure all funds are accounted for from the previous tranche.

The Auditor-General produced a series of recommendations on how to improve the CDF system in Solomon Islands. Included in these recommendations was the need to conduct a high-level strategic review of the value of CDFs as a form of rural development. The Auditor-General did not shy away from criticizing the CDF system for its negative impact on the relationship between the Parliament and the Executive and the rationale of equal distribution of public funds between all constituencies (as compared to allocation based on need).

Subsequent to the report being tabled, the Ministry of Rural Development has pursued a review of the CDF system, including broad public engagement in the review process.⁴³ The Ministry has also been more proactive in the monitoring of fund allocation and in requiring reporting on their use and reports prior to further funds being allocated to a constituency.⁴⁴



Public Consultations conducted by the Solomon Islands Ministry of Rural Development held in Central province in September, 2022 (Source: The Solomon Times - <https://www.solomontimes.com/news/consultation-on-constituency-development-policy-successfully-held-in-central-province/12170>)

Enforcement and prosecution of violations of the CDF Act and system require two key commissions to be engaged. It starts with the Office of the Ombudsman conducting an investigation, either as a result of a complaint or through self-initiation. With the recent establishment of the Solomon Islands Commission on Anti-Corruption (SICAC), if the Ombudsman determines there is a prima facie case for investigation, the report is submitted to SICAC for further action. If SICAC determines there is a case for prosecution, it has the direct authority to prosecute. To date, three MPs have been successfully prosecuted for violations of their use of CDF funds.

⁴³ <https://www.solomonislandsinfocus.com/blog/cdf-policy-being-reformed.htm>.

⁴⁴ <https://solomons.gov.sb/mrd-explains-cdf-facilitation-process/>.

Tonga

In Tonga the CDF system was originally established in 2012 under the purview of the Ministry of Finance, but in 2016 the management of the system was transferred to the Parliament of Tonga, where it is currently based. Tonga has 17 constituency MPs and nine nobles who make up the membership of the Parliament. Each constituency MP receives TOP 400,000 (167,000 USD) per year for their constituency, of which TOP 100,000 is dedicated to community policing. The other TOP 300,000 is for small scale projects that would not be otherwise addressed through national government infrastructure and programme spending. Nobles who are elected to Parliament receive TOP 100,000 per year to use for small scale projects.

There is no legislation that defines the parameters of the CDF system in Tonga. There is a set of guidelines that are applied by the Parliament in the management of CDFs and for which MPs are held accountable.⁴⁵ The Auditor-General in Tonga audits all CDF funds each fiscal year.

The CDF guidelines have provided some parameters by which the funds are administered. The process starts with the announcement of a call for proposals and the annual visit of the MP to the constituency, which is broadcast via radio as part of the general broadcast of parliamentary sessions. By all accounts, the radio broadcast of parliamentary sessions is “must hear” programming for many Tongans.



Tongan MP Dr. 'Uhilamoelangi Fasi, Chairman of the Standing Committee Against Corruption, speaks at the Conference on his country's CDF system

Based on the announcement of the opening of a call for proposals, each community-based group (CBO) or CSO will produce a proposal using a standard form. Each proposal must include at least one quote from a supplier or contractor confirming a cost for the proposed project.

⁴⁵ https://pmo.gov.to/wp-content/uploads/2019/11/OLA-Final-CP-2019_20-2021_22.pdf.

All proposals are submitted to the MP and are reviewed by a Constituency Committee that consists of village, town and district officers and is chaired by the MP. The MP is required to work with local officials in the allocation of CDF funds. The committee meetings are open to the public. The MP's constituency office staff are the secretariat to their respective committee.

Once the constituency committee has approved a proposal for funding, the group that submitted the proposal is required to produce a work plan and budget for the implementation of the project. The work plan and budget are then submitted to the Parliament's CDF Unit for review. The Parliament's legal department will also review the plans for legal compliance. If the proposal passes these stages of review the funds are released to a dedicated bank account. Where a CBO does not have a bank account the funds can be released directly to a project supplier or contractor. No funds are released until the previous annual CDF allotment has been fully acquitted.

Anecdotally, there are positive stories regarding the use of CDF funds. After the 2021 election in one constituency there was a change in the representative. The new MP worked with local officials to develop a full-term framework for the allocation of funds. The new MP has also directed his constituency staff to support CBOs and CSOs in the proposal writing process and has held public forums to explain and promote the CDF funds.

Vanuatu

The CDF system is also similar to other systems in the region. MPs receive an annual allotment of funds to expend in their constituency. Though information about the system in Vanuatu is more limited than for other countries, a recent academic paper has provided some insights.⁴⁶ The paper notes the following anonymous statement by an MP with regard to the CDF system:

"I would say constituency funds are one major source of corruption. Because there is no law on how you spend constituency funds. Which is a bit deficit, right? We don't have any law. An MP receives it, there's no one to see how he spends it, and how he records it."⁴⁷

Without a legal framework under which the CDF system operates, there are no formal rules through which MPs can be held to account for the use of such funds and there is no requirement to publish reports on the use of funds for public scrutiny.⁴⁸

B. Africa

In many ways, the evolution of CDFs has been closely tied to their development and use in Africa, especially in Commonwealth countries. For example, the case study from **Kenya** and the evolution of CDFs in that jurisdiction has many lessons learned – both negative and positive - as to how a CDF system can be implemented. Other systems, including in **Zambia, Tanzania, and Uganda** are also noteworthy examples.

In **Zambia**, the Constituency Development Fund is provided for in Article 162 of the Constitution of Zambia (Amendment) Act No. 2 of 2016⁴⁹ and is operationalized by the Constituency Development

⁴⁶ *How instability creates stability: the survival of democracy in Vanuatu* (2021) Veenendaal, W. Third World Quarterly, 42:6, p.1330-1346 - <https://www.tandfonline.com/doi/pdf/10.1080/01436597.2021.1890577>.

⁴⁷ Ibid, p.1338.

⁴⁸ Prior to the 2022 parliament election, some MPs sitting on the opposition benches did publish how they spent the CDF funds.

⁴⁹ <https://www.parliament.gov.zm/node/4834>.

Fund Act No. 11 of 2018.⁵⁰ Established in 1995, the CDF system has since been undermined in implementation by shortfalls in predictive fund allocation and inefficiencies in fund disbursement, potential misuse of funds allocated, and a lack of proper monitoring and evaluation of the impact of sustainability of CDF-sponsored community development initiatives.⁵¹

In the Zambian context, a baseline challenge to more effective CDF implementation is the country's legal framework linked to a constitution that to date has failed to promote equity, tolerance and social accountability in governance. Furthermore, transparency and accountability in governance are undermined due to a legal framework that discourages meaningful participation by the majority of citizens in the governance process.⁵²

Specifically, Zambia's government, while politically stable, continues to struggle with corruption and lack of transparency and public accountability. Too few citizens have access to good quality services like education and healthcare. Marginalized populations are particularly negatively affected, including women, children, youth, people with disabilities, people living with HIV and members of the LGBT and transgender communities. In the CDF context, there is a need to strengthen and enhance both legislation and its implementation at all levels, whilst enhancing the capacity of local organizations (and service providers) to increase oversight in the delivery of services. Over time and pending more effective engagement between citizens and government service providers, CDF implementation is likely to improve.⁵³

To that end, in 2018, the Zambian Auditor General examined the core issues that need to be addressed in the years ahead to promote greater accountability, transparency and public engagement as part of the CDF and broader government-financed development process. These include the elimination of misappropriation of public funds, a focus on ensuring that public funds are properly allocated in accordance with articulated public procurement procedures, and transparency and accountability to the public in instances where funds are either unaccounted for or misappropriated.⁵⁴



CONSTITUENCY DEVELOPMENT FUND GUIDELINES

(PURSUANT TO SECTION 25 OF THE CONSTITUENCY DEVELOPMENT FUND ACT NO. 11 OF 2018)

FEBRUARY, 2022

Lessons Learnt

Having a strong legal framework upon which to base a CDF system is critical to an effective system, but entrenching CDFs in the constitution, as Zambia has done, may limit the flexibility to adapt the system as lessons are learnt.

⁵⁰<https://www.parliament.gov.zm/sites/default/files/documents/acts/The%20Constituency%20Development%20Fund%20Act%20No.%2011%20of%202018.pdf>.

⁵¹ [Constituency Development Fund Issues Brief - Transparency International Zambia \(tizambia.org.zm\)](https://www.transparency.org/en/press-releases/constituency-development-fund-issues-brief) and [The Constituency Development Fund Act, 2018 | National Assembly of Zambia \(parliament.gov.zm\)](https://www.parliament.gov.zm/acts/constitution/constitution-act-1995).

⁵² [Key Steps to build Transparency and Accountability in Zambia \(opengovpartnership.org\)](https://www.opengovpartnership.org/publications/key-steps-to-build-transparency-and-accountability-in-zambia).

⁵³ [Fostering Accountability and Transparency in Zambia: Counterpart](https://www.pmcrczambia.com/publications/fostering-accountability-and-transparency-in-zambia-counterpart).

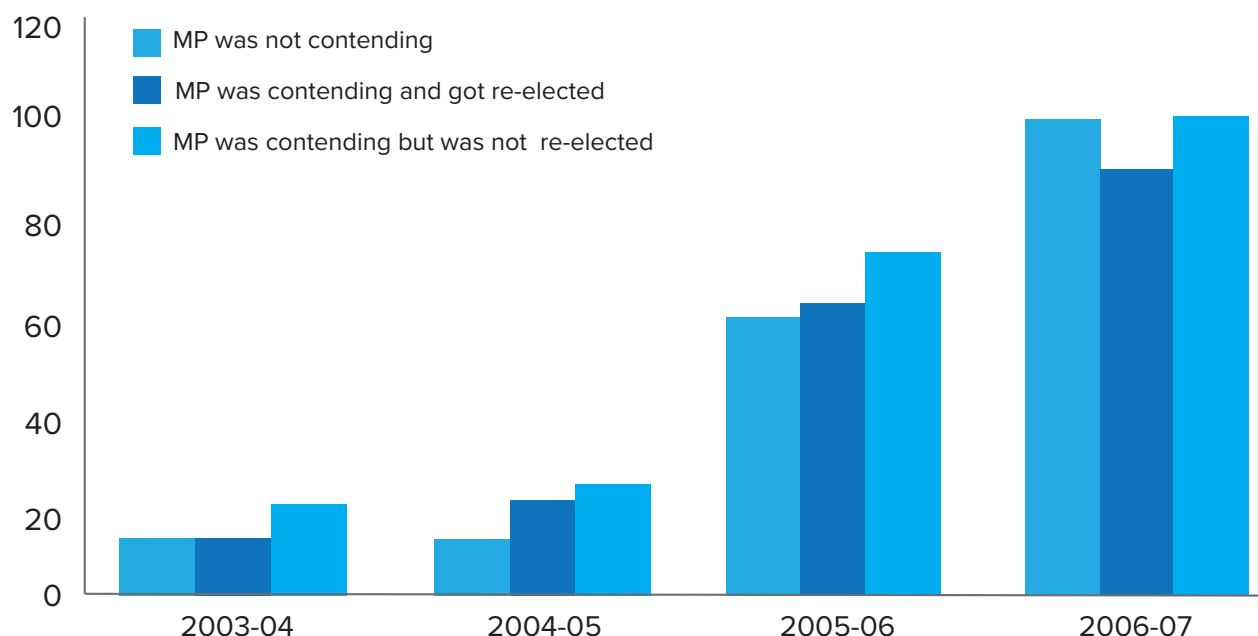
⁵⁴ [Zambia-Public-Accountability-Presentation.pdf \(pmrczambia.com\)](https://www.pmcrczambia.com/publications/zambia-public-accountability-presentation).

In **Tanzania** (and similar to the case of **Uganda**), the initial intent of CDF implementation was to assist MPs in implementing constituency-level development projects whilst reducing the awkward situation whereby MPs would otherwise have to ask their constituents to provide a personal financial contribution to community development projects due to a lack of budget allocation on an MP-specific basis.⁵⁵

In East Africa overall, the CDF has been available in Kenya and Uganda since 2003 and 2005, respectively. In August 2008, Tanzanian President Kikwete fully endorsed the introduction of CDF to Tanzania in his address to Parliament. In Kenya, Opposition MPs sought to introduce the CDF as they were concerned that their constituencies were not receiving development funds and consequently these areas remained chronically under-developed and lacking in adequate infrastructure or social service delivery. To that end, introducing the CDF via legislation would enable both neighboring countries to move toward fair and equitable distribution of government resources whilst promoting the connection and impact of MPs to diverse (and oftentimes geographically remote) constituencies. In Kenya, for example, there are 210 constituencies spread across 583k km² of rugged and remote terrain.⁵⁶

Specific to **Kenya**, the Constituency Development Fund Act of 2003 first established the CDF fund in Kenya. At CDF Act inception, **2.5%** of the nation's total revenue collection was to be channeled directly to the 210 constituencies through their sitting MPs.⁵⁷

A watershed moment for the political system in Kenya was the 2007 general election. It resulted in significant political violence and the adoption of a new constitution in 2010. It also was a wake-up call for MPs. As noted in a research paper⁵⁸ those MPs that allocated CDF funds to the most projects lost their seats.



⁵⁵ [Microsoft Word - Constituency Development Fund - AP3 - Final English.doc \(policyforum-tz.org\)](#).

⁵⁶ [Constituency Development Fund in Tanzania: The Right Solution? | Policy Forum \(policyforum-tz.org\)](#).

⁵⁷ [The Constituency Development Fund. Merits and Demerits to Community Development - GRIN](#).

⁵⁸ Guitierrez-Romero, R., *Decentralization, Accountability and the 2007 MP Elections* (2013), *Journal of Development Studies* 49(1): https://www.researchgate.net/publication/46469568_Decentralisation_Accountability_and_the_2007_MP_Elections_in_Kenya.

With a new constitution, the CDF system was revised with the 2013 adoption of the *Constituency Development Fund Act (2013)*.⁵⁹ The legal framework was again revised just two years later with the introduction of the current CDF system and the National Government Constituencies Development Fund (NGCDF) was established under the NG-CDF Act of 2015⁶⁰ as amended in 2016.⁶¹ The main purpose of the Fund is to address socio-economic development of Kenyan citizens at the constituency level in order to reduce poverty and enhance regional equity. The NG-CDF Act 2015 aligned the operations of the Fund to the new constitutional dispensation (2010), especially in terms of ensuring that the law strongly embraces the principles of participation of the people, separation of powers, and delineation of functions between national and sub-national (county) governments.⁶²

The Fund is managed by the National Government CDF Board at the National level, the NG-CDF committees at the constituency level and the Project Management Committees (PMC) at the community level. The NG-CDF Board is a body corporate falling under the Ministry of Devolution and Planning. Disbursement of funds from the Board to constituencies for the implementation of approved projects is specific to a given project, and in accordance with application procedures as outlined in the NG-CDF Act.⁶³

Since CDF inception in 2003, broad-based assessment across Kenya's 210 constituencies conducted by the CDF Board and the National Anti-Corruption Steering Committee indicate that the CDF has facilitated the implementation of a number of local level development projects aimed at poverty reduction and socio – economic development. The poverty-alleviation aspect of CDF engagement has successfully addressed (to varying degrees) the provision of sectoral development in the areas of education, health care, clean water access, and infrastructure development. The operational structure of the CDF allows local people to make their own expenditure decisions that reflect their tastes and preferences to maximize their welfare on an individual and local community basis.

The original CDF Act recognizes the Project Management Committee as the committee responsible for implementation of a project at the constituency level. The legal provision of the establishment and operation of the Act suggests that the fund is essentially a model for decentralization of development planning and implementation. Given that the Kenyan CDF was created initially to fight poverty at the grassroots level through the implementation of community-based projects, the intended long-term impact is to improve citizens' well-being while freeing individual MPs from the sometimes-conflicting demand of effective representation whilst involved in time and effort consuming fundraising efforts. This *modus operandi* also provides an unfortunate opportunity for graft and corruption when private financing for public development projects is necessary where CDF funds are otherwise lacking.⁶⁴

To that end, some CSOs, such as the Kenyan Community Development Foundation, are actively engaged nationwide in helping to ensure that CDF funds are not only reaching their intended constituency-level development recipients but also that individual MPs and those affiliated with CDF disbursement are providing sustainable, impactful and effective local development that addresses the broadly-based needs of the communities each MP represents.⁶⁵

⁵⁹ <http://extwprlegs1.fao.org/docs/pdf/sol127932.pdf>.

⁶⁰ <https://roggkenya.org/2016/08/03/kenya-national-government-constituencies-development-fund-act-2015/>.

⁶¹ <https://www.coursehero.com/file/142287240/NGCDF-AMENDMENT-ACT-2016pdf/>.

⁶² [About Us - National Government Constituencies Development Fund \(ngcdf.go.ke\)](http://ngcdf.go.ke).

⁶³ Ibid. Application forms are available online for Kenyan applicants to download: [CDF: The Constituency Development Fund in Kenya: Forms and application - Kenyayote](#).

⁶⁴ *Challenges of Strategy Implementation on Performance of Constituency Development Fund Projects in Kenya: A Case of Marakwet West Constituency* (PDF): [\(PDF\) Challenges of Strategy Implementation on Performance of Constituency Development Fund Projects in Kenya: A Case of Marakwet West Constituency \(researchgate.net\)](#).

⁶⁵ The Kenya Community Development Foundation: <https://www.kcdf.or.ke/>.

Lessons Learnt

Civil society engagement in the CDF system can allow for citizen-led monitoring of how the funds are expended. The role of CSOs should be separate from the allocation of funds and the approval of projects.

The Kenya CDF is somewhat unique in that traditional layers of government bureaucracy (and therefore opportunities to skim funds either illegally or via excessive staff hired to administer fund distribution) are mostly eliminated. Funds are transferred directly to each of the 210 constituencies. Also, because the fund benefits these communities directly, it stimulates local involvement in development projects and as a result constituents have more information about the scope, duration and impact of the projects funded under the CDF. The CDF's origin can be traced back to the CDF Bill drafted by opposition MPs in a bid to have equitable distribution of resources across the country. The CDF resulted from the political ascendance of the National Rainbow Coalition⁶⁶ and the subsequent enactment of the CDF Act in 2003 which was later amended in 2007.

In the Kenyan context, the promotion of the core democratic principles of transparency, public participation in governance, and accountability have been further emphasized in the CDF context as part of the revised Constitution of Kenya (2010). This foundational legal document clearly states that these principles are an integral part of national values and essential to national and regional governance. In further accentuating the constitution, all the devolution laws clearly articulate how the three are to be upheld. For instance, the Public Finance Act of 2012 provides for transparency, participation and accountability to be applied in various processes and outputs of the government. Transparency is to be upheld through publishing and provisions for access to information. Participation, through clear provisions on when and how the public should be involved in the budgeting process. Accountability is upheld through the release of quarterly and annual reports to the legislatures, Office of Controller of Budget, Auditor General and to the public. These principles are likewise in force as part of the CDF implementation and monitoring process.⁶⁷

Lessons Learnt

Transparency in the use of CDF funds is closely linked to a culture and broad legal framework that promotes transparency generally in the political system and in the expenditure of public funds.

Specific to public accountability in Kenya's implementation of the CDF nationwide, in the years since the new constitution was adopted after a nationwide referendum in 2010, the concept first emerged as a key element of public finance management within the context of original CDF implementation. It is considered an essential part of daily governance at all levels, and encompasses the concept of checks and balances to avoid potential abuse of power by public officials whilst intended to limit the potential for corruption by public officials (and by extension MPs responsible for implementing the CDF within their local constituencies). In the CDF context, accountability now includes a focus on improving efficiency and reducing waste in carrying out CDF and other public works programmes.⁶⁸

⁶⁶ [Kenya: The Remaking of National Rainbow Coalition of '02? – Afro News.](#)

⁶⁷ [Transparency, participation and accountability in Kenya | by OTT | TPA landscape scan and evaluation | Medium.](#)

⁶⁸ Kenya legal principles, accountability and: [Kenya Law: Integrating accountability mechanisms in local government service delivery - Jo Abuodha.](#)

The Office of the Deputy Prime Minister and Ministry of Local Government (ODPM/MoLG) is responsible for both advisory and oversight of Local Authorities. The responsibilities include ensuring compliance with legislative and regulatory requirements, monitoring the financial management performance, providing technical advice, support and capacity building to Local Authorities as well as leading the local government reform agenda. The oversight function aims to guarantee sensible management of the council's financial resources, improve service delivery to local communities, ensure accountability of appointed officials, and encourage the effective participation and involvement of citizens in decision-making processes related to service delivery and development, and empower them to demand accountability from their elected representatives.⁶⁹

This responsibility is exercised through multiple departments at the ODPM/MoLG head office and through provincial field offices. Aside from the MoLG, additional oversights are implemented by the Public Accounts Committee, the Public Procurement Oversight Authority and the Kenya National Audit Office. In some cases, however, exercising this responsibility has resulted in interventions that have curtailed rather than facilitated effective oversight by the local councils. Numerous administrative functions also require supervisory approval, including council budgets, adjustment of levels of fees and charges, filling of vacant positions in council, and raising finances by borrowing from financial institutions or any other third party.⁷⁰

For its part, the Kenyan CDF forms one of the devolved funds channeled by central government and is generated from tax collected from Value Added Tax (VAT), income tax paid by salaried employees, duty paid on manufactured and imported goods and fees charged on licenses. In recent years, there has been notable controversy on CDF fund management regarding accountability; allocation, targeting and priority setting and by extension the sustainable impact of CDF development initiatives. There have also been concerns on governance and representation, and that the funds had been established in a rush without preparing the grassroots communities to participate in the management and implementation of the Fund actively and effectively at the local level.⁷¹

However, per a Kenyan Supreme Court ruling in August 2022, CDFs have been declared unconstitutional, leaving the distribution of billions of shillings allocated to constituency-level development uncertain. The high court ruled that the CDF Act violated the Constitutional principle on division of revenue.⁷² According to documents from the Ethics and Anti-Corruption Commission (EACC), MPs and governors, together with MCAs, collude to receive a 10 per cent kickback on almost all CDF and county government projects in the areas of transport, education, and health.⁷³ Additionally, the leaders often ensure that the tenders are re-awarded to the same suppliers repeatedly and that those who present biggest profit margins often land the tenders. It was also revealed that the leaders often work together with county employees and those of CDF to ensure that at least 27.9 per cent of the projects are awarded to their friends and relatives.⁷⁴

The court also found that it offends the division of functions between national and county governments, and further ruled that the Act offends the Constitutional principle on separation of powers as well as Constitutional principles on Public Finance.⁷⁵

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ [Constituency Development Fund in Kenya Sample Clauses | Law Insider](#).

⁷² "Division of Revenue" refers to Article 217 of the Constitution of Kenya in which revenue gathered within the country will be distributed to sub-national county governments based on a formula that is reviewed every five years.

⁷³ <https://www.kenyans.co.ke/news/38278-ways-governors-and-mps-collude-steal-cdf>.

⁷⁴ Ibid.

⁷⁵ [The End of CDF: Supreme Court Declares CDF Act Unconstitutional - Business Today Kenya](#) and [Supreme Court Declares CDF Unconstitutional in Landmark Ruling - Kenyans.co.ke](#).

C. South Asia

The Constituency Development Fund in South Asia is known as Member of Parliament Local Area Development Scheme (MPLADS) in India and popularly known as CDF (Constituency Development Fund) in other parliament democracies including Nepal. The money thus channeled to constituencies is spent on the project mostly influenced by the Member of Parliament of that constituency.

Specific to Nepal, it should be noted that the MPs elected through FPTP receive 60 million Nepali Rupees (\$456,000 USD) per year to spend in their constituency. Though many have voiced concerns with the system, including the nature and volume of the funds available to provincial and federal MPs, poor oversight of the funds spent, and a question at the philosophical level as to whether MPs should be provided with such fund at all. The quality of work executed with such funds has been an additional critical concern around CDFs in Nepal and elsewhere.⁷⁶

There is another criticism that despite the introduction of a federal system of government and the approval of a more inclusive constitution, the implementation of these reforms was affected by a pushback from traditional ruling elites; the existence of CDF being one such means. These critics believe that the CDF has ultimately resulted in the degradation of the ostensible inclusiveness of formal political institutions. CDFs have both reflected and reinforced the enduring power of privileged politicians from high-caste groups in Nepali politics, excluding marginalized and disadvantaged groups from access to resources.⁷⁷ It is to be noted that those elected through proportional representation (PR) system includes the vast majority of female MPs and MPs from historically excluded communities, and those MPs elected through PR are not eligible to CDF funds. This different treatment has entrenched the power of male politicians from dominant castes.

In 1994, some three years after the restoration of democracy in Nepal, the then Prime Minister initiated this programme by allocating 250,000 Nepali Rupees (\$1,900 USD) in each constituency. Then, the Maoist led conflict began in 1996 to last until 2006. For a long time even after the peace accord, Nepal could not hold local elections. As a result, Nepal suffered some 20 years of a void in local government beginning in 1997. This void, created due to the absence of elected representatives at the local level, was a great tool for the MPs to lobby for the CDF. Their original claim was that CDF would not be required after the elected representatives come to their seats.

After the Constituent Assembly (CA) election in 2008, the amount of the CDF was increased to \$1 million NPR per CA member. FPTP CA members had to implement the programme in their constituencies, while PR CA members could do it in the district of their choice. The programme, suspended after the dissolution of the first CA in 2012, was resumed after the election of the second CA in 2013 with the name of 'Constituency Infrastructure Development Programme.'

Each constituency was allocated a 10 million NPR budget to be spent on the proposal of FPTP CA members, while PR CA members had a 1.5 million NPR budget. This was the beginning of the differentiated treatment of FPTP and PR representatives. In the following years, the budget was increased to Rs 30 million for FPTP CA members and Rs 5 million to PR CA members. In 2015, Nepal promulgated a federal constitution and in 2017 all three tiers of government (National; Provincial; Local) were elected, but surprisingly the CDF saw a substantive hike and Provincial Assemblies followed the suit by allocating similar funds to their members. On the aggregate, the provincial budget under CDF exceeded by far the funding of the Federal level. Thus, in this journey, CDF continued to be in place with increasingly higher

⁷⁶ [Everything you need to know about the controversial Constituency Development Fund - Nepal Live Today Nepal Live Today, News | EOC Nepal.](#)

⁷⁷ Ibid.

allocation with each new budget and by fiscal year 2019 it grew up to 60 million NRS. Interestingly, MPs elected via the PR system in the federal parliament were not provided with such funds, whatsoever, contrary to what used to be in place during two Constituent Assemblies.

In sum, every year during the preparation of the budget, the fund was central to the political debate, to the extent that MPs threatened to block the approval of the budget if the CDF were removed. In 2020, despite huge pressure, MPs resisted demands for CDF resources to be spent on addressing the COVID-19 health crisis, arguing that they had promised certain development work to their voters and that the CDF should continue 'at any cost.' However, in the new yearly budget presented in May 2021 after a second dissolution of parliament in the same month, the finance minister announced the elimination of the CDF, to use the limited available resources for the COVID-19 crisis. Some Provinces, however, still continued with such funds until the last budget.

Legal Framework and Operational Aspects of CDF

Election Constituency Development Program (Operating Procedures) Rules is the only legal framework in Nepal for the provision of CDFs. The Operating Procedure has been amended several times to accommodate the changes in modality of implementation, the increment of budget, and criteria of project selection, among other issues. Later on, this programme was called Local Infrastructure Development Partnership Programme and was regulated by Local Infrastructure Development Partnership (Operating Procedure) Regulations, 2020.

Generally, the MPs can't spend the money on their individual capacity as such even if it is named as an MP's fund. For execution of this fund, a panel led by a directly elected lawmaker, which includes members of both Houses elected under the proportional representation system, is formed to select development projects. This panel also has the chiefs of the District Coordination Committee and the local levels of the respective electoral constituencies, which, in principle, collectively selects the projects. This said, if the selection of the project is disputed, the finality of the decision rests with the directly elected MP of the constituency. Local Users' Committee and Monitoring Committee are also made to ensure governance and monitoring. The District Coordination Committee is entrusted with an active role in relation to mobilization of the fund and monitoring of the activities relating thereto.

Lessons Learnt

CDFs work best when MPs are constrained in the allocation of funds by a committee that includes local elected officials and local development officers.

The CDF debate in Nepal has many facets to be accounted for. Those standing for and defending the CDF boast that the fund will improve and strengthen the relationship between the MPs and their constituents. They also posit that such a mechanism of funding helps avoid and mitigate the central bureaucratic hassles and is a fast-track solution to urgent developmental needs. They also claim that transparency is not compromised, and CDF does contribute to inspire for a fair and judicious expenditure system with the ownership of the users/beneficiaries. In this regard, CDF, is claimed to be a model and contributory approach towards precluding corruption in other forms of spending at local level because there is a wider avenue of public surveillance over the works.

On the contrary, the critics of the CDF argue that it is a very parochial and biased approach to view the subject as it comes with the vested interest of the MPs and is nothing but a *pork barrel* story. This

appears to be true in the Nepalese context because in 2017 October, just before the general election, the Election Commission of Nepal had to issue an instructional directive barring the outgoing lawmakers from spending funds from the state coffers allotted in the name of the CDF, citing that the nod to spend the money would be a violation of the election code of conduct. An estimated 10 billion NPR was said to be released for MPs' projects. The Commission claimed that the constituency development program was automatically dissolved following the term-end of the MPs. Later, the decision of the Commission was also challenged by some MPs in the Supreme Court.

In a separate case, CDF was challenged again in the court of law, stating that the fund was being spent illegally and was contrary to the Article 83⁷⁸ of the Constitution of Nepal, 1990 and hence ultra vires. In response, the Supreme Court refused to deem it illegal, citing that the CDF was a part of regular budget endorsed by the sovereign parliament and it further said the Election Constituency Development Program (Operation Procedures); a regulatory legal framework for CDF, was not beyond the purview of 'law.' The 'Rule' the Court said was a kind of law as per the Interpretation of Laws Act, 1954.⁷⁹

On the interesting side, perhaps unexpected though, the CDF has changed the public perceptions of the role of their provincial and federal representatives. *De facto*, they see the legislators as development workers. They also seem to evaluate their MPs' ability as to how much influence he/she can exert in national politics to get a greater share of CDF from the state coffer. This has not only motivated MPs to focus on this criterion instead of legislative work, but on the larger picture, diluted the very essential notion of 'legislator.'

India has had constituency development funds since the 1970s, when each elected member of the Bombay Municipal Corporation was allotted 50,000 Indian Rupees (\$613 USD) annually as a discretionary fund to spend on municipal works within his or her ward. In the early 1990s, the Lok Sabha, the lower house of Parliament, created its own programme, with a 5 million Indian Rupees (\$61,250 USD) fund for each MP. Subsequent increases had raised the annual entitlement to `20 million INR by the time MPs took their seats in 2009 in the 15th Lok Sabha, a sum that was enlarged to 50 million INR (\$612,500 USD) in 2011 where it remains until the present. Except for a period during the recent pandemic when the CDF was suspended for two years, the funds have been continued. The funds under MPLADS are non-lapsable both at the end of the Union Government and at the end of the District Authority and are released conditionally in two installments of 25 million INR. Each Provincial MLA is sanctioned their own funds of 20 million INR per annum for their respective constituency by the central government. However, some States, such as Maharashtra, have increased this fund to 50 million INR,⁸⁰ equal to Union MPs. These funds must be used to create durable assets like physical infrastructure for health, education, etc.

On the regulatory framework, CDF Guidelines provide a detailed set of regulations, the key aspects of which can be briefly outlined here:

- Funds must be used to create "durable assets," that is, physical infrastructure for education, health, transportation, sanitation, electrification, and the like. Private, religious or commercial structures are prohibited, as are programme activities such as literacy drives or inoculation initiatives;
- A specified portion of each MP's fund must benefit Scheduled Caste (Dalit) and Scheduled Tribe (Adivasi or indigenous) populations;

⁷⁸ Article 83 of the Constitution of Nepal, 1990 is on 'Act Relating to Financial Procedure': Matters relating to the transfer of moneys appropriated from one head to another and other financial procedures shall be regulated by an Act.

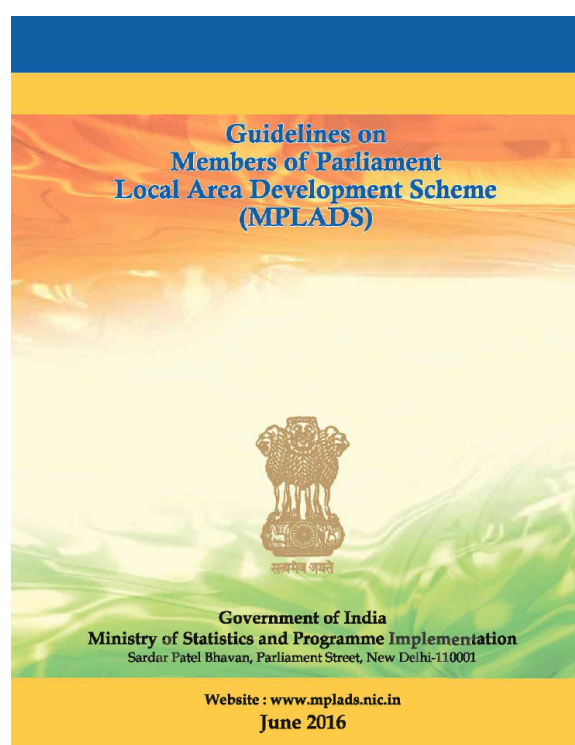
⁷⁹ NKP 2060, Volume 3, Verdict No. & date- 7188 & BS 2060/04/06.

⁸⁰ <https://newsonair.gov.in/Main-News-Details.aspx?id=437330>.

- After an MP recommends a project, a government officer (called a “district authority”) vets it for feasibility and appoints an implementer, which can be a local government body or a “reputed” non-government organisation (NGO);
- Commercial contractors are prohibited from implementing approved projects;
- The district authority must inspect at least 10% of all works under implementation every year;
- MPLADS funds are “non-lapsable,” meaning that unused amounts can carry forward to the following year(s), so that the MP can spend them later on;
- Under the national Right to Information Act of 2005, any citizen has the right to obtain information on any aspect of MPLADS and the work under it; and
- A stone or metal plaque identifying the sponsoring MP is to be “permanently erected” for each completed project.

Since inception, MPLADS has been mired in controversy with many citizens questioning the rationale for such a scheme. Critics have stated that the scheme breeds corruption and violates the principle of separation of powers.⁸¹ MPs say the scheme is important because it enables them to ‘give’ something tangible to their constituents. The scheme has not only survived these protests, but has seen a five-fold increase in the funds allocated. It has also got a stamp of approval from the Supreme Court.⁸²

A book named ‘*Public Money Private Agenda*’ based on the research by Surya Prakash states that the MPLADS includes gross violations of the guidelines of the scheme by many members. Examples of misuse include MPs investing these funds in private trusts and societies created by them; recommending projects that are prohibited; insisting on choosing the implementing agencies and handing over the cheques to them; wanting to control payments to contractors; and constantly resisting transparency and accountability.⁸³



The Comptroller and Auditor General has examined this scheme on three occasions and the government has sponsored independent surveys to assess the scheme. On each of these occasions, the auditors and surveyors have expressed concern over lack of supervision at the district level and gross violation of guidelines by MPs. Surya Prakash lists out many examples of fraudulent works under MPLADS in his book, citing the auditors on misappropriation of funds in some states including West Bengal, Jharkhand, Bihar and Mizoram.

Interestingly, there is no administrative infrastructure to monitor the scheme at the district level.

⁸¹ <https://main.sci.gov.in/judgment/judis/36314.pdf>.

⁸² Ibid, Writ No. (civil) 21 of 1999, The Court ruled that MPLAD Scheme is valid as Appropriation Acts have been duly passed year after year by the Parliament and Indian Constitution, as claimed forth, does not recognize strict separation of powers, hence no violation.

⁸³ <https://www.rediff.com/news/special/how-mps-misuse-thier-mplads-funds/20130729.htm>, *How MPs misuse their MPLADS funds.*

Lessons Learnt

Local monitoring of projects funded by CDF funds is key to ensuring proper public finance management and to make adjustments to project planning.

This aside, there is a general perception that it offers an incentive to MPs to engage in individual political business cycles, or increased spending just before the elections, to improve their chances of re-election. A political business cycle certainly existed in the form of MPLADS annual spending during the term of the 15th Lok Sabha from 2009 to 2014.⁸⁴ On average, MPs elected in 2009 and contesting again in 2014, used substantially less than their MPLADS allotment at the beginning of their term, following a gradually upward trajectory over each of the following years, and finally spending saved-up funds in addition to the annual allotment in the year running up to the 2014 election.

Lessons Learnt

Where the CVDF system requires approval by government officials there is less likelihood of misuse of the funds, as an MP will need to ensure any project proposed for funding approved through an open approval process.

Compared to Nepal and India, **Pakistan** has a slightly different use of CDFs. The CDF comes out of the Public Sector Development Program, a very small portion of the federal budget. Commonly known as Members of Provincial Assembly (MPAs)/ Members of National Assembly (MNAs) Development Programme, the funds are raised by provincial or national governments in Pakistan and MPAs/MNAs are asked to identify development schemes in their constituencies. However, these development funds are not issued to all MNAs or MPAs. There is a process for the allocation of these funds. Most MNAs start their term by coming up with projects aimed at uplifting their constituency. Such projects may include the establishment of a college, university or skill training institute, or infrastructure-related initiatives. They take this project to the Planning Commission by submitting a proposal for a project with details of how and why a project needs to be done and the resources needed. Generally, the MNAs/MPAs have to undergo a long process to get a project approved by the Planning Commission. The process can take anywhere between a year to three years: once it gets the Commission's approval, it is then sent to the Ministry of Finance that must also agree to fund the project. If such approval is granted, the proposal is sent to the Cabinet Division that sends it to the Cabinet for approval and is then sent to the Prime Minister for approval. When the Prime Minister finally signs off on it, only then the money comes out of the PSDP to finance a project for the said constituency. A similar process happens at the provincial level.⁸⁵

On the monitoring side, there are multiple departmental agencies linked to this task and one of those entities are the District Steering Committees which are supposed to be monitoring the utilization of funds. In some cases, a third-party validation mechanism (as in Punjab Development Programme) is also ensured.⁸⁶

⁸⁴ Harry Blair, *Economic & Political Weekly*, August 5, 2017; Vol LIL, no. 31, *CDF in India: Do They Invite a Political Business Cycle?*

⁸⁵ Adnan Rasool, <https://www.dawn.com/news/1419612>, "Busting the Myth that all MPAs and MNAs get Development Funds," Published on 12 July, 2018.

⁸⁶ <https://www.cpd-pakistan.org/publication/view/constituency-development-program-3>.

D. Other Regions

Caribbean

The **Jamaica** CDF is intended to improve the ability of MPs to effectively deploy budgetary resources toward targeted constituency development projects. The CDF is focused on the promotion of human and infrastructure development at the community and constituency levels through the establishment of sustainable development projects. Overall, the CDF is designed to streamline economic development activities at the constituency level whilst fostering local governance capacity, protecting the local ecosystem, improving service delivery, and increasing the interaction and effectiveness of local engagement with elected officials. To date the Fund has been used to rehabilitate houses for indigents, fix roads, undertake agricultural projects, repair basic schools and community centres, provide back-to-school assistance, and assist with sports and healthy lifestyle projects. These programmes, combined with the Jamaica Social Investment Fund (JSIF) and other social initiatives, represent a meaningful effort on the part of the Government to strengthen the social safety net.⁸⁷

The JSIF complements the development goals of the CDF by seeking to improve the lives of the underserved populations throughout Jamaica, thereby taking the country a step closer to achieving the milestones set out in the country's Vision 2030 development plan.⁸⁸ Initially, the JSIF focused primarily on addressing basic community needs. At present, the JSIF encourages community-level micro-enterprise development, including enhanced opportunities for youth employment and small and medium enterprise development.⁸⁹

The Constituency Development Fund Committee in Parliament convenes to approve new CDF-funded projects. Public participation in the process is promoted via social media, and direct online links provide access to an application to secure a portion of the \$20 million USD allocated annually for cultural, economic, sports and social or infrastructure development assistance. In addition, direct access online information helps citizens to understand how CDF funds are allocated across Jamaica's 63 constituencies.⁹⁰

Lessons Learnt

Effective CDF systems will ensure the parliament and the public are engaged in the system on a routine basis, including at the stage of seeking proposed projects and in the monitoring and oversight of the allocation of funds.

Enhanced government transparency and accountability is promoted via the Access to Information Act (2016). The Act grants to the public, a general right of access to official documents (other than documents that are exempt) held by public authorities. Official documents are those in the possession, custody or control of a public authority held in connection with its functions. The Access to Information Unit has been established to spearhead and guide the implementation and administration of the Act. The unit falls under the purview of the Office of the Prime Minister.⁹¹ The Office further enforces public

⁸⁷ [Constituency Development Fund – Office of the Prime Minister](#).

⁸⁸ [National Development Plan in Jamaica \(commonwealthgovernance.org\)](#).

⁸⁹ [Home | Jamaica Social Investment Fund \(JSIF\)](#).

⁹⁰ [Jamaica Accountability Meter Portal on Twitter: "How can citizens/communities understand how to access a portion of the \\$20M allocated yearly to each of the 63 constituencies? Check out our vid and feel free to ask any questions! https://t.co/wLiFDXqhPn" / Twitter](#).

⁹¹ [ATI Act Ensures Transparency and Accountability – Green – Jamaica Information Service \(jis.gov.jm\)](#).

accountability through monitoring of the CDF and other budget-funded public bodies by enforcing the time limit for submission of financial statements by the relevant public bodies to the Auditor General.⁹²

Southeast Asia

In the Philippines, the first CDF was established under President Corazon Aquino in 1989. The Mindanao Development Fund and Visayas Development Fund were launched to cover Mindanao and Visayas, two out of the three geographical divisions of the country. Under these schemes, each MP was provided authority to identify development projects worth 10 million pesos (\$245,000 USD) per district. In 1990, the funds were expanded to the whole country, and renamed the Countrywide Development Fund.⁹³

In 1990, under the new CDF, 2.3 billion pesos (approximately \$56 million USD) in total were allocated to the constituencies of the House of Representatives and the Senate. Between 1993 and 1997, each House member received 12.5 million pesos (US\$306,000) and a senator 18 million pesos (US\$440,000) per year. In 2000, the CDF was transformed into the Priority Development Assistance Fund (PDAF) and since then, the amount of funding has risen over the years.

Of late, however, the PDAF has come under public scrutiny as a revival of the pork barrel politics of the 1930s, with allegations of the PDAF as a multi-billion racket allegedly perpetrated by syndicates in both the public and private sectors. Despite proper use and disbursement by well-meaning public officials and despite its statutory laudable purpose, the misconception that the pork barrel has become a form of “horse trading” and a major source of corruption in the government is apparently starting to become real in the eyes of the Filipino people.⁹⁴

Currently, each House member has been entitled to receive up to 70 million pesos (US\$1.6 million) per year and a senator 200 million pesos (US\$4.5 million) for CDF (PDAF) projects. The total PDAF budget in the fiscal year 2012 was 24.9 billion pesos and its proportion to the total government expenditure was 1.8%.

The official reason for the introduction of the CDF in the Philippines was to address the unequal allocation of government budgets for local development due to pork barrel politics a century ago. Prior to the adoption of the CDF, legislators depended on presidential patronage to secure the release of community development funds for constituency-level development. Through the establishment of the CDF, congressional allocations for development became institutionalised with equal allocations to all the districts, although in practice, the CDF has been used for the election campaigns of some MPs including constituency service and vote-buying. It is reported that on average, about 30% of the total project cost goes into MPs’ pockets.⁹⁵ Moreover, the Philippine CDF is characterised by the president’s power over the release of the funds. Presidential control over CDF funds apparently continued until the Arroyo administration between 2001 and 2010. Therefore, the Philippine CDF is widely perceived as a tool of patronage politics controlled by the state president.⁹⁶

However, and in accordance with subsequent Philippine Supreme Court decision, the doctrine of separation of powers provides for Congress to enact laws including the PDAF while the President (and the offices under him) implements it. Legislators cannot participate in the implementation. However, the President cannot legislate by determining what projects or activities are to be funded from lump sums provided via the PDAF (CDF) or other laws regarding public financial expenditure.⁹⁷

⁹² [Gov’t Strengthening Accountability and Transparency – PM – Jamaica Information Service \(jjs.gov.jm\)](http://jjs.gov.jm).

⁹³ Machiko Tsubura, “The Politics of Constituency Development Funds (CDFs) in Comparative Perspective,” in *APSA 2013 Annual Meeting Paper, American Political Science Association 2013 Annual Meeting*, 2013.

⁹⁴ [Abolish ‘Pork’ Barrel: It’s a virus of corruption that must die - The Summit Express.](#)

⁹⁵ Tsubura, “The Politics of Constituency Development Funds,” in *APSA*, 2013.

⁹⁶ *Ibid.*

⁹⁷ [Are the PDAF ‘realignments’ constitutional? | Inquirer Opinion.](#)

III. Findings & Analysis

A. Findings & Analysis

Having reviewed the CDF systems in a number of countries and regions globally, this paper will now consider how such information can be used to conduct an analysis of CDF systems in the Pacific region to identify a model CDF system that can work in the context of the Pacific.

As can be seen from the scan of CDF systems globally, there has been an evolution in how such systems have advanced over time. The evolution in the Kenyan CDF system is telling, in particular. The system was originally designed and a legal framework developed in the early 2000s. The 2007 election was a seminal moment for CDFs in Kenya, as MPs realized that the benefits of the CDF system were not resulting in electoral success. Many MPs that were re-elected in 2007 decided to create an arms-length relationship between themselves and the funding allocated through a CDF. With the new Constitution being adopted in 2010, the CDF law was revised and updated in 2013, with significant improvements to the standards to be applied to the use of CDFs.

Since 2013, there has been noted progress in rural development as a result of CDF legal and implementation reform. While acknowledging the shortcomings of the system in place, in terms of development, the record is mixed. It is clear that more resources have gone to regions that were typically marginalised in the past — such as Shikokus' old Butere constituency. Research on individual constituencies, particularly in rural areas, has documented a significant increase in the number of public services that are being delivered.⁹⁸

We also see some variations on the approval process amongst different regions. The predominant approval process in South Asia reflects a joint approach to development work, with the local development officer having to endorse a project, in addition to the endorsement of the local MP. While in sub-Saharan Africa the dominant approval process leaves more discretion to the MP and the committee established locally to decide on allocation of funds.

Yet there are common “threads” that can be identified from the various CDF systems from which a set of principles or key aspects of a CDF system can be articulated. Given the prominence of Commonwealth countries in the use of CDFs, it should have come as no surprise that the Commonwealth Parliamentary Association (CPA) started to consider the issue of CDFs as early as 2009. Working in partnership with the State University of New York (Albany) Centre for International Development, the CPA produced (and then updated in 2016) a *Handbook on Constituency Development Funds: Principles and Tools for Parliamentarians*.⁹⁹

⁹⁸ Has the CDF really changed ordinary Kenyans' lives? | Democracy in Africa

⁹⁹ *Handbook on Constituency Development Funds: Principles and Tools for Parliamentarians* (2016) Commonwealth Parliamentary Association; London - <https://agora-parl.org/sites/default/files/agora-documents/Handbook%20on%20Constituency%20Development%20Funds%20%28CDFs%29%20-%20Principles%20and%20Tools%20for%20Parliamentarians.pdf>

The CPA Handbook identifies key aspects of CDF systems that require particular attention in order for such systems to be effective, transparent in their use and accountable for the allocation of funds. The six key areas noted the Handbook are:

- Management & Administration Systems;
- CDF role in national and local development planning;
- The role of public participation in managing and allocating CDFs;
- The need for transparency in the allocation of CDFs;
- Making MPs accountable for the allocation of CDFs; and
- Monitoring and evaluating the administration of CDFs.

Based on the current systems being employed in the Pacific region with regard to CDFs, it can be concluded that the same six components of a CDF system are still relevant to such systems in the Pacific region. However, in addition, given the lack of effective legal frameworks for CDF in the region, at least one additional area of focus can be identified – legal framework for CDFs.

Unpacking each of the seven noted areas of focus for CDF reforms, there will be a clearer picture as to how such systems in the Pacific region can be updated.

Management and Administration Systems: There are two levels of management and administration of CDF systems – national level and constituency level. At the **national level**, best practices dictate that either the parliament administration or, more likely, a designated ministry, will be responsible for distribution and accounting for the CDF system funding. At this level, consideration needs to be given to the capacity of the focal point for CDFs to manage the system. Staff must have skills related to public finance management and monitoring and evaluation. Almost all governments have such skill sets as governments are constantly designing, implementing, and monitoring capital projects. Granted many of these projects are on a much larger scale than the ones allocated funding through CDFs, yet the skills employed are similar.

Secondly, the national CDF focal point requires standard operating procedures to ensure a consistency in how the CDF is managed and to ensure compliance with legal standards. For example, a key standard for CDF systems is that no new funding tranches should be released until the previous tranche is fully accounted for. This is a key touch point where the system can become less effective and open to abuse if funds are being released when MPs and constituencies are not able to account for previous funding provided.

At the **constituency level** it is key to have in place structures to solicit, approve and monitor implementation of projects funded through a CDF. A standard best practice for CDFs is to have an arms-length committee established in each constituency to make decisions with regard to the CDF funds. If there is no legal requirement for committee members to be selected based on non-partisan criteria, it is advisable that an MP employ such an approach to ensure there is the perception and the reality that the funds are not open to abuse.

Such a committee also must have the skills and capacity to manage CDF projects. This requires an open and well-advertised process of soliciting applications. It also may require facilitation of applications for those communities with less capacity to articulate their needs and to apply for funding. It also requires due diligence being applied to ensure there is capacity to deliver on a project to completion, including

Handbook on Constituency Development Funds (CDFs): Principles and Tools for Parliamentarians



Published by the Commonwealth Parliamentary Association
www.cpa.org



reporting requirements for grantees. Such committees also require capacity to manage and record financial transactions and reporting to national authorities on the funds expended.

Another best practice is to have a constituency or district development officer, selected through a non-partisan process, who will manage the day-to-day activities related to the CDF in any given constituency. As can be seen from the CDF systems in South Asia, the independence of the development officer and their required endorsement of any project can provide a level of checks and balances at the constituency level that can eliminate opportunities to abuse the system.

CDFs Role in Development Planning: CDFs work best when grounded in planning and prior identification of development priorities. When CDF are untethered, they are ripe for abuse and corrupt practices. Such funding should be well-aligned with any national or local development plans. Of course, such plans need to be developed and approved and where this is not a common practice, especially local planning should be linked to CDF system implementation. There are three models for linking CDFs to development planning. First, the national government develops a national development plan and allocates CDF funds that are linked to national development priorities, usually through non-discretionary or earmarked funds within a CDF. Second, local development plans are produced that identify local priorities and the CDF funding, which may be highly discretionary, is linked at the local level to the articulated priorities. Third, where there is no direction from national or local authorities as to how and where the funds should be expended, it is a good practice for a local MP to lead a development planning process in their constituency and then use such a plan to determine the allocation of CDF funds.

Public Participation in the CDF System: Reflecting on the original intent and proposed added value of CDFs – that they promote local decision-making related to local development – the role and participation of civil society and the general public is key to their success. Public participation in the CDF system will achieve key goals: (i) citizens will be aware of how and where the CDF funds are being allocated and can raise concerns where projects may not be viable or the best use of funds; and (ii) public engagement in the CDF distribution process will result in greater “ownership” of the projects funded by the system and for new ideas for projects to be developed.

But what does public participation in a CDF system look like? By way of example, we can identify key entry points for public engagement in the process:

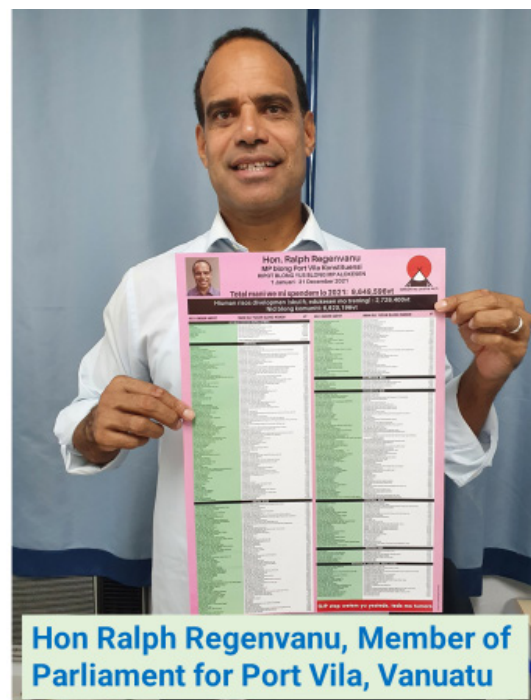
- *Public Awareness Campaigns* – At least annually the MP and/or the local committee should be holding public forums that explain the CDF system and how the public can be involved.
- *Soliciting Proposals* – It is vital that the call for project applications be as broad a process as possible, allowing all citizens and all CSOs and community-based groups to apply for funding for their preferred projects.
- *Open Approval Process* – As deliberations and discussions occur on the project applications, such deliberations should be open to the media and public.
- *Citizen-led Monitoring* – Once projects have been approved, citizens and CSOs can be empowered to monitor project progress and to report to the MP or the local committee where concerns are noted.
- *Committee Membership* – Local committees supporting CDF implementation should include full members from the general public and from civil society. These “laypeople” will provide fresh perspectives and be able to promote the implementation of CDF funding in the public interest.
- *Local Planning* – As noted above, CDFs are most effective when well-aligned with local planning processes. Such local planning processes should be highly participative and inclusive, to ensure voices of all citizens and groups are being heard and considered prior to defining development priorities.

Transparency in the CDF System: In addition to more public participation, a second area of openness with regard to CDFs is to establish systems and practices that promote transparency in how CDF funds are allocated. Many of the legal frameworks for CDFs globally have established requirements for the filing of routine reports on the expenditure of CDFs. However, such reports should be available to the public for review. Even better, such reports should be published online or otherwise on an annual basis for public scrutiny.

But transparency can go further. For example, local annual meetings would be of value if the results of the CDF funding can be shared with the public. Local committee meeting minutes should be posted online in a timely manner. Financial records and project reports should also be made public.

The key is to institutionalise such practices to ensure an open and transparent culture is allowed to flourish and to provide on a routine basis the details of how CDFs have been used by MPs in their constituencies.

Accountability of MPs: MPs need to be accountable for how they spend CDF funding. Accountability can come in many forms, but it starts with a system that is open and transparent, so the public can have the information required to hold an MP to account. Assuming such openness is entrenched in a CDF system, accountability will naturally flow from the open reporting process. The ultimate form of accountability is the loss of an election due to poor management of a CDF, but other forms of accountability are also possible. A parliament with a Code of Conduct or Code of Ethics may have stipulations with regard to corruption or specifically related to CDF funds and an MP can be held to account for violating such a Code. Where a country has a Leadership Code, such as Papua New Guinea, there is the possibility of disciplinary proceedings under that Code. Criminal prosecutions may be warranted where such activity meets the standard as a criminal act.



Vanuatu MP Ralph Regenvanu Ripot produces an annual report on how he uses CDF funds.

Monitoring & Evaluation: As has been noted in the review of various CDF systems, a key area that has not been well articulated or where resources are limited is related to monitoring and evaluation of CDF systems. There are number of levels of monitoring that can and should occur with regard to CDF use:

- *Pre-approval Due Diligence* - Even before a project is approved by a local committee and MP, there should be some due diligence applied to ensure the project is legitimate, to identify any risks related to its implementation and to ensure the applicants have the capacity to deliver the project to its finish.
- *Local Monitoring* – Local committees, development officers and MP should be empowered and have the capacity to routinely inspect the progress of projects approved for funding and to review reports and financial records on a routine basis.
- *National Monitoring* – As constituencies report on their use of CDF funding, the national focal point for the CDF system (e.g. – designated ministry; parliament), there is a need to monitor the use of the funds. This may be the form of spot inspections or sampling of projects and/or constituencies that are flagged for review. As with local committees, the national focal point must also routinely review financial records and reporting by constituencies and MPs to ensure all funds have been accounted for.
- *Citizen-led Monitoring* – Empowering local citizens and civil society groups to monitor projects and constituency-level CDF activity can be an effective means of monitoring. Where MPs or committees cannot attend each project on a routine basis, the inputs and observations of local citizens can be of added value where concerns are raised with regard to the implementation of a project or the use of CDF funds provided.
- *External Monitoring by Oversight Commission* – CDF systems benefit from routine monitoring of such systems by independent, national oversight commissions, such as an Ombudsman or a Leadership Code Commissioner, to provide to ensure all CDF funds are accounted for on, at least, an annual basis.
- *External Monitoring by Parliament Committee* – In some circumstances, as with all government expenditures, a parliament’s Public Accounts Committee (also known as a Budget & Finance Committee) or a committee of parliament with an anti-corruption mandate can monitor the CDF system, including reviewing annual reports from the national focal point.
- *External Audit* – The review of the performance of CDF systems by an Auditor-General every few years will ensure that the system is reviewed by an independent expert in public finance management to reflect upon each system and where it can be improved. It can also be the source of evidence where misuse of funds is identified. But such audits are most useful where they are conducted in a timely manner and results of an audit are reported within one year of the end of the funding period.

Establishing an Effective Legal Framework: The six points noted above were originally articulated by the CPA in its Handbook on CDFs. The final point comes from the review of the current systems in the Pacific. In the region there is a lack of effective legal frameworks through which CDF systems can be implemented. For example, there is no legislation defining the CDF system in Papua New Guinea. In Solomon Islands the CDF Act lacks basic standards and processes to ensure an effective system.

As has been observed in other countries with long traditions of CDF systems, often the first iteration of a CDF system lacks the “guardrails” that are required to ensure the use of such funds at the local level is not misused or misappropriated. It is only after lessons are learnt and scandals have been exposed that the second iteration of legislation provides for the controls and systems to ensure the CDFs are effectively distributed and are achieving the development outcomes expected.

The Pacific region has an opportunity to learn from the lessons of other countries and regions to build a more effective system of local development funding. Such legislation must reflect the standards developed for CDF systems, much of which is articulated above in the key aspects of such a system. An effective legal framework should not only define the “who” and “what” of a CDF system, but also provide for the institutionalisation of checks and balances to prevent corrupt practices and the misuse of CDF funds.

In addition to the CDF system aspects noted above, there are other considerations that are important in ensuring an effective CDF system. First, no CDF system will be effective if there is a lack of **capacity** in those managing the system. As noted in the 2019 Papua New Guinean Auditor-General's report, the lack of capacity at the local and national levels has been a key factor in the poor performance of the CDFs. Systemic capacity building and training programmes are required to ensure designated staff and individuals involved in the CDF system understand the rules under which it operates and are able to deliver the outputs required by their position, such as project monitoring and reporting.

Second, there is a need for systemic promotion and civic education to make citizens aware of the CDF system and how it is meant to benefit them and their communities. A 2020 study by Australian National University on the CDF system in Solomon Islands noted that many citizens did not understand that CDF funds are not meant for partisan purposes or to reward those that vote for an MP, but to benefit all citizens and communities.¹⁰⁰

“Respondents who said they had not received direct CDF benefits were asked why this might be the case. The most frequent explanation given was that the MP only helped their political supporters. These responses revealed that some citizens had internalised such practices to the point of accepting them as legitimate. For example, one respondent told us that they did not vote for the winning candidate and ‘as a result we are not eligible to receive a share from the CDF fund’.”¹⁰¹

This shows a lack of knowledge and understanding as to what the CDFs are and how they are to be used. When such knowledge is shared, there will be less chance for CDF abuse.

Annex Four to this paper provides a model system for the use of CDFs in the Pacific region. The model reflects the points noted above as key systems and approaches that must be in place for an effective CDF system. It reflects the need for an effective legal and policy framework that includes systems to ensure public participation, transparency in the use of CDFs, accountability for MPs in their use, capable staff and volunteers to implement the system, and alignment with local and national development plans.

B. Lessons Learned from CDF Systems

- Having a strong legal framework upon which to base a CDF system is critical to an effective system, but entrenching CDFs in the constitution, as Zambia has done, may limit the flexibility to adapt the system as lessons are learnt.
- Civil society engagement in the CDF system can allow for citizen-led monitoring of how the funds are expended. The role of CSOs should be separate from the allocation of funds and the approval of projects.
- CDFs work best when MPs are constrained in the allocation of funds by a committee that includes local elected officials and local development officers.
- Local monitoring of projects funded by CDF funds is key to ensuring proper public finance management and to make adjustments to project planning.

¹⁰⁰ *Constituency Development Funds and Electoral Politics in Solomon Islands*, DevPolicy Blog, September 7, 2020: ANU Canberra, <https://devpolicy.org/constituency-development-funds-and-electoral-politics-in-solomon-islands-part-one-20200907/>.

¹⁰¹ Ibid.

- Where the CDF system requires approval by government officials there is less likelihood of misuse of the funds, as an MP will need to ensure any project proposed for funding approved through an open approval process.
- An effective CDF system requires national and local staff and local volunteers who have the capacity and skills to manage a system which is expending public funds. There is a need to not only deliver funds to local decision-makers, but to ensure they have the skills to properly implement and expend such funds.
- A system of CDFs must have controls that are rigorously enforced to prevent misuse of funds. This must include a clear red line – no new funds to be delivered unless and until the constituency or MP has reported and such reports have been audited to ensure all funds are accounted for from the previous tranche.

IV. Recommendations

Based on the findings, analysis and lessons learned articulated in the previous section, the following are the recommendations to inform discussions and policy making with regard to CDF systems in the Pacific. In addition, these recommendations were workshopped at the CDF Conference in Wellington in November 2022 and reflect feedback from Pacific Island MPs, Ombudsmen and government officials.

I. Management & Administration Systems

1.1:	At the national level, a government ministry, parliament or other agency charged with implementing a CDF system must ensure that there is sufficient staff with the skills and capacity to implement a system, including the capacity and resources to monitor, evaluate and audit constituency projects and funding.
1.2:	The national focal point for implementing a CDF system should have a mechanism and the resources for auditing and inspecting a sample of projects funded through CDFs.
1.3:	A local development committee should be commissioned to manage and approve CDF funding at the constituency level. Such a committee should have members who are appointed on a non-partisan basis.
1.4:	No funds should be delivered or expended until the constituency is in compliance with the CDF system requirements, including ensuring the funding from the previous tranche has been reported and audited and all funds have been accounted for.
1.5:	Each constituency should have the resources for a development officer who is selected through a non-partisan process and who manages the CDF system in the constituency on a daily basis.
1.6:	Each CDF system should have a plan for ensuring there is capacity and resources at the national and constituency levels to ensure those charged with implementing the system have the skills to implement according to the legal and policy frameworks.
1.7:	A CDF system should be managed to ensure that once the election writ has been issued the CDF funds are not accessible to a sitting MP until the end of the parliament election.
1.8:	Where funding is provided through the CDF system to establish a constituency office or committee, the rules should require that such systems are based in the constituency.
1.9:	An MP should not hold ownership rights over any movable or permanent assets purchased or constructed through CDF funding.
1.10:	Any reforms to the CDF system must ensure that the initial benefits of such a system - flexibility and rapid deployment of funds - should not be diluted or eliminated.
1.11:	Where a constituency has established a business entity to implement CDF funding, such an entity must be registered in accordance with business registration rules and legislation.
1.12:	Where capacity is an issue in compliance with a CDF system, the national focal point for the system should develop a plan for ensuring such capacity is developed and maintained.

1.13:	CDF systems benefit from external monitoring and auditing. Where such reports note challenges with the system, there should be a formal process by which the national focal point for the system is required to respond to all recommendations for reform or conclusions from investigations.
1.14:	Where feasible, an annual conference on CDF systems in the Pacific region should be held to allow for dialogue amongst key actors in various CDF systems in the region and to allow the sharing of information and lessons learnt amongst MPs, Ombudsmen and other key actors.

2. CDFs as Part of Broader Development Priorities

2.1:	As an initial step in local planning, each constituency should produce a constituency profile that provides data and information about the socio-economic and demographic circumstances in the constituency.
2.2:	Each constituency or district should develop a constituency development plan for the entire term of the MP that reflects local needs and is well-aligned with the national development plan. Such plans should be updated annually during the term.
2.3:	CDF funding in each constituency should only be released where a constituency/district development plan is in place.
2.4:	CDF funding should prioritise the allocation of funds for projects identified in the constituency/district development plan.

3. Transparency

3.1:	All committee meetings should be open to the public and media
3.2:	Minutes of local development committees should be published and available to the public online.
3.3:	Details of projects funded through CDFs should be accessible through Access to Information legislation.
3.4:	Reports filed by constituencies related to the expenditure of funds, including any tenders awarded and procurement details, should be tabled in parliament and published by parliament to allow accessibility to civil society and the public.
3.5:	The national focal point for managing the CDF system should maintain a database, accessible to the public, which identifies the beneficiaries of all CDF funding.

4. Inclusive Public Participation

4.1:	The process of soliciting proposals for CDF funding should be well advertised, including on radio & online, to promote a broad approach to seeking potential projects.
4.2:	MPs and local development committees should have specific plans and efforts to engage marginalised communities to encourage their participation in the CDF process and to submit proposals.
4.3:	MPs and local development committees should hold at least one annual public forum to report on the use of CDF funds.
4.4:	MPs and constituency committees and local officials should promote the CDF system at the local level, including civic education to make citizens are of the system.
4.5:	Citizens, community-based groups and CSOs should have access to reports and data related to CDF funding.
4.6:	Constituency/District development plans should be developed in a participatory and inclusive manner.
4.7:	Where relevant due to the size of nature of the project funded by CDF funds, local officials and the MP should be partnering with and consulting government technical ministries to limit redundancy with regard to projects.

5. Accountability

5.1:	MPs or constituency officers or committees must report at least annually on the use of CDF funds and no MP should receive the next tranche of CDF funding until reporting has been completed.
5.2:	Citizen-led monitoring, where citizens monitor publicly-funded projects – should be encouraged and supported.
5.4:	Consider the piloting of citizen-led monitoring systems where support is given to citizens and civil society to provide them with capacity to conduct such audits.
5.3:	The national focal point for the CDF system should produce an annual report within four months of the end of the previous fiscal year outlining the results and challenges from the CDF system implementation.
5.4:	Accountability for the CDF system must include independent monitoring and auditing of the system by an ombudsman, auditor-general or other independent oversight commissions and a clear process through which their investigations can be reviewed for legal action by a prosecutor's office or an anti-corruption commission.
5.5:	Consider a role for the parliament in the accountability structure for CDFs, including a parliamentary committee with a dedicated mandate for monitoring the national focal point (i.e. - Ministry; Office of PM) and review of annual CDF reports for CDF implementation.

6. Monitoring & Evaluation

6.1:	MPs and local development committees should have an M&E plan to ensure projects funded by CDF funds are implemented effectively.
6.2:	The national CDF focal point should have a M&E plan for spot monitoring and evaluating CDF funded projects, including, where appropriate, joint monitoring with other national actors, such as technical ministries.
6.3:	The Auditor-General should conduct a performance audit of the CDF system at least every five years.
6.4:	The Auditor-General should have access to CDF reports and data as soon as practicable, but no longer than four months after the end of the previous fiscal year, to conduct a financial audit of the funds.
6.5:	Independent oversight commissions, such as an ombudsman or auditor-general, shall have adequate resources to conduct oversight of the CDF system in a timely and effective manner.

7. Legal Framework

7.1:	CDF systems should be established based on legislation that defines the key parameters and mandate for the system.
7.2:	CDF enabling legislation should reflect the key elements for an effective system as articulated in the previous recommendations in this paper.
7.3:	A CDF legal framework can be a stand-alone law or be part of a Code of Conduct or Asset Declaration system. The key, however, to any legal framework is having the capacity and will to enforce the rules, including administrative sanctions and criminal prosecutions.
7.4:	A legal framework should ensure that any administrative or criminal penalties for non-compliance with the CDF system are sufficient to deter similar actions in the future.

Annex 1: Research Paper Terms of Reference

Terms of Reference

Title:	Constituency Development Funds Research Paper (International Consultant)
Organisational Section/Unit:	United Nations Office on Drugs and Crime for Southeast Asia and the Pacific (ROSEAP)
Name and title Supervisor:	Marie Peggy Cauchois, Regional Anti-Corruption Advisor
Duty Station or home-based:	Home-based with travel to Wellington, NZ (tentatively 9 to 10 November 2022)
Proposed period:	5 September to 30 November 2022

1. Background of the assignment

Corruption remains a significant obstacle to development globally and throughout Southeast Asia and the Pacific (SEAP) region. The United Nations Convention against Corruption (UNCAC) provides a comprehensive framework to strengthen anti-corruption frameworks in the region. As all SEAP countries, including 14 Pacific Island countries (Papua New Guinea, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu) have ratified this universal and the only globally binding treaty, which includes the mechanism for the review of implementation of UNCAC (UNCAC Implementation Review Mechanism).

UNODC's anti-corruption efforts in the SEAP region focus on supporting countries to meet the requirements of UNCAC by providing technical assistance and facilitating regional exchanges to translate the provisions of the Convention into effective legal frameworks, policies and practices and to build national bodies of highly skilled anti-corruption practitioners that will allow States to be well-equipped to prevent and combat corruption. One tool that Member state have to combat corruption is to have a strong system for the management of public finances that ensures the proper spending of public finances, strengthens confidence in the institutions and ensures high quality of public services.

Article 9 of the UNCAC deals specifically with public procurement and the management of public finances. Paragraph 1 notes that "Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption". Its paragraph 2 highlights the measures required to promote transparency and accountability in the management of public finances. "Such measures shall encompass, inter alia: (a) Procedures for the adoption of the national budget; (b) Timely reporting on revenue and expenditure; (c) A system of accounting and auditing standards and related oversight; (d) Effective and efficient systems of risk management and internal control; and (e) [...] corrective action in the case of failure to comply with the requirements established in this paragraph."

Constituency Development Funds (CDFs) have emerged as a key area of national funding which does not share regionally or globally accepted management, accountability or transparency processes. Particularly within the Pacific region, some parliaments and government have adopted minimum management processes and some have left the management and reporting processes to the discretion of individual members of parliament. The potential for abuse in the operations of CDFs creates a significant challenge for policy makers to devise norms, rules and procedures for the effective operation of these policy tools.

In the Pacific, CDFs are in operation in Papua New Guinea, Solomon Islands, Vanuatu and Tonga. While the intention to be able to devolve local decision-making and financing to the grassroots level is certainly worthy, the absence or curtailing of oversight and transparent reporting on CDFs is cause for concern. It is noted that the Parliament of Tonga and individual MPs in Vanuatu are implementing good practices in CDF reporting but elsewhere CDF reporting remains off-budget or linked directly with foreign aid at the Government's discretion on dispersal.

Some international material has been produced addressing CDFs, but there is a need for a new contemporary briefing paper to be produced that will be relevant for parliamentarians.

In this framework, UNODC is looking at supporting Parliaments in the Pacific (and Southeast Asia) through the Global Organization of Parliamentarians Against Corruption (GOPAC) to strengthen their compliance with art. 9 of the UNCAC. The consultant will look at the transparency and accountability framework in the area of Constituency Development Funds with a focus on current practices of those Pacific parliaments and governments currently supporting CDFs, with comparative research on Southeast Asian parliaments and governments currently supporting CDFs, as well as international best practices and challenges with CDFs.

2. Purpose of the assignment:

The consultant will:

- 1- Conduct desk research on public expenditure processes and borrowing practices in four selected PICs (tentatively Vanuatu, RMI, FSM and Fiji), to scope the relevant stakeholders, the current processes in place and the span of technical assistance provided and needed to ensure that the benefits of UNODC's assistance are maximized and to avoid any conflicting/competing assistance.
- 2- This first phase will inform the project design process phase. The scoping will recommend a prioritization and sequencing of the assistance to be provided so that resource-constricted countries may make the most efficient use of the assistance provided and their own staff – without overburdening or impeding progress.

The Consultant will be required to liaise closely with the UNODC Anti-Corruption Advisers for the Pacific and Southeast Asia, and relevant national counterparts. The assignment is home-based with travel missions, including to Vanuatu, RMI, FSM and Fiji, if possible.

3. Specific outputs to be performed by the consultant:

Under the direct supervision of the UNODC Anti-Corruption Advisers for the Pacific and SEA, the consultant will be responsible for the following key tasks. This could include (but is not limited to):

- Identification of relevant actors, stakeholders and activities in the area of CDF legislation, policies, processes and framework practices currently in place in Papua New Guinea, Solomon Islands, Vanuatu and Tonga, along with parliaments in Southeast Asia.
- Collection of regional and global baseline data and information - The consultant will seek also to identify lessons of past interventions and recommend appropriate measures that will lead to adoption of CDF good practices.

Method:

- The assignment will be undertaken through a combination of desk review of materials and interviews, along with in-person engagement with parliamentarians at a dedicated workshop.

4. Expected tangible and measurable output(s)/deliverable(s):

Under the direct supervision of the UNODC Anti-Corruption Adviser for the Pacific, the consultant will be responsible for the following key tasks:

- Collect and assemble quantitative and qualitative information and data, and relevant policy documents on CDFs;
- Supplement and validate the research and recommendations through individual interviews with members of GOPAC’s Parliamentary Oversight Taskforce and parliamentarians at the workshop, producing a draft report;
- Undertake a training session with parliamentarians and produce a final report on the research that includes recommendations on good practices.

Payment will be made upon satisfactory completion and/or submission of the deliverables outlined above in A-C. Satisfactory completion will be determined by the indicators identified below.

5. Indicators to evaluate the consultant’s performance

All outputs should meet the satisfaction of the Regional Anti-Corruption Advisors or any person delegated by one of them based upon:

- quality of the advice given;
- substantive quality and quantity of contributions provided;
- timely completion of assigned tasks.

6. Qualifications/expertise sought (required educational background, years of relevant work experience, other special skills or knowledge required)

Education:

- An advanced university degree (Master’s degree or equivalent) in political science, economics, finance, public administration, or related field is required. A first level university degree in similar fields in combination with two additional years of qualifying experience may be accepted in lieu of the advanced university degree;

Work Experience:

- Minimum of seven years of relevant professional experience in parliament or public finance management (government public finance policies and processes) is required.
- Two years professional experience in the Pacific region is desirable.
- Two years' experience working with parliaments and/or ministries of finance and planning is required.
- Experience in the provision of practical policy advice is required.
- Previous professional experience with the United Nations or other International Organizations is desirable;
- Understanding of Pacific and SE Asian economies is desirable
- Excellent writing and drafting skills and experience of providing policy advice at the international, regional or national level is required.

Language:

- English and French are the working languages of the United Nations Secretariat. For this position, fluency in English, with excellent drafting and communication skills, is required. Knowledge of another United Nations official language and any government-used language of the Pacific is an advantage

Annex 2: Documents Consulted

Africa

2018 Auditor-General Report on The Public Accounts of Ghana: Public Boards, Corporations and Other Statutory Institutions by Kofi Kafui Sampson (July 2019)

Constituency Development Fund in Tanzania: The Right Solution?

Constituency Development Fund: The Case of Public Procurement Act Adherence in Malawi (Word Document).

Constituency Development Funds: Transparency in grassroots development or political patronage (EFZ and TearFund)

Efficiency and Efficacy of Kenya's Constituency Development Fund: Theory and Evidence by Mwangi S. Kimenyi (April 2005, University of Connecticut)

Republic of Zambia Constituency Development Fund Guidelines from the Ministry of Local Government and Rural Development. February 2022, PDF. Pursuant to Section 25 of the CDF Act No. 11 of 2018

The Constituency Development Fund: An Examination of Legal, Structural, Management and Corruption Issues in Kenya. A Report by the National Anti-Corruption Campaign Steering Committee (PDF, June 2008)

The Role of Constituency Development Fund in Rural Development: Experiences from North Mugirango Constituency, Kenya by Samwel Auya and Peter Oino

Tracking The Ghana District Assemblies Common Fund by Charles Abbey, Vitus A. Azeem, and Cuthbert Baba Kuupiel

Zambia's Constituency Development Fund: Policy considerations by Katherine Casey, et al. IGC Policy Paper, December 2021 (PDF)

Pacific Island States Region

China Targets 2 Diplomatic Allies with Pacific Aid (Associated Press report, 31 October 2022)

Constituency Development Funds in Solomon Islands: State of Play by James Batley (Australian National University brief 2015/67).

Corporate Plan for the Parliament of Tonga from the Office of The Legislative Assembly of Tonga.

Do DSIP funds help PNG MPs win? By Maholopa Laveil and Terence Wood (Australian National University).

Papua New Guinea District Development Authority Act 2014.

Parliament of Solomon Islands: Transcript of proceedings on 29 August 2008.

Performance Audit Report on Payments and Acquittals of Service Improvement Programs (SIP) from the Auditor-General's Office of Papua New Guinea: A Performance Audit on the Effectiveness of Payments and Acquittals of Service Improvement Programs (DSIP, PSIP and LLGSIP) for the Fiscal Years 2013-2016.

PNG's Lost Decade? Understanding The Differences Between Health and Education by Thomas Webster (et al) from the DevPolicy blog (27 September 2013).

Solomon Islands Government Office of The Auditor General Audit Report on Rural Constituency Development Funds (2009 To 2012). National Parliament Paper No. 18 of 2018

Solomon Islands: Towards Better Investment in Rural Communities (World Bank Group report)

State of the Pacific 2018: Managing Constituency Development Funds in Solomon Islands and Papua New Guinea.

Use of the Parliamentary Constituency Fund in Tonga (May 2022).

General Reference/CDFs

Baskin, Mark A. "Constituency Development Funds." Constituency Development Funds. Retrieved May 30, 2023.

Best Practices in Constituency Development Fund (CDF) Prepared by Kimani Francis, Praxides Nekesa, and Bernard Ndungu (Collaborative Centre for Gender and Development).

Constituency Development Funds in India: Do They Invite a Political Business Cycle? By Harry Blair from the Economic & Political Weekly EPW August 5, 2017; vol. III no. 31

Constituency Development Funds: Scoping Paper from the International Budget Partnership (18 January 2010).

Guidelines on Members of Parliament Local Area Development Scheme (MPLADS) published by Government of India Ministry of Statistics and Programme Implementation (June 2016).

Handbook on Constituency Development Funds (CDFs): Principles and Tools for Parliamentarians (Commonwealth Parliamentary Association).

Public Sector Development Programme (Chapter 3 of the 11th 5-year Plan) from the Government of Pakistan.

Revised Constituency Development Fund (CDF) Operational Procedures Reviewed and Approved by the Financial Systems Unit of the Ministry of Finance and the Public Service of Jamaica (27 March 2019).

The Politics of Constituency Development Funds (CDFs) in Comparative Perspective by Machiko Tsubura (Institute of Development Studies at the University of Sussex, UK).

Annex 3: Regional Conference - Summary of Discussions

Agenda for Oceania Regional Workshop		
Day 1	Chair/Presenter	Event/Participants
Session Three 10.30am - 11.15 am	<p><i>Chair: GOPAC representative</i></p> <p><i>Presenter: Marie Pegie Cauchois, Regional Anti-Corruption Adviser, Pacific UNODC representative</i></p> <p><i>Response: Solomon Island Ministry of Rural Development, Permanent Secretary</i></p>	<p>Introduction to Constituency Development Funds within framework of the UN Convention Against Corruption (UNCAC)</p> <p>The presenter highlighted the link between the ratification of the UN Convention Against Corruption (UNCAC) and the international obligations that come with ratification. Now that all Pacific states have ratified the convention they are bound by its requirements. Though UNCAC does not specifically refer to CDFs, key provisions that are related to the expending of public funds include Articles 9 & 10, which impose obligations on public officials, including MPs, to have a transparent procurement process that instills confidence in the expending of public funds and the public reporting on such expenditures.</p> <p>In reply, the PS of the Solomon Islands Ministry of Rural Development – the focal point for managing the system in that country – noted there is now strong political will for reforms to the current CDF system. The CDF Act (2013) is short on details and has no regulations adopted under the Act. The PS has led a review of the system, including public consultations in a number of provinces. This will lead to the drafting of a new CDF Act in 2023 in the hopes of building partnerships and managing rural development through various tools, including CDFs.</p>
Session Four 11.15am – 12noon	<p><i>Chair: GOPAC Australia chair and GOPAC Taskforce on Parliamentary Oversight representative, Margaret Quirk MLA</i></p> <p><i>Presenter: UNODC Constituency Development Funds consultant, Kevin Deveaux</i></p>	<p>Parliament's Role in Financial Oversight and Constituency Development Funds</p> <p>The presenter provided an overview of the content of the discussion paper that was developed for the conference. This included a review of how CDFs are used and managed in sub-Saharan Africa, South Asia, the Caribbean and South-east Asia, through a review of select countries and their systems. The presentation also drew a direct line between the role of parliaments in financial oversight and the need for accountability and monitoring of CDF funds and their expenditure. A key example was from Kenya, where the system has been in place since 2003 and has evolved from a loose system of funding to one that now has clear guardrails and a more limited role for MPs.</p> <p>The Commonwealth Parliamentary Association (CPA) produced a guide for the use of CDFs in 2010, which was updated in 2016. That document defined core principles for the use of CDFs:</p> <ul style="list-style-type: none"> • Administration & Management of CDFs • CDFs as part of a broader development plan • Transparency • Inclusive Public Participation • Accountability • Monitoring & Evaluation

		<p>To which the presenter recommended adding a seventh principle related to an effective legal framework. The CPA document provides core principles, but does not dig deeper into what specific actions and reforms are required to meet these principles for a CDF system. The objective of this conference, according to the presenter, was to develop specific recommendations that can be translated into action by national actors managing and implementing a CDF system.</p>
<p>Session Five 12noon – 1pm</p>	<p><i>Chair: GOPAC Oceania and GOPAC Tonga Chair, Lord Fusitu'a</i></p> <p><i>Presenter: Papua New Guinea parliamentarians (2)</i> <i>Presenter: Tonga parliamentarian</i></p>	<p>How CDFs operate in National Parliaments</p> <p>Three MPs – two from PNG & one from Tonga – provided an overview of how CDFs have been used in each country and the benefits that have accrued from their use.</p> <p>PNG MPs – Both MPs discussed how they personally have utilised the funds for the benefit of their constituents. They lamented that the CDFs in their country (known as District/Provincial Service Improvement Programme (DSIP/PSIP)) has made MPs into project managers. Historically, the funds have not always been guaranteed to all MPs, especially those on the backbenches or in opposition. But CDFs have been an important tool because the public service in PNG lacks capacity. CDF reform must be tied to public service reform, so the latter can assume a greater role in project management.</p> <p>Tonga MP – The Tongan MP provided an overview of a study conducted earlier in 2022 that reviewed the CDF in his country. It was noted that many in the country are unaware of the CDF system or the details of how it functions. Unlike other countries in the region, the Parliament is tasked with managing the system and has established clear guidelines as to how the funds should be managed and accounted for by MPs. The report also noted that the majority of constituencies did not keep records to the extent necessary to allow for a clear monitoring of the use of the funds in each district.</p>
<p>Session Six 2.15pm – 3.15pm</p>	<p><i>Chair: Mrs. Marie Peggy Cauchois, Regional Anti-Corruption Adviser, Pacific UNODC</i></p> <p><i>Presenter: Papua New Guinea Ombudsman</i> <i>Presenter: Solomon Islands Leadership Commission Chair</i> <i>Presenter: Tonga Ombudsman</i></p>	<p>The need for transparency with Constituency Development Funds</p> <p>Presentations were made by the three Ombudsmen who attended the Conference along with the Solomon Islands Leadership Commission Chairperson. They all described their role in the CDF system in their country (in Tonga currently there is no role for the Ombudsman in the system).</p> <p>PNG Chief Ombudsman – Noting the system has evolved since it started as “grease money” in 1987, it was noted that the system was developed to allow “Bottom-up Planning; Top-down Funding”. With the current system District Development Committees are more engaged in the decision-making process for allocation of the funds. The Chief Ombudsman is confident PNG has the legal framework to ensure transparency and accountability in the current CDF system. For example, he was able, just before the 2022 general election, to freeze the use of the CDF funds by MPs seeking re-election.</p> <p>Solomon Islands – The Ombudsman and the Leadership Commission Chairperson noted that there is a legal framework under which the CDF system operates in the country, but there are still many challenges. For example, under the current system the MP retains ownership of moveable assets, which has resulted in defeated MPs departing with such assets. In most cases an MP has established a local committee to support the decision-making on the use of the funds. Each MP must also establish a constituency office to support CDF implementation, but almost all MPs maintain such an office not in their constituency, but in the capital city, making it difficult for citizens to access the office and its services.</p>

<p>Session Seven 3:15pm-4.30pm</p>	<p><i>Chair: Niue parliamentarian</i></p> <p><i>Presenter: UNODC Constituency Development Funds consultant, Kevin Deveaux</i></p>	<p>The session, being the last of day, was shortened. The consultant presented an overview of the draft recommendations and asked participants to review overnight and be prepared to discuss in detail on Day 2 of the Conference.</p>
<p>Day 2</p>		
<p>Session Eight 11.00am – 12.30pm</p>	<p>Chair: GOPAC Oceania representative</p> <p><i>Presenter: UNODC Constituency Development Funds consultant</i></p>	<p>Next Steps for Constituency Development Funds Oversight</p> <p>The UNODC consultant led a facilitated discussion on the draft recommendations. A robust discussion ensued with all participants being engaged in the discussion of each recommendation. Many new recommendations were also suggested and incorporated into the full list of recommendations provided in Section IV of this report.</p>

