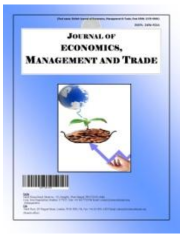

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Devolution in Kenya as a Mechanism of Inclusive Development: Challenges and Prospects

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Author's contribution

The sole author designed, analysed, interpreted and prepared the manuscript.

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ABSTRACT

Kenya's Constitution of 2010 brought about radical changes, creating a decentralized governance system that became operational in 2013. This paper seeks to establish to what extent this system of government has worked out in line with its intended objectives. The author equally tries to establish some of the outcomes, shortcomings and prospects of this decentralization process and suggest the way forward.

The analysis clearly shows that devolution has gained ground and achieved a lot regardless of some of the shortcomings observed. The paper highlights some strategic interventions that need to be implemented to improve the outcome of devolution in Kenya. Overall, the paper establishes that though devolution has become the main political landscape in Kenya, devolved institutions lack institutional protection from the central government. Hence the need for renewed strategic interventions to protect devolution, particularly by parliament, the Senate, and the Council of Governors.

Keywords: Devolution; decentralization; revenue; equitable; marginalized; constitution.

1. INTRODUCTION

Development disparities have been cited as the primary cause of Kenya's perceived regional marginalization. Coupled with issues significantly attached to political greed, particularly the winner takes it all, the concerns contributed to notable conflict for decades after the country's

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independence. Efforts seeking to reduce the development disparities resulted in devolution established through the enactment of the 2010 Kenya Constitution. With the new Constitution in Kenya, there was the decentralization of not only power but also resources to the 47 devolved units referred to as county governments. The new constitution responded to long-standing grievances related to different issues, including over-centralization of state power and public sector resources, regional disparities, and top-down service delivery. The reasoning behind such radical reforms has three cardinal objectives; decentralizing political power; public sector functions and public finances; ensuring a more equitable distribution of resources between regions; and promoting a more accountable and transparent participatory; and responsive two-tier system of government [1].

The devolved system of government in Kenya brought about by Kenya's constitution of 2010, introduced radical changes concerning resource allocation. This article aims to establish to what extent the system of devolution has worked out in line with its intended objectives with regard to the 2010 constitution. The objects of devolution as provided for in Articles 174 and 175 of the constitution are the promotion of democracy and accountability in the exercise of power, fostering national unity by recognizing diversity, enhancing citizens' self-governance and enabling public participation in the decision-making process. The aim of this research article, therefore, is to systematically review the process challenges and prospects of the devolved system of government in Kenya through a systematic review designed with the help of a comprehensive literature review.

2. LITERATURE REVIEW

2.1 History

Devolution undertaking in Kenya can be traced back to 1963 when the country realized political independence though it was not enshrined in the constitution by then. In 2010, the Constitution of Kenya, under Article 6, created a decentralized system of government, where the legislative and the executive were devolved to the 47 political units referred to as counties. The Fourth Schedule of the Constitution assigns functions to each level of government. The National Government has the key roles of policy formulation, legislation, and setting of norms and standards, while the county governments` roles are policy implementation and provision of services. The ambitious devolution reforms indicated that significant political functions, fiscal resources, and administrative responsibilities were to be devolved to the 47 counties [2]. This, in essence, was to empower local communities, bring service delivery closer to the people, and rebalance the relationship between the center and county units, reducing ethnic tension and conflict over development laxities in some areas. This initiative was equally meant to establish a more inclusive political system and share resources more equitably, which was the driving force behind devolution and enhance national unity. Ambose [3] is optimistic that the peaceful co-existence of Kenyans can be easily achieved through devolution. According to Cornell & D'Arcy [4], the explicit goals of devolution reforms are to inculcate a sense of Kenyan identity and strengthen national unity by recognizing diversity, ensuring equity in the distribution of resources and providing justice to marginalized groups and areas. Indeed, county governments are now well established and have become an entrenched feature of the country's political landscape. However, there seem to be uncoordinated policy formulation aspects that need to be resolved.

2.2 The Anticipated Role

Devolution in Kenya, guided by the country's constitution, was intended to redistribute political and administrative powers from the center to the local units. Equally, it's critical to note that the 2010 constitution dismantled a highly centralized state and, more importantly, mitigated the outcomes of a "winner takes it all" political system. The elections held in March 2013 allowed the establishment of a different subnational government made of 47 counties responsible for different public finances and service delivery with each having an elected Governor and county assembly [2]. As such, devolution created avenues of providing citizens in all the respective 47 counties the desired goods and services fairly without discrimination. Besides fiscal decentralization, the institutional reforms captured in the new constitution were intended to address several long-standing grievances stretching from past years mainly related to the centralized distribution of political power and persistent regional imbalances in development [5,6]. Devolution was also meant to provide more opportunities for citizens at the grassroots levels to have their say on how resources are allocated at lower levels through public participation. In addition, devolution targeted to encourage a more active approach to involving ethnic minorities and women in policy processes. Devolution, since its inception, has not only broken up the decentralization of state power but also strengthened national unity, enhanced local democracy, and improved development in a more inclusive way.

Decentralization is often thought to bring governments closer to people and devolution is critical, therefore, increasing the accountability of government officials and discouraging most forms of corruption. The advocates of decentralization argue that devolution often improves service delivery and, more critically, improves the allocation of resources, enhances cost recovery and accountability, and reduces corruption in service delivery. The locative efficiency analysis holds that local governments will likely be better able to match public goods to local wants. One pillar of this argument is the assertion that subnational governments are closer to the people than the central government; hence they have better information regarding the specific preferences of the local population within the county or subcounty [7]. As a result, county governments are expected to be better at responding to the variations in demand for goods and services within respective county units.

Generally, by devolving resources to county units, devolution has the potential to enhance service delivery further in two ways; one, by reducing the gap between citizens and the state, which brings decisions on service delivery to the public to hold officials to account and two, by providing county governments with the flexibility to deploy human and financial resources in ways that respond to local demands for service delivery. Hope [7] adds that public participation in decision-making can also result in a more flexible and effective administration since it tailors its services to the needs of the various groups in the county thus, ensuring a better understanding of specific county needs. Indeed, devolution is key to unlocking Kenya's economic potential through distribution and responsibilities. In addition, devolution sought to promote and secure the interests of minorities and marginalized communities and provide an environment for social and economic development.

The Fourth Schedule of the Kenyan Constitution of 2010 assigns functions to each level of government. The National Government has the key roles of policy formulation, lawmaking, and setting of norms and standards, while the county government's roles are policy implementation and provision of services. The functions of county governments are in Appendix 1.

2.3 Progress: Challenges and Prospects

Currently, the critical challenge in devolution in Kenya is how to strike a balance between providing adequate resources in a timely manner to sustain service delivery and compensating for economic disparities, given the economic diversity of counties and the overarching constraint of limited transfers of revenues collected nationally. Though this process has taken off since 2013, service delivery has received mixed outcomes with some positive and negative results. For example, significant service delivery disparities remain persistent, although health, early childhood development, agriculture, and education are picking up progressively. Nevertheless, the process of transition to the devolved system is a process that will take time, as revealed by UNDP (2015). The report in question identifies policy gaps at the national and county levels. Thus creating the need for a review of the policy framework on devolution in Kenya to ensure the smooth functioning of devolution.

By establishing elected county governors, devolution has constitutionally mandated them the mandate of service delivery responsibilities and provided them with financial resources, hence the potential to reduce disparities and inequalities. This has the potential to accelerate growth and development. Despite the challenges facing devolution, there are different promising aspects realized since its inception. For instance, devolution has created new local governments, which are becoming increasingly critical in delivering the dividends of devolution, particularly in the health sector, infrastructure and agriculture, and education.

A notable achievement in Kenya is putting in place the fiscal framework for sharing national revenues between the national government and county governments. Previously, most resources were concentrated in major urban areas and cities, while the rural areas remained marginalized. But with the 2010 Constitution, there is equitable sharing governed by a set of criteria according to Hope [7], which includes economic disparities and the need to remedy them. According to Kimenyi [8], a weighted formula is used for resource allocation to counties where population determines 45%, 25% is determined by a basic equal share, 20% by poverty rate, 8% by the land area, and 2% by the fiscal responsibility. The duty of sharing public resources, i.e., financial resources in Kenya, rests on the Commission of Revenue Allocation (CRA), whose principal function is to make recommendations concerning the basis for the equitable sharing of revenue raised by the national government; between the National and County Governments as spelled out in Article 216 of the Constitution of Kenya 2010 [9]. Under this constitutional provision, the government, through the national treasury, allocates financial resources annually to counties in Kenya. This formula aims to empower counties by providing an allocation for health, education, and other initiatives. The formulas were generated to facilitate equitable resource sharing and to ensure inclusivity in attaining the development plan. The formulas transitioned from the first to the third generation, with the changes seeking to incorporate socio-economic variables deemed vital in bolstering economic growth and improving human welfare in our country. The CRA formulas were generated and have evolved to facilitate equitable resource sharing and to ensure inclusivity in attaining economic growth and development. The formulas have transitioned from the first to the third generation, which has been applied be the basis of sharing revenue during the years 2019/2020 and 2021/2022 and will apply for 2023/2024.

The population proportion has been a significant factor in all formula generation despite its 60 percent decline in the weight attached to the third formula. The population index has been inferred from the county's population relative to the countries (see Formula 1 below). This definition biases these allocations towards counties with larger populations.

$$\text{Population Index i} = \frac{\text{Population in County i}}{\sum_{i=1}^{47} \text{Population in county i}}$$

Formula 1. Population index

Data Source: Commission for revenue allocation

This definition biases these allocations towards counties with larger populations. Although a large population is necessary for determining the population needs of a county, it is not a sufficient condition for accurately determining the level of county deprivation. Population characteristics are necessary for detailing counties' population needs. However, the inclusion of these characteristics into a principal component analysis will alter allocations towards those areas suffering from human development and socio-economic deficits.

Table 1. Commission for revenue allocation formulas since devolution

Index	1st Generation	2nd Generation	3rd Generation	Deviation from 2nd Generation	Deviation from 3rd Generation
Population	0.45	0.45	0.18	-0.27	-0.27
Equal Share	0.25	0.26	0.19	-0.06	-0.07
Poverty Gap	0.2	0.18	0.14	-0.06	-0.04
Land Area	0.08	0.08	0.08	0	0
Fiscal Responsibility	0.02	0.02		-0.02	-0.02
Development Factor		0.01			-0.01
Health			0.17		
Agriculture			0.1		
Public Administration			0.01		
Urban Services			0.05		
Rural Access			0.08		
AGGREGATE	1	1	1	-0.41	-0.41

Data Source: Commission for revenue allocation

Since the full operationalization of devolution in 2013, counties have been grappling with revenue shortfalls occasioned by delayed disbursement from the national treasury and a drastic decline in revenue collection arising from not only leakages but also insufficient collection systems. Indeed, the delay in the disbursement of funds should be seen as the main challenge hampering the delivery of services within the county governments [10-12]. This definitely calls for timely disbursement of finances and improved revenue collections within counties using a multifaceted approach which should include but not be limited to; curbing revenue leakages through technological innovations, strengthening the country's Financial Management System, and digitizing all county service delivery systems with the view of increasing transparency and accountability [13,14]. This should be followed by a review of county procurement procedures that are cumbersome and corruptible.

Another major challenge with respect to devolved units is the lack of transparency and accountability in using devolved resources. The majority of county governments have been in the spotlight for gross misappropriation of devolved funds. According to Ndlila [15], this is due to inadequate qualified and experienced staff to implement structures in place by the Public Finance Management Act (PFM). This is aggravated further by the lack of proper public participation guidelines allowing officials to take advantage of the gaps and loopholes in the implementation process.

Devolution in Kenya is becoming quite expensive due to the simultaneous process of devolving administrative structures and resources at the county level. Currently, the two-tier system of government has brought about confusion since it has resulted in duplication of duties, a bloated wage bill, and uncontrolled spending within the county governments [16,17]. Due to this, county public administration and service delivery systems are in conflict with the national government due to overlaps. The two-tier system of government needs to be revisited with the view of introducing clearly defined functions alongside well-worked-out coordinated policy interventions with respect to service delivery.

Another notable challenge regarding devolution in Kenya is insufficient public participation and the gender rule question. It should be noted that public participation is a national value enshrined in the country's constitution of 2010. Article 232(d) guarantees the process of policy-making through public participation, but unfortunately, this has not been the case. Apparently, devolution has not eliminated the potential for conflict, particularly among minority groups and women. Indeed, there is a need for the active involvement of minorities and women in the decision-making process; this creates the need for a comprehensive policy and legal framework to guide the local citizens on the conduct of participation. As such, this calls for awareness of citizens' role in engaging in such undertakings. Though the 2010 constitution established the two-third gender rule in Article 81(b), but this is yet to be fully effected.

The lack of political awareness is the other noticeable problem that requires some immediate attention. There seems to be poor party capacity that is supposed to guide the development of democratic practices in local elections and the management of county affairs. Party capacity needs to be strengthened in order to fulfill the redevelopment of democratic practices in local elections and the movement of county affairs. Patronage and rigging of county elections in county governments seem to be a reflection of national politics.

One other challenge the county governments are facing at the moment is misguided investment initiatives. Counties seem not to be having more resources in current expenditure as opposed to development expenditure. According to the budget controller's report, during the financial year 2020/2021, recurrent expenditures were at 77.4% on personnel emoluments, while 22.6% was spared for operations and maintenance. Equally, the report from the Controller of the budget on the FY 2021/2022 shows that counties' expenditure on development dropped to KS 98.5 billion from KS 116 billion in the FY 2020/2021, while spending on wages and salaries rose to KS 190 billion from KS 176 billion at the same time. This trend needs to change with more focus on development expenditure as opposed to wages and salaries, to create critical infrastructure for takeoff. The same report of the budget controller in the financial year 2021/2022 points out that 17 counties dropped their absorption rate of expenditure. It is indeed unfortunate that after a decade of devolution, some counties are regressing in terms of development expenditure but increasing operations and expenditures on wages and salaries.

2.4 Prospects

Nevertheless, despite the identified challenges, devolution in Kenya has created strong, powerful county governments that can act as a counterbalance to the central government. In terms of ethnic politics, this has, in essence, altered the access to resources for traditionally marginalized communities, thus narrowing the gaps and promoting equitable resource distribution by reducing the central government's power and redistributing it to counties. This has fostered national unity by recognizing national diversity. Ambose [3] is optimistic that if devolution is well managed, it could enhance national unity within the country, which is one of the core objectives of devolution. Hope [7] further argues that there is a persistent belief that local democracy is necessary for national unity, especially in countries of great social diversity and regional disparities, like Kenya. .

3. METHODOLOGY

This study developed a simple analytical framework to assess the impact of devolution on service. The framework played out the envisaged inputs and their anticipated outcomes systematic review design was adopted in this design. All descriptive or cross-sectorial and observational studies were of great value in this study. To this end, all descriptive or cross-sectoral and observational studies on the present study problem were included.

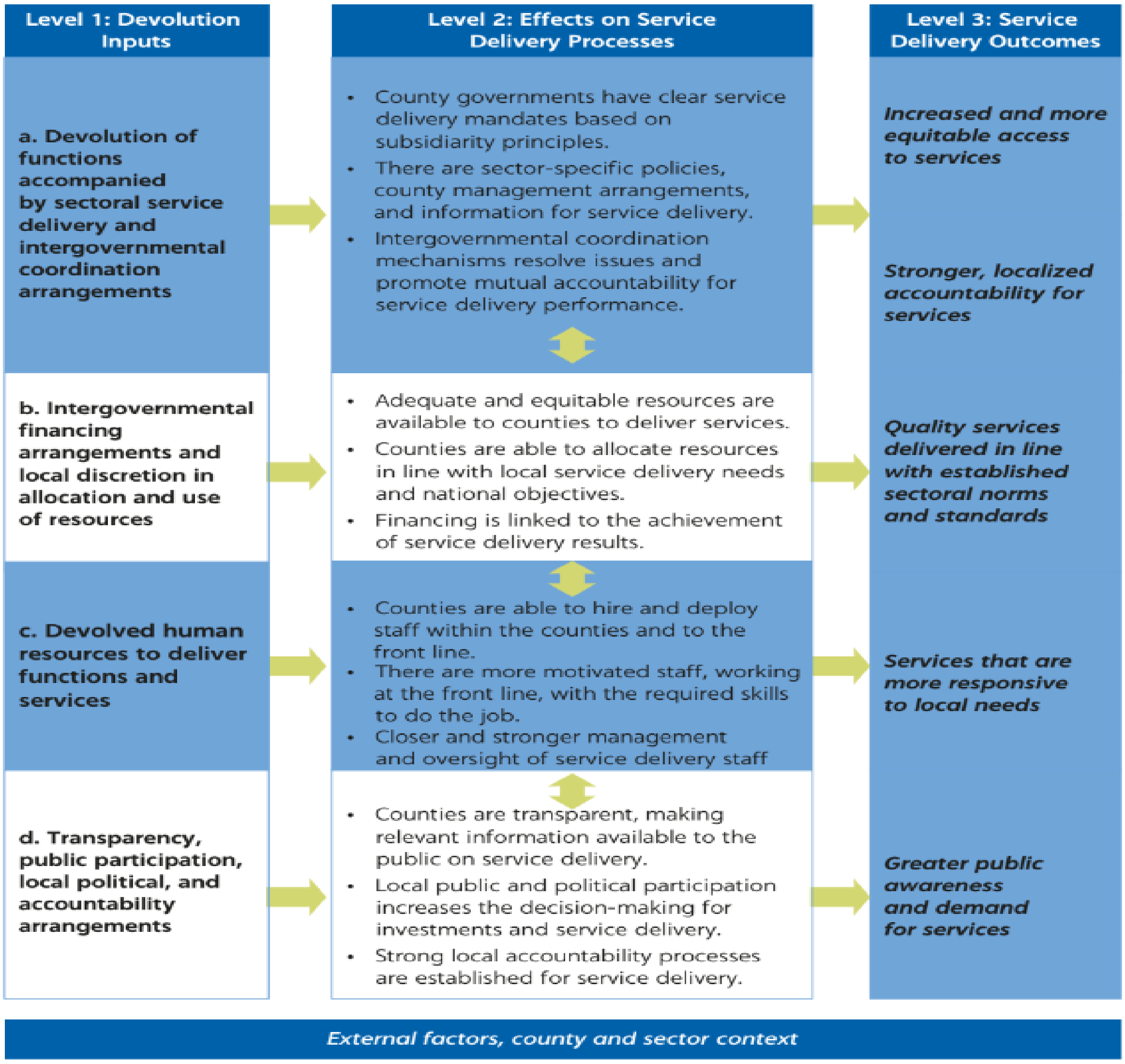

Fig. 1. Anaytical framework for assessment of devolution
Source; World Bank Group

3.1 Data Sources and Search Strategies

The study relied mainly on various data sources; surveys, administrative data, available literature, and personalized interviews. A comprehensive literature review was carried out and independent authorities' eligible studies equally formed part of the source of this study. The study relied equally on different forms of materials which include both primary and secondary data, workshops, seminars on devolution, and other relevant materials by research assistants and opinion shapers in society. The study equally relied on panel secondly data sets from counties and the central government from 2013 to 2020.

3.2 Study Design

The study relied on the simple analytical framework developed by the World band Groups on assessment of the impact of devolution outcomes on service delivery as demonstrated here below. The effects of devolution are analyzed in the context of four cardinal theoretical dimensions which are mutually reinforcing, financing, human resources, transparency, and public participation and accountability arrangements.

3.3 Findings

The study established that service delivery since 2013 has had mixed performance with some positive developments along with continued challenges and disruptions. Counties have generally expanded in service delivery for the devolved services though there are challenges in the quality and efficiency of service delivery. For instance, equitable resource sharing has promoted effectiveness in ensuring all counties are effectively empowered to drive functions and specific projects. Nevertheless, the study noted that devolved limits lack institutional protection at the national level and there is a lack of institutional capacity building in managing devolved limits. As a result, issues like corruption plague financial resources use resulting in sluggish development. It was established that there is a lack of a comprehensive policy approach with regard to ethnic minorities in policy decision-making and in coordinated policy formulation aspects. However, the study established that devolution has not eliminated the conflict potentially more so among minorities within counties. In relation to resource distribution, the research established that devolution has significantly altered resource access at county levels thus enhancing resource accessibility to marginalized areas hence eliminating conflict potential.

4. CONCLUSION

To conclude, devolution has so far brought radical changes with respect to resource allocation, promoted local governments and empowered them in self–rule in determining their destiny through public participation, fostered national unity, and narrowed the gaps in economic disparities, particularly the marginalized areas. However, devolution is without challenges. The major challenges observed here include; disagreements between the national and regional governments in terms of resource sharing and the delayed disbursement of funds from the treasury. The other challenges include duplication of functions between the two-tier system go government, lack of capacity, corruption, lack of full participation of locals in decision-making, and issues of gender inequality amongst many other challenges.

Clearly, devolution is not a panacea, nor is it entirely detrimental. The overall impact of devolution on service delivery depends critically on its design and the prevailing institutional arrangements, political will, and commitments. To this end, the notable development here is that the government has put in place a fiscal framework for sharing national revenues between the national government and the county government through the Commission for Revenue Sharing through the Division of Revenue act which stipulates how the national government should share revenue with county governments. Since counties are hit hard by the cash crunch, counties should diversify their own revenue sources. Therefore, the focus here should be on mining loyalties, private sector partnerships, and the blue economy and widening the tax bracket alongside sealing all leakages. In addition, the study recommends the allocation of resources to counties commensurate with devolved functions and enhances timely disbursement to avoid delays in service delivery. Nevertheless, despite the mentioned challenges, devolution in Kenya has altered the political landscape in Kenya, altered the culture of resource allocation, and more importantly fostered national unity.

COMPETING INTERESTS

Author has declared that no competing interests exist.

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APPENDIX

Appendix 1: County Government Powers and Functions

The county governments have powers and functions in different sectors, including:

1. County Health Services specifically county pharmacies and health facilities, ambulance services, primary health care promotion, veterinary services excluding professional regulation, control and licensing of food sale to citizens, crematoria and funeral parlous, cemeteries, and solid waste disposal, refuse dumps and refuse removal.
2. Agriculture, including country abattoirs, animal and crop husbandry, disease control for plants and animals, livestock sale yards, and fisheries control.
3. Cultural activities, public amenities, and public entertainment include betting, racing, casinos, and other betting forms, liquor licensing, video hiring and shows, cinemas, sports, cultural facilities and activities, libraries, museums, recreational facilities, beaches, and county parks.
4. Noise pollution and air pollution control, and control of outdoor advertising and other public nuisances.
5. Animal welfare and control, including dog licensing, accommodation facilities, and animal care and burial.
6. County transport, including country roads, public transport roads, street lighting, parking and traffic, harbors, and ferries, apart from regulating national and international shipping.
7. Country planning and development, including land mapping and survey, statistics, energy regulation, electricity and gas reticulation, fencing and boundaries, and housing.
8. Trade regulation and development, including trade licenses without professional regulation, local tourism, markets, cooperative societies, and fair-trading practices.
9. Village polytechnics, home craft centers, childcare facilities, and pre-primary education.
10. Pornography and drug control.
11. County public services and works, including water and sanitation services and stormwater management systems in areas that are built up.
12. Disaster management, including firefighting services.
13. Environmental conservation and specific natural resources national government policies implementation including forests, water, and soil conservation.
14. Coordinating and ensuring locations and communities participation in governance at local levels and assisting locations and communities develop the administrative capacity to promote efficient powers and functions exercise and local levels governance participation.

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