KNOWLEDGE
for
WEALTH CREATION
A Kenyan Perspective

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Acronyms and Abbreviations

ADP   -   Annual Development Plan

ADR   -   Alternative Dispute Resolution

ASAL   -   Arid and Semi-Arid Land

ASDS   -   Agricultural Sector Development Strategy

BMUs   -   Beach Management Units

CEC   -   County Executive Committee

CIC   -   Commission for the Implementation of the Constitution

CLMB   -   County Land Management Board

CORD   -   Coalition for Reforms and Democracy

CRA   -   Commission on Revenue Allocation

CRECO   -   Constitution and Reform Education Consortium

CSOs   -   Civil Society Organizations

DFID   -   Department for International Development

EACC   -   Ethics and Anti-Corruption Commission

ECA   -   Economic Commission for Africa

EEZ   -   Exclusive Economic Zone

FAO   -   Food and Agriculture Organization

FGDs   -   Focus Group Discussions

GDP   -   Gross Domestic Product

IBEC   -   Intergovernmental Budget and Economic Council

ICESCR   -   International Covenant on Economic, Social and Cultural Rights

ICT   -   Information and Communications Technology

JICA   -   Japan International Cooperation Agency

JMP   -   Joint Monitoring Programme

KADU   -   Kenya African Democratic Union
KANU   -   Kenya African National Union
KERA   -   Kenya Roads Authority
KNICE   -   Kenya National Integrated Civic Education
KURA   -   Kenya Urban Roads Authority
LUP   -   Land Use Plan
MCAs   -   Member of the County Assembly
MDG   -   Millennium Development Goal
NARS   -   National Agricultural Research System
NGOs   -   Non-Governmental Organizations
NHIF   -   National Hospital Insurance Fund
NSSF   -   National Social Security Fund
NWP   -   National Water Policy
ODM   -   Orange Democratic Movement
OECD   -   Organization for Economic Co-operation and Development
OPCT   -   Old Persons Cash Transfer
PNU   -   Party of National Unity
SAPs   -   Structural Adjustment Programs
SDGs   -   Sustainable Development Goals
SID   -   Society for International Development
UA   -   Urban Agriculture
UNDP   -   United Nations Development Program
UNEP   -   United Nations Environment Program
UNESCO -   United Nations Educational, Scientific and Cultural Organization
USAID   -   United States Agency for International Development
WHO   -   World Health Organization

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Foreword

Among the many challenges facing Africa today is the widening gap between the rich and the poor. This inequality gap is not only confined to the area of resources but also to knowledge. In order to address this gap, the Constitution of Kenya 2010 brought to the fore the values of knowledge and freedom of expression. The Constitution also ushered in a devolved system of governance which acts as the link between the center and the periphery.

It is worth noting that devolution has opened up new avenues of dealing with poverty, inequality, marginalization, exclusion and lack of participation. It has also triggered off the need to research into how knowledge can be used as a catalyst for sustainable development. This book is the outcome of one such research. It is an attempt to demonstrate the linkage between knowledge, wealth creation and sustainable development. It is a multi-disciplinary approach focusing on some of the most innovative ways of bridging the inequality gap and bringing about social justice.

The chapters in this book interrogate issues of human rights, citizen participation, good governance and sustainable livelihoods with the overarching theme of knowledge societies. Each of the eight chapters explores a different topic from different perspectives taking knowledge as the main mover. The book thus approaches knowledge and wealth creation from the human rights perspective. It further touches on water, peace, food and human security, devolution, education, governance, participation and social welfare, thereby demonstrating how sustainable development can be achieved if knowledge becomes the centerpiece.

The book presents us with an opportunity to interrogate the relationship between tradition and modernity. It indicates strongly that knowledge challenges the modern man to redefine wealth creation by taking into consideration the new actors involved, their performance levels and the environment where they are situated. Tradition and modernity also brings together a new way of looking at the youth dividend in wealth creation.

The belief that Universities are citadels of knowledge is, today, being challenged by the many new ways of creating knowledge. It is expected that as universities prepare the youth through impartation of knowledge and skills, they will be seized of the many other citadels and cells of knowledge that exist outside "the ivory tower". The book is a reminder to universities of the need to not only refine their products but also to reach out to communities in order to revitalize their knowledge streams. The approach of taking everybody on board will help to create a new brand of knowledge that will not only generate but equitably distribute wealth. No doubt, the inequality gap can only be filled when populations use knowledge as a tool for sustainable development.

Maurice Makoloo
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Preface

This book illustrates the varied pathways through which knowledge can be used to transform societies by drawing on examples from five counties in Kenya. Despite the challenges the counties face, evidence indicates that knowledge can be utilized as a tool to transform them. A good example can be drawn from Turkana. In 2013, UNESCO spearheaded a research during which scientists discovered underground water aquifers. Through the research findings, Turkana can now enjoy water and develop the livestock sector. Additionally, Tullow Oil Company through research and understanding of geology successfully discovered oil. In order to guarantee quality life for the residents of Turkana, there is need to harness these resources through innovations and new technologies. The wealth needs to be equitably distributed for purposes of peace and security. Chapter four indicates a correlation between peace, security, water and wealth. It is believed that availability of water will go a long way in managing communal conflicts and ensure sustainable livelihoods.

Nairobi County is an interesting urban setting where opportunities and challenges are to be found. The county presents a unique case of duality with poverty and wealth existing side by side. Nairobi, which is the capital of Kenya is a regional and global hub with connectivity and modern technologies. The availability of new technologies makes the county an exciting research area. The county also presents the rural-urban continuum where migration from rural areas to the city has been on the increase. Nairobi is also a place where traditional, technical and hybrid knowledge are to be found. It is a county with diverse industries, businesses, international organizations and educational institutions which produce a wide variety of products and provide employment opportunities. Paradoxically, Nairobi County has the highest unemployment rate in Kenya, especially among the youth.

Kwale County, unlike Turkana and Nairobi, has in the recent past experienced challenges of extremism, radicalization, early childhood marriages and low levels of education. According to the Kenya National Bureau of Statistics (2016), Kwale

County registered high levels of poverty at 47 percent, which is a good indicator of the need for knowledge and wealth creation in order to eradicate poverty. Kwale is, however, strategically situated on the shores of Indian Ocean which brings numerous advantages. For instance, through tourism, hospitality industry, and utilization of the blue economy, Kwale can mobilize resources for its development. The use of new knowledge and technologies can assist in tapping wealth from the ocean and from tourism. It is due to this that Kwale, if well governed by visionary leaders, can experience tremendous socio-economic growth.

The challenges and opportunities that Kwale faces, are brought out in Chapter Three, where the issue of food security is discussed. Kwale, Makueni, Turkana and Homa Bay are part of the Arid Semi-Arid Lands (ASAL) counties. Makueni faces challenges of food security, water and poor road infrastructure. The county government, however, through utilization of knowledge, innovation, technologies, leadership and good governance has been able to transform the county. In the areas of Universal Health Care, Makueni has been able to bring the community together to participate in their well-being. Universal Health Care programmes utilize and draw strength from citizen participation in making the decision on how to support their health care, for instance, paying Kshs 500 per year, per family, in order to access free medical care. The programme has successfully integrated health care with nutrition and food security. Makueni County has been lauded as a model for devolved government. Unlike Turkana, Makueni does not have resources like underground water or other minerals. The two counties however, are a good indication that wealth creation is possible when knowledge is utilized.

Homa Bay County lies on the shores of Lake Victoria. Fishing is one of the major activities in the county. In the drier areas of the county, livestock development has been practiced. Knowledge on aquaculture will benefit the fishing communities immensely while improvement of the local livestock breeds can increase the yield to farmers. One of the authors of the book, specifically in Chapter Three has indicated that genetic engineering can bring about wealth, by creating new animal breeds and enabling farmers in those areas to practice better livestock farming.

The new paradigm shift in the area of community participation has brought new meaning to knowledge exchange and knowledge utilization. Community participation calls for partnerships between the public and private sector, universities and communities in order to create new knowledge webs for wealth creation. For instance, industries in Kenya require varied experts who are produced by universities. If universities partner with industry, they can tailor-make new curricula which is practical and market driven. The output will be a new workforce

for industry to respond to the needs of the market. New partnerships can be created between universities and private companies for purposes of carrying out research on the improvement of products for local and international markets. New knowledge, innovations, products and wealth created through these partnerships can help improve the quality of life of citizens.

I commend the University of Nairobi for initiating the Construction of Knowledge Societies for Wealth Creation *(Elimika)* programme. Through the programme, the University has taken the lead in expanding knowledge boundaries to the broader arena of knowledge. *Elimika* has brought to the fore new knowledge which is critical in advancing Kenya's development agenda, in particular, the Big 4 Agenda. It is transformational, multidisciplinary and a good example of devolution articulating the need for National and County governments to work together, the private and public sectors to partner and most importantly, gives a clear articulation of the role of knowledge in driving Kenya on the path towards sustainable wealth creation, peace, security and good governance.

I strongly believe that it is important to embrace a more multifaceted approach in generating, sharing and utilizing knowledge for wealth creation and for the greater good of all Nations.

Dr Manu Chandaria
OBE CBS EBS

Acknowledgements

over fifty years. We are delighted that he accepted to write the preface for this book and appreciate the years he has spearheaded knowledge creation in Kenya.

The editorial team is immensely grateful for the support that they have received from the secretariat. Hilda Nafula Simiyu has worked throughout the life of the Programme as a researcher, an intern and a Programme Assistant. She revisited data analysis and wrote drafts for some of the chapters. We can only encourage her to continue being a scholar. Faith Mutuku typed part of the manuscript while Njeri Muhoro consistently checked whether the drafts were consistent with the original thrust of the work. It is the hope of the editorial team that the work of the secretariat will go a long way in the creation of knowledge in Kenya and beyond.

Editors

Overview

Judith Mbula Bahemuka and Hilda Nafula Simiyu

1.1 INTRODUCTION

As Africa ushered in the 21st Century, questions were being raised as to what direction the vast continent would take. There were mixed feelings: a sense of optimism expressed by economic and political actors, institutions and scholars. The United Nations crafted the Millennium Development Goals while the World Bank, European Union and the Organization for Economic Co-operation and Development (OECD) countries rallied behind the goals to help achieve African development. Scholarly publications and debates on how to end hunger and poverty (McGrath, 2002; Sachs, 2005) were produced and well received. Sachs (2005), argued that the greatest tragedy in the 21st Century was that one sixth of humanity was not on the development ladder and was caught up in the poverty trap. The challenge was how to help the poor escape the misery of extreme poverty (Sachs, 2005). Debate on the knowledge economy, led by UNESCO and universities received acclaim for spearheading the call on knowledge in searching for sustainable development (UNESCO, 2004; 2005).

African political leaders, on their part, demonstrated a heightened level of optimism. The African rebirth was encapsulated in a vision of an African Renaissance by former President of South Africa, Thabo Mbeki. The vision, an all-embracing concept, draws its inspiration from the rich and diverse cultures and the history of Africa (Mbeki, 1999). The concept of African Renaissance was coined as a proposition on how to harness Africa's potential through eliminating sources of conflict and putting in place mechanisms that would ensure economic prosperity, peace and stability.

African Renaissance gave an impetus and new meaning to African development. Pierre Sane, the founder of Imagine Africa Institute, further unpacked Mbeki's

vision by arguing that "Africa has to construct its own distinct voice and theoretical paradigms to address Africa's social transformations, accompany and empower the bearers of progress and positive change through knowledge and help to open up the policy space through participation" (Sane, 2014: 1). Sane's thesis on "Renewed Africa" is based on new theoretical paradigms, knowledge and participation. Of a necessity, this view challenges African leaders, scholars and practitioners to conceptualize new development strategies and governance structures. It challenges them to accommodate citizens at all levels, open up information and communication channels to allow for socio-economic and political participation. Jacob Zuma further articulated Sane's thesis by calling on Africans to unequivocally express a collective desire to uplift the continent from the chains of underdevelopment, degradation: have a collective determination and responsibility to develop its fullest potential (Zuma, 2015).

> **In the last decade, Kenya made remarkable progress in socio-economic and political spheres. Infrastructure, manufacturing, retail and housing sectors have been experiencing phenomenal expansion**

The place of knowledge in crafting new paradigms cannot be overemphasized. Knowledge should open new frontiers for Africa to benefit from the global development agenda. Mbeki (1998) argues that knowledge can help end poverty, ignorance, disease and backwardness.

African political leaders have made a renewed commitment to sustainable development. In making this commitment, through the African Union (AU), they developed a vision and roadmap in 2013 for Africa's transformation by 2063. The framework, referred to as Agenda 2063, connects Africa of the past, the present and the future. It charts a way forward for the continent through inclusive growth and sustainable development. The Agenda is premised on seven aspirational pillars: a prosperous Africa based on inclusive growth and sustainable development; an integrated continent, politically united, based on the ideals of Pan Africanism and the vision of Africa's Renaissance; an Africa of good governance, democracy, respect for human rights, justice and the rule of law; a peaceful and secure Africa; an Africa with strong cultural identity, common heritage, values and ethics; an Africa where development is people-driven, relying particularly on the potential of women and youth; and an Africa that is a strong, united and influential global player and partner (AU, 2015). The agenda advocates for and encourages countries to develop programs that will enable Africa achieve this Vision.

Despite the efforts made so far, Africa is still struggling to achieve its development goals. The challenges Africa faces include huge debts, inequalities, human rights violations, high levels of poverty, diseases including HIV/AIDS and Ebola, climate change, migration and perennial conflicts. In order to overcome these challenges, the Continent needs to epitomize the African personality with collective consciousness and willingness to serve. Additionally, African countries need to tap into new knowledge, technologies and innovations to enable them turn their economies into streams of wealth. In 2008 the Kenya government launched Vision 2030 to help guide in the implementation and refining the main tenets of the African Union vision. The Vision was launched by former President Mwai Kibaki and is a development blueprint based on three pillars: social, economic and political. The three pillars are connected by the cross cutting emerging issues of environmental change, social and human security, youth and gender concerns. Kenya also has a development agenda, currently embedded in the third Medium Term Framework (MTP), named the Big 4 Agenda which focuses on Universal Health Care, food and human security, housing and industrialization. The Agenda being spearheaded by President Uhuru Kenyatta, is encapsulated in knowledge through the use of innovation, technology and creative arts. Both Vision 2030 and the Big 4 Agenda are in sync with the continental agenda and aspire to improve the quality of life of citizens and ensure that Africa is on the path to sustainable development.

In the last decade, Kenya made remarkable progress in socio-economic and political spheres. Infrastructure, manufacturing, retail and housing sectors have been experiencing phenomenal expansion. Within the education sector, access to universal education at the primary level has been made free and compulsory. The higher education sub sector has experienced remarkable growth with private and public universities being set up. Access to university education has created challenges in quality, governance and graduate employability. These issues are being addressed so as to smoothen the higher education sector. In the health care sector, more facilities have been created and the government has rolled out Universal Health Care, being experimented in four counties. In addition, Kenya enjoys a vibrant telecommunication penetration with widespread coverage of telephony throughout the country. Despite the growth of services, Kenya still faces challenges in the provision of quality services to its citizens.

The country has a progressive Constitution that advocates for a democratic and pluralistic society. The Constitution of Kenya 2010 is a plan that represents the country's shared national identity and citizenship. Chapter Six on leadership and

integrity provides standards for public life while Article 10 lays out the national values and principles of governance which include rule of law, national unity, human dignity, equity, equality, social justice, inclusivity, good governance, integrity, transparency and accountability, and sustainable development. These provisions provide a good point of reference as Kenya struggles to ensure adherence to the Constitution and related legal and regulatory frameworks.

Human rights are critical for human development. Shadrack Gutto points out that in order to reduce marginalization and achieve a collective protection and promotion of human rights, the African human rights system should be anchored in institutions as a principal instrument (Gutto, 2002). Chapter 4 of the Kenya Constitution provides an expansive Bill of Rights that guarantees the protection of human rights for all citizens including minorities and marginalized groups, persons living with disabilities, youth and older persons.

The Constitution recognizes the crucial role that Kenyans should play in governance and development. It created the devolved system of governance aimed at transferring powers, functions, responsibilities and resources closer to the people through giving counties fiscal and political power. It also empowers citizens to participate in matters that affect them and help them to create wealth.

The reforms and opportunities provided by the Constitution 2010, inspired the University of Nairobi to develop a Programme on the linkage between knowledge and wealth creation in 2013. The Programme had an overall objective of empowering communities through building their knowledge blocks on the Constitution of Kenya 2010. The Programme titled "Construction of Knowledge Societies for Wealth Creation *(Elimika)*", unpacks and creates meaning to the concept of Human Rights, Governance, Leadership and Integrity, Devolution and Sustainable Livelihoods with an ultimate goal of enhancing the ability of communities to understand and apply these concepts. The Programme was implemented in the Counties of Kwale, Homa Bay, Turkana, Makueni and Nairobi. Research was undertaken and capacity building trainings held for communities in the Counties.

Despite the Constitutional and legal accomplishments, findings from the *Elimika* programme indicate that Kenya is still bogged down by many challenges such as mismanagement of resources, corruption, insecurity, poverty, violence, terrorism and radicalization, violent extremism, and high unemployment rates. Of particular concern is youth unemployment and non-involvement in Kenya's development. The youth are acknowledged as one of the key resources for Africa's re-awakening. Through their determination and ingenuity, youth can assure the continents' progress towards its rebirth. Youth can be a positive force for development when

they are provided with the knowledge and opportunities they need to succeed. Young people possess a unique capacity to store and to cultivate the seeds for change. Through utilizing their talents and creative potential, youth can convert knowledge into innovations that can help in their personal development, their communities and countries. This participation in development can help them to develop a sense of personal self-worth and competence and learn to be nurturing and responsible.

The research recognized knowledge as one of the main factors that can assist in dealing with the challenges in order to achieve the African renaissance. Through knowledge, solutions Africa problems will be developed in order to help improve the well being of the continent.

1.2 CONCEPT OF KNOWLEDGE SOCIETIES

The University of Nairobi research was premised on the assumption that in order to achieve sustainable development there was need for knowledge creation. One of the main objectives of the research was to gauge the level of knowledge in the communities. A clear understanding of the concept and its applicability to this work is critical and has to be understood in relation to the book chapters.

Knowledge is a key ingredient for the achievement of sustainable development, indeed, the creation of knowledge, its dissemination, application and re-searching of new knowledge is critical for development. Knowledge refers to being aware of or familiar

> **Universities have an important role to play in the change and adaptation of knowledge systems. They are involved with knowledge development through the creation of new meaning, value addition for new applicability and use, and adding it into the existing pool of knowledge**

with different things, ideas, procedures or ways of performing a task. Henriques, (2013: 1) points out that "knowledge consists of three elements: a human belief or mental representation about a state of affair which; accurately corresponds to the actual state of affairs, and; the representation is legitimized by logical and empirical factors". This implies that knowledge is conceived in the mind, developed through experience and deductive reasoning and relates to the surrounding environment one is in.

In its World's Report (2015), UNESCO argued that: "Every society has its own knowledge assets" (UNESCO: 19). These assets are a vibrant mixture of the traditional and modern, sometimes a hybrid of neo-traditional, modern and

untested knowledge. It is this complexity of knowledge as a concept that led the Kenyan scientist Thomas Odhiambo to argue that:

"…We must set out to effect an intimate marriage between the vast body of knowledge that has been developed over millennia in agrarian cultures of the tropics and the modern scientific knowledge that has accumulated through experimentation and testable observation in modern industrial culture. The world is beginning to recognize that the community – innovation system is vibrant in the tropical developing countries" (Binde 2004: 206).

Knowledge, therefore, is trans-boundary, trans-disciplinary and an all-time concept. Every society defines its knowledge systems. There are, however, basic aspects of knowledge. The first is that knowledge is a public good, and a value in life, knowledge has to be shared and not to be controlled. This is important due to the knowledge divide. The aspirations at the heart of the effort to build knowledge societies are underpinned by the conviction that knowledge as the source of empowerment and capacity building may be the decisive instrument to development (UNESCO, 2005).

The centrality of knowledge in development means that each society has to build new ways of acquiring and transferring that knowledge. Communication, information sharing and strategic modes of adoption of new innovation are basic to the creation of knowledge societies. Knowledge societies also require an "empowering social vision that encompasses plurality, inclusion, solidarity and participation" (UNESCO 2005: 27). This calls for all actors in knowledge creation and dissemination to have a shared vision of the type and source of knowledge, how such knowledge will impact on the society, and how to renew and sustain that knowledge.

Construction of Knowledge Societies, however, has to be defined in relation to the role that knowledge plays in the society. This construction is situational, in specified time and space allocated by each society. With globalization, emerging technologies, digitalization of information, major changes have been experienced in the way knowledge is created, disseminated and used. This leads to a dilemma in the sustainability of knowledge as decisions are mainly based on scientific knowledge as opposed to indigenous knowledge. Therefore, institutions, organizations and governments in Africa need to re-examine knowledge processes to ensure this knowledge remains relevant. Knowledge blocks have to take into consideration the socio-political, economic, environmental and cultural imperatives in the community.

Universities have an important role to play in the change and adaptation of knowledge systems. They are involved with knowledge development through

the creation of new meaning, value addition for new applicability and use, and adding it into the existing pool of knowledge. This means that both the new and old knowledge exist alongside each other and continue to be used and reused. Universities also foster critical thinking, problem-solving and collaboration skills among their students. It is vital for the country to take advantage of, including efficiently tapping opportunities in the innovation, technology and digital era.

The knowledge assets provided by universities and communities can be a powerful producer of wealth. Through gaining and applying knowledge one can be enabled to create ideas, act on them, and generate income. Knowledge also brings about confidence to test and implement ideas on wealth creation. The Chapter on Water in Turkana provides us with a good example of how to understand peace and security through examining the knowledge of what water scarcity can mean for livelihoods within a community.

1.3 LINKING KNOWLEDGE AND WEALTH CREATION

Wealth means the value of all physical and intangible assets owned by an individual, community or country. Wealth is a stock of assets that can generate future income and well-being; it is the net present value of future income (Hamilton and Hepburn, 2014). Wealth is expressed in a variety of ways including the net worth in individuals and gross domestic product (GDP). In this context, wealth will include knowledge, natural resources of a country and the human resource. Africa's greatest assets for wealth creation are its people.

Knowledge and wealth are closely intertwined. Through acquiring knowledge, one can make decisions that have potential for advancing their opportunities including moving them from poverty to better lives. According to Organization for Economic Co-operation and Development (OECD), wealth creation, growth of economy and general well-being of the citizens depend on "production, distribution and use of knowledge" (OECD, 1996). This has brought out a new way of wealth creation through application of human knowledge and creativity. This shows the importance of knowledge in the 21st Century. The Programme Construction of Knowledge Societies for Wealth Creation has linked the two concepts through adding value to knowledge and human life.

For societies to remain competitive and productive amidst the dynamics of globalization and the ever-changing technology, investment in knowledge and human capital is vital. It is through knowledge that societies can predict the future and put in place mechanisms that steer the globe to the desired future. Human capital on the other hand is a key ingredient in translating knowledge to sustainable

development. It incorporates the education and stock of knowledge embodied in human beings within a country (Hamilton and Hepburn, 2014). By developing quality human resources, a country acquires a diverse, versatile, autonomous, and highly skilled workforce who are able to innovate, produce, leverage and build knowledge and ideas to create wealth.

Creating wealth from knowledge is a long process. Across the globe, extreme inequalities, poverty and deprivation continue to persist. In Kenya, the gap between the rich and the poor is widening, poverty exists alongside plenty, and negative exploitation of human resources is still being experienced in some areas. Creating wealth from knowledge is also hampered by the emerging trends of extremism. African geographical boundaries are porous in nature and current knowledge structures sometimes are not quick enough to pick on the security threats that are driven by radical terrorism. Communal conflicts and ethnic clashes are some of the emerging challenges for knowledge and wealth creation.

> **The University of Nairobi *Elimika* Programme is a brand that embodies the first experiment of testing the three-way model to knowledge creation.**

Prevailing threats however, will not stop African institutions from pursuing knowledge and wealth. Value systems are critical in linking knowledge and wealth creation. Basic values of democracy, freedom of expression, rule of law, free enterprise, rights of marginalized groups and a new sense of direction in governance and development are critical. This direction should be framed on the basis of production and application of new knowledge, new values and a new meaning. Such a system should support the capacity of people to grow, ensure peaceful coexistence, equitable distribution of resources, commitments to high levels of quality and safety of life and ensure development and power equilibrium are maintained. It will also ensure good governance, social cohesion, honesty, human dignity, poverty alleviation, good work ethic, rule of law, inclusivity and social justice.

1.4 NEW FRONTIERS OF KNOWLEDGE

Globalization, advancements in technology and the advent of digitalization have made knowledge the key driver of competitiveness and are driving the demand for new ideas, new knowledge, new intellectual capital and new innovations. This means that the future of knowledge is unpredictable. This has made traditional knowledge related activities, where knowledge is produced by universities,

processed by the industry/organizations and used by society, outdated. Besides, the commoditization of university education has made universities lose meaning as creators of knowledge. The changing times, therefore demand that universities begin to develop innovative ways of understanding and fulfilling future knowledge needs. They need to reshape their curriculum to be student-centered, integrate learning with technology, research in search of knowledge, and create partnerships for exchange and transfer of new knowledge.

A knowledge industry has a range of actors with a varied knowledge resource. For instance, the Non-Governmental Organizations (NGOs) are critical in the development of citizens and communities. The emergence of NGOs was necessitated by the persistent development shortcomings occasioned by the shift to network, knowledge societies and the spread of Information Communication Technologies (ICTs). The role of NGOs was thus to fill the gap in services and social protection of marginalized and vulnerable citizens (Hayman, King, Kontinen and Narayanaswamy, 2016). The interaction between NGOs and the community implies that they are knowledge hubs with a diverse knowledgebase which is both local and indigenous. They have conceptualized, created, and employed different forms of knowledge and evidence over time, thus developing expertise in varied fields.

In order to harness opportunities of a Knowledge economy, locating and bringing different players together within the chain of knowledge is critical. It will require a proactive collaboration between different stakeholders including governments, the private sector, institutions, scientists, academic experts, investors and NGOs. This pulls together different forms of knowledge to create a formidable knowledge base which the country can leverage on to achieve its development goals.

1.5 UNPACKING THE CONCEPT ELIMIKA

The University of Nairobi Programme titled "Construction of Knowledge Societies for Wealth Creation in Kenya" *(Elimika)* was established to look at knowledge creation through unpacking and implementing the Kenya Constitution 2010. The Research Programme was dubbed "*Elimika*", based on the linkage between knowledge, universities, research and a new Constitutional order. The concept *Elimika* is a Swahili word which is literally translated to mean "to be knowledgeable" or "well informed".

Elimika is derived from the understanding that knowledge is a common public good which is important for human development. It is through *Elimika* that one is able to gain new knowledge, improve their thinking process, and develop their problem solving and analytical skills.

Elimika, in this context, takes on a new meaning. It is all-inclusive, harmonizing the past, the present and the future of knowledge. *Elimika* is a concept, an idea, an intellectual capital and a cultural production. It is the content of Elimu (which means "knowledge" or "education") which makes knowledge part of a culture, a national asset, the aspiration of the people and the expectations of the Kenyan people in order to achieve their dream. *Elimika* is a unique expression and an embodiment of the "African Renaissance" since it is an authentic way of imagining a new Knowledge Society that is informed by the need to share wealth, recreate new wealth and practice the values that are embedded in humanism (Ubuntu). *Elimika* is knowledge which is found in the universities, rural farms, informal settlements, hamlets and villages in Kenya.

The University of Nairobi *Elimika* Programme is a brand that embodies the first experiment of testing the three-way model to knowledge creation. As one of the participants from Homa Bay County argued at a research meeting "You teach me, I teach you and together we create knowledge" (Homa Bay respondent, 2016). The Programme encapsulates a hybrid of knowledge, where traditional knowledge is obtained from the untested frontiers of the rural communities through research, interrogated and analyzed by scholars and scientists to create scientific knowledge. This knowledge is disseminated through training, capacity building and skills giving to communities for utilization and evaluation. The end product is the implementation of new knowledge. Communities then give feedback to universities which, ultimately, leads to re-searching and creating new knowledge. In order to ensure holistic production of knowledge, this Programme has worked with various state and non-state actors including the National and County governments, Universities, Non-Governmental Organizations, and youth organizations.

1.6 THE BOOK

This book is the outcome of the work done under the Programme "*Construction of Knowledge Societies for Wealth Creation: Implementation of Constitution of Kenya 2010*". The research sought to establish the level of knowledge and understanding of the community in different areas of the Constitution. In particular, it focused on human rights, leadership and governance, and devolution. It also sought to identify knowledge gaps and intervention areas for the strengthening of the community understanding of and demand for good governance, transparency and accountable leadership and respect for human rights. The research was undertaken in different geographical areas covering Kwale in the coastal region, Makueni in Eastern Kenya, Homa Bay which borders Lake Victoria, Turkana which borders Uganda and Ethiopia and then Nairobi.

The argument underpinning the research was that researchers should use knowledge to unpack the new Constitution for communities, provide skills, and build capacities in order to create wealth at the level of human capital, livelihoods, food and human security, good governance including the devolved system of governance, social inclusion, participation, social welfare and partnership building. The book takes into consideration two aspects of knowledge: transformation of societies, and the need to create a conducive environment for the societies through utilization of the impetus and opportunities which the new Constitution 2010 provides. It represents a large segment of scientific knowledge. Most of the information presented in the book was provided by the communities through the research. The authors are drawn from different disciplines consisting of sociologists, economists, political scientists, gender specialists, lawyers, development scientists, agricultural economists, soil scientists, land and natural resource management, an animal geneticist, and climate change adaptation/mitigation specialist.

The main objective of the book is to contribute to the ongoing discourse on 21st Century Africa and the role knowledge will play in helping Africa achieve its renewal. The University of Nairobi researchers hope that this work will provide the link between knowledge production, dissemination, utilization, and wealth creation. It also offers a challenge to scholars to rethink knowledge creation and the future of knowledge in Africa. As a starting point, the book is looking at the link between sustainable research for knowledge and wealth creation. It is searching new knowledge from communities in order to draw new meanings and understanding of sustainable development. This work underscores the role of knowledge in responding to citizens' well-being and the United Nations call for "leaving no one behind". It is a new way of looking inside and out of the universities, opening doors for fresh air through new actors and allow ordinary citizens to redefine knowledge for academic institutions.

1.7 CHAPTERS OF THE BOOK

Chapter one provides a general background and scope of the book. It focuses on Africa and Kenya in the 21st Century, the role of knowledge during this period and illustrates the linkage between knowledge and wealth creation. It also highlights the purpose of writing the book.

The second Chapter presents the conceptual framework. It provides a broad analysis of the Conceptualization of Creation of Knowledge Societies for Wealth Creation Programme in the context of the Constitution of Kenya 2010, particularly human rights, governance and sustainable livelihoods. It describes the work of the

Programme by embedding human rights and sustainable livelihoods from the international perspective into the Kenyan model. It also focuses on the challenges that impede the realization of the Constitutional provisions on human rights and sustainable livelihoods including the deficit of knowledge.

Chapter Three focuses on the agriculture sector and provides a critical discussion on the prospects for food security in the Country by drawing on data from the five Counties of Homa Bay, Kwale, Makueni, Turkana and Nairobi. The Chapter projects the potential of the counties to harness available resources in order to achieve food and nutritional security. The authors synthesize the challenges that impact on food and water security and the opportunities available for boosting food and water security including streamlining land tenure, natural resource management, input provision, capacity building, irrigation, and devolution.

Two-thirds of Kenya is Arid and Semi-Arid Lands (ASAL). Access to water, which is a human right, is a big challenge in these areas. Chapter Four presents a very intriguing study of Turkana, one of the largest Counties and which is in the ASAL region. Water rights are examined and an analysis carried out to determine how water scarcity affects peace, security, gender, community vulnerability, health environment and livelihoods. The Chapter also examines the framework on the right to water, provides a brief review of literature on water, sustainable livelihoods, and insecurity in the county, and discusses the linkage between water, livelihoods, food and water security and peace and security.

To support and ensure equal development for people, the National government has put in place welfare systems. This ensures that citizens, especially those from marginalized groups, meet their basic human needs. The categories include children, youth, the aged members of the society, and persons with disabilities. These should be accorded special opportunities in educational and economic fields including access to employment, reasonable access to water, health services and infrastructure, living with dignity, and absence of abuse. Chapter Seven on Design and Delivery of Social Welfare Services delves deeper into this issue. It discusses the linkage between human rights, social welfare services and social protection. The Chapter not only provides an analysis of the different models that have been tried in Kenya, but also looks at the success factors and challenges faced by Kenya in providing welfare services. It also suggests a framework for the design and delivery of social welfare services.

The "center – periphery relation" is discussed in Chapter eight. The author critically analyses the state of devolution in Kenya since the inception of the devolved

system of government in 2013. The chapter briefly discusses the Kenyan devolution model. The author further provides insights into the political, ideological, legal, economic and social challenges experienced in the implementation of the devolved system of government in the last six years of its implementation. According to the author, the challenges that have emerged in the last six years of devolution range from economic viability and cost of devolution; propaganda about the devolution process and implementation; paucity of capacity, incompetence and mismanagement of public resources. He also searches on the internal and external threats to county governments; policy and regulatory vacuum; institutional, legal and intergovernmental relations. An understanding of the challenges, it is believed, will help the citizens appreciate devolution better, help the country address the problems before they get out of hand, and reveals some of the assumptions that the framers of the Constitution, and Kenyans made about devolution.

In the conclusion chapter, the authors pull together the different thought processes and findings of studies carried out. The chapter summarizes the propositions that preceded the writing of the book, and gives insights into the implications of the findings, lessons learnt and the way forward.

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Framing the Construction of Knowledge Societies for Effective Governance and Sustainable Livelihoods in Kenya

Winnie V. Mitullah

2.1 INTRODUCTION

Inclusive growth and prosperity are a core value enshrined in the vision of many developing economies, including Kenya. At the centre of the vision are citizens who while perceived as the foundation of resource mobilization, and advancement of the economy, have limited knowledge. Knowledge is a binding thread for governance and sustainable livelihoods, but in most cases, communities do not have adequate knowledge for the understanding principles and operations of governance. Human rights and sustainable livelihoods are important principles embedded in international, regional and national laws and policies. However, concerns have been raised about how these principles are operationalized and practiced by governments and local communities.

In Kenya, the deficit in understanding, operationalizing and applying the principles of the Kenya Constitution became more pronounced with the promulgation of the Constitution of Kenya in 2010. The Constitution takes a rights-based perspective which enshrines social, economic, cultural and political principles, which many citizens neither fully understand nor apply. It is this knowledge and application gap which triggered the University of Nairobi Programme on Knowledge Societies – *Elimika*. The programme promotes community capacity building by identifying knowledge gaps and intervention areas for strengthening community understanding of the Constitution and related demand for good governance, transparency and accountable leadership and respect for human rights.

This chapter, frames the construction of knowledge societies by providing reflections on human rights, governance and sustainable livelihoods. These concepts are commonly used in development discourses without fully operationalizing their meaning and application. The Chapter, therefore, highlights the importance of

operationalizing these concepts, and interrogating their applicability and inherent challenges in development discourses.

2.2 CONCEPTUALISING HUMAN RIGHTS, GOVERNANCE AND SUSTAINABLE LIVELIHOODS

Protection of human rights and support for the rule of law are the essence of good governance (United Nations Economic Commission for Africa [ECA] 2009). The interdependence and indivisibility of human rights have been affirmed by the international community in many forums, including the Vienna World Conference in 1993 and at the 2000 and 2005 Summit of head of states and governments (UN, 1993; 2000; 2005). Whereas the human rights approach has many facets, economic, social and cultural rights are very crucial. The Constitution of Kenya, for instance, provides for these rights in the Bill of Rights, noting that "the purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings" (Article, 19 (2).

Although most African states have ratified key human rights instruments,

> **Provisions of human rights are universal and date back to the 1948 UN Declaration on Human Rights, which was largely limited to civil and political rights**

a number of these countries have not domesticated them. Even for those that have ratified and domesticated the various human rights instruments, their implementation remains a challenge.

To quote the ECA, "the human rights instruments signed by African governments mask a wide gap between the rhetoric about human rights and their realization on the ground" (ECA, 2009: 178). It is this realization about human rights on the ground that is a concern to the *Elimika* programme and is gradually transcending from a programme into a knowledge society movement.

The concepts of human rights, governance and sustainable livelihoods are closely linked and are central in community development. The human rights approach encompasses social, political, economic, and cultural rights. These principles owe their origin in human rights which has evolved through three phases. The first phase dates back to the idea of natural law advanced by the philosopher Aristotle, in his classical work on Politics: The Treatise on Government. In the second phase, during the 19th century, human rights became a system of international law of human fundamental rights and liberties embedded in Article 1 13(b), 55, 56, 62(2),

68, and 76 (c) of the United Nations. These provisions provide for fundamental human rights, equal rights of men and women, nations large and small, respect for human rights and fundamental freedoms for all without distinction as to race, sex, language and religion (United Nations Declaration of Human Rights, 1948).

The third phase of human rights, largely promoted by Civil Society Organizations (CSOs), has embraced the rights-based approach. This approach has shifted the parameters of development by focusing on state policy and discrimination. It moves from needs to rights and from charity to duties with increased focus on accountability. Provisions of human rights are universal and date back to the 1948 UN Declaration on Human Rights, which was largely limited to civil and political rights. This has since been expanded to include all important aspects of livelihoods, and is viewed as important for promoting inclusive development, which the Sustainable Development Goals (SDGs) gives high prominence. Urvin (2007: 602), observes that the human rights approach encourages a redefinition of the nature of development problems "and aims of development enterprise into claims, duties and mechanisms that can promote respect and adjudicate the violation of rights". While these moves have the potential to empower citizens, operationalizing the principles remains a challenge to most governments. Uvin (2007) argues that, "claims keep shifting, and what is legally feasible today is never fixed but rather, a matter of political struggle" (Uvin, 2007: 602).

In acknowledgement of the importance of the approach, Sengupta (2002) contends that "any process of change that is being promoted through development assistance should be participatory, accountable and transparent, with equity in decision making and sharing of the fruits of the outcome of the process" (Sengupta, 2002: 21). However, considering what Uvin (2007) refers to as the dirty enterprise of politics, the rights-based approach has to be understood in the context of societal power struggles in which the disadvantaged are often on the losing end. These, in many cases, justify the activities of human rights actors who constantly attempt to balance the power equation without addressing the main sources of power struggle which undermine the disadvantaged groups.

The human rights principles are embedded in the Constitutions of most democracies, including Kenya. However, their application remains a challenge largely due to limited understanding of the principles, their interpretation in everyday life, and the inability to operationalize them. It is one thing to state principles that enshrine rights in the Constitution and legal statues, and quite another to operationalize and ensure their application in the everyday life of communities. It is this gap that *Elimika* has identified as limiting local communities in Kenya not only to access services, but also undermining their overall development.

Effective governance is very important for operationalizing the principles of human rights and ensuring sustainable livelihoods. Although governance has been given many meanings by scholars, the UNDP definition is simple and easy to apply. It conceptualizes governance as "the exercise of economic, political and administrative authority to manage a country's affairs at all levels" (UNDP, 1997). The UNDP elaborates the definition noting that governance encompasses complex mechanisms, processes and institutions through which citizens and groups articulate their interests, mediate differences and exercise their legal rights and obligations.

Hoon and Hyden (2003) elaborated on the UNDP definition noting that governance differs from policy making, public administration or project management. They assert that the concept refers to the process through which rules are formulated and implemented by the state or society actors in the public realm. Governance focuses on the basic constitutional rules that determine behavioral conduct and choice. Further, they observe that rules reflect the relative power and influences of contending social forces; an aspect that is very useful in understanding the dynamics of governance. Governance entails a network of formal and informal institutions, with related rules and regulations which govern activities.

Further, the authors note that governance is an aspect of politics with two sides, distributive and constitutive. The former focuses on the process of allocating goods in society, involving who gets what, when and how while the latter focuses on the rules of the game, revolving around who sets what rules, when and how? This distinction is important in relation to sustainable livelihoods, framed around empowerment, enhanced resources and changes in rules and, by implication a shift in power relations. As such, "sustainable livelihoods, as an approach, addresses the concerns of those whose livelihoods are threatened and calls for attention to the constitutive side of politics, that is governance' (Hoon and Hyden, 2003: 51)

The different meanings attached to governance have been elaborated by authors such as Hyden and Court (2002). These authors have pointed out that the difference in interpretation relates to the substantive content and the practice of governance. While some authors are concerned with the rules of conducting public affairs, others concern themselves with the control of public affairs. Havnevik et al., (2006) perceive governance as related to the political and institutional capacity of the state to establish and maintain an enabling framework and to guide its relationship with the actors and stakeholders involved in development. Further, they observe that household strategies and rural dynamics are linked to wider productive and institutional settings that overlap with governance perspectives.

Ensuring human rights and effective governance are important for sustainable livelihoods and are often viewed as the panacea for development. Development aims to create an enabling environment for people to live long, healthy and creative lives (UNDP, 2013). As already noted, sustainable livelihoods focus largely on those whose livelihoods are threatened, who constitute about 35.6 percent of the Kenyan population in 2015/16 (World Bank, 2018). Chambers and Conway (1992), define livelihoods as capabilities, assets and activities required for living, while the UNDP's definition leaves out the element of capabilities noting that, `a livelihood system is the dynamic sphere that integrates both opportunities and assets available to a group of people for achieving their goals and aspirations, with exposure to a range of beneficial and harmful ecological, social, economic, and political disturbances' (UNDP, 1997).

Scoones (1998) notes that sustainable livelihoods encompass much broader debate about the link between poverty and environment while Krants (2001) observes that the most complex aspect of the various components of a livelihood is the portfolio of assets out of which people construct their living, which includes both tangible and intangible assets such as claims and access. Brocklesby and Fisher (2003), provide further elaboration noting that sustainable livelihoods

> **Kenya has realized milestones in the journey towards ensuring human rights by promulgating a Constitution that takes a human rights perspective**

provide a more comprehensive picture of the complexities of living, rather than understandings, based on measures of income, consumption and employment. It is therefore crucial that a sustainable livelihood analysis be fully participatory, letting the knowledge, perceptions, and interests of local people be heard.

Since 1992, the concept of sustainability has been added to the concept of livelihoods. This has expanded the concept beyond a mere focus on poverty and low income and towards embracing vulnerability and social exclusion, which local communities are exposed to. The Brundtland Commission (1987) was the first agency to provide a comprehensive definition of sustainable development, noting that "sustainable development is one that meets the needs of the present generation without compromising the ability of future generations to meet their own needs". This was later affirmed by the 1992 United Nations Conference on Environment which expanded the idea. The central thesis of these two works is peoples' capacity to make a living by surviving shocks and stress and improving their material conditions without jeopardizing the livelihood option of others, either now or in the future. This connotes attention to changes in access to resources and in the

distribution, costs and benefits available to communities. Embedded in the notion of sustainable development is social equity within and between generations, which is at the core of the seventeen post- 2015 Sustainable Development Goals (SDGs).

Sen (1999) lists Asia and Sub-Saharan Africa as the poorest continents, noting that poverty is capability deprivation; it is the deprivation of basic capabilities rather than merely lowness of incomes, which is the standard criterion of the identification of poverty. In his famous book, Development as Freedom, Sen examines "the societal arrangements, involving many institutions (the state, the market, the legal system, political parties, the media, public interest groups and public discussion forums among others) in terms of their contribution to enhancing and guaranteeing the substantive freedoms of individuals, viewed as active agents of change, rather than as passive recipients of dispensed benefits" (Sen, 1999: xiii). These institutions are at the center of any discussion on human rights, governance and sustainable livelihoods, embedded in the constitutions of countries such as Kenya. Constitutional provisions, policies and legislation are enacted for societal good. Indeed, as observed by Sen (1999), the central goal of development is to overcome the problems of deprivation, destitution and oppression in peoples' lives. In everyday life, people are engaged in various activities that contribute to their livelihoods. However, this engagement requires support from both the state and other development agencies, since communities, especially the vulnerable groups, often have deficits in assets and capabilities. Addressing these gaps requires building capacities and supporting communities to build assets and learn how to negotiate the balancing act of governance.

2.3 GOVERNANCE AND SUSTAINABLE LIVELIHOODS IN KENYA

Kenya has realized milestones in the journey towards ensuring human rights by promulgating a Constitution that takes a human rights perspective. The concept of governance is acknowledged in the Constitution. Specifically, Article 10 of the Constitution lists 'good governance' as a national value, among other values that include: public participation, integrity, transparency, accountability and sustainable development.

The Constitution protects the rights to health, accessible and adequate housing, reasonable standard of sanitation, right to food, clean and safe water, social security and the right to education (Art. 43). Article 44 provides for the protection of cultural life, and protection of a persons' choice, while the state is mandated to respect, protect, and promote the fulfilment of these rights. The state of Kenya has established institutions to ensure that the rights of citizens are not abused; three

separate commissions are overseeing the bill of rights. They include: the Kenya National Commissions on Human Rights (KNCHR), National Gender and Equality Commission (NGEC) and Commission on Administrative Justice (CAJ). However, a study conducted within the *Elimika* programme revealed that awareness of these institutions is minimal. Yet, this knowledge is critical for furthering the mandate of the institutions as well as assisting citizens claim what they are entitled to under the Constitution, particularly their entitlements in the bill of rights.

While the challenges in Kenya can be attributed to many factors, the limited understanding of Constitutional provisions by ordinary citizens is the greatest challenge. The Constitution provides for citizenship, governance, leadership and integrity, a bill of rights and the need for equality, yet, the country continues to struggle with how to deal with many issues of human rights, including basic service delivery, gender inclusion, and meeting the needs of the physically challenged, minorities and marginalized groups. These challenges are of governance nature, including the inability by communities to demand for their rights. Of particular mention is the Equalization Fund, provided by the Constitution (Art. 204) to address issues of marginalized communities and areas. The Fund is designated to provide basic services such as water, roads, health facilities, and electricity to marginalized areas. The allocation of this Fund, which should have commenced in the 2013/14 budget year, was not implemented until March 2016, and communities that had been identified as marginalized did not raise the issue of delay in operationalizing the Fund on time. This reveals the laid-back nature of communities in Kenya and their inability to claim their entitlement. Instead, the national and county governments' political leaders have been contesting over who should control the funds, as poor communities and marginalized areas lag behind in development.

The challenge is not limited to political leaders. Indeed, citizens have a role to play by exercising their rights and to contribute to overall governance processes. This cannot occur unless communities are endowed with knowledge and capacities to efficiently engage with the governance processes. For example, the case of gender inclusion has become a national issue where both governors and citizens have a challenge. While citizens acknowledge the importance of gender inclusion as revealed by Afro barometer surveys (Figure 1), this public opinion does not seem to translate into policy intervention. Although the Kenya Constitution provides for two thirds gender inclusion in all governance organs, and equality and freedom for women and men, these principles are still to be fully achieved.

Policy makers have been reluctant to provide legislation for the realization of the two thirds gender principle, which was expected to be implemented by August

2015. In spite of the pressure exerted by the Equality and Gender Commission, law makers used technicalities to delay the formulation of legislation. This left gender gaps in key governance institutions, including Parliament.

Figure 2.1 Women for political leadership in Kenya: 2011 - 2014
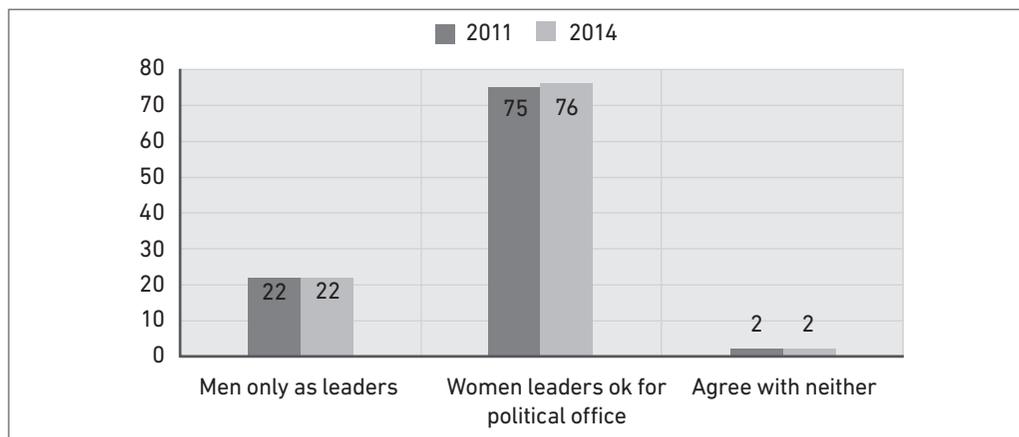
The reluctance to satisfy the two thirds gender principle is partly indicated in a study conducted by the Society for International Development (SID, 2012), which revealed that only 38 percent of Kenyans can vote in a woman, as President. These findings further reveal the need for education and sharing of experiences on how women have changed development trends locally, regionally and globally. The low regard for women's capacity in leadership is partly attributed to deeply-rooted patriarchal tendencies, which take decades to change. Such change cannot be brought about through a formal education system but rather by developing and strengthening life skills, instincts, abilities, processes and resources that organizations and communities need to exercise their rights. This has to be complemented by sharing the various efforts that women are putting into development, and related activities. The same method should apply in efforts to address other marginalized groups and service delivery for citizens.

Local communities in Kenya are engaged in many development activities. But, in most cases, they are not adequately linked to resources which scale up and enhance their local capacities. Many local communities are ignorant of policies, regulations and plans which have been designed to support their livelihoods. This undermines their development processes, including service delivery and ability to compete in a competitive market. Afro barometer surveys conducted in 2011 and 2014 (Figure 2) reveal that citizens are not fully satisfied with the basic components of human rights, especially service delivery.

Figure 2.2 Ease of access to services, 2011 / 2014
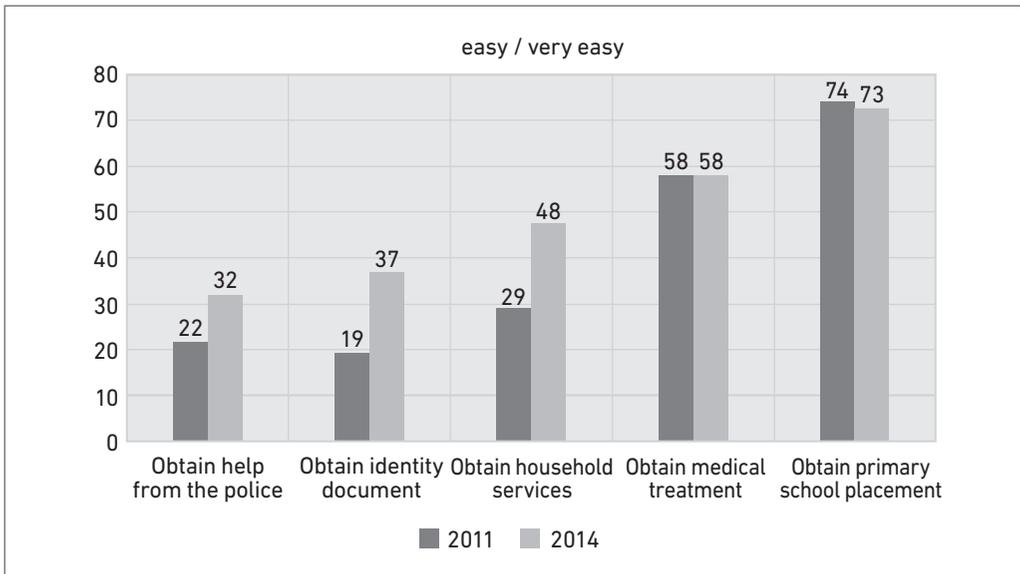
Note:

Question: In the past 12 months have you had contact with the following public institutions or tried to access services? Those who said yes were asked the level of ease / difficulty. The figure presents the percentage of easy / very easy

As reflected in Figure 2.2, delivery of some services such as help from policymakers and obtaining identity cards are worse off compared to services such as medical and education. The latter has benefited from the declaration on universal education which has made it mandatory to make education available to all children of 18 years, and below. It is an offence, punishable in a court of law, to keep any child within the specified age bracket out of school.

However, what is more worrying is the inability of communities to contribute towards good governance through effective participation. The Afrobarometer survey of 2014 revealed that citizens have very limited contact with their county leadership. Indeed, only 4 percent of the population had contact with leaders on several occasions, while another 9 percent had contact once or twice a year. However, majority (73%) of the population had no contact but stated that they would seek contact if they had a chance do so, while another 12 percent stated that they would never seek contact, even if they had a chance (Mitullah, 2015). These are worrying statistics with respect to citizen engagement with the political leadership and development processes and suggest that a lot more needs to be done to educate and mobilize citizens to participate in public affairs.

The Afrobarometer findings are corroborated by four case studies undertaken by the *Elimika* study, which revealed that there was ignorance and apathy among citizens. This is largely due to low awareness levels attributable to illiteracy, and lack of technical and legal knowledge. The study further revealed that few citizens participate in civic education. Respondents also noted a number of challenges in civic education including political interference, misinterpretation of the Constitution, apathy, confusion due to many actors and role duplication. Furthermore, the more knowledgeable citizens, who are likely to oppose the ideas of leaders, are never invited to meetings (*Elimika*, 2015). This leaves most citizens ignorant and disengaged and creates a window for manipulation by leaders.

To address the poor engagement of citizens in governance, there is need to nurture attributes of good governance: participation, rule of law, transparency, responsiveness, consensus orientation, equity, effectiveness and efficiency, accountability, and strategic vision (UNDP, 2002; Waema et al., 2009). Good governance also addresses the issue of entitlements which brings into fore a recognition that poverty is not only about economic deprivation. Rather, it is defined and sustained by a sense of helplessness, dependence, and lack of opportunities, self-confidence and self-respect (Hyden and Court, 2002). Sen (1999) notes that rights are vehicles for participation and empowerment and that development should include a broad range of freedoms (rights) including capabilities to avoid starvation and undernourishment, as well as rights to education and being able to participate in political processes. He argues further for the removal of the major factors that limit freedoms, defining them as "poverty as well as tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or over-activity of repressive states" (Sen 1999:1).

> **Apathy in civic activities is another drawback to the realization of the Constitutional provisions on human rights and sustainable livelihoods**

An examination of the governance process in Kenya reveals a participation deficit, particularly with respect to political participation. Hoon and Court (2003) have advanced a four-pronged approach to changing power relations: articulation, mobilization, distribution and confirmation. This approach takes into consideration the fact that changes in power relations typically entail leadership interventions from above as well as citizen demands from below. Articulation entails readiness and the ability of individuals to demand autonomy to make decisions on their own, on issues that concern the use of public goods or the common pool. In Kenya, this

principle has been provided by the Constitution, through devolution of power, but has not been effectively embraced by citizens. Mobilization, which is the readiness and ability of citizens to work together and maximize gains for themselves without doing so at the expense of others, is still in a budding stage. Distribution of power among contending actors and forces and confirmation of that power remains an on-going struggle among societal forces which only knowledge societies can overcome.

2.4 EMBEDDING HUMAN RIGHTS AND SUSTAINABLE LIVELIHOODS IN KENYA

There are many obstacles to realizing the Constitutional provisions on human rights and sustainable livelihoods. The major problem lies in Kenya's new governance system: devolution, which is still unfolding, with many citizens struggling to understand how the system works. The devolved system of government has two levels of government: national and county governments. Each of these levels has been assigned functions by the Constitution, with some residual functions expected to be undertaken by national governments. While the new system of governance provides a great opportunity for service delivery and citizen engagement, the level of citizen engagement and claim for rights and entitlement is still low. This is attributed to many factors, including inadequate citizen capacity, poverty and apathy.

Capacity to understand local context, including the policies, rules and regulations which dictate the operations of a context is very useful for operationalizing human rights and ensuring sustainable livelihoods. Citizens who are ignorant are unlikely to place any demands on their leaders and the state, to deliver goods and services. Bienen (2015), in interrogating the concept of political participation argues that Kenya is an example where "the government is in touch with its people in many ways: through services provided, taxes extracted, controls imposed on political life and opportunities opened for participation over new issues or in new ways or in new arenas" (Bienen, 2015: 11).

Bienen argues that Kenya both encourages and curtails participation in some areas, an argument which is partly demonstrated by the poor performance of the state in facilitating the development of policies and formulation of laws including information and communications laws.

The devolution policy, published after a long delay, in October 2016 has many provisions, including public participation and citizen engagement in governance, capacity building for devolved governance, and equity and inclusive development. With respect to the latter, the policy acknowledges the Constitutional provision that all citizens are entitled to development as a right, not as a favor. Further, both

levels of government have the responsibility to ensure the realization of that right, in development outputs and outcomes, as a human right. Claiming such rights require access to information, effective participation and knowledge of available resources and governance framework, including leadership and roles and responsibility of leaders – essentially having knowledge societies for effective planning and governance.

Information and communication are powerful tools and are a crucial aspect of the human rights relevant for realizing sustainable livelihoods. Although the Kenya Constitution provides for participatory governance and structures for ensuring that participation is put in place, the country lags behind in enabling information flow for effective participation. Although Article 34 and 35 of the Kenya Constitution provides for the freedom of the media and access to information, putting these principles into practice remains a major challenge. Indeed, citizens claim that information is never adequate, while government agencies maintain that information is available and can be accessed when required, in some cases at a fee. For example, the question of whether Kenya had a voter register for the 2017 elections attracted a debate related to access to information. While the Independent Electoral and Boundaries Commission (IEBC) maintained that they had a register, the public and the media upheld that there were no voter's registers. Though it is not easy to judge where the truth lies, the debate is a demonstration of an information and communication problem that needs to be addressed.

Scarcity of information or availability of wrong information is a recipe for chaos, especially in regard to such delicate issues as national elections. Furthermore, in recent times, the government has been apprehending internet bloggers and politicians on charges of using abusive and offensive language. While this could be a valid concern, managing abusive and offensive language by individuals should not undermine the Constitutional provisions and rights of citizens to information. In addition, citizens must be educated to respect each other's rights, in line with the Constitution. The Constitution gives citizens equal rights, and therefore, no individual has the right to undermine the rights of others, singly or collectively.

Poverty, which Kenya has been addressing since independence, is another drawback which undermines citizens' rights. Poverty is manifested in the inadequate access to economic and social rights, which are provided for in Article 43 of the Constitution. Although poverty has been reducing and currently affects 36.1 percent of the population as of 2015/16 (Kenya National Bureau of Statistics, 2018: 9) the figure remains high. However, the government has employed a number of social protection strategies in order to cushion the poor and needy, while also creating employment, especially for youth and women. Most poor communities however, are

more concerned with survival strategies, rather than making time and resources to invest in civic engagement. This creates a dilemma because they need to be active citizens in order to influence the allocation of resources and development outcomes.

Individuals who lack basic rights such as water, health care, food, and housing cannot effectively engage in civic activities. Yet, these civic activities are relevant for their full realization of Constitutional provisions. The late Nobel Laureate, Wangare Maathai, acknowledged this challenge noting that, inequality and power imbalances, adverse employment conditions, and lack of economic opportunities or control over assets are manifestations of disempowerment and contribute to poverty (Maathai, 2009). This disempowerment continues to be a concern. Indeed, the current African Development Bank Strategy Paper for Kenya (2013/2018) observes that the overarching challenge facing Kenya is to generate inclusive economic growth that is able to effectively reduce poverty (African Development Bank, 2013).

Apathy in civic activities is another drawback to the realization of the Constitutional provisions on human rights and sustainable livelihoods. This challenge was expected to be addressed by the devolved system of governance provided for in chapter ten of the Constitution, but it is still far from being realized. Engagement with governance of any policy begins with citizens having knowledge of the policies, laws and regulations which inform the operations of a policy. Once citizens have participated in coming up with these key instruments of power, they can move to the next step of contributing to the development and implementation of various development plans. In the Kenya devolved system of governance for instance, these plans include: county integrated development plans, county sector plans, county spatial plans and cities and urban areas plans (Section, 107 (1), County Government Act, 2012).

Section 107 (2) of the County Government Act states that the county plans shall be the basis for all budgeting and spending in a county. This implies that citizens should be very conversant with these plans and how they are translated into annual work plans. Consequently, all the public debates on service delivery, and prudent use of local resources, should revolve around the plans. These basic requirements are largely not being met by citizens, with many being totally ignorant of the plans and the requirement for their participation. Notwithstanding the ignorance and apathy, many citizens are quick to blame the leadership, both at the national and county government level, for poor performance and misuse of resources. While many analysts perceive such critiques as political, they should also be understood as a capacity gap that should be addressed through civic education and capacity building.

Increased citizen awareness of country plans and the roles and responsibilities of various levels of elected leaders and related devolved structures of governance will go a long way in improving county development. Entities such as the County Assembly, County Executive Committee (CEC), County Public Service and related civil service that facilitate their operations play crucial roles which citizens should know and engage with. This cannot happen without effective capacity building including civic education, which is very important for citizen engagement in development. Both national and county governments are yet to develop civic education policies, laws and programmes. While the old Kenya Integrated Civic Education (KNICE) programme has been in a lull, it had good objectives which included the following:

a. Ensuring sustainable information and awareness on the Constitution, its principles, structures and processes;

b. Enabling citizens to actively engage government and governmental processes as civic duty;

c. Inculcating a culture of adherence to the constitution amongst government agencies, non- state actors and individuals;

d. Developing a culture of constitutionalism, respect for the rule of law and public engagement; and,

e. Fostering a system that ensures governmental responsiveness to citizens and citizens' responsibility for keeping government in check.

The objectives of the KNICE captured the need for citizens to effectively engage with development in the new constitutional dispensation. The Civil Society Organizations (CSOs), through Constitution and Reform Education Consortium (CRECO) and URAIA, a premier National Civic Education organization, have been supporting CSOs undertaking civic education. However, the CSOs efforts are inadequate due to limitations of funding which affects coverage to all counties. Developing an approach which brings together national and county governments and CSOs in planning and managing civic education has the potential of addressing apathy and ignorance which are undermining human rights and sustainable livelihoods.

Despite the challenges of participation, the *Elimika* study findings reveal that a lot is happening in the counties. In general, services are improving and more resources are reaching the counties. Water pans and dams are being desilted, new dams constructed, access roads opened, subsidized tractors, certified seeds and fertilizers are being made available to farmers, and food security enhanced (*Elimika*, 2015). In acknowledgement of this positive development, elders in one Case Study County

noted that never in their life time have they seen ambulances available at a phone call away, free to citizens and with no strings attached.

The budding developments in the counties are positive outcomes of the devolved system of governance which should be nurtured and sustained. *Elimika* is dedicated to this process, and the movement combines knowledge generation with civic education, by supporting community initiatives, internships, and local artists. These interventions are embedded in communities with a high potential of directly imparting knowledge to others in the community. In particular, powerful tools such as drama, poetry, song and dance have not been effectively used for imparting knowledge.

2.5 CONCLUSION

Ensuring human rights, and its expanded meaning which embraces a rights perspective, is a challenging endeavor which requires resources, including knowledge and an active citizenry. As discussed in this chapter, the Kenya Constitution has good provisions for facilitating effective governance, sustainable livelihoods and ensuring human rights. However, deficits in understanding the Constitution and operationalizing the various provisions in the Constitution are undermining constitutionalism. Construction of knowledge societies through civic education and capacity building can be viewed as a major intervention for addressing the deficit. This task requires multidisciplinary and multi-agency approaches beyond national and county governments. At best, both the higher learning institutions and the CSOs spread out across Kenya should support the national and county governments in the construction of knowledge societies, through capacity building.

Realization of knowledge societies should be demonstrated in the milestones made in citizen understanding of the Constitution and operationalizing the Constitution. This, should in turn, be translated into the active engagement of citizens in contributing to the development of policies, legislations and plans, and monitoring and evaluation of plans for effective development. Achieving these milestones requires active citizens, supported by a cross section of actors, including the national and county governments. These crucial actors should not work independently, but rather, collaborate with CSOs and other development actors.

While this chapter acknowledges the power dynamics of development, which deny the comparatively less resource endowed citizens the chance to influence development, the chapter maintains that knowledge of the provisions of the Constitution, and informed participation has the potential of initiating change and transforming the development trend in Kenya.

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Food Security in Kenya: Evidence From Five Counties

Shellemiah O. Keya, Willis O. Kosura, Ally O. Mwai, and Thomas, K. Kirina

3.1 INTRODUCTION

The Constitution of Kenya, 2010, guarantees several rights and freedoms (Government of Kenya, 2010). Article 43 of the Constitution, on economic and social rights, bestows on citizens the right to proper housing, education, medical care, social security and food security. The right to food is also contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 11 of the ICESCR (1976) recognizes that access to food is a universal human right and requires states to improve methods of production, conservation and distribution of food. It thus unequivocally recognizes the right to food as a fundamental right.

In Kenya, the agricultural sector plays a critical role in enabling citizens enjoy these rights. Apart from being the channel for ensuring that the right to food is achieved, the sector directly contributes about 24 percent of the GDP, and a further 26 percent indirectly through its linkages with manufacturing, distribution and service-related sectors (Government of Kenya GoK, 2010). Agriculture also supplies the manufacturing sector with raw materials, generates tax revenue for government and contributes about 60 percent of the nation's export earnings. The sector employs over 40 percent of the total population and over 70 percent of the rural population (GoK, 2007). It is also viewed as the vehicle through which the country can sustainably achieve an economic growth rate of 10 percent, which would reduce the national poverty levels to 25 percent, down from almost 36 percent in 2015/6 (World Bank, 2018) and achieve food and nutritional security by the year 2030.

Agriculture plays an important role in community livelihoods, natural resource use, economic development and the country's economic system, as a whole. The Constitution places the responsibility of resource use, sound and coherent policy formulation, enactment and implementation of policy on government, which

ensures that citizens fully enjoy their rights, while at the same time guaranteeing their wellbeing. Additionally, the Constitution articulates the rights of access to natural resources and their sustainability, taking cognizance of the significance of agriculture and its reliance on the availability of land, and considering that the latter is a key natural resource on which many other economic activities depend.

Given the multi-dimensionality or interdependency of human rights and sustainable development (Cornwall & Nyamu-Musembi, 2004), it is difficult to discuss citizens' participation in governance, leadership and human rights in a developing country such as Kenya, without addressing livelihood activities, especially those linked to agriculture. Indeed, the previous chapter by Mitullah has theorized this clear link between human rights, governance and sustainable livelihoods. It is against this background that the agricultural sector plays a key role in national economic growth and development of the 47 Counties created with the promulgation of the Constitution of Kenya 2010.

Many government policies, development plans and strategies such as the National Climate Change Action Plan (NCCAP) and the Agricultural Sector Development Strategy (ASDS), recognize the strong connection between agriculture and other sectors of the economy. As such, there are efforts to bolster the agricultural sector. One such effort is the devolution of government operations/ services, including agriculture to the counties.

Devolved governance structures are an integral part of the Constitution and promise great prospects for the realization and enjoyment of the rights of citizens as they have a direct impact on national and regional access to resources, their distribution and utilization. Through the devolved system, resources are channeled down to people through their respective county governments. It is presumed that the county governments understand and know their needs better and are expected to effectively support measures that would promote increased agricultural productivity in their regions and thus improve the quality of life of the citizens living therein.

However, rights are not without their own opportunities and challenges. Despite the potential of these efforts, the concept of devolved government is still relatively new in Kenya and it will take time for the concept to be internalized, before county governments can run smoothly. Active and informed public participation is a critical prerequisite to the effective implementation of a devolution system and, therefore, the identification of knowledge gaps , accompanied by capacity building, should be continuously undertaken as a way of ensuring that citizens enjoy their rights. Therefore, increasing awareness and understanding of these rights and freedoms influences how citizens exercise their rights and participate in development, political and leadership activities and further, how they demand for accountability.

This chapter focuses on the agricultural sector where prospects for achieving food and nutritional security appear high. It describes the measures, which, if put in place, can help in achieving the right to food for citizens. It draws data from the "Construction of Knowledge Societies" *(Elimika)* study carried out in Homa Bay, Kwale, Makueni, Turkana and Nairobi counties to examine food and nutrition security in the counties. The objectives of the study were to: (a) Gauge current levels of understanding of good governance, leadership and human rights among local community members, groups and organizations; (b) Identify knowledge gaps and intervention (training) areas for the strengthening of communities' understanding of and demand for good governance, transparent and accountable leadership and respect for human rights; (c) Increase levels of awareness by communities and their informed participation in political, governance and leadership processes; (d) Improve communities' awareness of the basic human rights that are guaranteed to them by the Constitution of Kenya, 2010. The overall discussion is much broader than the *Elimika* study results reveal and is based on information obtained from other sources including Kenya Government documentation and data bases. The discussion section attempts to project the potential of counties to harness available resources in order to achieve food and nutritional security. The authors have drawn on their national, regional, and international expertise and experience to synthesize how challenges and opportunities in counties impact on food security.

3.2 BACKGROUND OF THE STUDY AREA

This study was conducted in five counties: Homa Bay, Kwale, Makueni, Turkana and Nairobi. Except for Nairobi, majority of the respondents were small scale farmers, practicing mixed farming involving livestock and crop production. Among the rural counties, Homa Bay had the highest human population while Kwale had the least with 649,931 people (Table 3.1). In terms of land size, Turkana had the largest arable land measuring approximately 24,640 sq. km.

Table 3.1 Population, land size, rainfall and poverty rate in the study areas

County	Geographical location in Kenya	Population	Area (sq km)	Arable land (sq km)	Annual rainfall (mm)	Poverty levels (%)
Homa Bay	Western	963,794	4,267.1	1,996.2	700- 800	52.9
Kwale	Coastal	649,931	8,270.2	2729	400–1680	71.0
Makueni	Eastern	884,527	8,008.9	5042.69	800–1200	64.1
Turkana	North Western	860,000	77,000	24640	120–500	74.0
Nairobi	Nairobi	45000000	580,367	58000	Varies by area	45.9

Sources: *Kang'ethe & Kimathi, 2013; County Government of Kwale, 2016;County Government of Homa Bay, 2013; Oduor et al., 2012.*

Turkana and Kwale have the highest poverty level of 74 and 71 percent, respectively. This is followed by Makueni and Homa Bay in that order (Table 1). Studies indicate that there is high correlation between food security and poverty (Food and Agriculture Organization of the United Nations [FAO], 2010).

The amount of annual rainfall received varies both within and across the counties. All the counties have two or more ecological zones. For example, Turkana County classified as an Arid and Semi-Arid Land (ASAL), can be divided into four different ecological zones. Turkana receives an average of 120mm to 500mm of rainfall annually, while Kwale experiences the highest rainfall variability with a minimum of 400mm and maximum of 1680mm annually. Makueni and Homa Bay with a minimum annual precipitation of 800mm and 700mm, respectively, receive higher and less variable rainfall than Turkana (Table 1). The population levels prevailing in the four rural based counties cannot be sustained by rain fed agriculture. The issue of water scarcity is therefore addressed in the later part of this chapter.

3.3 AGRICULTURE AND FOOD SECURITY IN THE FIVE COUNTIES

Agricultural production involves a range of crops and livestock which vary within the specific counties, given their expansiveness and diversity, in terms of ecology and land suitability. The major crops common across the counties include maize, beans and potatoes, more so consideringthat some counties share the same agro-ecological zones. Similarly, livestock keeping, including cattle, sheep, goats, and poultry is practiced in all the four counties. Apiculture is practiced in the dry zones of Makueni and Turkana counties. In some counties, especially those with large water resources such as Turkana and Homa Bay, fisheries are an important occupation not only for the local economies, but also contribute to the national economy. Often, majority of households practice subsistence farming and produce food for family consumption. Income from excess produce enables them to buy other food and non-food items. Agriculture, therefore, plays a vital role in the livelihoods of people in these counties, just as it does in other rural counties in Kenya.

The *Elimika* baseline study suggests that most of the population derive their livelihood from agriculture either directly (crop and livestock production, 32%) or indirectly as casual labor (15%) or trade (31%); most of the latter are agri-business in nature (Figure 3.1).

Figure 3.1 Occupation of respondents in the study area
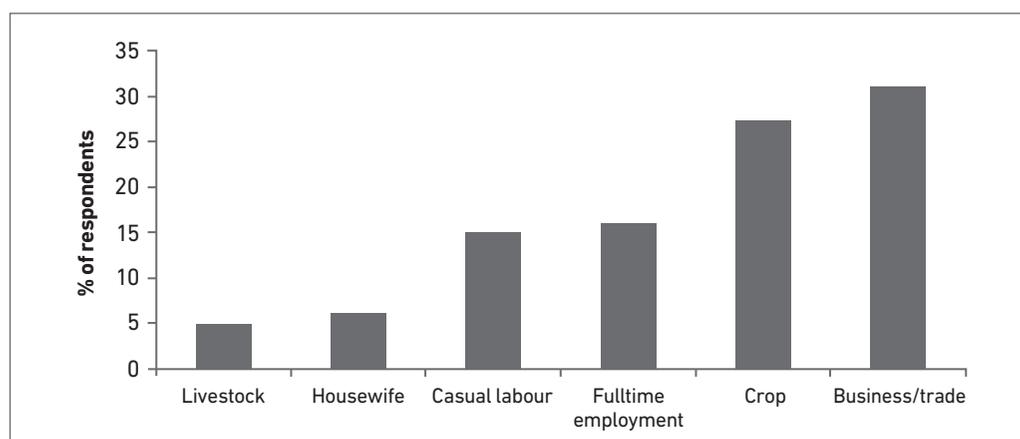
Among the major economic activities that the respondents were undertaking, 78 percent were agriculture based. This emphasizes the important role of agriculture in these counties. Earnings from the labor force, in the various value chains are the most direct source of food for households.

More and more households are sourcing their food from the market. Table 3.2 indicates that, apart from Kwale County where 64 percent of the respondents produced their own food, majority relied on markets to source food. The figures suggest that the number of households depending on markets for their food needs rise with increasing urbanization. For example, in Nairobi County, 95 percent purchased their food and only 1 percent engaged in food production while in Homa Bay only 64 percent of the households purchased food.

Table 3.2 Common sources of food for households in the study area

County	Sourcing of food		
	Produce (%)	Purchase (%)	Relief food (%)
Homa Bay	34	64	2
Kwale	64	33.5	2.55
Makueni	55	45	0
Nairobi	1	95	4

Note: There was no data available for Turkana

Therefore, it can be deduced that the greater the intensity of urbanization, the fewer the households engaging in agricultural activities. The households then become dependent on markets to source food. Relatively less urbanized areas saw households producing more of what they eat. It can also be said that households in

rural based counties depend on agriculture for livelihood. There was evidence that only few households were relying on relief food, estimated at only about 4, 3, 2 and 0 percent, in Nairobi, Kwale, Homa Bay and Makueni, respectively.

Food and nutrition security, is defined as "a situation in which all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life" (Kenya Food Security Steering Group, 2008). In the study areas, food insecurity was depicted by a high percentage of the population having no access to food in the right quantity and quality. This may be attributed to droughts, low production, and high prices occasioned by an unavailability or scarcity of food that make most households unable to afford food.

More than a third of the respondents claimed that they had experienced food shortage that is in terms of less quantities, low quality or consumption of less preferred food. Sizeable proportions of households in Kwale County reported high cases of food shortage at 76.5 percent, followed by Makueni at 70 percent. It is noted that 33 percent and 50 percent of households in Nairobi and Homa Bay, respectively, reported having experienced cases of food shortage (Figure 3.2).

Available data indicate decreasing levels of food shortage as more areas get urbanized, even with decreasing land size. This could be attributed to increased economic opportunities enabling households to diversify and thus become less vulnerable. However, given their dependency on markets to source food, often produced in other parts of the country or imported, the vulnerability of the population was real. Stronger or reliable market systems could help reduce urban food insecurity by stabilizing prices.

Figure 3.2 Percentage of respondents experiencing food shortage

The severity of cases differed across the counties. In Turkana, despite less households reporting food shortages, the severity of the cases of food insecurity, in comparison with Makueni or Kwale, was somewhat more serious. For example, the food insecure households claimed that they would eat whatever is available, provided it is acceptable as food in their context with at least 46.5 percent of respondents indicating that they slept hungry at least once a week (Table 3.3). A similar number indicated that they often worry about not having enough food for their households.

Table 3.3 Percentage of households who slept hungry due to food scarcity in Turkana County

Incidence of sleeping hungry	Frequency %
Never	7.5
Rarely (once or twice a year)	11.1
Sometimes (once every month)	34.8
Often (on a weekly basis)	46.5

Source: *Elimika County reports (2016)*

Additionally, about 57.1 percent consume two meals a day either skipping breakfast or lunch while 18.7 percent relied on one meal per day. In Kwale, despite the highest number of households experiencing food shortage, only 5 percent relied on one meal a day, and about 18 percent took two meals a day. However, it is worth noting that the aspect of food quality and diversity, which is a good indicator of nutrition security, was not captured during data collection.

Food security assessment in urban areas such as Nairobi differed with areas that are predominately rural. Nairobi County is unique given the demography, economic activities and access and use of natural resources. Only 3 percent of residents were found to own land, with majority having small parcels averaging 0.0295 ha. Majority of residents reside in rented premises, often temporarily. Historical land injustices, land grabbing and the influx of unskilled and semi- skilled job seekers from rural areas exacerbate the issues of land access/ ownership.

FOOD SECURITY PROSPECTS FOR NAIROBI COUNTY

Nairobi County presents a unique case given the demography, economic activities and access and use of natural resources. Based on the Kenya National Bureau of Statics study in 2013, the data indicated that up to 85 percent of households experienced different forms of hunger, the most common being not able to eat the preferred foods because of lack of resources (85.1%); not eating food of their preference due to lack of resources to obtain other types of food (77%); worrying that one would not have enough food; and eating smaller meals in a day because of

lack of resources to obtain enough (65.4%). Household food security is influenced by three major factors: education, household size and the marital status of the household head. (*Elimika* Nairobi County Report 2016).

The county food production compared to population demand is insignificant with close to 95 percent of all the food consumed being produced in different counties. Only 1 percent of the food consumed is produced in the county. This is one of the factors contributing to food insecurity in Nairobi County. It is worth noting that generally food is available in the markets but the prices tend to keep people off especially very poor households. To cope, household employ various strategies including:

(i)   Reliance on less preferred or less expensive food,

(ii)   Borrowing, begging for food or purchasing it on credit,

(iii)   Reducing the quantity of food or number of meals eaten in a day and

(iv)   Adults skipping meals altogether to let their children eat.

Access to and ownership of land has a lot of influence on investment and type of economic activities. In Nairobi, only 3 percent of residents were found to own land, with majority having small parcels averaging 0.0295 ha. Majority of the residents reside in rented places often temporarily. Historical land injustices, land grabbing and influx of unskilled and semi-skilled job seekers from the rural areas exacerbate the issues of land access/ ownership.

Urban Agriculture (UA) is a conduit through which food security can be achieved/ enhanced in an otherwise densely populated and urban areas like Nairobi. However to achieve this, the development of legislation on land and natural resource management is mandatory. According to the new constitution, counties are mandated to establish County Land Management Board (CLMB) that are expected to develop Land Use Plans (LUP), the basis for regulating land use. For a long time, agriculture was not a recognized land use in Nairobi even though there were few individuals practicing urban farming. In 2015, the county assembly passed the Nairobi County Urban Agriculture Promotion and Regulation Bill which itemized agricultural activities including aquaculture, crop production, livestock, agro-forestry and apiculture.

Augmenting legislative efforts with capacity building on agricultural technologies suitable for urban areas, provision of extension services and increasing access to cheap capital and quality inputs will go a long way in boosting UA in Nairobi.

Source: Elimika Nairobi County Report (2016)

In response to food shortages, households employed different coping mechanisms. These mechanisms depended on the household's conditions and represented by number of meals, or type or quantities consumed during this period. Apart from a few respondents across counties who relied on relief food as mentioned earlier, households employed various mechanisms including consuming less preferred food (whatever is available) or less expensive ones (most common). In other households,

adults either skip meals or reduced the quantities consumed per meal but ensured that children did not go without food. Households with livestock sold stock to buy food. Other households borrowed food from neighbors while some bought food on credit. In some severe instances, especially in rural areas, households gathered wild fruits and vegetables or sent family members to beg or eat elsewhere. As a last resort, households were forced to sell their land in order to buy food.

Data from other sources indicate that the Counties practiced both large- scale and small- scale crop production. Some emerging crops that were initially not produced in these counties are increasingly becoming important. Maize, a staple food in the country, was produced by almost all farmers in Homa Bay, Kwale, Makueni and Turkana. However, based on different soil and climatic conditions, some crops were more predominant in some counties than others. Table 3.4 indicates the main crops grown in the study counties.

Table 3.4 Main crops grown in Homa Bay, Kwale, Makueni and Turkana counties

Crop type/ County	Homa Bay	Kwale	Makueni	Turkana
Major crops				
	Maize	Maize	Maize	Maize
	Beans	Cassava	Green grams	Sorghum
	Pineapples	Beans	Pigeon peas	Green grams
	Groundnuts	Peas	Sorghum	Millet
	Potatoes	Green grams		Cowpeas
	Sorghum	Sugarcane		
	Tobacco	Cashew nuts		
	Sunflower	Cotton		
Fruits				
		Mangoes	Mangoes	Mangoes
		Coconut	Oranges	Bananas
			Pawpaw	Oranges
Emerging crops				
	Cabbage	Sesame	Cotton	Cassava
	Kales			Sunflower
	Carrots			Aloe Vera
	Tomatoes			Grain Amaranth
	Mangoes			Sweet potatoes
	Banana			

Source: Oduor *et al.,* 2012; County strategic plans for Homa Bay, Kwale, Makueni.

In Kwale, apart from maize, cassava, beans, peas, and green grams, the county produces semi- commercial crops such as coconuts and mangoes, with cashew nuts, sugarcane, cotton, sesame , and tobacco being the main cash crops (Government of Kenya, 2011).

Sesame is a new crop that has been embraced by farmers. Sugarcane is grown in the large irrigated areas of Kinondo, Gonjora, Kidzumbani and Mwisho wa Shamba in Msambweni Sub County. Compared to other counties, Makueni has a strong commercial, horticultural production sector, especially in the hilly parts of Kilungu and Mbooni West sub-counties. Fruits, namely mangoes, oranges and pawpaw are produced in the lowland areas such as Kathonzweni and Mbooni East. Cotton, fruit farming, and livestock keeping are practiced in the sub-counties of Nzaui and Makueni.

In Turkana, crop productivity is relatively low because of unfavorable weather conditions and poor adoption of best agronomic practices. For example, the average maize production per hectare is about 18 (90kg bag) bags and ranges between 28-36 bags. Mango production, at 2.5MT/ ha/year, is also low compared to a potential of 5.3MT/ ha/ year (Oduor et al., 2012). Farmers in Turkana are embracing new crops such as cassava, sunflower , mangoes, aloe Vera, sweet potatoes and grain amaranth, in their farming systems. The County has the largest potential arable land in absolute terms, but receives the least amount of rainfall, which affects productivity. Turkana County has around 22 irrigation schemes. The national and county governments target to irrigate 70,000 acres of land in Turkana by 2017 exploiting water from Rivers Turkwel and Kerio (Daily Nation Counties: June 17, 2014). This will enable the production of crops such as maize, sorghum, millet, cowpeas, oranges, tomatoes and capsicum.

In Homa Bay, the main food crops grown include maize, beans, pineapples, ground nuts and sweet potatoes. Large-scale farming of crops such as maize, sorghum, beans, sugarcane and agro- forestry was practiced, mostly in the less densely populated areas of Ndhiwa, Suba and Mbita sub- counties, where large herds and flocks of livestock were also kept. According to the Economic Review of Agriculture (2015), for Homa Bay County, crops such as cabbage, carrots and bananas, that were until recently not commonly cultivated in the county, are increasingly being grown by farmers.

Among the four counties, excluding Nairobi, Turkana had the highest number of livestock; this is not surprising since the Turkana are agro-pastoralists. Apart from cattle, sheep and goats, the Turkana also keep a large number of donkeys (558,189) and camels (832,462). The donkeys are sold to other regions but have potential value for export to China because of the relatively high value of donkey meat in that country. On the other hand, in Makueni, Homa Bay and Kwale, the production of indigenous chicken is common, while this is less practiced in Turkana, where chicken production is only just being introduced.

Table 3.5 Livestock populations in the study areas

Livestock type	Homa Bay	Kwale	Makueni	Turkana	National
Cattle	373,543	255,143	271,039	1,534,612	17,467,774
Sheep	118,947	83,133	99,512	3,517,151	17,129,606
Goats	259,175	349,755	733,385	5,994,861	27,740,153
Camels	23	613	22	832,462	2,971,111
Donkeys	18,789	2,532	32,084	558,187	1,832,519
Pigs	5,166	529	1,503	570	334,689
Indigenous Chicken	1,094,776	433,827	762,778	165,349	25,756,487
Chicken Commercial	55,801	98,220	46,027	15,444	6,071,042
Bee Hives	3,405	4,482	85,305	32,581	1,842,496

Source: *Kenya National Bureau of Statistics, National Population Census, 2009*

In terms of livestock production, Turkana County leads the other three counties in both milk and beef production. However, though the livestock numbers are large in Turkana County, their productivity is still relatively low. Makueni produces large amounts of milk (i.e. 65.7m liters/year), while Homa Bay only produces 30m liters of milk/year (Figure 3.3). The data for the study reported in Figure 3.3 is in agreement with that of *Elimika* Phase 1 study.

Figure 3.3 The population of livestock in study counties
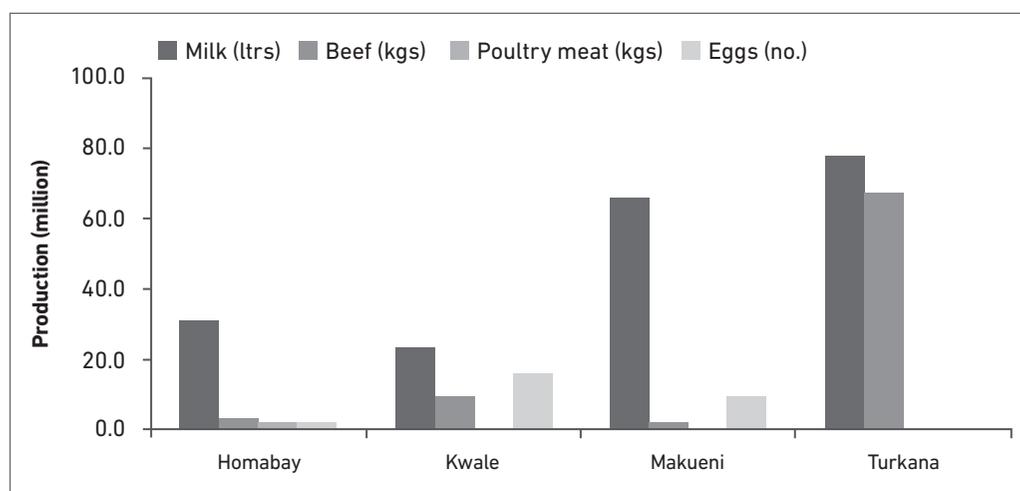
Source: *Agriculture Sector Development Support Programme 2015 (www.asdsp.co.ke)*

Even though the dairy industry in Kenya is the most developed in the Eastern and Central Africa region, valued at US$ 1.9 billion and accounts for 8 percent of the GDP, data from the Agricultural Sector Development Program 2015 indicates that the dairy subsector is less developed in the study counties. In Homa Bay, for instance in Suba, Ndhiwa, Homa Bay Town and Karachuonyo sub-counties, dairy goats are

being promoted by Heifer International and the Southern Nyanza Community Development Project. In Kwale County, livestock is kept for both food and income generation and contributes around 25 percent of the county income and about 20 percent of livelihoods in the drier zones of the county.

In Makueni, dairy production is concentrated in Kilungu and Mbooni West sub-counties, where climatic conditions are favorable and market access is growing. In Turkana County, where farmers are highly dependent on livestock, the prominent value chains being promoted by the county government include goat meat and milk, cattle meat and milk, camel meat and milk, hides and skins, fish, gum Arabic, and poultry.

In their development plans, the counties, except Nairobi, have identified livestock, particularly indigenous breeds, as priority areas for investment and improvement. Therefore, as the country and counties focus on poverty alleviation, employment generation and food security in the rural areas, livestock production provides a means through which food and nutrition security and poverty alleviation can be achieved.

However, it is important to note that there was no detailed data from *Elimika* or other sources to allow rigorous assessments of the livestock industry in the counties and to carry out in-depth comparisons between the counties.

Fisheries is an important (sub) sector in three counties. Homa Bay borders Lake Victoria, Turkana borders Lake Turkana, and Kwale borders the Indian Ocean coastline. Only Makueni and Nairobi Counties do not have large water bodies. In Homa Bay, fishing is an important activity which engages about 18,300 people and 3,600 families. The main types of fish harvested in Lake Victoria include Nile perch, Tilapia and Clarias (Omena). According to Homa Bay County Development Plan for 2013-2023, in 2010, the county had a catch of 12,000 tonnes valued at KES 9 billion. In 2012, it had 76,710 tonnes of fish, worth KES 7 billion. Of these, Nile perch contributed KES 5 billion and Clarias (Omena) contributed KES 1.7 billion. Homa Bay has 151 landing beaches managed by 133 beach management units (BMUs). Of these BMUs, 61 are in Mbita, 33 in Suba, 30 in Rachuonyo North and four in Homa Bay. Apart from Lake Victoria, there are several commercial fish ponds where fish, comprising mainly tilapia and cat-fish is farmed.

Lake Turkana is home to 48 known fish species, twelve of which are commercially exploited. They include Nile perch, Tilapia, Cat and Tiger fish. It is estimated that about 6,000 MT of the fish harvested supports about 11,000 fishermen, fish traders and transporters annually. Kwale County is endowed with a long Coastline stretching from Shimoni, Vanga, Msambweni and Diani to Tiwi areas, with about 40 landing sites. The main types of fish found are Rabbit Fish, Scavengers, Jack Fish

and King Fish. According to the county government records, there are 338 fish ponds and with a Fish Farming Enterprise and Productivity Programme in place, the number of ponds is expected to rise, increasing fish production in the county.

3.4 MANAGEMENT OF NATURAL RESOURCES

Water, forestry, fisheries, wild life and special ecosystems are critical sectors which support agriculture. These resources have significant roles in poverty reduction and employment creation. The sectors improve people's livelihoods through equitable distribution and sustainable management of land, forestry and wildlife resources.

Homa Bay County has 1227 km² of fresh water bodies with Lake Victoria being the main one. Kwale County has huge underground water catchment areas at Tiwi, Msambweni, Diani, Duruma, Umba and Mwena, apart from bordering the Indian ocean. Makueni County has Athi and Thwake rivers, which are the only semi-permanent rivers serving the entire community. The rest of its water resources are manmade from shallow wells and dams. In Turkana County, Lake Turkana is the main water resource.

Forest conservation measures should be undertaken in order to preserve gazetted and non- gazetted forests from being overexploited or being encroached upon by adjacent settlements. All the four rural counties seek to increase the acreage under forest to 10 percent, in line with Kenya Vision

2030 and commitments to international best practices. The rural counties practice agro-forestry and other forms of sustainable agriculture, which contribute to better utilization of indigenous as well as exotic trees. Trees on farms, rangelands and woodlots are an important source of income, medicine, wood fuel and fruits. They not only act as biological pest control agents, but also improve soil fertility. For example, Homa Bay County has tourist attractions such as the Ruma National Park, the Winam Gulf of Lake Victoria, Rusinga and Mfangano Islands, Kanjira archaeological site, Volcanic Lake Simbi Nyaima in Karachuonyo, Asego and Homa Hills. Gazetted forests include Wire and Kodera.

In Kwale, the Kwale Forest Land Restoration model has been rated as a best practice, for protected area policy and programmes in the coastal counties of Kenya. The Kaya Kinondo sacred forest which serves as a sacred place of worship for the Miji Kenda, is a good example of the social value of forests, and a nature preserve. In Makueni, the county government has committed allocating substantial land for forestry. Participation in the conservation of Mbooni Dry Land Hill top forest is a good example that could be emulated by other counties. The recognition and

registration of private forest as extension of county forest cover, would provide an incentive to farmers and the private sector to increase the proportion of forest cover on their land. Turkana County has introduced the growing of prosopis (Prosopis cineraria), a new green crop in Kenya. In addition, the rehabilitation of degraded woodland and the ban of charcoal burning to save shrubs by the county government are commendable efforts.

Degradation of upstream catchments, mainly due to human population growth, triggered agricultural expansion in the counties and is already impacting water availability. Destruction of forests and wetlands in the counties, and the resultant biodiversity loss is also a key environmental challenge and concern. Population growth, agricultural expansion, over-dependence on wood fuels, and low levels of forestation have accelerated deforestation in the counties. The loss of forests and wetlands can have consequences for ecosystems and food security. Most of Kenya's population depends on wood fuels for cooking. It is estimated that at least 97 percent of households in Homa Bay use firewood or charcoal for cooking and heating. As the human population rises, associated increases in demand for farming and residential land will undoubtedly accelerate deforestation and exacerbate the effects of climate change in these counties. Forests are critical in the conservation of both fresh and blue water reserves, which, in turn, support millions of other species. Homa Bay County has a total land mass of 4,267.1km^2 of which 1,227 km^2 is covered by Lake Victoria's water, while Kwale, which is on the fringes of the Indian Ocean, and Lake Turkana in Turkana County are important natural resources. All these resources exhibit symptoms of degradation and pollution. For example, the persistent problem of the Hyacinth and declining fish species in Lake Victoria is associated partly with industrial waste being off loaded into the lake. In Turkana, the Lake Turkana is diminishing in size and is thus supporting less and less aquatic life.

3.5 EFFORTS TO BOOST FOOD SECURITY

The Constitution of Kenya, Article 43, recognizes economic and social rights for all citizens. These include the right to health care services, adequate housing, sanitation, adequate food of acceptable quality, clean and safe water and appropriate social security for vulnerable groups in the society. The role of the agriculture sector in achieving the right to food and its contribution to other industries and employment influences the attainment of other basic rights and hence the need to prioritize agriculture. In order to improve agricultural production, interlinked factors must also be addressed, including factors of production such as land and other natural resources. This is based on the realization that food security can be

achieved through improved productivity, production and diversity, in a sustainable manner that demands environmental conservation. In this regard, counties, through their development plans, have established priority legislation that advances the realization of social and economic rights through revision of land tenure and ownership systems, input provisions, training and capacity building as well as conservation of natural resources.

An important aspect for boosting food security is the devolved system of governance. Devolution enables resources to be brought closer to the citizens and promotes localized prioritization of projects and stronger stakeholder participation. Counties have invested in extension programmes, but a lot still needs to be done including linking research to extension programmes. The mentioned efforts cut across natural resource management, crop and livestock production, agro-industries and governance.

Kenya has a comprehensive National Agricultural Research Systems (NARS) policy developed in 2012 and meant to transform Kenya's agricultural research systems making them more dynamic, innovative, responsive and well-coordinated. NARS seeks to shift the focus from institutions development towards problem solving and impact driven research agenda; fast track national adoption of available technologies and knowledge; enhance capacity to access, borrow and adopt knowledge and appropriate technologies available world-wide; increase recognition of the important role played by the Private Sector and Intermediary Organizations (NGOs, CBOs); and adopt a business-like management style. It is expected that counties will take advantage of the reform process prompted by the policy.

County governments are making efforts to ensure adjudication of land, which is a key resource for agricultural production. Homa Bay County, for instance, has focused on the regularization of the land tenure system and ensuring that all land parcels have title deeds. Turkana County suffers from human rights issues, gender empowerment and insecurity. However, it aims to become a model of efficient management of natural resources, where residents have equitable access to development assets including land, water, and other renewable resources. In Makueni, only 19.8 percent of land owners have title deeds. There is also high incidence of landlessness in Kibwezi West and East Constituencies, which have 25 settlement schemes and about 5,000 squatters.

Kwale County's agricultural growth suffers most from inequalities related to land resources. Top in the county's agenda is adjudicating the relevant land for distribution to local communities. The county, therefore, needs to develop a database of squatters and landless persons, establish settlement schemes for deserving

community members, issue title deeds to beneficiaries of settlement schemes, and effect gender balance in the beneficiaries of land resources.

Counties will benefit a lot from the on-going national land adjudication and registration process which must be accelerated to encourage investment and reduce conflicts. This should lead to efficient land adjudication process, solving land and boundary disputes, digitizing land records and issuing of title deeds.

The five counties except Nairobi reported that frequent crop failure and poor crop harvest is the result of unreliable rainfall. Accordingly, rain-fed agriculture can no longer sustain the current magnitude of the population in the counties. Similarly, livestock deaths due to drought, also affects these four counties. Water is an important input in agricultural production, and therefore, investment in water harvesting and irrigation is one sure way of ensuring sustainable food and nutritional security.

There are several irrigation projects and irrigated agricultural potential in four of the five counties. These present opportunities not only for increased cereal and horticultural crop production, but also irrigated fodder and crop residues that would support increased livestock production.

Homa Bay County for instance, has potential for 8,966 hectares of irrigated agriculture, yet only 13.3 percent of the land is presently under irrigation. Major horticultural crops grown under irrigation include kales, tomatoes, onions, capsicum and water melon. The major irrigation scheme in the county is the Oluch-Kimira irrigation scheme in Rachuonyo North, a government funded project established to combat frequent crop failures, and the resulting food insecurity in the area.

In Kwale, river basin irrigation and other water-based projects are dependent on the Ramisi, Marere, Pemba, Mkurumuji, Umba, Mwachema and the Mwachi river drainage systems. According to the county's plans, these systems have been prioritized for irrigation purposes. Kwale also has huge underground water catchment areas at Tiwi, Msambweni, Diani, Duruma, Umba and Mwena. There are also private and public irrigation projects associated with these river catchment areas.

The Athi and Thwake rivers are the only permanent and semi-permanent rivers in Makueni. Nonetheless, there are about a dozen water management community projects that include dams, irrigation schemes and boreholes. Most of the population depends on surface and sub-surface dams for water, which often do not hold sufficient water. The county government is increasingly investing in water conservation programs as well as sinking boreholes to support improved crop and livestock production.

There are about 22 irrigation schemes in Turkana, of which only 13 are functional (Oduor et al., 2012). The county relies primarily on rain-fed agriculture. Given the inadequacy and unreliability of rainfall, the county government is investing heavily in rainwater harvesting.

3.6 CHALLENGES

There are several challenges confronting the attainment of food security in Kenya which cut across the five counties. Planning and predictability of agricultural activities have been adversely affected by climate change. Climate change effect is making the rainfall patterns to be more unreliable, in terms of timing and intensity, and over-reliance on rain-fed agriculture exposes producers to negative impacts of climate. Fluctuations in rainfall and temperatures result in increased incidence of new pests and diseases leading to low crop yields and post-harvest losses. With respect to livestock production, climate change reduces water volumes while extreme high temperatures during the dry seasons dry wells, streams and rivers.

Inadequate resourcing of the agricultural sector is also a challenge. Although agriculture has been devolved, the provision of financial and human resources is far from adequate. Counties lack qualified extension personnel and the few staff available are under-resourced, hence are unable to reach farmers with extension services. The result is an ineffective extension service for farmers. This poor support, coupled with poor roads and poor rural infrastructure, make farmers in these counties less competitive.

Converting agricultural land to other competing land uses implies that less land is available for agricultural production. These land use changes have been exacerbated by high population growth that, in turn, leads to increased land fragmentation and loss of agricultural productivity. The resulting food supply deficits places an upward pressure on food prices and inflation. Rising population pressure on agricultural land also promotes environmentally unsustainable production practices such as cultivation on steep slopes and encroachment into forests and wetlands, in some counties.

Production and productivity are affected by the quality of farm inputs used. Based on the baseline report, few farmers use certified inputs, which often results in lower and often declining yields. In Kwale for example, survey data indicated that only 26.7 percent of the surveyed households reported using certified fertilizer, 38 percent reported use of certified pesticides, while 43.3 percent used certified seeds. The source of the inputs, included recycled seeds from the previous crop (43.4%) while local shops and Agrovet outlets accounted for approximately 31.6 percent and

13.8 percent, respectively. Some farmers received seeds from the cereals board or borrowed from their neighbors and friends. In Makueni, only 42, 27 and 31 percent used certified seeds, fertilizers and pesticides, respectively.

The low use and recycling of farm inputs (seeds) was also common in all rural counties. In this regard, county governments can play a critical role in ensuring that farmers have access to quality inputs in order to improve their production. However, in some counties, these facilities are yet to reach a wide number of farmers. For instance, although key informants in Makueni confirmed that the county supplied inputs, only 11 percent of the respondents had received them. In Kwale 51.5 percent were not aware of the services and facilities available to them from the government while in Homa Bay County respondents were yet to feel the impact of the county government's initiatives.

County governments have facilitated the construction of fruit processing in Makueni, development of fish landing points in Turkana, Homa Bay and Kwale. Construction of maize mills, feed as well as potato processing, have been initiated in Homa Bay

It is clear that there is either low awareness on the efforts that county governments are making or that the facilities provided are inadequate to ensure farmers get inputs. This calls for a proper and efficient input distribution system to benefit more farmers. A good avenue towards realizing an effective input distribution and utilization system is to provide incentives to the private sector and stockists to bring supplies closer to the farmers. Traders and farmers should be trained on proper use of inputs.

Equally important is the question of knowledge and skills needed, which is often a constraint to the efficient and effective utilization of inputs provided. Only a few study respondents had been trained, mainly on crop production including training on crop varieties, crop and livestock husbandry, and postharvest handling. This however varied across the counties. Respondents from Nairobi had the greatest number of training sessions. This could be due to their proximity to the capital, which has many learning institutions and government agencies. Up to 27.8, 21 and 12 percent of respondents from Kwale, Makueni and Homa Bay, respectively, had undergone some form of training. The training is often conducted by government agencies through extension staff. Interestingly, in Homa Bay, majority (82%) of the training was carried out by NGOs.

Other challenges that relate to food insecurity in the country include:

Theft of grain and stock: This is a reference to the perennial and debilitating activities such as grain and stock thefts that disrupt food production and distribution causing recurrent episodes of starvation, requiring huge support and intervention by the government and development partners. Cattle rustling is rampant in Turkana County, but is also known to affect the other counties. Theft of grain from the field and in storage is increasing countrywide.

Low use of the 200-mile Exclusive Economic Zone (EEZ): Hitherto Kenya has not been fully equipped to exploit its 200-mile exclusive economic zone which is responsible for the small-scale exploitation of fisheries and other marine resources. This is partly due to lack of technology and shipping trawlers in Kwale County within the marine borders. It is hoped that this will soon change.

Low livestock productivity: Most livestock breed types kept in the four counties surveyed, except Nairobi, are indigenous, and their production levels are dismal. Although their productivity could be improved, there are no programs to ensure that future livestock populations are produced by the best males and female animals available. Implementing simple recording selection programs would improve the overall performance of these livestock. Mating of closely related individual animals should be avoided. Organized exchanges of breeding stock between communities should be encouraged. Unplanned breeding should be avoided. The productivity potential of smallholder dairy farmers is limited by unreliable access to productive and adapted dairy cow breed types that best suit their production systems. Counties do not have systems for the production or multiplication of such animals or breed improvement programs. Whilst many farmers keep cross-bred animals, they neither have the means of ascertaining the type of cross-bred animal they keep, nor do they have knowledge on whether an alternative cross-bred type would be more profitable for their system.

High cost of inputs and services: Inputs such as animal drugs, feeds and implements are costly, and are often of poor quality. Services such as artificial insemination is available, but the costs are high because farmers are not organized enough to benefit from collective action. Often, corruption and poor regulatory frameworks undermine farmer efforts. Poor infrastructure also contributes to the prevailing higher input and service costs. For example, where roads are poor, service providers such as artificial inseminators charge farmers more. In the four counties, few farmers keep improved dairy cattle, so the service per unit of Artificial Insemination (AI) service is relatively high. Increasing the number of such animals would guarantee lower costs per unit service.

Ineffective and adulterated inputs: Inappropriate farm supply especially veterinary, drugs, pesticides, animal feeds and equipment, reduce profit margins. Poor quality and inappropriately prescribed and administered drugs not only lead to increased short-term costs, but also make parasites and pathogens develop resistance to the drugs, rendering such drugs ineffective. Poor quality inputs breakdown soon after they have been procured which translates into frequent replacements. Mechanization and automation of production would go a long way in improving production and lowering costs. The paucity of mechanization makes livestock farming unpopular among the youth and women.

Insufficient access to quality and timely extension and market information and services: Extension services are generally inadequate and poor. Training of extension staff is lacking due to poor resourcing of training institutions, for example, farmer training institutions are few and the resources allocated inadequate. Even though information is more readily available on the internet, such materials are not packaged in forms that are easily understood and are hardly contextualized to local realities.

Focus on subsistence and not on commercial farming: In all counties except Nairobi, a majority of livestock farmers practice subsistence rather than commercial livestock farming. The paucity of an agribusiness orientation prevents farmers from embracing improved technologies and practices. The ultimate results are poor performance and low profitability. This mind-set ought to change through participatory capacity building as well as sensitization by Counties, Central Government and NGOs.

Inadequate access to financial services: Majority of the farming communities have little access to financial services, and even when they do, such credit facilities are ill-structured and thus not suited to the nature of livestock production. For example, a farmer may access credit to purchase an improved dairy heifer, but there is no provision for an adequate grace period that allows repayment schedules to coincide with the cow's biological processes such as gestation, followed by lactation. The borrowers are often required to start paying before the heifer calves down, making it difficult for farmers to service the loan. This situation complicates the cash f low to an extent that the management of the animal is compromised. Invariably, farmers use the resources available to repay the loans instead of buying animal feed.

3.7 OPPORTUNITIES FOR BOOSTING FOOD SECURITY

Several opportunities for increased agricultural productivity, jobs, income and wellbeing of the people exist in each of the five counties. From the available data, all the four counties except Nairobi use less than 50 percent of their potential arable land

for agriculture. The available water resources allow for additional land utilization. Therefore, there is huge opportunity for expanding agricultural production either through rain-fed agriculture, irrigation or both. The large population of indigenous livestock can be improved through, for example, cross breeding. In addition, there is a lot of unexploited and some not fully exploited opportunities in indigenous crops, fruits and emerging livestock types that can boost production and earn farmers extra income. For example, ostrich, mushroom production, quail, butterflies, wild fruits, and pumpkin farming are some of the undertakings that can broaden the farmer's food basket.

Except for Makueni, the other counties have plenty of water, potentially available in the form of rivers and lakes, all of which are not yet fully exploited. Makueni County has embraced rain water harvesting and conservation of water in dams, and drilling wells and boreholes to boost water harvesting for domestic use and agricultural production.

In all the counties, the youth form the highest proportion of the human population and are a potential labor force. The youth can quickly embrace technologies such as information and mechanical technologies, and urban farming which could transform the agricultural industry to a more efficient level. Improved access to market information, collective action in form of well managed business focused farmers groups and cooperatives, and better access to inputs and market services would help enhance the competitiveness of farmers in the counties. However, enabling local and national government policies need to be formulated and implemented.

Dynamic technological changes are occurring, offering farmers and value chain actors unprecedented opportunities to access timely information (technical and market), while biotechnology is enabling farmers to access more productive and resilient crop varieties and animal breeds. The collective benefits of these technologies, if optimally harnessed, can transform agriculture in the counties.

For example, in livestock production, a combination of smart application of information and genomic technologies, the availability of vaccines against diseases such as East Coast Fever that was a barrier to the introduction and expansion of commercial dairy production , and adoption of accelerated reproductive technologies (that is, use of sexed semen and fixed time artificial insemination service in cattle) can help introduce and rapidly multiply more productive and locally adapted livestock breeds and make them easily accessible to farmers in the counties (that is, in three to four years). This would replace, through a more informed

manner, the less productive animals that are currently kept by the farmers. Use of hand-held machinery to replace animal draft power would help open more land, leading to timely planting. This would lead to higher productivity per unit land area and livestock unit and would make agriculture more attractive to youth and women. Therefore, counties should embrace technology in order to catch up with the traditional Kenya's breadbasket counties such as Trans Nzoia, where there is always surplus production.

County governments have facilitated the construction of fruit processing in Makueni, development of fish landing points in Turkana, Homa Bay and Kwale. Construction of maize mills, feed as well as potato processing, have been initiated in Homa Bay. Agro-processing and value addition industries in these counties are low and more investment is still needed. For example, Turkana County would strongly benefit from meat processing and leather tanneries, given the huge livestock population in the county.

There is a lot of potential in inter-county trade. In Kwale, for instance, in addition to Ukunda and Kinango markets, the county borders Mariakani and Kongowea market in Kilifi and Mombasa Counties, respectively. The main livestock markets in Kilifi include Mwangulu, Kinango, Mwakijembe, Samburu, Vigurungani, Taru, Malomani and Kasemeni, in the livestock farming zone, and Msambweni, in the mixed farming zone. Homa Bay is densely populated providing a ready market for many farm products. Turkana County is closer to Congo, Uganda, South Sudan and Ethiopia, which would provide an enormous opportunity if a facilitating physical infrastructure is put in place. Makueni is close to Nairobi where the demand for fruits is high with the potential for export.

Cooperatives have proven to be very useful in bringing farmers together and acting as channels for capacity building and extension programmes and farmer to farmer learning. Additionally, farmers have gained from the savings and loans provided by the cooperative societies in agricultural production. The cooperative movement is very strong in Makueni County, to the extent that almost every farmer is a member of a farmer's group. In the other counties, the practice is not very strong though farmers are starting to embrace cooperatives. County governments are also promoting farmers' group, for example, the Oluch-Kimira Farmers Development Group with leadership from Irrigation Water Users Associations in Homa Bay County. In Kwale, the county government is encouraging farmers to form groups to benefit from county facilities such as tractors, seeds and fertilizers.

The sustainability of agricultural production will depend on environmental sustainability. The five counties studied should start being more conscious of

climate change adaptation and mitigation, and this should be reflected in their development plans. This may have the effect of minimizing the impact of climatic shocks in the   agricultural production systems, and by extension, enhancing economic development in the counties.

Collaboration between county governments and agricultural institutions is recommended to boost food security. The African Dryland Institute for Sustainability (ADIS) of the University of Nairobi, located at Kibwezi in Makueni County, for instance focuses on training, research, extension and sustainable management of natural resources.ADIS, is developing technologies for sustainable livelihoods and informing policy to promote transformative education fostering community empowerment in the dry lands. The Institute offers opportunities for resilience building and economic growth in the dry lands.

3.8 CONCLUSION

The study sought to establish the knowledge gaps in people's understanding of the Constitution of Kenya 2010 and devolution system and how that influences citizen participation in development agenda. This particular chapter focused on devolution and its impact on the agricultural sector, given its contribution to livelihoods, employment, national development, and food security. The chapter was necessitated by the fact that agriculture is still the core sector for livelihoods, employment and contribution to national development growth. Additionally, the majority of population residing in rural based counties and underdeveloped areas in Nairobi County experience food insecurity.

There is evidence of improved service delivery especially in health care, infrastructure, educational facilities and access to water attributed to devolved systems despite the short comings experienced, as expected in the early phases of devolution. In agriculture, counties have taken advantage of the system to focus on initiatives aimed at achieving food security. Agricultural production and management of natural resources for example are areas the county governments are demonstrating the strength and benefits of devolution. For example, improvement of livestock production through artificial insemination technology in Kwale and, promotion of diversification of agricultural activities in Turkana. Investing in water harvesting technologies in Makueni County, and the development of maize processing plant, value addition, and improvement in market access to farmers in Homa Bay, are some of the initiatives that can be attributed to devolution in these counties.

The devolved system of governance indicates a lot of potential and provides an effective means of achieving food security at county and national levels by improving

resource allocation, prioritization and management. Active and knowledgeable citizen participation is an integral part of the strategy. Knowledgeable citizens can engage and contribute in decision making on resource allocation, management and monitoring. ,This will result in mainstreamed and integrated sectoral service provision for better development, employment creation and stronger agricultural development.   In terms of natural resource endowment, except for Nairobi, which is experiencing land shortage, the remaining counties have relatively large tracks of land which can be efficiently used to boost production. Realization of food security will perhaps lead county governments to collaborate with national government and streamline agricultural policies and incline their efforts towards better citizen engagement particularly in farm inputs, capacity building, resources management, market management and agricultural diversification.

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The Right to Water, Peace and Security for Sustainable Livelihoods in Turkana County

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4.1 INTRODUCTION

The previous two chapters have discussed the inevitable link between human rights and sustainable livelihoods. Specifically, chapter three focuses on food security as a specific human rights concern and highlights the challenges and prospects for food security to improve livelihoods. As the chapter points out, water and food security are inextricable and indispensable for livelihoods. Both crops and livestock production require water for growth, survival and other production processes. This chapter extends this analysis and further explores the inseparable link between water, peace and sustainable livelihoods using field data from Turkana County.

Turkana is an Arid and Semi-Arid Land (ASAL) and the poorest county in Kenya. It has a poverty incidence rate of 79.4 percent, while the national rate is 36.1 percent (Government of Kenya, 2018). For years, the county has been depicted as a conflict infested region due to cattle rustling and competition for scarce resources, particularly, water and pasture. Two water aquifers discovered in the county by UNESCO in 2013 that were hoped to solve water scarcity in the county, and in Kenya generally, have not yielded meaningful results as the county continues to experience persistent water shortage and drought. Studies on the suitability of water for human and livestock consumption and agricultural production are still underway. Further, the discovery and exploration of oil by Tullow Oil Company complicates the Turkana water crisis: huge amounts of water are needed for oil production activities, pointing to an emerging new dimension of water conflict involving residents and foreign oil firms (Kamau, 2019). Thus, while the discovery of oil and water bring a ray of hope to Turkana, they also present new challenges. At the same time, devolution, under the 2010 constitutional dispensation, raised the expectations of Turkana residents through its promise to address the social

and economic rights of marginalized populations. These emerging trends call for the need to examine the intersection of the right to water, peace, security, and sustainable livelihoods in order to inform policy and other strategic interventions in the county to build a prosperous and conflict-free Turkana.

Turkana is mainly a pastoralist community but also practices limited farming, trade, fishing, and weaving. The main water sources include Lake Turkana, Turkwel River and the Turkwel Dam. Despite the existence of these water sources, a large number of the population experiences water scarcity, which, coupled with recurrent droughts, makes it impossible to engage in productive livelihood activities. In addition, the scarcity of this vital resource engenders many forms of conflicts and insecurity in the region thus threatening livelihoods and the peaceful co-existence of people and communities. This chapter presents findings of the "Construction of Knowledge Societies for Wealth Creation in Kenya" baseline study in Turkana that sought to examine the nexus between water rights, peace and security for sustainable livelihoods in the county. In contributing to the broader objective of the study, the goal in the Turkana study was to gather data that would inform how the community can be mobilized around water use including harvesting, utilization and management, in order to build peace and security for development.

The chapter begins with a framework on the right to water as part of understanding water access in Turkana, and then provides a brief review of the literature on water, sustainable livelihoods, and insecurity in the county. Following this, it describes the methods used for data collection and then presents the study findings. The findings highlight the current water situation and provision by government and Non-Governmental Organizations (NGOs), and the challenges and tensions between these actors and communities, which may hamper efforts in water provision. Findings further reveal the relationship between water scarcity and insecurity, specifically, competition and physical violence over water; sexual violence against women; ethnic and inter-community conflicts; land tenure systems and water-related conflicts ; and how social exclusion of women and youth fuel conflicts. The chapter then discusses the relationship between the right to water, livelihoods and food security and, thereafter, how water-related conflicts are resolved in the county. Overall, the study finds that water scarcity fuels ethnic, class, gender and other inter-communal conflicts and divisions, and that divisions are also connected to land tenure systems. These compromise peace and security and have wide implications for sustainable livelihoods and development in the region. The chapter argues for the need to address the right to water and points out the place of the Construction of Knowledge Societies programme towards this endeavor.

4.2 THE RIGHT TO WATER

The United Nations states that, the right to water contains both freedoms and entitlements and is a prerequisite for the realization of other human rights (UN, 2003). These entitlements include the right to a water supply and management system that ensures equal opportunity for people and the right to be free from interferences such as arbitrary disconnections and/or contamination of water supplies (UN, 2003). In 2010, The United Nations General Assembly and The United Nations Human Rights Council adopted a resolution recognizing water and sanitation as a human right (United Nations General Assembly, 2010). Article 11 (1) paragraph 1 and 2 of the resolution states that water must be adequate for human dignity, life and health. The right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses (UNDP, 2004).

In line with the UN resolution, WHO/UNICEF's Joint Monitoring Programme (JMP) for Water Supply and Sanitation formulated a Millennium Development Goal (MDG) for portable water target, which called for a reduction of the proportion of the population without access to safe drinking water between 1990 and 2015 by 50 percent (WHO/UNICEF, 2012). This target was met in 2010, five years ahead of the deadline. However, JMP acknowledges that much more

> **The government of Kenya, through the National Water Policy (NWP) of 2012, is committed to ensuring the realization of the constitutional requirement of the right to water for all citizens**

needs to be done, since more than 780 million people, majority of them resident in developing countries, Kenya included, still do not have access to improved sources of drinking water (WHO/UNICEF, 2012). Currently, the UN sustainable development goals (Goal 6) seeks to among other targets, achieve universal and equitable access to safe and affordable drinking water for all, improve quality, protect and restore water-related ecosystems by 2030 (UN, 2016).

While there is as much as 1,400 million m³ of water on earth, only 1 percent of this amount is available for human use (UNEP, 2009). Sadly, the available amount per person will continue to decrease with time, as the world's population expands. Furthermore, water supplies in many parts of the world are increasingly being degraded by pollution (UNEP, 2009). Every year, approximately 25 million people die either from consuming polluted water or due to lack of adequate water (UNEP, 2009). From a governance perspective, water security is essential for social, political, economic and environmental stability. With supplies declining, water has become

an urgent security issue, especially in the ASAL areas of Africa where communal competition for the scarce water supplies are associated with drought, famine, ethnic conflicts , fights, displacements and even deaths (UNEP, 2009).

The government of Kenya, through the National Water Policy (NWP) of 2012, is committed to ensuring the realization of the constitutional requirement of the right to water for all citizens. This is consistent with Vision 2030 and Section 43 (1) (d) of the Kenyan Constitution 2010, both of which guarantee universal access to water and sanitation to its citizens through harvesting of rain and underground water (GoK 2007, 2010). Despite the government's international and national commitments on water provision, the country has only five water towers, all of which are experiencing severe degradation due to anthropogenic activities (NWP, 2012). Without protection and conservation of the ecosystems of the water towers, water security and services in the country will worsen over time. This will negatively impact the social, cultural and economic development of the country. Ironically, ASAL areas like Turkana contain abundant water resources yet, much of it is unavailable for use thus subjecting humans and livestock to water scarcity, drought, starvation and even death.

4.3 TURKANA'S WATER PARADOX AND INSECURITY

Scarcity in the midst of plenty defines the situation of water in Turkana. The county is one of the driest and most water-scarce parts of Kenya. Ironically, it holds the country's largest underground water reserves (UNESCO, 2013). Indeed, underground water mapping by UNESCO confirmed the existence of two massive aquifers in Lotikipi and Lodwar Basins. Other water sources include Lake Turkana, the world's largest permanent desert lake, as well as Turkwel and Kerio Rivers. Although seasonal, the two rivers augment the availability of water supply in the county, especially during the rainy season. In addition, during heavy rain seasons, the Turkana f loods displace and kill both people and animals.

Paradoxically, despite the potentially plentiful water supplies, Turkana is perennially in the grip of drought, famine, ethnic conflits,, fights, displacements, and even deaths associated with competition for scarce water supplies with neighbouring communities (Huho, 2012; Opiyo et al., 2013). Majority of the Turkana inhabitants rely on contaminated scoop holes dug into dry river beds, distant communal watering points and seasonal river flows. Typically, they survive on less than 10 liters of water , per person, per day (half the recommended minimum) (McScorley, 2014). Though droughts and diminishing water-resource bases do not automatically elicit insecurity and violent conflicts in the region, they shape conflicts due to lack

of functional institutions, well defined land tenure rights, participatory land use planning and mutually negotiated cross-territorial grazing rights during dry spells (Huho, 2003, 2012).

The exploitation of water resources together with that of the recent oil discoveries is expected to reduce conflicts and empower the community socially, economically and politically. However, it is also likely to create additional forms of conflict . As mentioned earlier, there is already emerging competition for water between residents and oil firms. Further, these discoveries may become a minefield for inter-communal and regional conflicts and insecurity especially due to the border location of the resources. The poor demarcation of borders between Kenya and neighbouring countries exacerbates conflicts over resources in the region and threatens the sustainability of pastoral livelihoods.

For pastoral communities in ASALs, the importance of water for both peace, sustainable livelihoods and human well-being cannot be overstated. Without water, food and livestock production stops, economic activities halts and conflicts escalate. Drought and famine are among the major causes of vulnerability in pastoral communities. Water is the most precious natural resource essential for sustainable livelihoods, poverty reduction, and consequently, wealth creation. In other words, in pastoral communities, water is essential for removing such sources of "unfreedoms" as poverty, poor economic opportunities, social deprivation and insecurity (Sen, 1999). Focusing on Turkana, scholars such as O'Hagan and McCarthy (2012) have highlighted some major risk factors affecting the sustainability of Turkana livelihoods including, rising population, recurrent and intensifying drought due to climate change, livestock diseases, insecurity and conflict over resources. Both scholars and practitioners agree that water is central to mitigating these risks (Constantaras, 2014 & Yin et al., 2007).

As a pastoral community, the Turkana rely heavily on livestock production for survival. Yet, they do not have adequate water for livestock development (Ngugi et al., 2013). Except for Lake Turkana, Turkwel and Kerio Rivers, other naturally occurring surface water bodies in the region are negligible due to high evaporation rates (World Agro Forestry Centre, 2014). Other than livestock keeping, the Turkana engage in a host of alternative livelihoods including, honey production, fishing along rivers and Lake Turkana, irrigated farming, basket-making and handicrafts, and charcoal production. Some scholars have proposed other viable sources of income such as sand scooping along major rivers and Lake Turkana shores, brick making, poultry keeping, promotion of cultural and wildlife tourism as well as formal wage employment (Ngugi & Nyariki, 2005; Power, 2011; O'Hagan & McCarthy, 2012; Avery, 2012).

Data for this chapter comes from research conducted in Turkana's two Sub Counties of Loima (Lorugun) and Lodwar (Turkana Central). The study employed both quantitative and qualitative methods. The quantitative survey component included a representative sample of 248 individuals: 117 (47.2 percent) male, and 131 (52.8 percent) female drawn randomly, from households in the sub-Counties. The survey questionnaire collected baseline data from households on economic activities, settlement patterns, landownership and production, water sources and use, conflicts and insecurity, and participation in community groups. The qualitative component, the major reference for this chapter, included (a) key informant interviews with county administrators and staff of different ministries and departments such as water, agriculture, security and education; school heads; NGOs, (development agencies, community based organizations, national organizations, and religious organizations); community leaders and elders; (b) ethnographic in-depth interviews with women; and (c) focus group discussions with women groups and water users associations. Qualitative research elicited data on the water situation in Turkana; women's narratives of lived experiences with water scarcity; effects of water on livelihoods; water related conflicts; conflict management and coping mechanisms; provision of water by government and NGOs; water rights activism; and successes and challenges in water rights activism. Voluntary consent to participate in the study was obtained from research participants prior to the interviews.

The survey questionnaire sought responses from adults who were responsible for, or made key decisions on household activities. Majority of the participants (70 percent) did not have any formal education and only about 21 percent had primary level of education. The occupations of the participants were varied. Of the participants, 26.2 percent had their main source of income as livestock. Small businesses accounted for 24.2 percent; firewood/charcoal burning (19.8 percent); 12.5 percent engaged in weaving and other handicraft while only about 5 percent drew their income from farming. These economic activities earned them only meagre incomes that were not adequate to sustain their families. Some households spent more money than they earned in a month, thus, raising concerns over how such individuals meet the gaps in expenditure. The low levels of education and economic statuses of the research participants depict the general situation in Turkana as highlighted in national documents that place the county as the poorest in the country (GoK, 2016). This has wide implications for livelihoods, economic and social deprivation in the county.

4.4 THE WATER SITUATION IN TURKANA

Participants described Turkana County as hot and dry with unreliable rainfall pattern which is susceptible to recurrent drought, floods (when it rains) and conflicts. The main water sources in the county are Lake Turkana and, river Turkwel but the government has not made adequate use of these sources to provide water for household use and livestock. There are also other rivers, many of which are seasonal. Individuals also obtained water from boreholes, dams and wells but these were unevenly distributed in the county. Almost all participants (99.6 percent) noted that they accessed water either from surface run off water (such as river) and boreholes drilled in the community but frequently experienced water shortage for both domestic and livestock use. None of the interviewed individuals mentioned having piped water or personal boreholes within their households. Qualitative data indicated that many people could not afford to pipe water from the boreholes into their households due to financial constraints. Other homesteads relied on hand-dug shallow wells on dry sandy riverbeds where there was no borehole or because they could not afford to pay for water. By using local traditional knowledge, such as observing vegetation around riverbeds, they were able to estimate how deep to dig before reaching the water table.

Distance to available water sources was a big challenge for many people. About 80 percent of households walked between one and three kilometers to a water point while a few others (4 percent) walked for over five kilometers. The current distances were, in fact, a result of the county government and NGO efforts to construct boreholes and provide pumps within a radius of 10 kilometers (km) in order to reduce the distances individuals walked to the water source to about 5 kilometers. Before this, some members of the community walked more than 10 kilometers daily in search of water:

"There is a new water Bill coming up. We will have sub-county water companies to run sub-county water privately. We are trying to install pumps (boreholes) within distances of 5 - 10 kilometers so that the longest walk is 5 km to the pump." (Key informant interview, sub-county water officer)."

Given the prevailing situation of water scarcity and distances to water points, it seemed that the more dependants one had, the more difficult and challenging it was to provide adequate water for every household member. Individuals and families had devised several strategies to cope with the water shortage, including, migrating to high pasture lands; de-stocking (purchase of animals by the government to allow

community members have fewer animals that fit the resources available); herd splitting (dividing livestock into separate herds depending on their age, sex, type, and productivity for easier grazing and to disperse stocking pressure); hand digging of shallow wells on sandy river beds; and, using a tariff system to regulate and limit water use in households. Importantly, community members formed water users' associations to manage water use and maintain boreholes and pumps provided by government and NGOs, and to facilitate collective claims on water rights. Despite these strategies, a water crisis still loomed large.

In the Turkana County Government's Second Annual Development Plan (ADP 2015/16), a project on "Water Services, Irrigation and Agriculture" seeks to "improve livelihoods of Turkana people through provision of adequate and quality water, promotion of agribusiness, food diversification and nutrition security in a friendly environment (ADP, p. 38). Towards this end, the county has allocated close to 665 Million Kenya shillings for water provision alone, including construction of boreholes, water pans, piped water, and the rehabilitation of water supplies. Already, there are efforts being made towards this end. County government officials spoke about partnering with international and local NGOs to provide water.

NGOs continue to play a central role in water provision as well as provision of other services. The presence of international NGOs and agencies was clearly visible during the study: offices and large four-wheel drive vehicles that crisscross the vast terrain, some accompanied by armed security to provide various forms of services to communities. Through partnerships with government (national or county level) or through direct NGO interventions, water provision had improved. Nonetheless, some organizations noted difficulties in partnering with the government because they did not share similar values on integrity and service to people, as pointed out by one key informant:

> *"Some of the (county government) ministers are sleeping on their job…. the government does not want to collaborate with the church or give them money because we do not share the same value systems."*

NGO officers particularly pointed out the "dependency culture" of the community as a major challenge for sustaining donor funded water projects, consequently, furthering the cycle of recurrent water shortages. While NGOs and government-initiated water projects with agreement from water users that they would "own" and manage the projects when the interveners phased out, community members noted that they had inadequate financial capacity to manage the water on their own. For example, the Turkwel Water Users' Association had received assistance

from various NGOs to install a community water borehole for domestic and livestock use. Some members had been able to pipe water into their households, but majority fetched water from the source at a small fee. The association reported that money collected from the water tariffs was inadequate to replace burst tanks and pipes. Further, NGOs and government sometimes provided cheap materials that did not last long , while water management committee members had not been adequately trained on water management . Government officials noted that water users in Turkwel were heavily dependent on government and NGOs to provide for their needs while local users were unwilling to own the projects:

> *"Turkwel residents are very dependent, they want to be paid for everything…the community wants to be paid to do work that benefits them, for example digging canals...there is fatigue by development agencies in Turkwel; World Vision and Oxfam have come and left." (Key informant interview, Agricultural Officer, Loima).*

Suspicions and tensions in water provision in Turkana were common. The existence of dependency syndrome is not deniable and is somewhat expected due to poverty levels in the region. Lack of faith in government provision was further highlighted by some participants who felt that most of the work that is done by NGOs was the responsibility

Majority of conflicts among pastoralists are caused by scarcity of resources such as forage for animals

of government, making it look like government works through NGOs or like the government is doing very little. Other participants noted that since NGOs provided reports of their work to government departments, government staff use these reports to showcase and claim that they had provided services to communities. The findings suggest that due to the high visibility of NGOs who penetrate communities through existing local government workers, majority of community members have perceived all interventions carried out as the work of NGOs' .

Overall, the description of the water situation in Loima and the workings of NGOs, government, and community members depict a picture of both hope and despair; that while communities are hopeful for a future with adequate water for household, livestock and farm use, they almost seem to lose hope at the amount of time it takes to get adequate water. Most participants described with enthusiasm the ways in which adequate water provision would change their lives: more livestock production, farming and food sufficiency, better health for their families, longer lives for both animals and human beings, and reduced conflicts and violence

within the region. Some participants hoped for the day when they would lobby government to provide more markets for their animals and farm produce instead of relief food. Clearly, water is central to these hopes and aspirations. In addition, county government representatives were optimistic that the devolved government, in partnership with NGOs, would be able to meet the water needs of the Turkana people despite the challenges of poor road infrastructure, finances, vast land coverage, conflict and insecurity. They noted that water sufficiency would solve many of the conflicts experienced in Turkana.

4.5 WATER SECURITY, VIOLENCE AND INSECURITY

Central to this study is the nexus between water, peace, security, and livelihoods. Water scarcity in Turkana shapes the various types of conflicts including, physical fights over control of water, sexual violence against women, ethnic and inter-community conflicts. Water-related conflicts were also structured by the existing land tenure systems in the county.

The distribution of water in Turkana varies seasonally. This is because surface water sources evaporate in the dry season and are replenished during the wet season. As a result, pastoralists concentrate around the available few water points during the dry season and in the wet season, they disperse widely as livestock can obtain water from temporary surface water sources and green forage. Conversely during the wet period, water sources are usually well distributed.During the dry season these water sources dry up leaving only a few water points and grazing areas.

It is during these dry spells that conflicts are most experienced when households scramble for access and control over the limited water points. The provisioning of water (boreholes) by government and NGOs to increase easy access does not entirely eliminate such conflicts. Because borehole water is insufficient, there were long queues at the water source and high levels of competition, which sometimes escalated into physical fights:

"You see these two pumps, that is what we all rely on…you see these goats; they have come from very far for water. We conduct many water-related violence cases here with the chief. People fight over water; they break their legs, teeth, and even bite each other's ears. Women fight, children fight, men fight. Our women and girls are also at risk of sexual violence when they come to fetch water." (Focus Group Discussion, Loima).

Many participants, particularly women, talked about how they woke up very early in the morning to ensure they were among the first on the queue at the water

source. Quarrels and fights over who had arrived first and how much water they fetched at the expense of others who stood in line were not uncommon. To reduce such conflict, the water management committee regulated the amount of water an individual could draw from the borehole at any given time.

The gendered division of labor in the community places the responsibility of water provision in households on women. Men however, helped to fetch water but only if they could carry it on bicycles, wheelbarrows, or donkey carts but not on their heads or backs as is the common practice among women. Access to water and sanitation services is gendered, meaning that it is experienced in different ways by men and women. Lack of access to water and sanitation disproportionately affects women and girls by impacting on their health and dignity and contributing to their vulnerability to various forms of violence, including sexual abuse.

Women without water supplies within their households were potentially vulnerable to sexual violence when travelling to and from communal or public water facilities. Some respondents, in a group discussion pointed out that there were cases of sexual violence, and risk of violence, particularly for young girls who went to fetch water in the evening. A female participant noted that she sometimes had to walk for about four kilometers to the sandy river bed for water and that it was not safe for her and other women. It is important to note that sexual violence against women is not only a concern for human rights but also a major public health problem. It has direct negative effects on individual women, their families and the community as well as creating psychological, health and economic effects.

Majority of conflicts among pastoralists are caused by scarcity of resources such as forage for animals. This explains why they are commonly attracted to water sources, and why when people meet around watering points, they often clash in order to gain control. The Turkana have fought against other ethnic groups, such as the Pokot and Samburu. Group discussants in Turkwel noted that the Pokot migrated to the Turkwel region in search of water and forage for their animals. The migrants, who the discussants referred to as "foreigners" increased competition over water which often led to tensions escalating sometimes to physical violence. However, as a peri-urban area, Turkwel was viewed as a more neutral territory where inter-ethnic tensions are eased.

In rural Lorugum, the research team witnessed an incidence where a mentally ill woman from Pokot had crossed into Turkana. Security forces were quickly mobilized to rescue her because the Turkana are often suspicious that such persons are sent by the Pokot to spy on them. Members were suspicious the woman had feigned mental illness as a strategy to gain access into their community. She was,

therefore, at risk of being violated in the "foreign" territory. The research team found the woman at a police station where she was temporarily held as security forces investigated the incidence and made plans with their counterparts in Pokot for her safe return.

Interestingly, resource scarcity also breaks down claims of distinct ethnic divide as is evident in cases of intra-ethnic or inter-community conflicts. In Turkwel, discussions revealed that communities from the drier areas of lower Turkana migrated to Turkwel, which is relatively well watered. Like the Pokot, they are viewed and treated as foreigners who increase competition over water resources in Turkwel. In such instances, the bonds of ethnic solidarity are broken down by scarcity of water, food and forage. Thus, resource scarcity can both crystallize and clash ethnic identities attesting to the fact that ethnic identities are not in themselves a cause of conflict, but rather it is the resources that breed conflicts.

Water-related conflicts are intertwined with the land tenure systems in Turkana. Most of the county's land is communally owned, although it is slowly transitioning to individualized ownership. Survey data indicated that about 62 percent of participants held land communally, while 38 percent were private land owners with title deeds. Most of the privately held land (plots) was near local markets where boreholes were more likely available. The transition to private land tenure may be ground for conflicts over water.

Private land owners, near markets, had the financial capacity to pipe water from the main water source into their houses. This created tension between residents who had easy access to piped water and those who did not. Participants complained of having to walk long distances to fetch water whereas their neighbors had water within their private land because they could pay for it. In other instances, private land owners accused other individuals of trespassing on their private property while travelling to fetch water. This division along economic class lines may have a spiraling effect and serve as a mechanism of exclusion.

Private ownership was advantageous because one could use the title deed as security to access credit facilities that would enable them to install water within their household. County government staff and participants pointed out that there were no meaningful engagements at the government level about how existing land tenure systems might affect the ability of communities to access crucial services and commodities such as water. For example, in areas where both private and communal land tenures exist, it might require further negotiations and agreements, particularly with individual land owners, before installation of a communal borehole to avoid conflicts over trespassing others property to access water.

Persistent cultural norms which exclude local youth and women from ownership and management of resources, and from peace processes, escalate water related conflicts. This remains a big challenge to sustainable development in Turkana. As primary caregivers in households, women play a central role in agro-pastoral systems as land and natural resource managers, income generators and service providers. Women fetch water, produce food, and collect firewood, fodder, wild fruits, and medicinal plants. Pastoral societies are patriarchal and men own all livestock and land resources. While women's property rights, at least access rights to land resources, have been afforded a certain degree of protection by customary institutions, the sustainability of such protection may be lost due to weakening traditional institutions and modern developments in land reforms (private ownership). Yet, women are often excluded from key decision-making processes in which they would have a voice over how the prevailing natural resource ownership affect their productive and reproductive roles. This social exclusion, and the lack of attention to how property rights affect women fuels conflicts and tension over food, water, fodder, and firewood.

Young men pointed out the social and political exclusion of youth in decision-making and peace processes. Yet it is the youth, particularly males, who are recruited and involved in cross ethnic cattle rustling and other forms of conflicts in the region. At the same time, the lack of meaningful employment and engagement of youth, including educated youth, means that they are readily available for use to mete out violence.

The various types of water and water-related resource wars discussed here have major implications for other spheres of life among the Turkana people. They affect their heath, social relationships, meaningful political participation and engagement, economic wellbeing and other aspects of their culture. Most certainly, the resource conflicts have consequences for livelihoods and food security in the region.

4.6 WATER, LIVELIHOODS AND FOOD SECURITY

For the people of Turkana, guaranteeing access to water and other resources that secure their livelihoods is of utmost concern. Both national and county governments recognize access to water for crop production and forage for animals as a priority, in an effort to improve the food security situation. As noted in previous sections, both government and the private sector have been engaged in water provision through sinking boreholes and conserving water through sand dams and water pans. However, water users have noted that this is not enough. Agro-pastoralists, small rural enterprises, and herders all need water to secure their livelihood. But,

as the resources become scarce, many of them envision their sources of income disappearing thus threatening the region's social fabric.

Turkana is classified as one of the food insecure Counties in the country. Generally, the Turkana are engaged in various livelihood activities. The major ones are livestock keeping and trade (pastoralism only) and agro-pastoralism. In addition, some combine these two with other activities such as honey harvesting, basket weaving, food kiosks, hotels, and general merchandise trade. The study found that majority of the population in Loima were pastoralists, while others practiced some agro-pastoralism. Water scarcity and recurrent droughts decimates lives and livestock and affects crop production. As a result, many individuals in the sub-county rely on food aid programmes. All livelihood activities require water, developed infrastructure, and security.

Some respondents noted that the amount of time taken to obtain water ate into the time for other household and livelihood activities. One woman who narrated her daily experience observed the following:

"Water here is a major issue. I walk to the administration police post, which is about 2km to fetch water because I do not have piped water. Sometimes, when there is no water there, I walk to the sandy river bed about 4km away. I plan my day such that at 1:00 pm, I close my shop in order to fetch water. We require a lot of water for household use, so I spend the whole afternoon fetching water. I have older sons but they tell me that boys cannot fetch water. They say that if I want them to help me, then I have to buy them a wheelbarrow so that they can push it because boys do not carry water on their backs or heads. …So you see, if we had water closer to us, I would not have to close my shop for many hours. I lose customers, yet I do not make enough money to feed my family...sometimes we go without lunch or I have to make a choice between providing lunch or supper…" (Widow, Lorugum)

As pointed out by the informant, having seven children to fend for by herself is a huge task. This burden is doubled by the distance to the water source as she could not afford piped water supply for her small piece of land where she runs   a small shop (kiosk). This means that the lack of easy access to water, compounded by the persistent gendered division of labor, negatively impacts on her only source of livelihood, and, consequently, contributes to the cycle of poverty and deprivation.

Many respondents, decried the loss of, particularly, livestock during the drought periods. Because pastoralism is their main economic activity, this loss had dire consequences for other facets of their lives—food, health, clothing and ability to afford other basic needs. When communities migrate either for pasture or water or

due to conflicts, there is disruption of lives and livelihoods. For example, young boys who are mostly responsible for herding cattle skip school. This consequently affects their future livelihoods. The ultimate effect of water scarcity on the livelihoods of the communities is that they continue to depend on relief food. As the research team found, many members of this community waited on the government and NGOs to provide food. The research team also found that communities were actively engaged in solving resource conflicts that had threatened their lives and livelihoods for a long period of time. The following section discusses some of the ways in which they determined and resolved these conflicts and the challenges they faced in this process.

4.7 RESOLVING WATER-RELATED CONFLICTS

Scholars have written about conflict resolution mechanisms among warring pastoral communities. For example, Huho (2012) points out that the Turkana, have, since time immemorial, employed traditional and/or Alternative Dispute Resolution (ADR) interventions to negotiate peace by a council of elders with the aggrieved clan or community (Edossa et al., 2005; Eaton, 2008b). In the 21st century, conflicts have escalated to unmanageable proportions and sometimes require the intervention of government and private sector.

The study team found that conflict management involved a multi-stake holder process that included local communities, county government authorities, national government, and non- governmental actors such as United States Agency for International Development (USAID), Japan International Cooperation Agency (JICA) and International Organization for Migration (IOM). In the communities visited, the management committee of the water users' association resolved water disputes amongst groups and individuals in the community. Sometimes they involved the local village elders and chiefs in dispute resolution. At the higher level, the District Peace Committee comprising of multi-stakeholders resolved cross border conflicts. Both the traditional Turkana structures and the more recent government and NGO initiated multi-sectoral conflict resolution processes continuously face challenges in addressing these conflicts. Various groups and key informants interviewed named increasing urbanization, changes in the environment and poor leadership as the major challenges hindering successful resolution of conflicts.

The county is expected to become increasingly urbanized and water provision efforts are concentrated on meeting the demand for water among the urban population at the expense of rural areas. Already, the population of Lodwar, as the county headquarters, is growing significantly. The neighbouring Loima sub-county, particularly around Turkwel along the Turkwel River, is also experiencing

an increase in population as the river attracts more settlement. As a result, government efforts to provide water and other infrastructural developments are concentrated around these areas. This also implies that adequate water would attract other infrastructural developments in these areas while marginalizing most of the other areas in the region. This exclusion fuels conflicts. Climate changehas made areas around permanent rivers like Turkwel arid, making water an even rarer commodity and increasing competition.

Poor leadership in water users' associations was identified as a major challenge. Some respondents noted that the management of water use was not effective or pro-active enough to ensure adequate water provision. Some felt that they did not engage enough with government to provide water. In addition, when there were conflicts among water users, there were differences among the leaders over the preferred course of action to solve water problems. These differences stemmed from disagreements over facts, or perceived facts, of the situation. There was also failure of parties in dispute to meet and engage in meaningful discussions and conflict resolution.

Tensions between public and private actors caused distrust and disagreements amongst different actors over how to provide services in the community. These tensions often caused some actors to be less willing or even unwilling to cooperate and work together with others in providing services to the community. The case of the Catholic Church key informant who felt that the government lacked priorities and integrity in service provision, highlighted in earlier discussions, exemplifies these tensions. Notably, a situation of distrust may breed conflict and make it difficult to communicate and collaborate in problem-solving activities. It is paramount that all these challenges are resolved to ensure that water scarcity and related conflicts are addressed so that the lives of Turkana people might be better improved.

4.8 CONCLUSIONS

The new constitutional dispensation provides immense opportunities for enhancing citizenship rights through the devolved government. The devolution of social welfare implies that every Kenyan citizen, regardless of geographical location, should be able to access rights as provided for in the Bill of Rights. This includes people located in ASALs who have continued to experience marginalization in post-colonial Kenya. In Turkana, the right to water is central to many other spheres of life given their pastoral or agro-pastoral livelihoods. As Turkana is discovering water and oil that are likely to transform their livelihoods, enhancing accessibility to water and managing evolving conflicts will remain important.

Water is key in the development agenda with wide implications on peace and security. This chapter has highlighted how lack of access to water can fuel conflict and even threaten peace, stability and livelihoods in the Turkana region. Despite attempts and efforts at water provision by both government and non- governmental actors, communities continue to experience high levels of water insufficiency which affects other facets of their daily livelihood activities. Many individuals are food insecure; they lack both enough amounts and quality food that can sustain their health and wellbeing. They are dependent on government, NGOs and individual well-wishers for food assistance. At the same time, politics of dependency create tension between some county government representatives and NGOs, and communities or water users associations thus affecting the water agenda. These tensions, fueled by poverty and low levels of education, hamper claims making on water rights by users.

Water scarcity produces a variety of conflicts, competition and violence. Individuals engage in physical fights at water sources as they compete for water. In-migrants from other ethnic groups or those from different communities within the same ethnic group are at risk of violence as they are seen as competitors for the scarce resource thus heightening ethnic and inter-communal divisions. Water scarcity also has a class conflict dimension: it creates divisions and tensions in social relationships between those who own land privately and have the economic capacity to pipe water in their households and those who do not. Further, the chapter has highlighted the gendered dynamics in water and the importance of understanding the role and place of women and girls in the access and use of water in pastoral communities, including natural resource (property) ownership rights. Women are the primary caregivers, ensuring there is food, water and good health for their families, sometimes sacrificing that of their own. Yet, women and girls are at risk of sexual and other forms of gendered violence experienced while carrying out their primary responsibility of providing water and food for their families. This has spiraling effects for other livelihood activities given women's central role in production and reproduction. At the same time, women and youth are left out of key decision-making processes including peace processes that would reduce resource conflicts.

Overall, this analysis has revealed how deeply water scarcity fuels ethnic, class, gender and other inter-communal divisions and compromises peace and security with implications for sustainable livelihoods and development in the Turkana region. For Turkana, sustainability of pastoralism or alternative forms of livelihoods such as fishing, farming (including irrigation) or trade as are currently being introduced

will depend on the provision of adequate and quality water. In light of these findings, the chapter suggests an urgent need to improve water infrastructure in the region in order to enhance water productivity. This may include more resource allocation to the water sector along with creating meaningful partnerships and synergies between government staff and civil society, and their engagement with community water users in order to enhance the effective, efficient, and sustainable use and management of water and the ecosystem. Providing water will reduce conflicts and women's burdens in the households and the violence some of them experience because of their expected roles of bearing and rearing.

It is also important that the question of the complex relationship between land tenure systems and water rights be examined and addressed to avoid further marginalization of individuals. From a sustainable livelihoods approach, the provision and effective management of natural resources and assets such as water, land, and the ecosystem; the peace associated with effective handling of these resources; and the enhancement of peoples' capacities and opportunities to utilize these resources will in the long run expand their freedoms from poverty, social and economic deprivation, political exclusion, and insecurities (Sen, 1999) that have marked the region for decades. Definitely, the "construction of knowledge societies" project is well placed to empower communities to make claims on their constitutional water rights and demand good governance, transparency, and accountability among leaders. At the same time, the programme should engage with national government, county leadership, and relevant civil society organizations in the water agenda so as to improve peace and security and create wealth for the people of Turkana.

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The Devolution Pathway to Equitable Regional Development

Munyae M. Mulinge and Josephine N. Arasa

5.1 INTRODUCTION

Following more than two decades of constant push for a new constitutional dispensation, including a rejected referendum held in 2005, Kenyans promulgated a new Constitution on August 27, 2010. A notable feature of The Constitution of Kenya, 2010 was the introduction of devolution, which marked a major shift in the way the country is governed. Article 6 (2) of the 2010 constitution states that Kenya will transit from centralized governance to a more devolved form of government characterized by two levels of government, national and county, which are not subordinate to each other (Government of Kenya, 2010; Task Force on Devolved Government, 2011). The two governments are distinct and enjoy a measure of equality and autonomy, at least in the sense that each of them is created by the constitution as opposed to being created by another level of government (Task Force on Devolved Government, 2011). However, none enjoys absolute autonomy because the two are also interdependent. Although there are some overlaps in the roles of both the national and county governments, generally speaking, the national government is in charge of all matters that affect Kenya as a whole (including foreign affairs, education, transport and developing policies on housing), while county governments are in charge of agriculture, trade, health, town planning and pre-primary education, amongst other functions (Government of Kenya, 2010). The commencement of the implementation of the devolved system of governance was the formation of 47 county governments following the March 4, 2013, General Elections.

Devolution significantly changed the political system of governance of the country. It led to the dispersal of political power and economic resources from the center in Nairobi to the grassroots. Devolution handed over the responsibility to

govern as well as full authority to make and implement decisions to sub-national units referred to as county governments that are politically accountable to the local communities. As enshrined in Chapter 11, the Constitution legalized the formation of 47 counties each with its government as spelt out in the County Governments Act, 2012. Articles 176-9 of the constitution created elaborate structures to ensure full implementation and success of devolution. County governments have executive and legislative authority, including accompanying mandates and powers to raise limited revenue, establish policies, plans, budget and governance. Under the County Governments Act, 2012, the national government is obliged to build capacity for the county governments.

Article 174 of the 2010 Constitution identifies the main objects of devolution as to:

a) promote democratic and accountable exercise of power;

b) foster national unity by recognizing diversity;

c) give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;

d) recognize the right of communities to manage their affairs and to further their development;

e) protect and promote the interests and rights of minorities and marginalized communities;

f) promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;

g) ensure equitable sharing of national and local resources throughout Kenya;

h) facilitate the decentralization of State organs, their functions and services, from the capital of Kenya;

i) enhance checks and balances and the separation of powers.

Viewed from these objects, devolution represents a radical departure and a paradigm shift from past practice in both governance and development.

Devolution is expected to bequeath Kenyans many benefits. First, it seeks to bring government (political power) closer to the people by establishing county governments with full authority to make and implement decisions. Second, it transfers economic resources from the center (the national government) to county units. Under the County Government Act, 2012, counties, are mandated to further decentralize their services to sub-counties, wards and villages, each headed by an administrator on behalf of the elected governor. Third, and very pivotal to the new

system of governance, devolution is expected to result in equitable distribution of resources across the country, especially to regions that have been marginalized for decades.

To acknowledge the historical marginalization of some of the counties and the urgency of availing extra resources to help them catch up, Article 204 of the Constitution establishes an Equalization Fund. The Fund is meant to aid in the provision of basic services, including water, roads, health facilities and electricity to marginalized areas so as to bring the quality of these services to the level generally enjoyed by the rest of the nation. Fourth, it is expected that devolution will occasion timely and efficient delivery of public services (e.g., health care, education and infrastructure). Another benefit of devolution is that it will enhance public participation, thereby enabling grassroots (local) communities to take charge of their development initiatives through prioritizing their needs. Based on all these benefits, it is expected that when implemented to the letter, the devolved system of governance will result in faster and equitable development.

This chapter focuses on devolution as the pathway to faster and equitable development in Kenya. Buoyed by the huge potential of the new system of governance to reinvigorate development in the country, the chapter evaluates the prospects for successful devolved development within the context of the challenges devolution has to contend with. Following from evidence provided in chapters three and four on food security and water rights challenges experienced in counties, this chapter provides a broader picture of challenges that impact the realization of citizenship rights. The chapter relies on qualitative data collected through key informant (in-depth) interviews and focus group discussions (FGDs) conducted with stakeholders in Homa Bay and Makueni Counties during the "*Elimika* Wajibika" (literal translation, 'get educated to become responsible') programme in 2015.

The project spanned five of the 47 counties in Kenya, namely Kwale, Makueni, Nairobi, Homa Bay and Turkana. These were purposively selected based on agro-economic considerations, demographic considerations, level of infrastructure development and a desire to capture both rural and urban contexts. Homa Bay and Makueni Counties were chosen to inform this chapter mainly because one of the authors participated extensively in data collection, analysis and report writing for the two counties. Data from in-depth interviews and FGDs were supplemented with secondary sources, including print media and existing empirical literature. Within Homa Bay County, key informant interviews and FGDs were held with individuals selected from Homa Bay and Suba sub-counties. Whereas in Homa Bay sub-county seven (7) key informant interviews and three (3) FGDs were conducted,

in Suba sub- county two (2) key informant interviews and one (1) FGD were held. From Makueni County, informants were drawn from Makueni and Mbooni sub-counties. Those interviewed from Makueni sub-county included seven (7) key informant interviews and two (2) FGDs while from Mbooni sub-county two (2) in-depth interviews and two (2) FGDs were held.

5.2 IMPEDIMENTS TO SUCCESSFUL DEVOLVED GOVERNMENT

To reiterate, devolution is the pillar of the Kenya Constitution 2010. Legal experts have observed that without chapter 11 on devolution, the Constitution would be a mere shell. According to them, the chapter has given hope to many Kenyans and is, therefore, the most watched unit of the Constitution. Those interviewed for this study termed it '*the best thing to happen for Kenyans*.' One may add that, jointly with the elaborate Bill of Rights in Chapter Four, devolution sets apart the 2010 constitution from the old constitution. Despite this, barely six years into the implementation of the devolved system of governance, it is apparent that the new governance system is confronted with multiple challenges that must be overcome for it to proceed smoothly and to produce the desired results.

While acknowledging that much progress had been made in the implementation of devolution, in-depth interviewees and focus group discussants in the two counties enumerated a large number of challenges that, they believe, undermined the effectiveness of the implementation of devolution. These included, limited knowledge of the Constitution, lack of common purpose among political leadership, bad governance and poor leadership, corruption and economic mismanagement, lack of or limited public participation, lack of or limited capacity, limited and inappropriate civic education. A more comprehensive discussion of each of these challenges ensues hereafter:

5.2.1. Limited Knowledge of The Kenya Constitution 2010

Results of in-depth interviews and FGDs conducted in Homa Bay and Makueni Counties revealed that overall, knowledge of, familiarity with and understanding of the Constitution of Kenya 2010 as a whole and of the contents of the various chapters was limited. Many respondents indicated that they had not read the document at all or had read it casually. Those interviewed felt that the low levels of knowledge also characterized majority of the members of the community as well as those holding leadership positions, including Members of County Assembly (MCAs) and members of the County Executive. The situation, though, varied across stakeholders with community members being the most affected. This was best captured in the words of one focus group discussant from Homa Bay County when s/he said that:

"The highest proportion of community members have either zero or only a casual understanding of the Constitution; they have either not read the Constitution at all or have read it casually. The level of knowledge of, familiarity with and understanding of the Constitution though, is relatively better among MCAs and their counterparts in the County Executive."

Since most stakeholders have not internalized the Constitution, they not only lack the capacity to interpret and apply it competently but also lack a clear understanding of their roles and responsibilities in the implementation of the Constitution as a whole and of the chapters on devolved governance, leadership and integrity, which are central if devolution is to facilitate the goal of faster and more equitable development. With respect to MCAs, the interviewees averred that although the bulk of MCAs lacked a mastery of their constitutionally mandated representation, legislative and oversight roles, they appeared less interested in improving their knowledge and tended to thrive on ignorance. In addition, the interviewees pointed out that most MCAs

> **Unfortunately for devolution, there exists no dispute resolution mechanism within the county structures, meaning that conflicts and disagreements within County political leadership are not likely to end soon**

erroneously viewed themselves as development workers, thereby misleading their constituents that they are responsible for bringing development closer to them. This has generated a conflict of interest especially with respect to the oversight role, where approval of budgets is pegged on allocations to MCAs' projects.

The lack of a clear understanding of roles and responsibilities among duty bearers in the implementation process has created a situation where leaders either extricate their own roles and responsibilities, encroach on the roles and responsibilities of other leaders, or both. The consequence has been unending conflict and wrangling among segments of the county leadership. To illustrate this, in some cases the wrangling and disagreements, especially between MCAs and governors, have precipitated attempts by members of the county assembly to impeach governors. The case of Makueni is illustrative in this regard. The governor, threatened with impeachment by the MCAs after nearly three years of persistent power wrangles anchored on the county budget, sought the dissolution of the county government arguing that it was no longer tenable to work with the county assembly. Although the Nyaoga led Commission of inquiry appointed by President Uhuru Kenyatta to interrogate a petition filed by Makueni residents recommended the dissolution of the county government, citing

wanton theft of public funds and irreconcilable differences, the president rejected the recommendations. Finally, there was a truce and the Governor emerged victorious. By 2018 Makueni County turned out to be among the best performing county in financial management and development record.

5.2.2. Lack of Common Purpose Among the Political Leadership

Another impediment to the success of devolution, one that is closely related to the challenge of limited knowledge of the constitution and of the responsibilities it bequeaths each stakeholder, is the lack of common purpose among the political leadership in the counties. In the counties studied, those who populate the executive and legislative arms of county governments appear to have misread the letter and spirit of devolution. Rather than work in tandem, they have elected to pull in different directions. They operate as though they are mutually exclusive (or autonomous), with divorced (or unaligned) priorities and interests, little or no consultation and no meaningful partnership. Yet, both the executive and the legislature must be well aware that successful delivery of services to the community calls for high levels of partnership and cooperation within county leadership as well as the pooling of minds and resources. The outcome has been a fractured and piecemeal approach to development that is not likely to realize the goals of devolution. The situation is compounded by the fact that sometimes the national government and the counties have dissimilar intentions or expectations on devolution.

Suspicion and mistrust, disagreements, wrangling, misunderstanding, conflict, lack of cooperation, lack of consultation and deadlock among elected leaders have become the hallmark of devolution. These are detrimental to the delivery of livelihood changing development projects and slow down provision of services. As pointed out earlier, in some cases, differences between the county executive and the legislature have led to attempted impeachment of governors, though no such attempt has been successful thus far. Such impeachment attempts are rarely driven by a serious breach of obligations on the part of governors but mainly by political disagreement and the maneuvering for clan advantage; most counties are populated by a single ethnic group and the clan is slowly becoming the basis for intra-county contestations. Unfortunately for devolution, there exists no dispute resolution mechanism within the county structures, meaning that conflicts and disagreements within county political leadership are not likely to end soon. While the Constitution created several dispute resolution mechanisms to resolve inter-governmental conflicts, none was created for resolving executive-legislative disputes at the county level.

5.2.3. Bad Governance and Poor Leadership

Good governance and effective leadership are important preconditions for effective and sustainable devolved development as envisioned in the 2010 Constitution. Governance is about making good decisions that balance the priorities and demands of multiple stakeholders. Good governance is associated with the existence of a set of institutions, mechanisms, systems and processes that are central to the development process because they promote the empowerment of local actors and capacitate them to improve their situation either through direct action or indirectly through voice mechanisms (UNDP, 2007). Institutions of good governance enable citizens and groups to articulate their interests and needs, mediate their differences and exercise their rights and obligations at the local level (UNDP, 2007). This way, citizens are able to effectively participate in and own the development process (UNDP, 2004). Institutions of good governance and citizen empowerment also engender greater accountability, transparency and efficiency in decision- making, thereby promoting better policy making and implementation (UNDP, 2007; Australian Public Service Commission, 2009). Allied to governance structures is good leadership. The UNDP (2007) identified the existence of a local 'champion' (read good leadership) that can rally different stakeholders around a common cause as well as manage tensions that may arise from the local development process as one of the preconditions for successful development.

Good governance and leadership integrity are part of the formal agenda of the 2010 Constitution. Specifically, devolved governance is expected to reverse the trend of bad governance by providing a shift towards a focus on development that would result in achievement of positive outcomes for citizens (Task Force on Devolved Government, 2011: 11). Concerning leadership, Article 73 (2) of the 2010 Constitution identifies the following as some of the principal characteristics of good leadership, (a) Personal integrity, competence and suitability, or election in free and fair elections; (b) objectivity and impartiality in decision making, and in ensuring that decisions are not inf luenced by nepotism, favoritism other improper motives or corrupt practices; (c) self-less service based solely on public interest, demonstrated by honesty in the execution of public duties and the declaration of any personal interest that may conflict with public duties; (d) accountability to the public for decisions and actions; and (e) discipline and commitment in service to the people.

Despite the noble ideals with respect to governance and leadership set out in Chapter Six of the Constitution, their effective implementation appears to be held hostage by a culture of bad governance and poor leadership. Those interviewed for this study lamented the absence of good governance and lack of competent

leadership (characterized by ethical practices, accountability, transparency and integrity). To them, county leadership not only tended to be characterized by lack of transparency and accountability but also displayed financial indiscipline, extravagance, self-importance and self-interest. Furthermore, leaders appeared to be driven by the short-term goal of finding easier ways to enrich themselves at the expense of long term development.

The interviewees isolated the unnecessary benchmarking foreign trips by MCAs, expensive foreign and overseas trips by County Executive members, unnecessary meetings in hotels meant to draw allowances and the purchase of expensive and high maintenance vehicles for County Executive members, as testimony of the extravagance, self-importance and self-interest of county leadership. The situation was best summed up by one focus group discussant from Makueni County who averred:

> *"Most members of the county leadership are driven by the desire to advance their own personal interests, including personal enrichment. Rather than ask themselves 'what is in devolution for the people of Makueni', their guiding question remains, what is in devolution for me'. Viongozi wanataka makuu na pesa za uma. Wanaangalia pesa wala sio kazi zao.' [Leaders want status and public funds. They look at the money not their work]."*

The respondents identified several factors responsible for the poor governance and leadership in the county, including wholesale adoption of foreign cultures, lack of fear of God, poor models of leadership, and weak education system in which "we are not training people to think but to remember". The sentiments expressed by the interviewees are supported by the broadcast and print media, which have been replete with cases of poor leadership exhibited by governors and members of the executive as well as the legislature. To illustrate this, the media has documented cases of governors attending the launch of ghost projects and appearing before a Senate committee to answer accountability-related questions, including the award of lucrative tenders to their relatives. Similarly, there have been many cases of MCAs threatening to impeach or actually initiating the impeachment of governors not because they have gone against the grain of the constitution, but mainly because the governors have refused to succumb to the selfish and unconstitutional demands of MCA's.

5.2.4. Corruption and Economic Mismanagement

Another factor that casts doubt on the ability for devolution to bring about faster and equitable development is economic mismanagement, abuse of office, and what citizens commonly refer to as "devolution of corruption". Like many other African

countries, Kenya is plagued by corruption and economic mismanagement, which continue to hemorrhage key resources required for development. This goes on in spite of the existence of government-initiated structures and bodies mandated to deal with acts of fraud such as the Efficiency Monitoring Unit, the Office of the Auditor General and the Ethics and Anti-Corruption Commission (EACC). Masaki (2012) in an article headed "Fraud may abort goals of devolved governance" published in The Standard Newspaper of February 28, 2012, decries how fraud still inf licts a critical dent on public funds in Kenya. He cited a 2011 report by the Permanent Secretary in the Treasury, which revealed that during that year, the government lost an estimated 270 billion Kenya shillings (approximately 3.25 billion US dollars) mainly due to escalation of costs in Government procurement.

Those interviewed for this study reported that the culture of corruption and nepotism had penetrated the county from the national level as evident in the tendering and other procurement processes. As indicated earlier, respondents painted the county leadership as characterized by lack of transparency and accountability, financial indiscipline and extravagance and driven by self- importance, self-interest and by the short-term goal of self-enrichment at the expense of county development. One manifestation of such corruption was the wasteful spending that has become a hallmark in many counties. In-depth interviewees and FGDs from both Homa Bay and Makueni Counties associated their county leadership, both executive and legislature, with spending priorities that had no direct impact on people's livelihoods. One focus group discussant from Makueni County captured the situation with the following words:

"It is common knowledge that MCAs prioritize trips abroad, including those that do not benefit the county, instead of prioritizing development activities and projects that benefit the public. They are going to Singapore and Israel instead of working. It is also an open secret that the same MCAs demand budgetary allocations to them that fall outside of the existing budgetary requirements. When this is denied, it frequently leads to deadlocks in the approval of the county budget, causing unnecessary delays in the implementation of development and other important projects. In some extreme cases the situation has resulted in the intimidation of the governor, threatening him with impeachment."

The sentiments expressed by the FGD are echoed in the Auditor General's reports for the period July 1, 2013 to June 30, 2014 for the two counties. For example, in Makueni County, the Auditor General identified financial malpractices by the executive including failure by officers to surrender temporary imprest issued to

them; noncompliance with the laid down rules on issuance of temporary imprest; failure to account for expenditure on fuel, oil and lubricant; violation of the Public Procurement and Disposal Act 2005; unsupported payments to various institutions as bursaries for students; lack of transparency in the identification of needy students for the award of bursaries; and unsupported payables to creditors, irregular payment of salaries, and doubtful legal fees. Financial improprieties (e.g., irregular payment of travelling and subsistence allowances, unverifiable foreign travel expenses and the illicit payment of mileage allowance) were also identified as rampant practices among the MCAs.

In Homa Bay County, the Auditor General unearthed the failure by the executive to maintain a cashbook for revenue, making it difficult to ascertain how much was collected by the revenue clerks, banked and accounted for in accordance with the Public Finance Management Act, 2012; unjustifiable use of restricted tendering, lack of proper documentation with respect to government projects and non-compliance with the budget process; failure to adhere to the public procurement procedures, and the irregular hire of motor vehicles, among others. Financial malpractices among MCAs such as unaccounted for imprest, unauthorized reallocation of funds and double claims on travel and accommodation were also evident in the reports.

Those interviewed for the study felt that corruption had been exacerbated by the emergence of cartels composed of some members of the leadership and tribal elites anchored on the desire to benefit individually from devolution and the rampant corruption among ordinary citizens. According to them, by doing business with themselves, through proxies, the executive controlled most resources and tenders awarded by the county government. As corruption and mismanagement of resources continues to engulf counties, economic gaps between counties and between the haves and have-nots within each county is widening. This is contrary to the umbrella goal of devolution, which is to reduce rather than enhance the gap.

The sentiments expressed by the respondents are consistent with the views of the broadcast and the print media (e.g., Mutua, 2016; Ngima, 2016) and of the Ethics and Anti-Corruption Commission (2016). These are unanimous that corruption has been devolved from the national to the sub-national (county) units, thereby rendering it nearly impossible for devolution to achieve the parity it is meant to bring to the country's economic uniformity. As Ngima (2016) put it, Kenya has devolved everything undesirable, from corruption to over inflated egos and the individualism that goes with it. The best picture of the situation was presented by the former Chief Justice, Dr Willy Mutunga, who, speaking about the nation as a whole had the following to say (Gekara, 2016):

"The country's tolerance band for corruption is becoming larger and longer, which is wrong. We are getting to a point where people are no longer ashamed to be caught in corruption scandals and instead seem to say, 'now that you have caught me, uta do' (what will you do)? Have we become this civically and morally numb? I do not think so, and leaders who think so, are living in fools' paradise."

A 2015 survey conducted by the Ethics and Anti-Corruption Commission (EACC) from August 23 to October 23 in all counties except Mandera County, underlined the permeation of corruption in counties. The survey, which was faulted by many governors, identified the following as the 5 most corrupt Counties: Murang'a with a mean score of 3.78 (number of times bribe was demanded), Embu (2.53), Bomet (2.46), Kisii (2.41) and Wajir County (2.33) (EACC, 2016). In addition, the survey identified the following as the most corrupt departments in county governments: Health (29.1 per cent), lands and physical planning (14 per cent), public service board (11 per cent) and office of the governor (7.5 per cent). County assembly (3.2 percent), agriculture (1.6 percent), and water, energy and environment at 1.3 percent, were deemed the least corrupt county departments (EACC, 2016).

The case of Kitui County provides further testimony of the permeation of corruption in devolved units. Here, the Governor was forced to appoint a committee to probe five senior county officers interdicted in 2015 over graft and abuse of office claims (Maundu, 2016). Accusations against the interdicted officers included demanding bribes from contractors and suppliers; collusion with service providers to either process or make payments for undelivered goods; incompetence and inflating project costs; and abuse of office through fraudulent alteration of records, irregular acquisition of public land, abuse of office through misinformation, disrespect and insubordination.

5.2.5. Lack of or Limited Public Participation

Among the objects of devolution explicitly outlined in Chapter 11 of the Constitution is to give powers of self-governance to the people and enhance their participation in decision-making on matters affecting them. Specifically, Article 196 (1) (b) of the Constitution stipulates that a county assembly shall facilitate public participation and involvement in the legislative and other business of the assembly and its committees, whereas Article 201 requires the executive to mainstream openness and accountability, including public participation in financial matters. Section 87 of the County Government Act is also clear on the principles of citizen participation in the operations of county governments. It requires devolved units to respect citizens' right to access to timely information, data, documents and other information

relevant to policy formulation and implementation. The section also calls on county governments to strike a reasonable balance in the roles and obligations of county governments and non-State actors (e.g., civil society, religious institutions and the business community) in decision-making processes, including policy formulation and implementation. Section 88 of the same Act gives citizens an unequivocal right to petition elected and appointed county government leaders and challenge decisions they make. Not to forget the Public Finance Management Act, 2015, this requires a consultative budget making process for all counties. To underline the importance of public participation in the devolved system of governance, in May 2016 the Ministry of Devolution and Planning in collaboration with the Transition Authority launched a Civic Education Trainer's Manual for General Public focusing on Devolution and Public Participation in Kenya.

Participants in the study acknowledged public participation as one of the defining features of devolution noting that it transcends involvement in electing leaders to include decision-making, the development process (setting priorities/ project identification, implementation and management) and over sighting of the political leadership. They made it very clear that citizens have a major role to play in the successful implementation of devolution. Those drawn from Homa Bay County were emphatic that citizens, either as individuals or through bodies such as *Mbunge La Wenye Nchi* and civil society organizations, must play a watchdog role over the executive and the assembly (that is, demand accountability from them), serve as whistleblowers, act as custodians of county resources, make representation to (lobby) the executive and the legislature and participate in decision making and in the development process right from inception to management of county projects.

Despite this, respondents concurred that the public participation role was rather muted. Since no meaningful public participation had been cultivated (nurtured) in the counties, actual citizen involvement was minimal, with citizens mainly getting involved during the electioneering process. When asked what he was doing to ensure that devolution works, one in-depth interviewee from Makueni County, for example, retorted, *"Nothing. I am just watching things unfold. There is a problem. I am not involved. I am on the side somewhere not being involved."* Similar sentiments were expressed by the members of one discussion group who reported as follows: "We are still just waiting. We do not have power. We do not get the time to air our views or grievances. Whenever we go to see the leaders we are told we must follow 'protocol.' Similar lack of meaningful public participation was also evident in Homa Bay County, where respondents accused the County Government of providing citizens with economic stimulus packages without first seeking their views. This situation is best captured in the words of one group discussant who observed:

"The other day the government was busy distributing economic stimulus packages such as salon equipment and hatcheries. Who did they consult to know what was needed where and by whom? Homa Bay town has an excess of hair salons and facilitating people to open more could create unemployment by displacing those who are already employed in the sector. What about giving people electric hatcheries when they do not have electricity leave alone the skills to operate them?"

While it is the responsibility of the elected leadership in the counties to grow and entrench public participation, not much appears to have been actualized. First, county assemblies have not enacted the necessary legislation to midwife public participation. Whereas the executive arm has attempted to involve the public in decision making, e.g., in budgeting and selection of development projects, the exercise in many cases lacks formal structures and amounts to the practice of political correctness. The goal is to create some semblance of consultation as opposed to getting quality input from community members. In some cases, petitions by members of the community have been ignored by the county government. To illustrate, in February 2015, the Nandi County Civil Society Forum and the Nandi Chapter of the National Chamber of Commerce and Industry petitioned the county government and the assembly. They raised a raft of concerns including the failure of the county government to form the County Budget and Economic Forum as required under the Public Finance Management Act and the danger posed by some development projects such as the Chepsui Bridge, Kapsiywo-Kapsisywa Bridge, Kapsarur-Samoo Bridge, Temso Water Project and the Chemundu Water Project (Churchill, 2016). In all, the two organizations presented 51 petitions to the county government, all of which were ignored. This is a worrying trend and calls on citizens, through their organized groups, to remain vigilant and hold the devolved units to account if they are to reap the fruits and promise of devolution.

5.2.6. Limited or Lack of Capacity, Especially Among County Leadership

Another major challenge undermining devolution that was highlighted by some of the respondents of this study was limited or lack of capacity. Such capacity is essential for the performance of duties and execution of roles and responsibilities necessary for the successful implementation of the devolved governance/ development model. Although this problem affected both the executive and the legislature, those interviewed considered the situation to be dire among MCAs. According to them, whereas county executives appeared to have recruited fairly well educated and experienced staff, the county legislature lacked competent, educated, skilled and experienced leaders. The respondents pointed out that, overall, county assemblies

across most of the country had a small number, less than 10 percent, of MCAs who are adequately educated and knowledgeable but whose voices are drowned by majority who are minimally educated and/or knowledgeable. This severely limits the capacity of MCAs to discharge their responsibilities, more so the conduct of debates, the drafting of committee reports and the advancement of legislative agenda. MCAs also lack technical capacities and skills in drafting laws, financial management, procurement, and budgeting.

The limited capacity among MCAs meant that they were not capable of performing their legislation and oversight roles competently. In addition, it might have been responsible for the inability of MCAs 'to distinguish between over sighting and stopping the executive altogether and for the lack of understanding among MCAs that for one to oversight another one must disengage from him/her. As one Deputy Governor put it, '*You can only do effectively what you understand*'. The situation was compounded by the low levels of education among MCAs that possibly impeded their comprehension of legal language, including the constitution, and their ability to read, understand and appreciate county budgets.

Informants placed the blame for the low capacity among MCAs on the electorate arguing that it was the people's responsibility to make the necessary corrections. The situation was best summarized by one in-depth interviewee from Makueni County when he stated that:

> "*We made a mistake when we went to the polls on March 2013 by electing councilors to serve as MCAs, yet the role of county assembly members is very different from that of councilors. In particular, legislation requires someone with a high level of educational attainment, preferably a Bachelor's degree or above.*"

The respondent described the current Makueni County assembly as "*consisting of both MCAs and Councilors*". The MCAs have some understanding of the Constitution but the councilors, just like the councilors in the pre-2010 era, have limited knowledge of not only the new constitutional dispensation but also of their roles and responsibilities.

Those interviewed for the study felt that the lack of capacity was compounded further by the failure among the Kenyan political class and the populace at large to make the necessary transition (cross-over) from the old to the new constitutional dispensation. As such, they are resistant to implementation of and adherence to the 2010 constitution.

5.2.7. Limited and Inappropriate Civic Education

Limited and/or inappropriate civic education was indicted by those interviewed for this study as another challenge undermining the effective implementation of devolution and, consequently, the achievement of its envisioned goals. The interviewees expressed that as currently thought out and implemented, the contents of civic education all over the country are both flawed and inadequate. First, it places too much emphasis on the electioneering process as opposed to equipping citizens with the knowledge required for them to understand the constitution and to participate effectively in its implementation. Second, the whole exercise has been politicized. As evident from Makueni County, while the civic education curriculum may command the support of MCAs, county executive, civil society and other stakeholders, the process of conducting civic education or those conducting it have been subjects of suspicion from a number of quarters, with some stakeholders viewing the exercise as targeting them in a negative sense.

Specifically, MCAs feel that civic education targets them, that its content has been interfered with and it is conducted by either biased, incompetent or people with their agenda of inciting the electorate against them. Based on information received from FGDs drawn from civil society organizations, the credibility of civic education has also been eroded by a lack of transparency in tendering. Those interviewed expressed that 'the awarding of tenders to provide civic education has not been very transparent'. Ghost applicants and cronies of the executive, who lack the capacity to do the job, have won the contracts to conduct civic education. This has led to a situation where people/ firms without capacity have been awarded the contracts. Nevertheless, with the May 2016 launch of the Devolution and Public Participation Civic Education Trainers' Manual by the Ministry of Devolution and Planning, and the Transition Authority, it is expected that some harmony will be attained in participation and civic education.

5.3 PROSPECTS FOR SUCCESSFUL DEVOLVED GOVERNMENT

Given the multiple challenges the devolved system of governance/ development has faced, one is bound to ask, 'Is devolution capable of delivering the faster and more equitable development envisioned in the 2010 Constitution? To answer this question calls for delving into the history of decentralization in Kenya. Attempts to devolve governance, as well as the development process, are not new in Kenya. The first such attempt was manifested in the constitution of the Kenya African Democratic Union (KADU) Party, one of two major political parties that ushered Kenya to independence, which advocated for a form of federalism, with *'Jimbo'*

(region) as the local government unit as a way of protecting regional interests. The federalism proposed by KADU though was never implemented because the Kenya African Union (KANU), which favored centralized authority formed the first independence government under the stewardship of Mzee Jomo Kenyatta. KADU was later to wind up after merging with KANU.

The push for decentralization did not cease with the KADU initiative. Kenya has experimented with a series of administrative decentralization efforts (Barkan and Chege, 1989). The most notable effort at decentralized development was a new policy approach to rural development referred to as the District Focus for Rural Development Policy, unveiled by President Daniel Arap Moi, in 1982 and officially launched in 1983. Announcing the new approach to local development on October 22, 1982, Arap Moi had the following to say:

"We will henceforth be looking upon each district as the basic operational unit ... each district team will become the major force and instrument for the design of rural development. This will create for the people and their chosen representative a whole new world of opportunity" (quoted in Barkan and Chege, 1989: 431)

> **For devolution to work effectively, it may also be necessary to also rethink the constitution of the county assemblies, more so the minimum qualifications of members as well as the number of members in the various assemblies**

What is peculiar about the District Focus for Rural Development Policy is that it had a lot in common with the devolution proposed by the 2010 Constitution; devolution can be viewed as an extension of the District Focus for Rural Development Policy. The two share approximately similar objectives (or benefits). To elaborate, like their counterparts in devolution, the architects of decentralization through the District Focus for Rural Development viewed it as an attack on what is traditionally referred to as the 'top-down' approach to development policy-making and administration. Also, they viewed "District Focus as an avenue for equitable development in Kenya; it would redress ethno-regional inequalities in development and create equal opportunity, thereby facilitating 'poor regions to catch up with those that were relatively prosperous' (Barkan and Chege, 1989: 436). Like devolution seeks to make the county (which is essentially a district) the locus of local development from the start to the finish, the District Focus for Rural Development sought to make the district the basic operational unit for planning, implementation, and management of rural development.

Given the striking similarities between the District Focus for Rural Development and devolution, one may ask, 'Will devolution suffer the same fate that culminated with the demise (fizzling out) of the District Focus for Rural Development by the end of the 1980s?' We posit that if carefully implemented and carefully managed, devolution need not suffer the same fate as its predecessor, the District Focus for Rural Development Policy. Though facing enormous challenges (as discussed in previous sections), devolution has a better survival propensity. There are several to this fact. First, viewed critically, the District Focus for Rural Development Policy was not a national but an individual project. Unlike national policies that are subjected to some form of debate, it was a presidential directive conceived and unveiled by one person (the then President Daniel Arap Moi) and was not anchored on adequate research, analysis and consultation. As such, it lacked national ownership and those who were charged with its implementation could easily have dismissed it as an unworkable and imposed policy. On the contrary, devolution is the product of a long incubation period, characterized by incessant debates, consultations, and bargaining. It is a product of the clamoring for a new governance dispensation dating as far back as the 1980s, that culminated with the promulgation of the new Constitutions on August 27, 2010, after the first proposed draft constitution was defeated through a national referendum in 2005.

Second, the District Focus for Rural Development Policy was part of President Daniel Arap Moi's wider political project. It was part of his populist political rhetoric that came to be christened the *Nyayo*[1] philosophy which essentially became a tool for reengineering the political regime Moi had inherited from his predecessor, Mzee Jomo Kenyatta. As such, it was not likely to live beyond President Moi's stint in active politics which came to an end in 2002; the District Focus for Rural Development Policy had fizzled out by the end of the 1980s. Devolution, a product of a politicized process (i.e., the clamoring for governance change in Kenya), enjoys a national constituency anchored on individual reformers and civil society groups that remain ready and willing to defend it to the hilt. These reform-minded individuals and groups are doing everything they can to strengthen their hand, in and out of Government, to ensure that implementation will be conducted in the right spirit. Armed with the contents of the new legal framework, they are now more than ever before empowered and emboldened to actualize the change they have sought for decades. This is evident from the persistent accusation against the Jubilee government that it is undermining/ not committed to the full implementation of devolution.

[1] The term is the Swahili equivalent for 'footsteps' Although Moi initially used it to symbolize that his government and the country would follow in the footsteps of his predecessor, Jomo Kenyatta, it was soon to become clear that the term had nothing to do with his predecessor but everything to do with himself. That is, it was part of his efforts to reengineer the regime he inherited from his predecessor.

A third factor pointing to a greater propensity for devolution to achieve its envisioned goal of faster and more equitable development is the two-thirds approval rating the 2010 constitution received during the national referendum preceding its promulgation. Such high approval rating, despite the spirited campaigns, put up by those who were opposed to it, including mainland churches and other influential religious groups, not only institutionalized the constitution but also gave it greater legitimacy relative to the District Focus for Rural Development Policy. It also suggests that the document enjoys the ownership of the wider public and that the bulk of Kenyan citizens will come to its defense should the need arise.

Most important, unlike the District Focus for Rural Development Policy which had no legal basis, other than being a policy decision reinforced through government policy papers (see e.g., the 'Blue Book', named for its cover), devolution is mainstreamed into the 2010 Constitution. This not only institutionalizes it but also gives the legal basis for its operationalization and implementation. It also empowers citizens and other stakeholders and gives them the legal framework within which to challenge any deviations in its interpretation and implementation either in a court of law or through other avenues.

A final factor that raises the success prospects of devolution is the protection the 2010 Constitution enjoys from unnecessary amendments. Chapter 16 of the Constitution sets very stringent conditions for the document. For instance, article 257 (1) stipulates that 'An amendment to this Constitution may be proposed by a popular initiative signed by at least one million registered voters.' In addition, to pass most amendments requires the support of at least ⅔ of the elected members of parliament or the votes cast during a referendum. It is these kinds of requirements that protect the constitution from being watered down unnecessarily thereby increasing its chances of being fully implemented in the long run.

Despite the optimism expressed above that devolution has a high propensity to be implemented successfully and to realize its envisioned goals, we remain alive to the many challenges outlined earlier that its implementation must grapple with. These are important because they will affect the extent and speed of the implementation process. In light of this, this study strongly supports the adoption and implementation of the intervention strategies proposed by the informants of this study. As a matter of fact, the Senate, the National Assembly and County Assemblies should explore the possibilities of working in tandem to develop and enact Bills/ Legislation that reinforces some of the strategies presented by the informants; public participation is a good case in mind.

Even as the national and county governments embrace various measures and strategies for speeding up the implementation of devolution, there are a number of issues related to the devolved system of governance, debate on which, Kenyans may wish to revisit. In particular, it may be prudent to revisit the subject of the number of counties with the view to cutting them down in lieu of the following reasons. First, as currently constituted, there are far too many counties for a small country like Kenya. With 47 county governments and a national government, the country is forced to finance 48 public services in all. This has created a situation whereby a large share of the funds allocated to devolved units is used for recurrent as opposed to development expenditure, thereby defeating one of the goals of devolution; to bring about faster and more equitable development. Kenya should consider emulating South Africa which, though much larger - the country has a landmass of 1,233,404 km² compared to Kenya's 569,251 km² - has only nine (9) regional governments.

Secondly, the current 47 counties were born out of a political compromise as opposed to prudent thinking that put the interests of the nation first as opposed to those of political parties and personalities. It will be remembered that the final negotiations with respect to the draft constitution pitted the Party of National Unity (PNU) and the Orange Democratic Movement (ODM) wings of the coalition government led by Mwai Kibaki as President and Raila Amolo Odinga as Prime Minister. Whereas the former preferred a pure Presidential (unitary) system of Government, the latter preferred either a presidential system with a ceremonial president and a Prime Minister as head of government or a Federal system of Government. To break the deadlock a comprise was reached with the adoption of the presidential system of government in which the national president exercised considerably reduced powers and ceded some powers to devolved units called counties. However, a further political compromise had to be struck with respect to the number of counties. Specifically, for the PNU side to concede to devolution, they demanded more than the 10 to 15 devolved units proposed by the constitution drafters. After much bargaining, it was agreed that Districts existing by 1992 form the devolved units, hence the current 47 devolved units.

Thirdly, an important purpose of devolution is to increase national unity, not threaten it. This obligates leaders at the county level, as much as at the national level, to promote inter-ethnic harmony, social justice and the protection of human rights. Unfortunately, devolution appears to have not only consolidated ethnic identities but also to have institutionalized/ legitimated/ formalized them. As currently constituted, the bulk of the 47 counties are ethnic entities that defeat the very goals of fostering national unity [see Article 174 (b)]; the exception would be Nairobi

County, Mombasa County and some of the counties in the former Rift Valley Province. Furthermore, in many cases, the demarcation of the counties created separate enclaves for people with similar identity (e.g., the Kambas, the Abaluhya, the Luos, the Masai, and the Abagusii) thereby setting the stage for within-ethnic contestations. While safeguards exist for bringing some sense of national unity, e.g., the 70:30 rule on the composition of the public service, most counties have found a way out of this and have filled executive positions as well as positions of chief officers and directors with members of their ethnic communities. To enhance the goal of national unity, integration and cohesion, therefore, calls for a serious rethinking of the current boundaries of devolved units. Those who drafted the constitution should never have caved under the pressure of political interests to squander the opportunity presented to the country, Kenya, by devolution; that is, to redraw its internal map to create a few but manageable cosmopolitan governance units that would make it possible for those units to meet the diverse requirements of the 2010 constitution. Furthermore, there is a need to bring order on how we interpret minorities and marginalized communities in the various counties.

For devolution to work effectively, it may also be necessary to also rethink the constitution of the county assemblies, more so the minimum qualifications of members as well as the number of members in the various assemblies. As indicated earlier, a major constraint to the effective implementation of the devolved system of governance is the low levels of understanding, among MCA's, of the 2010 constitution in general as well as of the concept of devolution itself. In particular, MCAs either lack a proper understanding of their roles and responsibilities - that is, representation, legislation, and oversight - in the devolved system of governance or have simply elected to ignore their constitutional mandates. This has created unending friction between the executive and the legislature that has resulted in endless politicking at the expense of development activities. In this regard, it is hoped that Kenyans have learnt the all-important lesson that MCAs are not the equivalent of the traditional Councilors and in future elections, they will elect more knowledgeable/ better-educated ward representatives. Consistent with one of the strategies offered by the informants of this study, the national assembly can aid this process by revisiting the legislation setting the minimum qualifications of MCAs; possibly requiring them to have at least a Bachelor's degree. The dilemma of lack of knowledge and understanding among MCAs has been compounded by the large number of representatives in each county. Since most of these are nominated members, there is a need to trim the numbers by revisiting the nomination question.

Finally, if the umbrella goal of devolution is to facilitate faster and more equitable rural development, it might be prudent for Kenya to revisit the system of electing

governors in the country, particularly the qualifications required of the same. In this regard, the goal should be to have individuals with proven experience and success as economic managers as opposed to politicians becoming the chief executives of devolved entities. To get such a person may require that governors be selected through a competitive interview process as opposed to through the ballot box. What political parties can do is to identify and sponsor qualified individuals from their followers to apply/ compete for such a position. Consistent with the two-term rule, governors should be appointed for a five-year term renewable only once but upon satisfactory performance during the first term.

5.4 SUMMARY AND CONCLUSION

The implementation of the devolved development model in Kenya is confronted with multiple challenges that must be overcome for it to proceed smoothly and to produce the desired results. Of significance is the lack of or limited knowledge of the constitution as a whole and of the various chapters among stakeholders, lack of clarity and adequate understanding of the roles and responsibilities of various stakeholders in the implementation process, limited capacity to perform among MCAs, lack of unity of purpose among county leadership (leading to wrangling, mistrust, suspicion and conflict between the executive and MCAs) and limited or no public participation in the implementation process. Fortunately, there are strategies that can be employed to overcome these challenges, such as intensification of civic education, capacity building initiatives, reinforcing leadership integrity and nurturing and expanding public participation. All these require the cooperation of all stakeholders at both the national and county levels. To strengthen the implementation though may also require a rethinking of various aspects of devolution itself such as the number of counties, the composition of County Assemblies and the selection of governors.

Despite the many challenges facing the devolved governance system, saying that devolution is a failure at this point would be both uncritical and unreasonable. After all, the system has been in operation for about seven years. Also, there are indications that, if implemented to the letter and as stipulated in the 2010 constitution, devolved governance holds the key to equalization of development in Kenya. Furthermore, compared to previous attempts at decentralized development, devolution enjoys high approval ratings among Kenyans, making it part of the national agenda; it enjoys a national constituency anchored on individual reformers and civil society groups that remain ready and willing to defend it to the hilt and it is mainstreamed into the 2010 Constitution thereby institutionalizing and giving it a legal basis.

"In light of the above and based on the findings of this study we draw three major conclusions: First, that devolution, the cornerstone of the 2010 constitution,

> *remains a viable alternative engine to faster and more equitable development in Kenya. As the Chief Justice, William Mutunga and many other prominent Kenyans have averred in the past, devolution is like a train that has left the station and whose motion can only be hastened and not stopped. Of course, it will take time to implement the new system of governance/ development successfully."*

Second, that there exist preventable human actions that are threatening the very success of the devolution, more so its ability to deliver faster and more equitable development. This calls for careful and critical scrutiny of its implementation thus far to identify the loopholes rendering it ineffective. This should transcend the sheer identification of bottlenecks to engender the initiation of the necessary changes that will guarantee that the devolved system attains its stated goals as well as bestows the benefits anticipated by those who mooted the system on the population resident in each county. This calls for a concerted and honest effort among both the national and county government actors and ordinary citizens.

Finally, we conclude that more effective implementation of the devolution requires the participation of all stakeholders, each playing their rightful roles and responsibilities as outlined by the constitution. For this to occur, there is an urgent need for an expanded, reoriented and less politicized civic education/ capacity building to spread the gospel of devolution. The civic education must be all-inclusive, targeting not just community members but also other players in the implementation process, including MCAs and the members of the county executive. It should be anchored on a revised curriculum that transcends the electioneering process to prioritize matters of governance (such as the drafting of legislation and budgeting) as well as planning for, implementing and managing the development process. Most important, it should be grounded in the scientific method and driven by a desire to address the specific knowledge gaps that undermine the implementation of the 2010 Constitution as a whole. This is where the *Elimika Uwajibike* Programme should make a major difference. The project's second phase on capacity building seeks to introduce the necessary corrective measures that would make civic education more effective. Through its goal of creating knowledge societies for prosperity and sustainable livelihoods, it proposes to depart from the traditional model of civic education (one that focuses too much on electioneering) to build capacity among all stakeholders for the successful implementation of the 2010 Constitution. It seeks to empower especially community members with a broad understanding of the constitution, including their roles and responsibilities in the successful implementation of the same and the livelihood opportunities bestowed to them through the constitution and how they can harness them sustainably.

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Role of Non-Governmental Organizations in Community Capacity Building and Sustainable Development

Jackson Obare

6.1 INTRODUCTION

The origin of Non-Governmental Organizations (NGOs) in Kenya can be traced to philanthropy work carried out during the period of colonialism. The main activities of NGOs at the time were focused mainly in welfare but later, they expanded their functions to include economic and political activities. The activism of NGOs in Kenya was intensified in the 1990s when multiparty democracy was reintroduced. The opening of the democratic space in the country meant that NGOs were free to participate in educating the public about their freedoms and avenues of exercising such freedoms. The reforms also enhanced legal protection of the role of NGOs in training the citizenry to know and claim their rights. This formed the bedrock of creating knowledgeable and accountable societies.

Most NGOs are vibrant and dynamic and do play significant roles in community development. The participation of NGOs in community development, particularly in the provision of essential services and capacity building to supplement government services, is crucial in promoting sustainable development. To ensure sustained community development, community capacity building to increase knowledge and skills is critical. Therefore, community capacity building is a continuous process as it ensures that communities learn and gain new knowledge, technologies, and skills.

This chapter examines the contribution of NGOs in the creation of knowledge societies and sustainable community development through capacity building. It is evident from case studies in the previous chapters that NGOs play an active role in the realization of citizens' rights. The chapter details the definition and origin of NGOs, and their classification and overall functions. Further, it maps out the role of NGOs in capacity building in the social, economic, environmental and political

spheres of the society. The chapter also analyses how the Constitution of Kenya 2010, supports the work of NGOs in Kenya. Further, the chapter demonstrates that NGOs' functions and programs contribute towards the creation of knowledge societies, hence the realization of sustainable livelihoods and development in communities.

6.2 DEFINITION OF NON-GOVERNMENTAL ORGANIZATIONS

The term NGOs involves a wide scope of organizations of different origins, size, roles, strategy, funding structure, linkages, monitoring and evaluation frameworks, ideology among others. Organizations operating under this umbrella are wide and varied, with complex and innumerable parameters. This diversity is exhibited in their aims, strategies, resources, target groups, tools, effectiveness, impact, and sustainability. NGOs complement government efforts in development and cover a wide variety of groups ranging from community groups, grassroots activist groups, research organizations, advocacy groups, corporate think-tanks and emergency/humanitarian relief focused groups. Though there is no universal definition of NGOs, there are some defining features. NGOs are non-state actors, they are non-profit making and are designed to produce a social good e.g. to relieve suffering, provide social services and promote development (Adisa, 2013).

Vakil (1997) observes that, whereas the position of NGOs in the development sector has dramatically risen, their taxonomy remains problematic. Emerging from long-term traditions of philanthropy and self-help, Lewis and Kanji (2009) view NGOs as organizations that vary widely in origin and levels of formality. Across countries, the term "NGO" is widely used, interchangeably with terms such as "non-profit," "voluntary," and "civil society" organizations. In the United States of America (USA), "non-profit organization" is frequently used, where the market is dominant, and citizen organizations are rewarded with fiscal benefits if they demonstrate that they are not commercial and their activities are for the public good. In the United Kingdom (UK), "voluntary organization" or "charity" is commonly used, following a long tradition of volunteering and voluntary work that has been informed by Christian values and the development of charity law.

6.3 EMERGENCE OF NGOS

In the West, NGOs have been active since the eighteenth century when national-level organizations focused on the abolition of the slave trade and ensuring peace as people moved from one region to another (Lewis, 2007). In the developing countries, the origin of NGOs was necessitated by the failure of state-led development throughout the 1970s and early 1980s and therefore, fueled interest in NGOs as alternative

development vehicles offering innovative and people-centered approaches to service delivery, advocacy, and empowerment (Banks and Hulme, 2012).

The oil crisis of the mid-1970s created the basis for the proliferation of NGOs given that the crisis resulted in the creation of a financial glut. Most Western countries found themselves with huge financial resources but with limited opportunities for high rates of return. As a result, they started courting developing countries to take up loans to finance development activities. However, in the 1980s, the cost of borrowing went up, in what can be described as the genesis of neo-liberal, monetary policies where, escalation of the interest rates upwards caused most developing countries to accumulate debts that they were unable to repay given that, most of them were exporters of primary products.

The indebtedness of African nations, Kenya included, gave multilateral lending agencies the leverage they needed to impose their neo-liberal policy prescriptions, in the spirit of universality across the board. The Bretton Woods Institutions (with the support of bilateral aid agencies) became the new commanders of post-colonial economies. Through the myriad structural adjustment

> **The deteriorating socio-economic conditions in most developing countries, including Kenya, led to mass protests by the disillusioned citizenry**

programs they initiated throughout the continent, they could determine both the goals of development and the means for achieving development.

These interventions resulted in the rise of unemployment and decline in the real wages of the poor in many developing countries. These policies worsened poverty and inequality in Africa and many other developing countries. Externally imposed constraints on health, education, tax concessions on profits, liberalization of price controls, and dismantling of state-owned enterprises all contributed to widening inequality gaps. The deteriorating socio-economic conditions in most developing countries, including Kenya, led to mass protests by the disillusioned citizenry. Most governments responded with brutal force to protesters and led to the closure of several universities and banning of trade unions and student unions.

This forced multilateral and bilateral aid agencies to rethink their approach to development, particularly, how to present the same neo-liberal economic and social programs with a more "human face", (Makoba, 2002). Thus, in the 1990s, the focus of the international community turned to 'good governance', persuading African governments to permit political pluralism. However, the power elites were not ready to allow multiparty democracy and hence the internal struggles evident in much of

the developing world. Focus then changed to the promotion of good governance and as such, bilateral and multilateral donors set aside significant amounts of funds for mitigating the negative effects of structural adjustment programs. Since states were not trusted, much of the funds were handled by NGOs. During this period, international NGOs grew dramatically in Africa and particular Kenya. NGO's thus became instrumental in promoting social, economic and political development in the country, including empowering people to take control of their lives and effect change. Findings from various studies conducted across Africa regarding the contribution of NGOs to society indicate that their contribution depends on the derivation, funding, structure and social purpose (Adisa, 2013). Across Africa, most NGOs are dependent on donor aid to support their operations.

6.4 ROLE OF NON-GOVERNMENTAL ORGANIZATIONS IN DEVELOPMENT

NGOs have an important role to play in improving the livelihoods and welfare of the citizens through various activities. Their interventions cut across all sectors of the economy. The activities undertaken by NGOs are crucial as they support communities to have new knowledge, skills, and ability to take control over their own lives. They also empower communities to hold their leaders to account. Following Streeten (1997) and William (1991), this section highlights some of the roles performed by NGOs. These roles are:

i. *Development and operation of infrastructure:* Some NGOs are involved in supporting communities in infrastructural development such as low-cost housing, construction of wells, public toilets, and solid waste collection services. In many cases, they provide technical assistance or advice to government agencies in supporting such community initiatives. They train the community on how to operate and maintain such facilities.

ii. *Supporting innovation, demonstration, and pilot projects:* These are activities that are directed towards creating new ways of responding to the needs and problems affecting the society. NGOs have the advantage of selecting particular places for innovative projects and specify in advance the length of time which they will be supporting the project. NGOs can also be pilots for larger government projects by virtue of their ability to act more quickly than the government bureaucracy. Various NGOs in Kenya have supported innovations through developing, pilot testing and scaling up operations through support from international donors e.g. K-Rep Development Agency, TechnoServe, Practical Action, and others.

iii. *Facilitating communication:* NGOs promote access to information, knowledge, skills and hence help to improve individual self-confidence and participation in community development decision-making processes. The significance of this role to the government is that NGOs can communicate to the policy-making levels of government information about the lives, capabilities, attitudes and cultural characteristics of citizens at the local level.

NGOs can facilitate communication upwards from citizens to government and downwards from government to the citizen. Communication upwards involves informing the government about what local citizenry is thinking, doing and feeling while communication downwards involves informing local citizens about what the government is planning and doing. NGOs are also in a unique position to share information horizontally and networking between other organizations carrying out similar work.

iv. *Technical assistance and training:* Often described as empowerment, these activities focus on building the human capacity and skills of citizens or communities. Various methods are used to create consciousness and awareness and to enable the citizenry to participate in identifying needs, in taking action to address them, and in owning the process of development. Training institutions and NGOs can develop technical assistance and training capacity and use this to assist both Community Based Organizations (CBOs) and governments. They empower citizens to gain control of their lives, work with and strengthen local institutions.

v. *Research, monitoring, and evaluation:* These activities often build upon research activities. Innovative activities are documented and shared as part of creating a wider impact. Collaboration with universities and other research institutions permits the sharing of research results with the community themselves, in order to create awareness.

vi. *Advocacy for and with the poor:* In some cases, NGOs become ombudsmen for the poor and attempt to influence government policies and programs on their behalf. This may be done through a variety of means ranging from demonstration and pilot projects to participation in public forums and the formulation of government policy and plans, to publicizing research results and case studies of target beneficiaries. Thus, NGOs play roles that range from advocates for the poor to implementers of government programs; from agitators and critics to partners and advisors; from sponsors of pilot projects to mediators. Mobilizing public awareness, campaigning and advocating change or reform are important activities of many NGOs.

6.5 UNDERSTANDING COMMUNITY CAPACITY BUILDING

Capacity building is an approach to development that builds the independence of communities to take charge of their lives and destinies. It can be a means to an end or an end in itself. It enables citizens to have a greater capacity to work together to tackle or address societal problems. Capacity building also refers to investment in people, institutions, and practices that will, together, enable the target institution or people in a country or region to achieve their development objectives (World Bank, 1992). Capacity building of the poor and vulnerable populations means building their bargaining power by organizing them into beneficiary groups. With increased bargaining power, the poor can take control in decision making and participate fully in planning and implementation of interventions directed towards supporting their development agenda.

Capacity building has also been defined as the ability of one group to develop the capacity of another group through education, skills training and organizational support (Langran, 2002). From this perspective, capacity building is viewed as a catalyst to foster community empowerment thus enabling communities to be self-reliant. Further, capacity development is defined as "the process by which individuals, groups, organizations, institutions, and societies increase their abilities to understand and deal with their development needs in a broader context and a sustainable manner," (UNDP, 1997).

According to Berg (1993), capacity building encompasses three main activities:

i.   *Skill upgrading:* These are skills imparted to community members regarding interventions directed to their livelihoods by local or international organizations. The skills upgrading is multifaceted and sectoral.

ii. *Procedural improvements:* This encompasses enhancing the knowledge of the beneficiaries about the procedures involved in undertaking a particular activity. For example, the construction of a water harvesting technology requires a methodological procedure conducted by experts for the benefit of the target communities. By working together with the experts, there is the transfer of knowledge and skills to the communities on how to undertake such activities in the future.

iii. *Organizational strengthening:* This process takes place at three levels: micro, meso and macro levels. At the micro level, organizational strengthening involves building the capacity of the poor and marginalized, who in most cases , are involved in the implementation of various interventions. The meso level involves building the capacity of institutions undertaking interventions at the community level in order to enable them to deliver effectively. At the macro level, capacity building revolves around policy formulation and supporting institutions and organizations to work effectively.

NGOs develop community capacities including ability, skill, and knowledge of mobilizing resources, planning, implementing, monitoring and evaluating community initiatives. Furthermore, NGOs mobilize the communities to be self-reliant, discover their potentials and rely on their resources. For example, knowledge and access to finance programs to improve the economic well- being of communities through job creation and income generation. This economic empowerment contributes to sustainable community development.

In building the capacities of communities, NGOs play a critical role in providing the communities with knowledge and skills as a way of complementing the government's vision as spelled out in Kenya Vision 2030 and other development agendas. NGOs also create partnerships to promote sustainable interventions and development as can be evidenced through strategic linkages with institutions of higher learning for action research as well as with the media for publicity and information sharing. Capacity development is a long-term, endogenous process of developing sustainable abilities at all levels of the community i.e. individual, community, organizational and institutional. NGO interventions are known for involving local stakeholders as a way of creating ownership and participation and developing local capacity, all of which are aimed at community empowerment (Taylor, 1999).

Before implementing capacity building programs in communities, it is important to conduct a needs assessment in order to identify pre-existing capacities, skills, structures, linkages, and networks as well as other resources available. Thus, identification of capacity gaps and needs of communities precedes any meaningful intervention directed towards supporting development in such communities. Failure by NGOs to identify the felt needs of communities, before any interventions may lead to the collapse of such interventions upon expiry of the intervention period. Such a situation poses a sustainability and ownership dilemma.

Community capacity building can be classified as financial resources, human resources (skills, motivations, confidence and relationships, abilities and trust) and social resources (networks, participation structures, shared trust, and bonding) (Frankish, 2003).

*Figure 6.1 Model of NGOs Capacity Building Role in Sustainable Development*
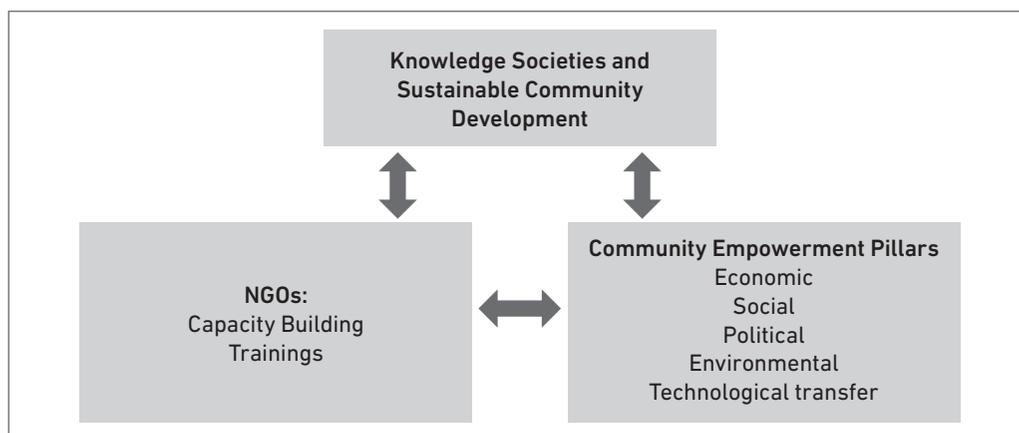
Figure 6.1 indicates the conceptual relationship between NGOs' capacity building and training, community empowerment and sustainable community development through the creation of knowledge societies. NGO functions in community development are, among others, to develop local production and local markets through appropriate technology transfer; help the community to develop social capital and human resources; increase knowledge and skills of environmental concerns; and encourage people to participate in civic activities. The involvement of communities in these activities, in the long run, contributes to their empowerment. The framework demonstrates that creating knowledge societies is a continuous process involving the interactions of the aforementioned resources. Capacity building creates knowledgeable societies hence their empowerment in social, economic and political spheres. Empowered communities have the capacity to seek new knowledge through training and capacity building.

Economic empowerment of the community mainly focuses on ensuring that a community has the necessary skills and adaptive mechanisms for moving out of the poverty trap, through productive and income generating activities. The goal is to ensure that livelihood options for communities are diversified to withstand unforeseen shocks emanating from the changing nature of the environment, particularly in regard to the effects of climate change. Social empowerment, on the other hand, aims at addressing the social issues of a particular community. These include supporting educational programs, access to water and sanitation, access to health care services and the cultural aspects of society.

NGOs are credited for supporting technological transfer in various facets of development. The introduction of new technologies in economic and social sectors and supporting communities to adopt modern technologies is itself a process of

building the capacity of communities to improve their welfare. These have been evidenced in the agriculture and livestock, health, water, and education sectors.

Increasing democratic space in most developing economies has not been an easy process. Governments of the day have many times curtailed the freedom of citizens and censored information flow. This limits the level of awareness among citizens about political processes and governance issues. However, civil society has played a pivotal role in ensuring that citizens are informed and have challenged the government to open up the democratic space. NGOs have been at the forefront of empowering communities to claim their rights from duty bearers. The grassroots linkages that NGOs maintain is their strength; enabling them to design services and programs using innovative and experimental approaches centered on community participation (Bebbington, Hickey and Mitlin, 2008). Through their programs, NGO's empower the disadvantaged, marginalized and vulnerable groups and help them gain a voice in the governance spaces from which they have been excluded.

The relationship between human development and the physical environment cannot be overemphasized. It is important that communities understand this relationship and the need to take care of the environment. NGOs support programs that enhance the capacity of communities to take care of the environment in order to guarantee sustainable development. Such practices include sustainable farming activities, conservation of forest resources and marine environments.

Central to these pillars is the role of institutions of higher learning in undertaking research to inform project conception, design, implementation, and evaluation. Institutions of higher learning are pillars of knowledge creation and dissemination. Their participation in community capacity development by generating new knowledge and technologies is directed towards addressing social, economic, political, technological and environmental challenges. The linkage between NGOs and institutions of higher learning must be strengthened to ensure that cross-fertilization of ideas takes place. Research institutions should take on positions of serving as incubation centers of ideas before these are implemented by NGOs. This synergy will foster faster sustainable development since the approaches used have been tested and proven to work.

Community empowerment is the final outcome of the community development processes, that is, independence of the community from external agents in formulating its agenda and managing its affairs. Capacity-building is an integral component of the community development process where citizens are involved in human capital training and transferring responsibility for implementing

organizations to the community. Empowered citizens are able to contribute to sustainable community development. Therefore, capacity building and empowerment are part of the process that leads to the achievement of sustainable community development, and NGOs are strategically positioned to partner with communities to achieve this goal. In the section following, we provide an analysis of the role of NGOs in capacity building with respect to the pillars highlighted in the conceptual framework: economic, social and environmental pillars.

Economic Pillar

Low levels of domestic savings have been identified as a major constraint to economic growth in many developing countries. In development economics, domestic saving is viewed as a means of increasing investment which in turn, enhances economic growth. The recognition of the importance of the mobilization of domestic savings and its translation to viable investments for sustainable economic development is shared by both policymakers and researchers. Increased domestic savings has the ability to shift the over-reliance on inflows of foreign investment, to the reliance on domestically mobilized resources for sustainable economic growth. It is on the basis of the foregoing arguments that most developing countries have, since the 1960s, earnestly designed strategies aimed at raising the level of domestic savings. To date, however, many of these countries still experience a big saving-investment resource gap, perpetually requiring colossal amounts of foreign capital inflows to fill the gap. Development partners and the government are trying to address this problem by introducing programs that harness the potential of the local citizen.

> **Non-Governmental Organizations play a significant role in health care provision. They are able to reach very remote areas where sometimes government operations are not felt**

Many NGOs facilitate communities to access vital services such as training on access to and management of finance, enterprises and livelihoods development and access to markets in an effort to enhance self-reliance. Experiences in implementing empowerment programs in rural, peri-urban and core-urban communities in Kenya, indicate that building the capacity of youth and women, putting capital in their hands and allowing them to earn an income enables them to plan for their future and support their families. Economic empowerment can lead to improved quality of life, access to social services such as education, health care, housing, and environmental conservation. Additionally, it enables communities to have

increased knowledge about local economic diversity, local market dynamics, local production, processing and enhancing inter-linkages amongst economic units.

Development cooperation partners have directed a considerable amount of resources through local and international NGOs to promote economic empowerment in local communities. For example, the experiences of working with K-Rep Development Agency in developing appropriate microfinance products and commercializing such products into profitable entities was directed towards creating sustainable economic change. Other local and international development civil society organizations that work to transform peoples' economic and social lives have contributed immensely to the growth of communities in accumulating both tangible and intangible assets.

Building the capacity of communities with regard to access to financial services enables them to make informed decisions and choices in entrepreneurship development. Training on credit or debt, financial management, and savings enables communities to understand the dynamics of such services including how to access them. Building their capacity to save money is a positive step towards self-reliance.

Another component which is critical to any community's survival is food security. NGOs play a significant role in facilitating technology transfer to farmers to enhance food security. Technological transfer becomes an enabler; allowing communities to become self-sufficient in food production. NGOs build the capacity of communities to ensure that food security, nutrition, and general livelihoods are improved in a number of ways:

i)   Community-based sustainable livestock and agriculture such as promoting a return to organic farming; the construction of micro-dams; production of drought-resistant food and cash crops; improving livestock production; and agroforestry.

ii) Capacity building initiatives to increase the community's ability to adapt and change, including a community-based training of trainers' program and agricultural demonstrations.

iii) Facilitating forward and backward linkages between communities and national institutions such as the Kenya Institute of Organic Farming, Kenyan Organic Farming Association, the Ministry of Agriculture and Livestock, Kenya Agricultural and Livestock Research Organization as well as private sectors players.

iv) Conducting training on value addition in agriculture and livestock products to improve incomes and access to wider markets.

In April 2008, the world's attention was drawn to the dramatic rise in global food commodity prices over preceding months, and the imminent threat posed by high prices to the food security and nutrition of vulnerable populations: popularly labeled Global Food Crisis. As of 2008, The World Bank estimated that the price of farm inputs had more than doubled. Therefore, without improving the capacity of communities to respond to such changes, any gains made in the elimination of poverty and extreme hunger will be reversed.

In response, NGOs such as the World Vision, in partnership with other international humanitarian and development organizations and with communities worked to develop a multifaceted, multi-sectoral response to address the issue of food security. The focus of these initiatives was to develop the capacity of communities in order to address long-term food security through sustainable nutritional, agricultural, and economic development programs, and a concerted effort to build resilient communities.

Social Pillar

In the work of NGOs in all parts of the globe and Kenya in particular, the context within which capacity building takes place is quite important. Local and national conditions guide the work of NGOs and determine their success. The urgency of the social and economic challenges that most Kenyans face underscores how important it is to accelerate the development of social capital and improve the capacity of citizens to manage such changes in development. In addition, the momentum and pace of devolution imply that citizens' capacity to demand the fulfillment of essential social services including health, education, social security and provision of public utilities among others, from duty bearers need to be enhanced. This will ensure the achievement of greater social and economic equity.

In all, Kenyan NGOs represent the greatest resource for creating social welfare and for strengthening the capacity of societies. These community resources have been recognized by NGOs, nurtured and used more actively and strategically in order to improve societal welfare. The key social issues addressed include: access to education, health, water, and sanitation

The role and influence of NGOs in relation to capacity development in education are of interest because of the incontestably important role of these organizations in development in general, and education in particular. Some NGOs are involved in supporting physical infrastructure and providing reading materials, while others are participating in capacity building and delivering access to inclusive education and other socio-economic components. Additionally, NGOs play a critical role

in ensuring that, education curricula respond to societal needs and not driven by business motives. NGOs' actions are often described as small-scale, flexible, dynamic, adaptive, local, efficient and innovative. These are abilities that make them complementary to state action. The effectiveness of NGOs in supporting education programs emanates from the arguments that, the government cannot compete with their ability and desire to innovate, since "the government's capacity and structure does not allow for the flexibility required to experiment with new educational approaches" (Sequeira, Modesto & Maddox, 2007). Other NGOs specialize in supporting the education of children from less fortunate families, thereby enhancing the community's capacity for long-term posterity by sponsoring numerous school feeding programs across the country. They also build the capacity of the management of educational institutions as a strategy for making them more responsive to the needs of learners and communities.

Non-Governmental Organizations play a significant role in health care provision. They are able to reach very remote areas where sometimes government operations are not felt. They have also made significant milestones in innovations in order to reach a wider population in accessing health care services. These include: adopting franchising models, use of mobile technologies in accessing medical services and training of local citizens as paramedics or community health workers. All these initiatives are meant to bring health services closer to people and contribute to the overall health sector responsiveness. Non-governmental organizations in the health sphere have been on the rise over time. In 2010, a Global Independent Commission on the Education of Health Professionals for the

21st Century called for a global social movement of stakeholders, including NGOs, to propel action to promote a new century of transformative health professional education (Overall and Goodman,2011). Developing countries face severe challenges in improving health sector performance. The challenges are connected to access, efficiency, and quality thus calling for system reforms in the macro-organization, distribution, and financing of health (WHO, 2000).

In Kenya, a number of international organizations have been involved in the health sector development. These organizations have also helped build the capacity of local organizations and personnel in order to ensure the continued provision of quality health care services in the country. As in most countries in Sub-Saharan Africa, the disease burden in Kenya is driven primarily by infectious and parasitic diseases including HIV/AIDS, tuberculosis (TB), malaria, diarrheal diseases, and childhood vaccine preventable diseases. Maternal morbidity and mortality, injuries, and cardiovascular disease are also major contributors to the burden of disease (WHO, 2000).

Majority of poor Kenyans are excluded from good healthcare, especially in rural areas where there are few facilities and many cannot afford levies charged. The social security system is inadequate and health services are often of poor quality; financial resources are insufficient and they are not used to the best possible effect.

In Kenya, devolution has brought some significant positive changes in the health sector. The changes are visible in all counties as there are many referral hospitals today. However, the challenge remains one of provisioning quality services and motivating staff to deliver quality health services.

Access to water for household use is critical for a family's health and social dignity. Access to water for productive uses such as agriculture and family-run businesses is vital to realize livelihood opportunities, generate income and contribute to economic productivity (UN-Water/FAO, 2007). Lack of clean safe drinking water, inadequate sanitation, and poor hygienic practices are a major cause of morbidity and death in developing countries. Available freshwater to meet basic human water needs is under increased pressure in many countries, including Kenya. Thus, using water wisely and managing water resources is an essential component of growth, socio-economic development, and poverty reduction.

Water is also essential for the realization of the Sustainable Development Goals (SDGs) – none of which can be achieved without policy measures that consider the environment and disadvantaged communities. Water is linked to the global crises of climate change and the ongoing problems of food and energy supplies and prices. These crises can only be tackled successfully in tandem with solving the world water crisis. This is a motivating factor for many of the NGOs focused on provisioning clean, safe drinking water to developing countries.

Achieving global water security as a whole is one of the greatest development challenges confronting the world today. Kenya experiences the same challenges. Water is life and acts as a propeller of development activities in any community. Water and sanitation complement each other, indeed, c communities without access to water and sanitation are termed poor and disadvantaged (FAO, 2012).

Water availability in some catchment towers in Kenya is predicted to be severe in future because of the effects of climate change and interference of human activity on the environment (FAO, 2009). Non-governmental organizations thus play a significant role in ensuring that communities have been trained on alternative water sources, including rainwater harvesting, to ensure that wastage is minimized and conservation technologies are adopted by the affected communities.

Both international and local NGOs have been involved in building the capacities of communities to support the prudent use of scarce water resources and even

supporting them with mechanisms and technologies to conserve this vital resource. In most Arid and Semi-Arid Lands (ASALs) in Kenya, water is a source of many conflicts between the pastoral communities. Many NGOs have been involved in supporting communities to access clean and safe drinking water for both domestic and agricultural use. Their interventions include: creating awareness on water management issues, investing in water supply infrastructure; using an integrated approach to water resource management and information sharing concerning exploitation of water resources.

International donors and NGOs like Oxfam, USAID, DFID, and Israel Agency for International Development, among others, have been heavily involved in supporting water-related interventions in the country. The key focus for the water sector has been: a) ensuring access to freshwater for consumption and food security; b) training communities to understand the relationship between climate change and water availability; and, c) supporting communities to build mechanisms for addressing water-related conflicts. It is, however, important to note that, with the very rapid growth in the number of NGOs in Kenya dealing with water issues, there is a need to strengthen the management and administration of these organizations to deliver on their mandates. This will also help to create synergies between and among these actors as well as avoid duplication of effort.

NGOs through support from international donor organizations have helped to build the capacity of communities on environmental matters by helping develop policy at the national, regional and global levels. They also help in the development of environmental instruments on global environmental governance, enhancing synergies between environmental conventions and multilateral environmental agreements, building capacity to assess environmental conditions and changes, building capacity to respond to and/or mitigate environmental changes, facilitating technology transfer as well as disseminating best practices (UNEP, 2002). Capacity building in the environment pillar revolves around the four areas:

First, is information collection and dissemination. Relevant information regarding global climate change that has a profound effect on the environment is collected and shared for better planning and development of adaptive capacities by communities. This enables communities to be more resilient to the effects of climate change on their environments.

Second, concerns policy development and implementation. The contribution to environmental policy formulation has been supported by international organizations while working with local civil society organizations and legislators for the domestication of such policies. Additionally, the financial and technical

support from the international community enables local NGOs to push for the adoption of such policies and their implementation in order to have a safe and secure environment for society.

Third, is about assessment and monitoring. Connected to policy formulation and implementation is the aspect of monitoring the implementation and effectiveness of such policies in the local context. Local NGOs leverage financial support to help monitor and provide mechanisms for reviewing such policies to make them effective in protecting the natural environment.

Fourth, advocacy for environmental justice and protection. One of the most important roles played by local NGOs is to advocate for the protection of the natural environment in order to secure sustainable development. Protection of natural forests, wildlife and other forms of biodiversity is a role played by NGOs to ensure that such species do not became extinct from the globe. In this regard, local NGOs and government institutions playing a vocal role include the Kenya Wildlife Services, Kenya Forest Services, and the Green Belt Movement.

Through capacity building initiatives, communities have been trained to integrate integrating environmental concerns into economic development. This is to ensure that the environment under which development occurs is protected to ensure sustainability of economic activities. Such activities include the promotion of tree planting activities, conservation of natural habitats, use of renewable sources of energy and clean energy solutions as well as practicing integrated farming activities.

6.6 CHALLENGES FACING CAPACITY DEVELOPMENT NGOS

Community development is a multi-dimensional change process that involves many actors. Despite the collaboration and networks developed by development partners while working with various NGOs in the country, a number of issues constrain this process. An overarching challenge is the issue of resources. Some traditional global donors have shifted their funding priorities towards supporting private sector institutions, thus undermining the resources available to support the non-profit sector. Additionally, global crises, particularly civil unrest in Africa and Europe, have led to a change of strategy and funding to a focus on support for refugee issues. This section identifies challenges facing NGOs in delivering capacity building programs at the community level.

First, there is a low level of community participation thus affecting the ownership and sustainability of such interventions. Most of the interventions by NGOs are brought into the community after being designed elsewhere and implemented in communities which did not participate in their design. Therefore, some

communities may have little interest in supporting such initiatives thus affecting their sustainability.

Second, is local politics. Sometimes, local politicians misinterpret development initiatives, viewing them as instruments of their perceived opponents to gain political mileage. They, therefore, incite communities against programs thus affecting the effective implementation of the programs, including their imminent collapse or not taking off at all.

Third, low capacity of local communities to mobilize resources to match external grants to continue supporting development initiatives. Currently, most donors are demanding that their funds be matched by local resources to ensure commitment and ownership of the initiated projects. However, most local communities do not have the capacity to raise such resources hence leading to non-funding of their grant applications. Ultimately, this has an adverse effect on community development projects.

Fourth, is the changing donor landscape and focus. Donors are now focusing on the for-profit private sector entities as avenues for creating sustainable development. They argue that profit making entities have the capacity to mobilize additional resources to support community initiatives on continuously. They are now more focused on being partners and investors rather than being donors.

Fifth, the emergence of disruptive models in development affects traditional capacity building programs by NGOs. Due to technological advancement and innovations, most developments have been transformed by such innovations. Technological innovations aim at improving efficiency and cost-effectiveness in program implementation. However, such innovations lead to disruption of the traditional order of society and as such, many of the community members may fall behind , if they do not learn the new technologies. These include technologies like genetically modified organisms (GMOs) meant to improve food security, and mobile money technologies, among others.

Finally, limitations with the scalability of interventions by NGOs implies that the impact of their interventions will be limited in nature. This is because most NGOs operate in small areas due to time and financial resources, and as such, it is difficult to experience sector-wide impacts of their interventions.

6.7 CONCLUSION

NGOs do play a significant role in community development through supporting both development and advocacy issues. Creating knowledge societies is an important aspect of sustainable development as it allows the citizenry to take

control of their lives as well as hold accountable those in positions of authority to ensure the fulfillment of fundamental human rights. For this to happen, there needs to be in place a feedback mechanism that can facilitate information flow between the citizenry and the government. NGOs are better placed in this regard to ensure that development takes place at grassroots levels through filling gaps where governments do not reach communities to provide such services.

Creating strategic partnerships is a key component of ensuring the success of *Elimika* and hence long term sustainable development. As such, *Elimika* can leverage on the existing organizations by building synergies for collaborative work to reach a wider audience. NGOs provide such a platform to work with in order to achieve the objectives of the creation of knowledge communities.

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Design and Delivery of Social Welfare Services

Robinson Ocharo

7.1 INTRODUCTION

This chapter deals with the provision of welfare services. Previous chapters have discussed human rights issues and food security in five counties in Kenya, and the role that NGOs play in meeting those rights. The chapter provides a framework that can improve welfare service provision for both state and non-state actors. The chapter begins by conceptualizing welfare services, followed by a discussion on Kenya's challenges in welfare service provision and then offers a framework for improving the design and delivery of welfare services.

Social welfare services in Africa today reflect ongoing social changes and transformations the African family is undergoing. The African family has been transformed from an institution which fully provided welfare services "for all" to one where each individual cares for their own need. Today, failure to provide welfare services is camouflaged in the big excuse of poverty. Therefore, families are unable to take care of their more needy family members due to poverty, while communities cannot do much because they are poor, and governments can only provide as much as resources permit.

So far, there is no consensus on what welfare services entail, who should provide for welfare services, and who deserves welfare services. This is despite the increasing expansion of Constitutional rights to these welfare services which require the establishment of a system to address them. Article 53(a) of the Constitution of Kenya 2010, for example gives every child, among other rights, the right to free and compulsory basic education and the right to basic nutrition, shelter and health care. Unfortunately, even though primary and secondary schools are "free", many children of school age, find it hard to access quality education owing to limited opportunities and other appended costs associated with this. School children are

required to buy uniforms (mostly from school contracted dealers who inflate prices), require transport to school and several other provisions, normally out of reach of poor parents. Similarly, Article 53 (b) gives older members of society the right to pursue their personal development, yet no mechanism is in place to facilitate it.

Concerning who should provide for the welfare, the general rule has been that the responsibility falls on the immediate family members and that other institutions should come in only to supplement the assistance. However, the question that arises when families are incapable of providing any service is, Who should provide such? Is it the state?

a) In China, children must care for their parents spiritual and physical needs while a 2005 law in Japan protects the elderly from mistreatment in homes and by relatives.

b) In China, Japan and Singapore, there are laws obliging children to care for their elderly relatives.

On who deserves welfare, the concern is whether welfare is a right or a temporal intervention. If it is a right, should it be for all or only those who need it? If welfare is a temporal intervention, then the issue of capacity building and empowerment must be addressed. What then constitutes welfare?

Defining Social Welfare

Social welfare has been used to mean extended services aimed at meeting the basic needs of those who cannot, on their own, access them. The term was first used in Western Europe and North America, to mean the provision of citizens with an economic safety net during periods of illness, economic hardship, and other shocks (Palacios and Sluchynsky, 2006). Today, "social welfare services" which mean services, benefits or facilities provided and whose objective is to improve the life and living conditions of a given category of people is commonly used. Social welfare includes all social interventions intended to enhance or maintain the social functioning of human beings (Dolgoff, Feldstein and Stolnik, 1997). Social welfare services include all services meant to support individuals, groups and communities access a minimum socially acceptable living standard. The recipients of social welfare services cannot on their own afford the minimum socially acceptable living standard. There are several terminologies used to refer to social welfare programs. These include public aid (mainly financial assistance to the disabled, elderly, mentally challenged, and orphaned children, human services (assistance given to people to stabilize their lives and find self-sufficiency) and social support (assistance from donors either directly or channeled through government or local

organizations). Thus, there is no universal standard package for any given service to a specific client across the globe. Welfare packages and programs are designed and delivered depending on the availability of resources and political goodwill.

7.2 SOCIAL WELFARE SERVICES IN KENYA

In Kenya, programs addressing people's welfare started in the 1960s as a safety net for workers. The National Social Security Fund (NSSF), established in 1965 and the National Hospital Insurance Fund (NHIF) in 1966, are the two best known safety-nets. Initially, welfare programs in Kenya were, provided within the traditional social structures, and therefore, there was no immediate pressure for the government to intervene. In addition, many of the social problems (urbanization and change from extended family to nuclear families) that would lead to the demand of such services occurred less frequently. Nevertheless, the government has introduced several social welfare programs, even though there are still unmet welfare needs.

Welfare needs and services are not static. They are elastic and keep changing due to internal or external forces, or both. There has been a direct correlation between Kenya's industrialization and "slum" development with concomitant welfare demands ranging

> **Elderly persons are highly dependent on the social networks around them and how such networks address their welfare in totality.**

from health care, sanitation, education to improved infrastructure. The trigger event for welfare demands is industrialization. With every new development and which people must adjust to, there are new emerging welfare needs. An example to illustrate the elasticity of welfare needs is the case where through state efforts to deliver better services, governments make promises that lead to the emergence of felt needs. Felt needs are needs that did not exist among people prior to the promise. Similarly, an external force such as an improved education system in a neighbouring community is likely to lead to demand for improved education so that there is favorable competition for jobs. Two processes can be said to have contributed to this elasticity of welfare services. These are competition between polices for development as dictated by globalization and policy; and, scope of welfare services vis-à-vis resources available.

Kenya has two types of social welfare programs:-

First, services meant to address normative needs. These are services that target individuals and groups that fall below some set standard or prescribed by some authority. Cash Transfer Program for Old Persons is a good example. A nagging

question is whether the Cash Transfer Fund measures up to the needs and priorities of the elderly in Kenya across the board. For example, how does this fund narrow the social gap between the elderly and the rest of society?

The concern here is informed by existing empirical evidence that people who are socially isolated are likely to suffer emotional, behavioral and physical disorders including anxiety, panic attacks, eating disorders, addictions, substance abuse, violent behavior and overall disease (Niccum:1999). Elderly persons are highly dependent on the social networks around them and how such networks address their welfare in totality. One can, therefore, argue that when issues of social isolation are not adequately addressed, they trigger secondary problems of emotional and behavioral disorders. Dealing with the emotional and behavioral disorders without tackling the root cause (social isolation) is a typical reactionary approach to services design and delivery to the aged.

Second, are services whose measure is derived from a gap between one community and those existing in similar communities or geographical areas. These are services that are purely concerned with equity. The Youth Development Fund is an example. The danger with these types of services is that a lot of resources are likely to be wasted on relative needs. Relative needs are expressed simply because they exist in another community.

7.3 COMPETITION BETWEEN POLICIES FOR DEVELOPMENT

In as much as developing countries like Kenya expect equitable development, this is not practically possible since citizens are not endowed equally to fit in any given development space. At any given moment, there are individuals and groups that need support if they have to achieve acceptable levels of development. There has to be a balance between policies for development as dictated by global forces and policies that aim at providing welfare services to citizens. Practically, development policies, per se, have most of the time promoted affluence (modern industries, modern technology, and urban systems) in   third world countries without developing the poor as well as those who lack technological skills. The result has been the emergence of a pool of underprivileged citizens who need assistance in order to meet their basic needs. There is, therefore, a strong justification for Kenya to have specific policies that guide the design and delivery of welfare services for the underprivileged. However, this will not be easy unless challenges confronting its provision are addressed fully.

The first challenge lies in ascertaining the relative importance of any particular social service and, therefore, the proportion of national resources to be devoted to

it. Policymakers especially in Kenya have been and continue to find themselves at crossroads on which sector to invest to address welfare concerns. Sectors such as water, health, and education have been pressuring to be included in welfare programs regardless of the resources available. Each sector is ready to justify the importance of their inclusion in the overall welfare program. Policymakers and planners must weigh these demands against each other and against the need for expansion in other sectors of the economy. Such services are not sustainable although they may have some indirect effect on economic development. Sustainable welfare services should address the development of people economically, socially, culturally and psychologically.

In some cases, countries opt for some compromise between economic development and providing a complete package of welfare services. A classic example is when Kenya opted to treat primary education as a basic right and provided universal primary education but expanded secondary and tertiary education only in line with demands for skilled manpower. The danger with such a compromise is that it is likely to give birth to a welfare need that did not exist and would have not existed if it were not for the compromise. In this case, there will emerge a mass of Kenyans with an education whose market value cannot earn them an adequate living wage.

The compromise between economic development and providing welfare benefits is necessitated by the fact that the resources required to provide welfare services are scarce. In such a situation, the service sponsors and providers might be compelled to prioritize who should be targeted. However, prioritizing may, in most cases, become discriminatory. For example, what would be the justification for giving priority to care for the aged and not care for the orphaned children, or care for the jobless single mother? In such a situation, Kenya can universalize welfare (with modifications) like what happened in England in 1536 when a law was passed stating that alms collected by local authorities and by churches on Sundays were to help to relieve the sick and poor. To deter people from openly begging, the law stipulated that "the mayor of every town and the churchwardens of every parish were to collect alms every Sunday, holiday or festival in common boxes," which were then to be utilized by those in need.

Elizabethan Poor Laws passed in 1598 and revised in 1601, provided a clear plan for helping the poor by establishing legislation that differentiated three classes of the poor: the able-bodied poor who were to be provided with work, or with punishment in prison or the stocks if they refused to work; the impotent poor who were to be kept in alms-houses; and dependent children who were to be apprenticed unless parents or grandparents could support them.

The second challenge concerns targeting. Targeting in Kenya has two major challenges, namely, delivering social welfare services to all needy groups and addressing the geographical uniqueness of regions in services delivery. Given that one of the aims of social welfare services is to reduce inequalities, targeting should be informed by inequalities as they present themselves countrywide. While the needy are spread throughout Kenya, some areas (rural areas, urban slums, arid and semi-arid areas for example) are unique in terms of development, resources available and individual capacities thus creating regional imbalances. Regional imbalances must be taken into consideration when designing and delivering welfare services. In this case, delivery of welfare services is likely to be affected if, one, there is lack of accurate, up-to-date information on the existing distribution of inequalities; two, there are no clear indicators for comparing the needs of one area or group of people with those of another; and three, where there is no political support for decisions made by services providers.

The third concerns choosing between making services universal or targeting only a few. The choice is whether it is better to provide very basic services to many people or a much higher level of services to a small number of relatively less privileged people. This choice is basically informed by available resources.

The fourth is about the appropriateness of social services. Human needs have multiplied and they will continue to multiply for as long as there is social change. The challenge has been how systems can be tailored so that the provision of social welfare services can match the needs. This has never been achieved anywhere in the world, forcing social welfare service providers to negotiate the provision of services. Some citizens need social welfare services but are reluctant to come out and demand for them. There are also those who demand for all the services not because they need them, but because the services exist. This, coupled with the scarcity of resources, makes provision of services a very difficult task. It is with this in mind that service providers attempt to provide and prioritize services according to perceived needs. Appropriateness, in this case, must be negotiated and it has not been easy to do so.

7.4 THE ROLE OF THE STATE IN PROVIDING SOCIAL SERVICES

The general principle is that individual welfare is the responsibility, first and foremost, of the immediate family. The state and other stakeholders should offer services and support that complement the role of the family. However, there are situations where there are no immediate family members and other situations where families are unable to meet the needs of their needier members. This is where the state and other stakeholders come in to assist. In Kenya where citizens are given several rights under the Bill of Rights as provided for in the Constitution of Kenya 2010, there is a high

likelihood for citizens to assume that the state is solely and directly responsible for the provision of all the rights as provided for in the Bill of Rights. Since the Bill of Rights is about the wellbeing of Kenyan citizens, one can conclude that all rights in the Constitution are about services meant to improve the welfare of citizens. But the fact that the provisions are in the Kenyan Constitution does not mean that voluntary agencies, private enterprise, and individual communities or families should not play a role in the provision of at least some of the services. There is need then, for a clear policy assigning specific roles and responsibilities and with systems put in place to facilitate other stakeholders to play their roles in welfare service delivery.

Where there is scarcity of resources, and for purposes of sustainability, social welfare services can be provided on an entirely commercial basis either by private enterprise or by the state on a commercial fee-paying basis. This option would require the claimants of services to have a sponsor, which, is not easy. The services could also be provided free by the state and financed entirely by subsidies from other sectors of the economy. In the latter option, the state would have to set aside resources to finance social welfare.

7.5 SCOPE OF WELFARE SERVICES

The second process that has contributed to the elasticity of welfare services, as mentioned earlier, is the scope of welfare services vis-à-vis the resources available to provide these services. From a welfare point of view, it is becoming impossible to come up with a consensus on who deserves a particular social service. This is even more challenging given the fact that the needy are human beings whose political, cultural, economic and psychological dimensions must be addressed. Therefore, the scope of social welfare services is very dynamic, and it cannot be the same across individuals or groups. Neither can it be the same all the time with the same individual or group. This makes it difficult for both the policymakers and designers of social service to come up with a policy or design that fits all individuals and groups all the time.

Social welfare services are stretched to include but not limited to:

a. **Crisis intervention services:** These are services provided at the time of unexpected disruption in the life of an individual or group. In such circumstances, even those individuals who prior to the crisis were not recipients of welfare services suddenly find themselves clients of welfare services. Examples of the crises that require such services are disasters, the sudden death of the sole breadwinner, rape and unexpected pregnancies, and internally displaced persons, among others. Such services could be addressed using Kenya's Contingency Development Fund.

b. **Child welfare services:** The focus here is on the general well-being of children including services designed to promote their physical, psychological and social development. For example, in Kenya, there are orphaned children and needy children whose parents are not able to take care of them for varied reasons.

c. **Services for people living with HIV/AIDS:** Apart from medication, people living with HIV/AIDS need assistance. They also need counseling services and help in the treatment and management of opportunistic infections.

d. **Services for the homeless:** Many individuals are becoming homeless due to lack of income, retirement without adequate or no insurance cover, disasters, terrorism, and wars. These individuals need services that address their immediate needs including shelter, food, and long term need for rehabilitation and livelihood reconstruction so that they can enjoy their right to a living space either through ownership or payment of rent.

e. **Services for the youth:** Young people are not immune to social problems. They constantly try to balance their commitments to education (if they are in school or college), jobs (if they are newly employed), after school or after-work activities, family, friendships and personal relationships. This can be overwhelming and easily lead to stress. Coupled with lack of proper parenting, this category of citizens needs outside intervention to address their psychological, social and financial needs. Initiatives such as the Youth Enterprise Development Fund (YEDF) and *"Kazi Kwa Vijana"* (meaning youth employment) are indicative of the state's recognition that the youth need supportive services to access a minimum socially acceptable living standard.

f. **Services for the elderly:** The biggest challenge in Kenya today is the emerging trend of diminishing roles for elderly people to contribute to the national income. Older persons, beyond 60 years, are discriminated against within the labor-force by being denied formal employment. Employers consider them unproductive and unable to cope with the changing technological environment. Their contribution to, and benefit from, formal social security programs is restrained. For those covered by social security systems, the value of their benefits, are, in most cases eroded by inflation (GoK. 2008: 28). The Kenya Policy on Aging (2008) sets a framework for addressing the welfare of the aged, and as stated by Ocharo (2011:347), if the policy on aging is implemented fully, it will go a long way in addressing the four major psychological wishes of the aged, namely; security, response, recognition and new experience.

g. **Services for drug addicts and alcoholics:** Alcoholics and drug addicts cannot be ignored. They need a range of services which they cannot afford on their own. The services include, but are not limited, to treatment and counselling. They also include out of hospital services which includes basic needs such as food, clothing and shelter, finance, education, and empowerment services.

h. **Welfare services and domestic violence:** Broadly, domestic violence ranges from spouse battering, violence on children, violence on parents, and violence by in-laws. The violence could be either physical or psychological and both forms are increasing in frequency and intensity. The victims find themselves in need of a variety of services depending on the manifestation of domestic violence.

From the enumerated welfare services, it is apparent that there is a wide range of social welfare service clients. As society evolves, there occur certain changes making even those who never needed social welfare services in the past to become clients of the services.

7.6 DESIGN AND DELIVERY OF SOCIAL WELFARE SERVICES: A SUGGESTED FRAMEWORK

Provision for social welfare services, therefore, is not a one-stop activity. The demand for welfare services is continuous and growing. In turn, the scope of welfare needs is expanding. The question, therefore, is whether there is any government with adequate resources to provide social welfare services as they emerge. Further, one can question whether claimants of social welfare services deserve these services as their basic human rights. Finally, how does one make the design and delivery of social welfare services more result-oriented?

Kenya has made efforts to develop policies and programs for enhancing the social welfare of its citizens. However, there exists a disconnect between the promise and the actual delivery of services. For example, by 2012, the Old Persons Cash Transfer (OPCT) program covered only 2.5 percent of persons over 60 years of age, 3.2 percent of the 78.6 percent extremely poor elderly persons. In 2019, the Cash Transfer Fund reached approximately 833,000 of Kenyans aged 65 and above, out of the potential 1.3 million. In addition, the payment of Kshs. 2,000 per month was reported to be insufficient to cater for the basic needs, including health care (Mathiu and Mathiu, 2012:9). The nagging question is whether the policy on older persons, OPCT and other welfare policies and programs were in the first instance informed by empirical evidence. What Kenya has done so far is to design programs based on political pressure which end up missing out in targeting.

As demand for social welfare services grows, those in charge of the design and delivery of these services are continuously challenged to fix realistic objectives for meeting targets, to create and disseminate information about steps in the design and delivery of services and come up with interventions that are realistic. These cannot be done spontaneously. The process should be guided by accurate and up to date information on social dynamics, a well-informed process of fixing targets and well-structured system of monitoring social change. The basic steps towards realizing this would include community scoping, identification of vulnerability, formulating action plans, mobilizing resources, guided targeting, implementation, monitoring and evaluation.

Scoping is an assessment to ascertain the situation and it involves establishing and identifying the key issues of concern before planning. As stated earlier, there must be a negotiation between agents who have the responsibility for social programs and policy and claimants of social welfare services and their advocates. Scoping should involve all interested parties in order to facilitate a healthy and acceptable negotiation. Scoping provides the foundation for an effective and efficient design and delivery of social welfare services. Scoping sets the stage for Terms of Reference for the state and other stakeholders in charge of the design and delivery of services. This exercise would make social welfare programs more focused with less wastage of opportunities, time and resources. The specific aims of scoping are to find out the actual claimants of social welfare services and their characteristics; identify the specific needs (social, economic, cultural, psychological etc.) of the claimants of social welfare service; detail the impact of the lack of basic needs; link needs with specific predisposing factors; identify the important issues to be considered in design and delivery of social welfare services; and help define the feasible alternatives to actions.

> **As demand for social welfare services grows, those in charge of the design and delivery of these services are continuously challenged to fix realistic objectives for meeting targets, to create and disseminate information about steps in the design and delivery of services and come up with interventions that are realistic**

After scoping, the information gathered should be analyzed with the aim of *identifying patterns of vulnerability*. The focus here is on developing a deeper understanding of the vulnerability of individuals and groups, including their support systems such as basic services (education, health, communication, governance etc).

The justification for identifying patterns of vulnerability is that those involved in the design and delivery of social welfare services should be fully equipped with knowledge on vulnerability because by doing so, they will gain deeper understanding of why a social service is needed; understand better the impact of unmet needs; and gain knowledge on why particular individual or groups need those social services.

After identifying patterns of vulnerability, one engages in *planning for action*. This requires paying attention to the most efficient ways for delivery of services. Success or failure will be judged by the appropriateness and speed of service delivery in ensuring not only the individual's and group's normal functioning, but also empowering these individuals and groups to become self-reliant in the long run.

The basic principles that guide action plans are that they should be:

a. Dynamic, focused, and flexible to suit the variability of service needs, types and modes of delivery.

b. They should be service and space specific to fit different geographical cultural and resource endowments. More importantly, planning should be integrated into ongoing development activities and be made an integral part of all stakeholder's welfare services activities to guard against duplication and wastage of resources. The integration should be based on core competencies so that each stakeholder is given a fair opportunity to fit in better in activities where they have capacity and competency. Finally, they should have inbuilt contingency plans based on the worst case scenario, for each service.

After engaging in planning for action, the next concern is resource mobilization which involves securing new and additional resources for activities the state and other stakeholders have committed themselves to carry out. This step will ensure delivery of quality services, continuity of services and improvement of service delivery. Resource mobilization should be a continuous exercise and must always have contingency resources and backup contingency plans to address any emerging emergency.

Social services should be "targeted" a process through which, areas and populations are selected for provisioning of resources (Sharp, 1997). Targeting should also be dynamic, requiring continuous surveillance and data analysis to monitor to whom and where services should be directed, depending on changes that are taking place in any given community. Targeting should ensure that services reach those who need them when and where they need them, in sufficient quantities. The three major components of targeting are "who", "where" and "when". "Who needs the service" (targeting the individual or group), "where is the service needed" (geographical targeting) and "when is the service needed" (timing).

7.7 IMPLEMENTATION OF SOCIAL SERVICES

Implementation means that the team that will deliver services to the target individuals and groups is ready to put their plans into action. The expectation is that the team will direct and manage each activity, every step of the way, to produce the intended results. However, the steps undertaken to achieve set goals will vary depending on the type of services, client characteristics and social environment. Moore and Hills' (2000) *Reflective Practice Model* for community development practice is an ideal model that can be used to guide the implementation of social welfare services. The model is based on theories developed and used in daily work in communities. The idea is that practitioners can work back and forth along a continuum of practice ranging from practitioners collaborating with local knowledge to imposing outside expertise, depending on the situation. According to Bright (1996:167), *Reflective Practice* "is an active, proactive, reactive and action-based process defining a set of skills concerned with understanding and dealing with real, complex and difficult situations". Accordingly, practitioners reflect on the best course of action depending on the situation and operate on a situational continuum.

Since practitioners' course of action depends on the situation, they operate on a situational continuum which guides the major decisions that they take when faced with a particular set of circumstances. Choosing whether to approach a project by imposing outside expertise, by working exclusively with local knowledge, or any position in between is a crucial decision that determines the tone of a practitioner's involvement with the community. The decisions are heavily influenced by five elements that constitute the *Reflective Practice Model*, namely: implicit practice-based theories, field experience, beliefs about community, current literature, and their communication with other practitioners (see Moore and Hill, 2000).

1. In the course of carrying out their work, practitioners tend to develop personalized and practice-based theories based on their field experiences which they use to formulate strategies and theories. Their theories are labelled implicit because they are not articulated prior to the practice. These theories are also influenced by beliefs about the community.

2. Practitioners also learn by working with each other and community members, working together on projects, visiting other communities, and soliciting ideas and suggestions from their peers.

3. The central component of a practitioner, however, is a reflective practice where practitioners reflect on their work and formulate their implicit practice-based theories to assist the communities.

4. Finally, practitioners also seek more information in other areas such as business, environment, policy studies, law, psychology, agriculture, and adult education. According to Moore and Hills (2000), a synthesis of multiple theories is a better guide than a single theory derived from community development literature.

Practitioners should be guided by a synthesis of these elements to address the needs of their clients.

7.8 MONITORING AND EVALUATION

Monitoring and evaluation of the delivery of social welfare services is crucial in assessing the effectiveness of the programme, its relative success in meeting stated objectives, and identifying areas of improvements. Curtis and Watson (1983: 4) suggest four main areas that should be incorporated in evaluation work, namely: a review of performance, impact analysis, appropriateness assessment, and institutional evaluation.

Review of performances relates to inputs and outputs of the program, providing formal measurements of the extent of programme implementation. These measures can be used in two ways namely, to monitor progress and to ensure that activities are being implemented on time, and within the cost limits set; and as efficiency reviews (by using the ratio of inputs to outputs).

Impact analysis is carried out to find out how far the program has been successful in meeting social, economic, or environmental objectives. Impact indicators cover a wide variety of topics and deal with both direct and indirect impacts.

The aim of appropriateness assessment is to determine how well the program components link with the needs and priorities of households or other units in the target population. This means reviewing the parts of a program from the viewpoint of the user or intended beneficiaries.

Lastly, institutional evaluation includes grass-roots as well as higher-level institutions involved in the provision of services and focuses on the organizational structure of the agency (or agencies) involved in implementation. Particular attention should be paid to project organization at the local level with a focus on establishing what the organization is to do. Attention should be directed on management with a focus on whether the project was effectively planned. This entails reviewing the objectives, project selection, design, appraisal, and programming. If the implementation was delayed, the reason for the delay must be analyzed and addressed in future programs.

7.9 CONCLUSION

Chapter four of the Constitution of Kenya 2010, part 3, guides on the rights of specific categories of members namely, children; persons with disabilities; youth; minorities and marginalized groups; and older members of society. The Constitution of Kenya recognizes that these categories have needs that they cannot meet on their own. There is need, therefore, for those charged with the responsibility of designing and delivering services to these categories (line ministries and other state organs) and those who provide welfare services (Community Based Organizations, Non-Government Organizations and Faith-Based Organizations) to actualize the commitments made in the Constitution. The practice should be guided by the principles of making available the facts of who, where and what (scoping), and sharing this information with claimants of services for negotiations on levels of vulnerability and participatory drawing of action plans to enhance community ownership. If followed, these principles will provide the evidence needed for targeting, monitoring, and evaluation that if considered will go a long way in narrowing the apparent gap between the promise to provide for social welfare services and the actual practice in providing for these services.

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Devolution in Kenya: Six Years of Turbulence

Peter Wanyande

8.1 INTRODUCTION

On 27th August 2010, Kenya promulgated a new constitution, the Constitution of Kenya 2010. The promulgation of the new constitution was preceded by a constitutional referendum held on 4th August 2010. The Constitution was approved by 67 percent of the voters who participated in the referendum. The nerve center of this Constitution is a devolved system of government comprising two levels of government, that is, one National Government and 47 County Governments. County governments, each comprising a county executive and a county assembly, came into existence after the March 2013 general elections. The implementation of this new constitution began in March 2013 following the general elections held in March, of that year.

8.2 OBJECTIVES OF THE CHAPTER

This chapter discusses the challenges experienced in the implementation of the devolved system of government, considering that the system has only been implemented for the last six or so years. Seven years of implementation of the devolved system of government is probably too short a period to conclusively assess whether or not the system will be successfully implemented. There is, however, a number of tendencies that have been observed in the last seven years that give a good indication of the challenges that are likely to affect the implementation of the system. It is these challenges that have caused turbulence in the system. This chapter provides insights into these challenges. This is important for a number of reasons. First, an understanding of the challenges may help us appreciate devolution better. Second, it would help the country address the problems before

they get out of hand. Third, it would reveal some of the erroneous assumptions that the framers of the Constitution and Kenyans, in general, made about this system of governance. The chapter, therefore, seeks to identify the challenges that have impacted the implementation of the Constitution generally and the devolved system of government in particular. The chapter discusses political, ideological, legal, administrative, economic and social challenges. Also discussed are those challenges associated with the constitution making process.

The discussion considers the contribution of leaders at the two levels of government, implementation of devolution, and the challenges that affect the ability of the citizens of Kenya to influence the effective implementation of the system of devolved government. While the Constitution has many provisions aimed at empowering the citizens to influence the way they are governed and to demand accountability from their elected and appointed leaders, the perspectives of the people of Kenya are hardly given attention in literature[1] and in debates on the implementation of devolution. The only exception that I have come across is Gikonyo's article on the role of civil society in promoting devolved governance in Kenya[2]. The citizenry can meaningfully take part in their governance if certain conditions are met. The conditions include the extent to which citizens are aware of the relevant provisions of the Constitution, the existence of forums for citizen participation, and the extent to which they believe that their views are taken into consideration by the relevant government authorities. Consequently, factors that make it difficult for citizens to understand their Constitution for purposes of their effective participation need to be identified and addressed. It is against this background that the present chapter ought to be understood.

The background fits in well with the Construction of Knowledge Societies *(Elimika)* project whose agenda is to strengthen citizen's understanding of the Constitution, their constitutional rights, and how the devolved system of government works so that they can demand good governance, transparency, and accountable leadership that respects their human rights. The chapter makes the point that for the successful realization of the benefits of the constitution to Kenya's citizens, challenges at the national level deserve immediate attention.

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1   See, for example, Bosire C. et al., (edited). 2015. Understanding Devolution. Katiba Institute, Nairobi. Ghai Yash, and Ghai Cottrell (editors). 2015. National Values and Principles of the Constitution. Katiba Institute, Nairobi; Lumumba PLO; Mbondenyi, M.K. and Odero, S.O. (editors). 2013. The Constitution of Kenya: Contemporary Readings.
2   Gikonyo Wanjiru. (2015). The Role of Civil Society in Promoting Devolved Governance in Kenya. In Bosire Conrad, and Gikonyo Wanjiru. Animating Devolution in Kenya, The Role of the Judiciary. A Joint Publication of IDLO , JTI and Katiba Institute.

8.3 KENYA'S MODEL OF DEVOLUTION

Before a discussion of the challenges to the implementation of the Constitution of Kenya 2010, and the devolved system, in particular, a brief discussion of the model of devolution adopted by Kenya would be useful. This is necessary because there are different models of devolution as a system of government. Some models have two levels of government while other models have three or more levels of government. South Africa, for example, adopted a model of devolution with three levels of government, namely, national, state and municipalities. Kenya, on the other hand, chose a model with two levels of government, namely, national and county levels of government. The distribution of powers and functions between different levels of government may also differ from one country to another depending on the model chosen. This would also affect the relationship between the levels of government. In some models, one level of government may be superior to the others while in other models, the different levels of government may be coordinated with each other. Another difference is that in some instances, devolved governments are not enshrined in the constitution, while in other models the devolved units are enshrined in the constitution. In Britain for example, the devolved units of Scotland, Wales and Northern Ireland are not enshrined in the supreme constitution while in Kenya, the 47 counties are enshrined in the constitution. In the Zimbabwean model, as enshrined in the 2013 Zimbabwean Constitution, no powers are constitutionally assigned to provinces or local governments that constitute the units of devolution (Ghai, 2015). The provinces in the Zimbabwean model of devolution also lack a measure of self- government enjoyed by county governments in Kenya.

The two levels of governments adopted by Kenya are distinct[3] and one level is not superior to the other. The 47 county governments are also distinct from one another. No county government is superior or subordinate to the other county government. Therefore, Article 189 (1) (a) of the Constitution requires each level of government to respect the institutional and constitutional integrity of the other level and, in the case of county government, within the county level. The two levels are however interdependent and are required to consult and cooperate in the discharge of their respective powers and functions (Article 6). There are also areas in which county governments carry out their respective functions by consulting and cooperating. This is the case, for example, with shared resources such as rivers and lakes that flow across two or more counties.

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3   Article 6 (2). The Constitution of Kenya of Kenya, 201 0.

Under Kenya's model of devolution, the Kenyan state has been radically restructured. The power that had hitherto been centralized and monopolized by the President is now shared not only between the presidency and other institutions such as Parliament but also between the national government and the county governments. Major presidential appointees including the Chief Justice and members of constitutional commissions must be vetted by the National Assembly before appointment by the President. County governments have a constitutional mandate within their respective areas of jurisdiction. Each county government, for example, can make and enforce laws to guide the carrying out of county functions without reference to the national government. County governments can also make policies necessary for the performance of county government functions. County governments also have the power to make independent development decisions affecting their areas of jurisdiction. However, they are required to ensure that county development plans do not contradict national development plans. They can also make and implement county-level budgets and raise taxes[4] to finance these budgets. In short, county governments have a large measure of political and administrative space and autonomy from the national government. If fully and effectively implemented, devolution would certainly promote democracy and democratic governance. This is the case precisely because the new system of governance requires that the people be involved in their governance and that government at both levels must exercise power in an accountable and transparent manner.

8.4 SOURCES OF DATA

Data for the chapter is derived from existing literature[5] on the subject. Some of the data was also obtained from media reports on issues in devolution. The chapter also benefited from the author's experience as a Commissioner in charge of devolved government matters at the Commission for the Implementation of the Constitution (CIC)[6]. In this capacity, the author had a chance to visit and interact with county and national government officials, as well as the citizens residing in the counties visited. This interaction provided valuable insights into the challenges being experienced in the implementation of devolution.

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4   Article 209(3) and the Fourth Schedule allows county governments to impose property rates, entertainment taxes and any other tax it is authorized to impose by an Act of Parliament.

5   Lumumba PLO., Mbondenyi M.K, and Odero, S.O. (2013). The Constitution of Kenya: Contemporary Readings. Law Africa Publishing (K) Ltd; Steytler, N and Pal-Ghai Y. (editors). 2015. Kenya –South African Dialogue on Devolution. Juta and Company Publishers.; Pal- Ghai Y and Cottrell J, (editors) 2015. National Values and Principles of the Constitution.; Bosire C. et al., (editors). (2015). Understanding Devolution. Katiba Institute, Nairobi.

6   CIC is a constitutional Commission established to monitor, facilitate and oversee the implementation of the Constitution of Kenya 2010.

8.5 THE ARGUMENT

While it is easy to dismiss the challenges being experienced in the implementation of the Constitution as teething problems associated with any transition, this chapter argues that the challenges are serious enough to warrant immediate attention. These challenges are neither happening by chance nor incidental. Many of them are deliberately orchestrated by different actors involved either in the implementation of the devolved system of government or those opposed to the new system of governance.

There are three critical players whose perceptions, activities and relationships have a major impact on the effective implementation of devolution in Kenya. These are actors in the institutions of the two levels of government and the people of Kenya in their capacity andtheir collectivity. Understanding what motivates each of these actors to behave the way they do will enhance an understanding of the challenges facing the implementation of devolution. Each of these

> **Under Kenya's model of devolution, the Kenyan state has been radically restructured.**

actors has an interest in the way the devolved system of governance is implemented. While some view it as an opportunity in the system, others view it as a threat to their interests. These interests are bound to influence either support for or opposition to implementation. The beneficiaries of the centralized system of government are likely to feel a sense of loss when power is dispersed with the adoption of the devolved system of governance and therefore resist its implementation. Those that were out of power under the centralized system hope to benefit from the new arrangement and therefore are likely to support the implementation of the new system of governance. Then there are, of course, those who either support or oppose the system on ideological grounds. These categories of players do not believe that devolution is the way to structure the state. They prefer a centralized state structure

The targeted beneficiaries of the new system of government are obviously the people of Kenya. Those citizens whose regions had been marginalized are more likely to support the new system than those that had benefited from the old system. The residents of the Coastal, North Eastern and Nyanza regions, for example strongly support devolution mainly because they have hopes of greater development under the new arrangement. They had for a long time complained of being economically and politically marginalized. The behavior of these actors thus will be affected by their perception of how devolution will or is affecting their interests. This, in turn, affects the implementation of this system of governance.

It is further argued that some of the challenges can be traced to the constitution-making process. As expected, the constitution-making process was highly politicized with many compromises made, before the final draft Constitution was approved. Finally, the chapter argues that, while the economic viability of devolved units is an important consideration in the success of devolution, the political context in which the system operates has a big impact on its implementation. Implementation must, therefore, be alive to the politics of the day. Against this backdrop, it is argued that if these challenges are not addressed as they arise, they are likely to multiply and become too complex to resolve. We now turn to a discussion of the challenges relating to the implementation of the system of devolution. We begin with challenges inherited from the constitution-making process.

8.6 CHALLENGES RELATING TO CONSTITUTION MAKING PROCESS

The implementation of the devolved system of government has experienced several threats. Some of the challenges and threats have their genesis in the constitution-making process and pose a risk to the effective and successful implementation of the system. Devolution was one of the contested provisions in the draft constitution that was finally approved in the August 4th, 2010 constitutional referendum. Two issues about this system of government were in contention during the constitution-making process. First, there were those who opposed the system on ideological grounds. This group was not persuaded that devolution was a better way to structure the state and organize governance. The group preferred the centralized system that was established after the dissolution of the quasi-federal system of government in 1963. We may refer to this group as the centralists or 'unitarians'. In this regard, one is reminded of the positions taken by the two major political parties that negotiated the independence Constitution at Lancaster House in London in 1961 and 1962. The Kenya African National Union (KANU), that represented the centralists argued for a unitary form of government. The Kenya African Democratic Union (KADU), on the other hand, argued for the federal form of government in which each region into which the country was divided would have its government in addition to the central government in Nairobi. We could refer to KADU as the federalists who were concerned that a unitary form of government would disadvantage the numerically small tribes that eventually coalesced under KADU. In the words of Oginga Odinga, KADU wanted to federate the Kalenjin Political Alliance, the Maasai United Front, the Kenya African Peoples Party, the Coast African Political

Union and the Somali National Association[7]. These were political associations that represented the numerically small tribes or ethnic groups.

The second group, opponents of the current devolution during the constitution-making process, viewed devolution as a threat to the vested interests that they enjoyed under a centralized system of government. This group did not oppose devolution on ideological grounds. Their interests were political, economic or a combination of the two. We can hypothesize that is the fear of losing benefits associated with centralization of power that caused such people to be uncomfortable with a devolved system of government. They were pragmatic in their approach. There is no evidence that the opponents of devolution have altered their positions seven years after the establishment of the devolved system of government.

8.6.1 Fears Around Ethnic Domination

There were also controversies during the constitution-making process over the ethnic composition of counties to be established. The fear was especially acute among the numerically small communities in the proposed multiethnic counties. The Kuria community in Migori County, for example, was fearful that under devolution, they would be disadvantaged in a county numerically dominated by the Luo community. They, for example, feared that none of them would be elected to any of the elective positions in the county due to their numerical disadvantage. They feared that they would be relegated to the position of voters for the dominant ethnic community in the county. This is similar to the debate and fears of the minority ethnic groups that coalesced under KADU during the struggle for independence to which I have already referred.

To address this challenge, counties that had similar fears allocated different elective positions to the different ethnic groups in the county through pre-election negotiations. In Migori County, for example, leaders of political parties convinced the electorate to elect a governor from the Luo community and a senator from the Kuria community. They also agreed that the county women representative would be from the Kuria ethnic group. The candidate for governorship also had a Kuria as his running mate. This pre-election arrangement was also struck in the hope that it would entice the Kuria community in the county to elect candidates from the Orange Democratic Movement (ODM) party in the constituencies. This is because ODM enjoyed overwhelming support among the Luo community. It is worth noting that, similar political arrangements were struck in several other counties. Despite

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7   Oginga, Odinga .1968. Not Yet Uhuru. London: Heinemann Educational Publishers.

these arrangements, complaints about discrimination, political and economic marginalization of smaller ethnic groups in the multi-ethnic counties persist. It is against this background that the President and the leader of the opposition, Raila Odinga, sought to address the issue of inclusivity at the county government level following their handshake-led reconciliation on 9th March 2018. The two leaders signed a Memorandum of Understanding (MoU) that has been dubbed the Building Bridges Initiative (BBI).

8.6.2 Economic Viability and Cost of Devolution

Another argument during the constitution-making process was that some of the counties would not be economically viable. The dominant view in this regard was that some of the counties were too small and did not have a strong economic base. It was argued that such counties would rely heavily on the national government and would, therefore, lack the financial power and autonomy needed to run a devolved unit of government. Such counties would, in other words, be unable to finance the functions for which they are responsible. A related argument was that devolution as conceived would be too expensive for the Kenyan economy. Proponents of this line of thought preferred fewer counties. There were even some in this group who preferred the former provinces as the units of devolution as opposed to the former districts that finally became the counties. Indeed, there were suggestions that a maximum of 14 counties be created. It took very long to agree on the number of counties to be created.

These fears, all of which were raised during the constitution-making process, are addressed in several Articles in Chapter Twelve of the Constitution. It is a constitutional requirement, for example, that resources for a function assigned to each level of government be made available to that level of government without undue delay. This means that resources must be made available for the performance of functions allocated to either level of government. This also informed the decision to allow each county government to raise its revenue through entertainment tax, property tax, and any other tax that it is authorized to impose by an Act of Parliament[8]. The framers of the Constitution wanted to avoid a situation in which the national government uses its control over resources to undermine the viability and therefore the ability of the devolved units to deliver services. This may explain why in most countries that adopt devolution or federalism, the national government controls the bulk of the nationally raised revenue. This is the case, for example, in Nigeria, Mexico, and Malaysia where the central authority controls about 90

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8   Article 209 (3) of the Constitution of Kenya 2010.

percent of the country's financial resources and only slightly less in Argentina, South Africa, Australia, Belgium, and Brazil. In the case of Germany, Austria, Spain, and India the center controls between 60 and 65 percent of resources[9]. The Constitution of Kenya, 2010 provides that not less than 15 percent of all the revenue collected by the national government shall be allocated to county governments. The Constitution also provides for an Equalization Fund into which shall be paid one half percent of all the revenue collected by the national government each year. The Fund is to be used to provide basic services including water, roads, health facilities and electricity to marginalized areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible.[10]

The availability of resources for counties remains a major issue of concern. Counties perennially complain of not receiving their rightful share of the nationally raised revenue. The governors attribute this to the fact that the Auditor General has not been able to audit government accounts in time. Since the nationally raised revenue must be audited before it is shared, failure to audit accounts on time results in a backlog. Usually, the backlog dates back up to about two years. The result is that counties get less than they would if they were given their share from the current annually raised revenue. Secondly, there are complaints by governors that the national treasury delays in disbursing funds to the counties. Counties also complain that in some cases they don't get the full amount due to them. A combination of these challenges results in failure by counties to fund or pay for their development projects in time. This is perhaps part of the explanation for the large amounts of pending bills that counties have accumulated. This situation does not inspire citizens to support devolution. It can also be used by opponents of devolution to discredit the system. The narrative about the cost of devolution has re-emerged. On 26th February 2014, the National Assembly established a Working Group to carry out a Socio–Economic Audit of the Constitution of Kenya 2010. The Terms of Reference for the Working Group were to:

- Assess the impact of the implementation of the Constitution to the nation's economy and in particular its public finances;

- Make a rapid assessment of the impact of the implementation of the Constitution on public institutions;

- Evaluate the social impact resulting from the implementation of the Constitution;

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9   See Ronald Sturm, (unpublished) Federalism as a Model for Successful Policy-Making and as Challenge to Governance.
10 The Constitution of Kenya 2010. Nairobi: Government Printer.

- Make recommendations to the National Assembly on potential measures that could enhance prudent management of the country's public resources;

- Investigate, determine and advise on any matter related to, relevant, consequential or incidental to the foregoing; and

- Consult as necessary with the National Assembly through the Budget and Appropriations Committee.[11]

Even after concluding the audit, the report of the Working Group, dated 2016, remains a draft report. There appears to be reluctance on the part of the national government to accept the report.

The problem, however, is that those who talk about the cost of devolution tend to focus on financial costs. They fail to recognize that many of the gains of the new Constitution cannot be monetarized. In any case, the constitution is a social contract that seeks to address social challenges such as, social and political marginalization, politics of exclusion and gender disparity in development, and political affiliation as the determinant of resource distribution that characterized Kenya's political economy under the centralized governance system. Under the devolved system of government, resources follow functions and are rule-based. Citizens have a right to actively participate in decisions that affect them directly and communities feel represented in their county governments. Women and youth have also been given a voice through women and youth representatives in both the senate and the national assembly. These social and political benefits cannot be compared to the financial cost of implementing the Constitution. The comparison in my view is misplaced. Yet, those who subscribe to the school of thought that sees the cost of implementation purely in monetary terms, or even as the most important factor, seem bent on using this argument to discredit the Constitution and devolution in particular. While the financial costs are not to be ignored, it is imperative that they also consider the socio-economic and political benefits of the Constitution. If they did this, they would probably be persuaded to drop their arguments about the financial cost of implementing the Constitution. Some of the arguments about the financial costs were used by opponents of devolution to disguise the underlying interests of those opposed to the new system of governance.

While financial autonomy is certainly important, the successful implementation of devolution requires a combination of both financial autonomy and political support and commitment to devolution. This is because political decisions can be used to undermine the economic viability of devolution. In other words, even when

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11 The Working Group on Socio-Economic Audit of the Constitution of Kenya 2010. (Final Draft Report) May 2016. Office of the Auditor General

a devolved unit is economically strong and viable, it can still be undermined by political decisions. The way the then central government undermined the financially viable local authorities in Kenya in the first two years of independence supports this position. Local governments at independence were very strong financially. They were able to raise revenue through Graduated Personal Tax. These authorities were even able to sponsor students for studies abroad. The Graduated Personal Tax was, however, scrapped by the central government, weakening the financial base and viability of the local authorities[12].

One can, therefore, argue that in addition to economic and financial viability, devolution would work best in an open and democratic political system. The relationship between devolution and democracy is certainly a two- way relationship. On the one hand, a democratic system of government promotes devolution and on the other, devolution facilitates democracy. Stauner[13] (2013) observes, the relationship between democracy and federalism, "democracy means getting involved in *one's own affairs*. What more sensible way could there be of accomplishing this, than in a graduated federal system? Federalism thus leads to decisions being taken that are as citizen-friendly as possible and therefore, more transparent and convincing for each person. Thus, federalism also leads to a policy of short distances"[14]. A similar argument can be made for devolved systems of government. Devolution promotes democratic governance as it provides for the active participation of people in their governance and inclusivity and fairness in the distribution of public resources. Above all, devolution would be implemented effectively if the country was led by devolutionists, that is, people who are ideologically committed to devolution. The impression created by the President today is that the political leadership of this country is not supportive of devolution, public statements to this effect that the President supports devolution notwithstanding.

8.6.3 Negative Propaganda as a Challenge to Devolution

A major challenge to the implementation of devolution is the negative propaganda that has been and continues to be waged against county governments. Members of the national assembly, and to some extent senators, have been particularly ferocious in their mostly un-substantiated attacks on the performance of county governments. Kenyan newspapers are awash with public statements from senators and members of the National Assembly accusing county governments of corruption, misuse of

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12 Gertzel Cherry. (1970) The Politics of Independent Kenya, Nairobi, East African Publishing House; London, Heinemann.

13 Stauner, Gabriinel. (2013). Federalism in Asia and Beyond. The Wildbad Kreuth Federalism Days 2012.Hanns Seidel Stiftung.V.

14 Ibid

resources meant for development and incompetence including failure to spend money disbursed to county governments. The President has not spared the county governments either. In his state of the nation address to the National Assembly on April 2015, for example, the President gave the erroneous impression that it is the national government that gives money to county governments. The truth is that county governments get the money that is nationally raised, and it is an allocation that is constitutionally provided for. It is not the share of the national government revenue that is given to the counties as the statement by the President seems to suggest. It is in short, not a favor done to the county governments by the national government as implied by the President in his state of the nation address. It is also imperative to point out that even the Equalization Fund that is to be given to marginalized areas is constitutionally provided for and is not a favor by the national government to the marginalized areas.

By making such remarks, the President was, either knowingly or unknowingly, implying that any developments at the county level are only possible because of money from the national government. This is clearly a major assault on devolution by the President. It could very well signal the beginning of a concerted effort to undermine the legitimacy of devolution and the devolved system of government. The intention of such statement is probably to convince the people to begin to question the usefulness of having county governments if these governments cannot deliver services for which they are responsible. Secondly, it is not correct to suggest that only the national government has been carrying out development projects. There are a number of development initiatives undertaken by county governments. These include opening up of rural access roads and lighting of markets in rural areas. Many counties such as Kisii, Mombasa, and Kakamega have also reported improvements in medical facilities. It is only recently, after the establishment of the devolved system of government, that citizens in counties such as Wajir have witnessed the first tarmac road since independence.

8.6.4 Incompetence and Mismanagement of Public Resources

County governments have been accused of misuse of resources meant for development and incompetence. These accusations which have taken different forms are supported by reports of the Controller of Budget. In its report for the financial year 2015/2016, for example, the Controller of Budget reports as follows:

"During the period under review, the aggregate expenditure by the counties was Kshs.44.43 billion. This represented an absorption rate of 12.3 per cent of the total

annual county government budgets. It was a decline from an absorption rate of 14.2 per cent attained in the first quarter of FY 2014/15 when the aggregate expenditure was Kshs.44.24 billion. Recurrent expenditure in the reporting period was Kshs.34.12 billion, representing 17 per cent of the annual recurrent budget, a decline from 18.5 per cent reported in a similar period of FY 2014/15, while development expenditure amounted to Kshs.10.31 billion, representing an absorption rate of 6.4 per cent, and a decline from 8.5 per cent attained in a similar period of FY 2014/15. The decline in absorption of both development and recurrent expenditure when compared to the first quarter of FY 2014/15 is largely attributed to delays in the disbursement of funds by the National Treasury. There is, therefore, a need to reverse this trend in order to enhance effective budget implementation".[15]

The report also indicates that the county governments spent a total of Kshs.979.31 million on pending bills related to both recurrent and development activities from prior periods. This represented 2.2 per cent of the total expenditure for the period and an increase compared to Kshs.414.89 million or 0.9 per cent of the total expenditure reported in a similar period of FY 2014/15. This high increase in expenditure on pending bills indicates that the counties are accumulating pending bills. This may affect the efficient use of funds in the current year's activities as funds are diverted to pay debts, hence, negatively affecting budget implementation. The counties should, therefore, effectively manage the pending bills.[16]"

These reports indicate two issues that may cause citizens to lose faith in devolution. First is the inability of county governments to absorb or spend money allocated to them by Parliament as required by the Constitution and by the law. This is a matter for concern because counties are yearning for development. Residents of these counties would not understand that this problem is caused by delays in the disbursement of funds by the National Treasury as explained in the report of the Controller of Budget. They would also not understand that part of the problem has to do with the fact that counties are sometimes underfunded as was the case for the 2015/16 Financial Year[17].

Counties have also been reported to spend huge amounts of money on recurrent expenditures as opposed to development. This is despite the provision in Section 107(2) (b) of the Public Finance Management Act that each county spends a minimum of 30 percent of its revenue on development expenditure. The rest is for recurrent expenditure. Some counties have failed to respect this legal requirement.

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15 Controller of Budget. County Government Budget Implementation Review Report. First Quarter FY2015/2016. November 2015.

16 See Controller of Budget County Government Budget Implementation Review Report First quarter FY 2015/16.

17 Ibid

The most common problem in this regard is the huge amounts of money spent by Members of County Assemblies (MCAs) on foreign travels ostensibly to study how countries with similar political arrangements work. Dubbed bench-marking tours, the trips are reported to have cost county governments huge amounts of money. Reports of some of these trips have been highlighted in the local media. This behavior is likely to lead to the public losing confidence in county governments and by extension in the devolved system of government. It undermines the legitimacy of the system as citizens begin to associate corruption with the system and not with bad leadership. This distinction becomes difficult to make because politicians opposed to devolution will blame corruption and other governance malpractices on the system and not just on bad governance which was witnessed even under the centralized system of governance.

I point out, however, that the way these challenges have been reported gives the erroneous impression that the national government does not engage in wasteful expenditure. Indeed, the accusations are intended to show that corruption is confined to county governments. The truth, however, is that wastage and corruption are evident at both levels of government. The loss of hundreds of millions of shillings through corruption in the Ministry of Devolution and Planning and the Youth Fund attests to this[18]. In any case, corruption did not begin with the introduction of the devolved system of government. What seems to be happening is that counties find it much more difficult to hide corrupt activities because they are under closer watch by residents than is the national government that is more removed from the citizens. Counties have witnessed many demonstrations and protests by residents whenever they suspect corruption or misuse of resources. This is an indication of the increased level of awareness by citizens about their right to demand accountability from their governments. This was not the case under the centralized system of government. Residents of counties have obviously benefited from the numerous reports by the Controller and Auditor General and the Controller of Budget on the challenges faced by county governments on the management of resources allocated to county governments.

8.6.5 Capacity Challenges

The effective implementation of devolution has also been affected by several administrative and technical challenges. These challenges are particularly acute in county governments compared to the situation in the national government.

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18 For details see The Standard (Saturday, October 3rd 2015, Saturday, September 12th 2015, Wednesday, February 17th 2016), Daily Nation (Friday, September 25, 2015, Tuesday, February 16, 2016), Citizen Digital (Published on 18 November 2015).

Many county governments suffer from low technical capacity in key areas such as legislative drafting, procurement and accounting[19]. County governments also lack capacity and technical challenges in the use of the E-procurement module, inefficient administration and reporting on public funds established by the counties, and inadequate internal audit arrangements that include failure to establish internal audit committees. These challenges have hampered effective budget implementation. The reluctance by some medical doctors to work under county governments has also been a major concern to county governments[20]. In the recent past, medical staff including doctors and nurses in public hospitals have undertaken industrial action in the form of strikes. These strikes have adversely affected the delivery of health services. Because health is a devolved function, strikes have the potential of undermining peoples' faith in county governments and devolution. It has affected the capacity of these governments to provide quality medical services and thus undermining people's faith in the devolved system of government. These weaknesses also undermine prudent use of resources at the county government level[21]. Low capacity undermines the ability of county governments to deliver services to the people in an efficient and effective manner. Under such circumstances, the people may lose faith in devolution making it easier for opponents of the system to discredit the system and even call for it to be scrapped.

8.6.6 Internal Threats to County Governments

The establishment of Senate to protect counties and their governments was based on the assumption that threats to county governments would come from actors outside the county governments. In particular, it was assumed that the threat would come from the national government. This was informed by the fact that regional governments under the independence Constitution were undermined and eventually abolished by the then central government. Local Authorities were also undermined by the then central government and the anti-devolutionists. The framers of the Constitution of Kenya 2010 must have decided that this had to be avoided by giving Senate the responsibility of protecting the county government against possible threats from the national government. According to Article 96(1) of the Constitution, the Senate represents counties and serves to protect the interests of counties and their governments[22].

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19 End Term Report of the Commission for the Implementation of the Constitution. December 2015. P102.
20 We hypothesis that doctors have been reluctant to counties partly for fear of losing money that they received through consultancies in Nairobi.
21 Controller of Budget County Government Budget Implementation Review Report First Quarter FY 2015/16.
22 Article 96(1)n of the Constitution of Kenya

While many threats have indeed come from the national government and particularly the national executive and the National Assembly, threats to county governments have also come from within each county government. Virtually every county has experienced conflicts between the county assembly and the executive arm of the county government. In some counties, county assemblies have threatened to block the passing of the county budget if some of their demands are not met by the governor. In certain counties, the County Public Service Boards complains that MCAs sometimes want to impose unqualified applicants on the Boards for jobs in the county government. In other cases, MCAs are said to interfere with the executive functions that belongs to the executive arm of county government. Some of these internal conflicts which are discussed in another publication[23] have led to attempts to impeach some county governors. This was the case, for example, in Embu, Kericho, Muranga, and Makueni counties. The Embu case did not end until it was decided through judicial intervention. The impeachment attempt ended in favor of the governor when the court nullified the impeachment on grounds that it was not done in accordance with the Constitution. The Murang'a case, on the other hand, was dropped by the Senate on grounds that the Governor had not violated any law.

> **The significance of these impeachment attempts and internal threats is that they undermine the functionality of county governments in service delivery**

The conflict in Makueni County began as a stalemate between the executive and the assembly over the budget. The MCAs would not approve the county budget prepared by the executive unless their demands were met. The governor stood his ground, and this marked the beginning of attempts to impeach him. The conflict resulted in a gunfight in which the governor appears to have been the target. The situation deteriorated to a point where the county government was dysfunctional. The residents on their part and with support of the governor called for the dissolution of the county government. The residents, in line with the Constitution, signed a petition supported by the requisite number of signatures requesting the President to establish a Commission of Inquiry into the problems of the county with a view to dissolve the county government. The residents thus were demanding a functional government. The Commission was established by the President and given three months to submit its report and recommendations on whether the county government should be dissolved. The Commission submitted its report on 3rd September 2015 with a

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23 Wanyande, P. (2015). In Steytler, N. and Yash Pal – Ghai (editors) Kenyan –South African Dialogue on Devolution. Juta and Company

recommendation that the county government be dissolved. The President, however, declined to dissolve the county government arguing that the conflict did not warrant dissolution of the county government. The conflicts subsided for a while but not completely solved. In the 2017 general elections, all the MCAs except one and the governor were voted out.

The political context in which the Makueni conflict happened introduces an interesting dimension to the conflict. One gets the impression that the differences between the governor and the County Assembly of Makueni were fueled by party politics. The governor of Makueni belonged to the Muungano Party while all the MCAs were from the Wiper Democratic Movement– Kenya. The MCAs introduced party politics to the conflict as an attempt to undermine the governor's party. He was thus an isolated individual in the county government. It must be noted, however, that conflicts between the executive and the governor have been witnessed even in counties where the governor and the assembly members belong to the same political party. This is the case for example in Kisumu County. The point is that in such cases, conflicts are due to factors other than party affiliation. These factors may include personality differences and sheer power struggles.

The Senate as an institution has not been very vocal in support or defense of county governments. What we have witnessed are cases where Senators attempt to take some of the functions of the county executive. This was the case for example when Senators attempted to establish a County Advisory Board under the chairmanship of a senator and relegated the governor to the position of Board Secretary[24]. The governors appear to be at the mercy of MCAs who are ready to brandish the impeachment card each time they disagree with the governor. The resultant tension between the executive and the county assembly does not arguer well for the efficient management of the county governments.

8.6.7 Institutional Challenges

There are several dimensions to institutional challenges impacting on the implementation of the devolved system of government. One is the failure by some institutions to carry out some or all their mandate. The other is turf wars between institutions of government at both levels. There have also been cases of one government institution taking another government institution to court.

An example of the failure by institutions to carry out their respective mandates is the case of the Transition Authority (TA). The Transition Authority failed to fulfill

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24 Wanyande , P. (2015). Devolution, Politics, and the Judiciary in Kenya. In Bosire C., and Gikonyo W. (editors) Animating Devolution in Kenya: The Role of the Judiciary. IDLO, JTI and Katiba Institute.

many of its functions. The Authority, for example, failed to unbundle the functions allocated to both the national and county governments in the Fourth Schedule in the Constitution. The failure to unbundle these functions has created opportunities for conflict between the national and county governments over functional jurisdiction. This challenge has been particularly evident in the concurrent functions such as disaster management. This is a function that is allocated to both levels of government. The TA was required by Section 24 of the Transition to Devolved Government Act 2013 to unbundle functions allocated in the Fourth Schedule of the Constitution.

Another function that required unbundling was roads. The Constitution talks about national trunk roads and county roads. The Constitution is also clear that national trunk roads are the responsibility of the national government. It further provides that county governments are responsible for county roads. It is, however, not clear about what county roads are, as it does not define them. This led to delays in transferring some of the roads to county governments. The county governments, through the Council of Governors, took the matter to court in 2014. The court in its ruling on 11th December 2015 resolved the matter by directing that the roads under the Kenya Roads Authority (KERA) and the Kenya Urban Roads Authority (KURA) be transferred to county governments. The implementation of this court ruling, however, proved problematic as the old classification of roads into ABCD and E was no longer useful. This forced the Ministry of Devolution and Planning, the Council of Governors, and the Transition Authority to jointly work on the classification of these roads afresh. As a result, a total of 41,000 kilometers of these roads were allocated to the national government while the rest was allocated to the county governments.

The failure and or delay in unbundling some functions has been and is likely to remain a source of conflict between the two levels of government for as long as the unbundling is not done. The TA also failed to undertake the costing of functions allocated to either level of government. Costing of functions was necessary in order to determine how much money should be allocated to finance the functions allocated to counties. The failure to cost county functions is perhaps a major reason why governors and the opposition, the Coalition for Reforms and Democracy (CORD) are demanding that more money be allocated to county governments. Unfortunately, neither the governors nor the opposition has determined the cost of the functions. Their position would certainly have been more convincing if they had established the cost of each county function. These kinds of conflicts have the potential of undermining the effective implementation of devolution.

A related challenge to the successful implementation of devolution is the jurisdictional conflicts between various public institutions. The seven years of

implementation of devolution in Kenya have witnessed tensions between the Senate and the National Assembly over diverse issues relating to their respective mandates. A good example is the tension regarding which of the two houses of parliament has a role to play in the passing of money bills. On the surface, the conflict appears to be one of the differences in interpretation of Article 110 of the Constitution. This Article provides that Bills affecting counties including money Bills be processed by both the National Assembly and the Senate. While the Senate respects this position, the National Assembly thinks differently. The National Assembly has taken the position that the Senate has no role in the debate on passing money Bills. On one occasion, for example, the National Assembly passed the Division of Revenue Bill and referred the Bill to the President for assent without involving the Senate. The Senate took the Speaker of the National Assembly to court over the matter. The Court ruled that the Senate has a role to play in the processing of such Bills and that the National Assembly had erred by ignoring the Senate[25].

The conflict is really part of the supremacy battles between the Senate and the National Assembly over which House is more powerful than the other. Indeed, one member of the National Assembly expressed the view that the National Assembly is the Upper House and therefore more powerful than the Senate. This is despite this author having reminded the member that neither the Constitution nor the country's laws define one House as Upper House and the other as Lower House or as superior to the other[26].

> **The other law that has posed a challenge is the law on leadership and integrity. This is the law intended to give effect to Chapter Six of the Constitution on leadership and integrity. Its enforcement has been difficult because the tenth parliament watered down the original Bill**

These jurisdictional conflicts are also evident between the county assemblies and county executives. The county executives have complained about the tendency of county assemblies to undertake or get involved in functions that are executive in nature. In Busia County, for example, the executive pointed out to a team from CIC, where the author was present that members of county assembly often supervise the collection of revenue by officers from the executive. The members of the county assembly argued that they did this as part of their oversight function. They did not consider the supervision of revenue

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25 For details of this case see Wanyande (2015) Devolution, Politics and the Judiciary. In Bosire, C. and Gikonyo, W. (edited) Animating Devolution in Kenya: The Role of the Judiciary. A joint Publication of IDLO, JTI and Katiba Institute.

26 This conversation took place at a meeting of the leadership of the national assembly in Mombasa in 2015 to which CIC was invited.

collection as an executive function. These conflicts are a cause of turbulence in the implementation of the devolved system of government.

8.6.8 Low Civic Awareness and Public Participation

One of the challenges to democratic governance in developing countries, Kenya included, has been the low level of civic and political awareness or consciousness. This low level of political and civic awareness undermines a sense of civic duty among the populace. Under such circumstances, citizens cannot demand accountability from their leaders. Political leaders take advantage of this to violate people's rights, disregard the rule of law and generally employ dictatorial approaches to governance. The central government under such circumstances will not respect democratic values and principle such as separation of powers and checks and balances. They will certainly not be ready to share power as required in a devolved system of government. This is evident in Kenya even as power and resources under the current Constitution are devolved. Both the political leaders and civil servants of the national government continue to demonstrate reluctance to share power with the counties. There is, therefore, an urgent need for continuous civic education with a view to raising the level of political awareness in society. This must include educating the public on the constitution and especially their rights and powers under the Constitution.

Increased civic awareness would also enhance meaningful public participation in governance. Currently, there is very limited public participation in major issues that affect the public. There is no doubt that this is caused by the fact that people do not quite understand the Constitution, their role in it and the channels through which they can participate. Part of the reason for this is that people were not sufficiently educated on the Constitution before it was passed in 2010. Politicians hijacked civic education on the Constitution with the aim of influencing support or opposition to the draft constitution depending on which side of the political divide was carrying out the education. This was compounded by two other factors. First, there was that not enough copies of the Constitution available to those who wanted to read the document for themselves. The people, therefore, relied on what they were told about the Constitution especially by politicians. There is a popular political joke that in one part of the country, people said that they did not need to read the draft constitution because their political leader had read it and told them that the draft constitution was good. This attitude sums up the level of knowledge of the Constitution or lack of it.

Second, many Kenyans are illiterate. This category of people would not have read the document even if enough copies of the draft constitution were available. In addition, my discussions about the Constitution with some highly educated people clearly show that even this category of Kenyans has either not read the Constitution or do not understand it. Many certainly do not understand the devolved system of government. It is also true that some of our leaders clearly have not demonstrated a deep understanding of the Constitution and the devolved system of government. Some of them do not even know which functions belong to the national government and those that belong to county governments. This does not augur well for the implementation of devolution. Unfortunately, there is no evidence of any serious attempt by governments at either level to invest in civic education on the Constitution and the new system of governance. Initiatives such as Construction of Knowledge Societies, therefore, deserve support.

The ability of the people to participate effectively in their governance has been affected by other factors other than ignorance of the Constitution. There has been a delay in the preparation of public participation guidelines by both national and county governments. The absence of policy and legal framework for public participation in the early years of devolution affected the smooth implementation of the devolved system of government. Public participation guidelines and a civic education curriculum that were launched in April 2016 by the Ministry of Devolution and Planning should help counties conduct public participation in a structured way. Counties also find the cost of producing documents that would facilitate public participation to be prohibitive. Residents of many counties visited by the author observed that many of the documents they are required to comment on as part of public participation are prepared and presented in technical language. The public find it hard to understand the content of these documents. This hampers their participation. The result is that in most counties, public participation remains *ad hoc* and unstructured.

The fact that participation of the public has not been optimal can also be explained by reference to the country's political culture. Kenya was subjected to decades of authoritarian rule. In the process, the public were not actively engaged in matters of governance. They neither developed nor appreciated a participative approach to the management of public affairs. They were mere recipients of decisions made by government and political leaders. It is therefore not easy for them to make the transition from this political apathy that defined their relationship with the government to a more active approach to governance. It is likely to take much longer for people to make the transition from this culture before embracing a participative political culture.

Despite these challenges, there have been cases where the public have effectively challenged their county governments. Two examples will suffice. Among them is the decision by the residents of Makueni County to petition the President to dissolve the Makueni County government. This resulted in the establishment of a Commission to inquire into the matter and advice the President accordingly. In another case, the residents of Kiambu County challenged their government in court over the way the county government Finance Bill was passed. The residents argued that they were not consulted and therefore they did not participate in the discussions leading to the passing of that Bill into a Finance Act by the county government. The court agreed with the petitioners and consequently declared the bill null and void.[27]

8.6.9 Challenges Relating to Intergovernmental Relations

At the core of Kenya's model of devolution is how the two levels of government relate. As stated in Article 6 (2) of the Constitution, the two levels of government are required to cooperate and consult as they carry out their respective functions. Many of the challenges to the implementation of the devolved system of government have to do with how the two levels of government relate with one another.

The Constitution and the Inter-Governmental Relations Act 2012 have established a number of inter-governmental relations mechanisms[28] that the two levels of government can use to address disputes between them. Indeed, the Inter-Governmental Relations Act encourages that these be used before seeking judicial intervention. The mechanisms include the National and County Government Coordinating Summit. This is made up of the President as chairman and all the 47 county governors. The other mechanisms include the Council of County Governors, and the Inter-governmental Budget and Economic Council (IBEC) and Mediation Committee appointed by the National Assembly and the Senate[29]. The Inter-Governmental Relations Act 2012 also provides for the establishment of tribunals to facilitate negotiations between the Senate and the National Assembly in cases of disputes such as the ones referred to earlier in this chapter. Unfortunately, some of these mechanisms have not been used by the affected institutions. The decision by the Senate to take the Speaker of the National Assembly to court over the disputes regarding the Division of Revenue Bill is an example of the failure to use these inter-governmental mechanisms. The dispute between the two Houses of Parliament did not have to go to court if the two institutions used a mediation committee as envisaged in the Constitution.

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27 Petition 532 of 2013 & 12, 35, 36, 42 & 72 of 2014 & Judicial Review Miscellaneous Application 61 of 2014 (Consolidated)- Kenyalaw. org/caselaw/cases/view/97000
28 See sections 30 and 31 of the Intergovernmental Relations Act 2012.
29 See Article 113 of the Constitution of Kenya 2010.

Similarly, the numerous disputes between the governors and the county assemblies, including that of Makueni county government, could have been solved through these mechanisms without resorting to impeachment processes and seeking legal redress in Courts of law. It is not easy to explain why the affected institutions do not use these mechanisms. The impression created, however, is that each institution considers whether or not the use of an existing mechanism is in its best interest. In other words, if it can achieve its interest by ignoring the use of a particular mechanism, it would gladly do so. Considerations of self-interest are thus a major factor in decisions on whether to use these mechanisms. This poses a major threat to the successful implementation of devolution.

8.6.10 Policy and Regulatory Vacuum

A number of the challenges to the effective implementation of the devolved system of government have been caused by lack of policy to guide implementation of the devolved system of government. In some cases, the turbulence has been due to lack of regulations to guide the various actors. The first attempt to develop a policy on the devolved system of government was done prior to the promulgation of the Constitution. This was done by a Task Force on Devolution Policy established by the then Ministry of Local Government. The Task Force developed the Sessional Paper on Devolved System of Government, which was published in 2012. While the Sessional Paper was a useful guide to the transition activities, it had several gaps that emerged only in the process of the actual implementation of this new system of governance. These gaps have to some extent contributed to some of the challenges and turbulence being experienced in the implementation of this system of governance. The challenges caused by lack of policy and regulations relate mainly to inter-governmental relations and have taken the form of jurisdictional conflicts referred to in a previous section. It is hoped that the Ministry of Devolution and Planning will soon launch the policy that has been under preparation for quite a while. It is also hoped that regulations to guide the implementation of the devolved system of government will also be operationalized.

8.6.11 Legal Challenges

This chapter would not be complete without a mention of the legal challenges to the implementation of the devolved system of government. The Constitution of Kenya 2010 is not self-executing. It requires the passing of separate laws to give it effect. The minimum list of legislation required to be passed in order to give effect to the Constitution are listed in the Fifth Schedule of the Constitution. There are, however, different laws that were not envisaged by the drafters of the Constitution,

but which have been identified in the course of implementation of the Constitution as necessary for effective implementation of the Constitution.

While virtually all the legislation required to give effect to the Constitution have been passed and are being enforced, many legal challenges have been identified. To begin with, there are diverse gaps in some of these laws. Some laws are also weak and therefore do not facilitate effective implementation of the devolved system of government. Some laws are vague and give room for multiple interpretations. Among these laws are the provisions in the County Government Act regarding the process through which a Speaker of the County Assembly takes office as acting governor if the office of governor becomes vacant. This happened, for example, when after the elections held on the 4th of March 2013 the Court ruled that the Siaya governor was not validly elected. The office, therefore, fell vacant. The process by which the Speaker of the County Assembly was to assume the office of governor in an acting capacity was not clear, the fact that it is provided for in the law notwithstanding, it remains unclear to date.

The other law that has posed a challenge is the law on leadership and integrity. This is the law intended to give effect to Chapter Six of the Constitution on leadership and integrity. Its enforcement has been difficult because the tenth parliament watered down the original Bill. One suspects that parliament did this, because some of them may not have met the integrity threshold provided for in the original Bill. Among the changes to the original integrity Bill are: the deletion of the clause that would have compelled those seeking elective office to declare their wealth before going for election. Also deleted was the requirement that all candidates seeking nomination to the elective political office be vetted by the Ethics and Anti -Corruption Commission.

Another law that has created challenges is the one on whether a county assembly should vet serving County Executive Committee members following a reshuffle by a governor. The County Government Act provides that for one to be appointed to the position of member of a County Executive Committee, he or she must be vetted by the respective county assembly. One school of thought is of the view that fresh vetting should be undertaken each time a reshuffle is done by a governor. Another school of thought is of the view that fresh vetting is unnecessary since the governor is not bringing in a new person into the executive. The challenge has arisen because the law is silent on what should happen following a reshuffle of serving members of the County executive committees. The law, however, provides for reassigning of Chief Officers but not members of the County Executive Committees. The standoff

on this matter between the executive and county assembly has the potential to compromise service delivery.

Finally, there are diverse laws that require regulations to give them effect. These include the Public Finance Management Act and various laws on devolution. The challenge about regulations is that quite a number of these regulations have either not been developed or have yet to be enforced. This is certainly the case with the devolution related regulations. These regulations which were developed about three years ago have yet to be approved by Parliament as required. The delay on either developing or approving regulations must be addressed by the relevant authorities as a matter of urgency.

8.7 ACHIEVEMENTS OF COUNTY GOVERNMENTS

While this chapter is on the challenges to the implementation of the devolved system of government, I wish to observe that many achievements have also been registered. These include the fact that virtually all the administrative and financial structures and systems needed to give effect to the devolved system of government have been established and are functioning. The required laws have also been passed and are guiding the implementation of the new system including the performance of functions by county governments. In addition, administrative and financial systems have been established in all the counties and are guiding the operations of county governments. There is also evidence that citizens are actively participating in their governance. There have, for example, been demonstrations by residents of different counties against real or perceived misuse of resources by some county governments. Residents of Kiambu County even took their government to court for not consulting them before passing the Finance Bill. Several county governments have opened up rural access roads, purchased ambulances that transport the sick to medical facilities. Devolution also has inspired local investment in counties. County governments have also provided street lighting in virtually every market center in rural areas.

8.8 CONCLUSION

This chapter has highlighted the major challenges to the full and effective implementation of the devolved system of government. It presented several arguments about the status of implementation of this new system of government. From the discussion, it is evident that devolution has both supporters and opponents. Some of the opponents of devolution are in powerful positions in government and are using these positions to discredit and undermine the legitimacy of county governments

and therefore the devolved system of government. County governments have not helped to enhance their legitimacy either. Many of them are caught up in internal conflicts and mismanagement of resources. This has undermined service delivery and is likely to undermine people's faith in the devolved system of government.

The absence of policy and guidelines on the implementation of the devolved system of government including regulations has also impacted negatively on the implementation of the devolved system of government. Many counties suffer from administrative inefficiencies and lack of capacity in critical areas such as legislative drafting. The failure by the public to participate actively in matters affecting the management of county governments has also been identified as a hindrance to the effective implementation of the devolved system of government. The chapter identified distinct reasons why public participation has not been optimal. They include the absence of guidelines to facilitate structured public participation. The fact that many people have not read and/or understood the constitution has also been highlighted as a major hindrance to the implementation of the Constitution. This is of specific concern because knowledge of the Constitution, especially among ordinary people, is critical because only people who are knowledgeable about the Constitution can use it to empower themselves.

It was also observed that many of the challenges to implementation of the devolved system of government have to do with poor management of inter-governmental relations. I argued that these challenges need to be addressed in order to safeguard devolution and indeed the Constitution of Kenya 2010. The challenges discussed notwithstanding, devolution has recorded several achievements. The new system of governance has reduced the level of political apathy that was associated with the politics of exclusion under the centralized political system. Citizens are now keen to participate in their governance if only they can be empowered to do so. There is also more fairness in the allocation of resources to different regions of the country. Development priorities are now determined by people themselves, as opposed to the past when this was done by bureaucrats in Nairobi. Nonetheless, as noted earlier, more civic education is required to increase citizens' levels of awareness of the constitution, and their responsibility in demanding for better governance and leadership that respects their rights.

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Construction of Knowledge Societies: A Postscript

Judith Mbula Bahemuka, Joshua Kivuva and George Michuki

9.1 INTRODUCTION

The thrust of this book is *Creation of Knowledge Societies* in view of Kenya's new system of governance. It is predicated upon the identification of knowledge gaps and intervention areas for strengthening rural and urban communities' understanding and demand for good governance and respect for human rights. The book sought to isolate salient aspects in Kenya's governance and development discourse that are at the heart of community transformation and sustainable livelihoods. This chapter provides a synthesis of the main issues that flow through the book.

Reading through this book, one finds rhythm in a number of inter-connected ideas that are at the heart of constructing knowledge societies as well as sustainable community transformation. While the ideas pursued through the book are diverse, six aspects can be isolated. These are effective governance; devolution; human rights; sustainable livelihoods; water and food security, and social welfare. The authors have explored these themes in greater detail in their respective chapters. Here, we provide an overview of the key messages under each of the themes.

9.2 EFFECTIVE GOVERNANCE

Effective governance is a theme that cuts across all chapters in this volume. It is at the heart of empowering communities to take charge of their development. Such a process is anchored upon institutions that connect with the needs and aspirations of the people within a specific jurisdiction. Good governance promotes people's participation, equity, inclusiveness, rule of law, government legitimacy, and accountability (Al-Rodham, 2009). Effective governance is a key determinant on whether a society will enjoy prosperity or it will stagnate. It is also an important

ingredient in facilitating meaningful and authentic people's participation, respect for human rights as well as nurturing a transparent society.

Effective governance implies that systems and processes both at the National and County levels work optimally. Good and effective governance bestows responsibility on both duty bearers and rights holders for greater integrity and transparency in the conduct of the country's affairs. In furthering effective governance, state institutions are expected to be faithful to the laws of the country in the discharge of their mandate. Such a process demands regular assessment of the progress state institutions make in discharging their mandate to citizens and taking remedial action where there are bottlenecks. Promotion of effective governance in a society will improve equity and nurture a general sense of cohesiveness in a society. Once citizens perceive state institutions as being effective in discharging their mandate, they are in turn bound to be more responsive.

9.3 DEVOLUTION

Through the Constitution of Kenya 2010, the country adopted a new administrative architecture in which the country is sub-divided into forty-seven separate but inter-dependent county governments, with the national government based in the capital city, Nairobi. The Fourth Schedule of the Constitution stipulates the devolved functions and thus service delivery expectations by national and county governments, and citizens. As pointed out, devolution has bestowed much greater responsibility on citizens in managing their affairs through their county governments. The extent and quality of citizens' engagement in governance discourses in their counties and at the national level have an impact on the success of the overall devolution agenda in the country.

Although authors such as Wanyande, Mitullah, and Mulinge, concur that devolution presents both opportunities and challenges for the country, there is consensus that devolution holds a pathway to a better and a more prosperous Kenya. In part, the project on *Construction of Knowledge Societies* is about enhancing knowledge and actual participation of citizens in the devolved governance processes in the country. Unlike the pre-2010 Kenya Constitution, under the new constitutional dispensation, citizens have an enhanced voice on how state agencies and other public governance institutions utilize public resources. Instances, where citizens are not empowered to actively participate, run counter to the original intent of the devolved system of governance. Thus, improving citizens' capabilities to engage with the devolved system of governance is at the heart of this book. Such a process may entail the creation of awareness among citizens on devolved functions

and the philosophy around citizen participation in execution of the devolved functions. This way, citizens, as rights holders, can effectively hold relevant duty bearers to account in case they fall short of the various service delivery targets.

Since devolution kicked off in March 2013, joint efforts have been made to ensure that the initiative is a success. Both the national government and the forty-seven county governments have taken significant steps to implement devolution. In turn, the public has been regularly updated and educated on citizen participation, achievements made so far, and how each level of government can contribute to improve service delivery. County governments have put in place mechanisms to strengthen and deepen devolution by continuously devolving further to sub-counties, wards, and in some counties, villages. The goal is to expand public engagement in priority setting, decision-making and governance in citizens' localities and expand their ability to inf luence their development space.

The Devolution Conference has been established as a platform that allows the county governments and other stakeholders to have discussions on what they have been able to deliver. On the occasion of the sixth Devolution Conference held on March 4-8, 2019, the progress made in 2018 concerning the Big Four Agenda (Health, Agriculture, Trade and Manufacturing, and Affordable Housing) were reported.

9.4 HUMAN RIGHTS

Apart from devolution, human rights discourse is another innovation under the Constitution and thus Kenya's governance processes. This should not be construed to mean that the country did not embrace human rights prior to 2010, but rather, the fact that human rights have been elevated as a running theme in Kenya's constitutional order. The Constitution covers a broad spectrum of rights: social, cultural, economic and political rights. These are captured under Chapter Four of the Constitution of Kenya. Article 19 (2) of the Constitution affirms that recognising and protecting human rights and fundamental freedoms helps in preserving the dignity of individuals and communities, as well as promoting social justice and the realization of the potential of all human beings. Given the emphasis placed on human rights under the country's supreme law, rights-based approaches are currently at the centre of the country's development processes.

However, the realization of the ideals espoused under the country's Bill of Rights requires a citizenry that is well equipped to seek redress if their rights are violated as well as playing their rightful role in augmenting state agencies' role in furthering the human rights agenda. The realization of economic and social rights,

nevertheless, requires state machinery that is founded on effective governance and enhanced accountability. Such rights include right to healthcare services, accessible and adequate housing, reasonable sanitation, freedom from hunger, clean and safe water in adequate quantities, social security, and education. These rights are unlike the political and cultural rights that may be less expensive to meet, but with sound planning and prudent use of available public resources they can be progressively secured. This discourse is also linked to the development approach by Amartya Sen, the 1998 Nobel Memorial Prize in Economic Science. Sen, in his famous book "Development as Freedom," conceptualizes development as a process that expands peoples' freedoms (rights), that is, political freedoms, economic facilities, social opportunities, transparency, and security (Sen, 1999). Thus, development processes should focus on removing sources that limit citizen's freedoms. These sources include poverty, poor economic opportunities, social deprivation, neglect of public facilities and insecurity

9.5 SUSTAINABLE LIVELIHOODS

Sustainable livelihoods is yet another recurring theme in a number of chapters in this volume. The introductory chapter provides a framework to operationalize sustainable livelihoods in the context of effective governance and human rights. The chapters on water, food security, and functions of NGOs speak partly to this theme. At the heart of sustainable livelihoods is how to improve a community's resilience and capabilities to cope with environmental, economic and social shocks that influence their livelihoods, while at the same time not undermining livelihoods for future generations. The potential impact of climate change and the capacity of communities to embrace adaptation and mitigation strategies is also a key factor in sustainable livelihoods. These initiatives are part of NGOs agenda. They are involved in assisting communities and the marginalized groups to become empowered and take charge of their lives. NGOs are worthy partners in research and creating new innovations. It is clear from the book that the link between the work of the NGOs and that of universities is strong and can be further strengthened by looking at new frontiers of knowledge.

The book also points out some potential threats to sustainable livelihoods in the country that if not addressed will continue undermining the future of the country. Some of these threats include, inequality, poverty and environmental degradation. The book makes a case for nurturing an equitable society by focusing on development models that benefit all people. The Constitution provides a framework for building a more equitable society and identifies measures to enable the disadvantaged

segments of the society to catch up. One such strategy is the Equalization Fund where marginalized areas receive a separate portion of the country's revenue in addition to the equitable share of revenue to the counties. The various policies regarding gender, youth, persons living with disabilities, and minorities are also meant to ensure equity in the society.

9.6 WATER AND FOOD SECURITY

Two of the chapters in this book articulate the issue of water and food security. The chapter on water makes a strong case on the linkage between water, peace and security in Turkana County. These two issues also connect with human rights discourse as well as the country's devolution agenda. Access to clean water and freedom from hunger are some of the rights under the economic and social rights. However, as the chapters on water and food security illustrate, getting both the national and county governments to meet this ideal is not without challenges. As is the case with Turkana County, the agro-climatic conditions can have serious adverse effects on the capacity of the state to assure water and food security. Turkana, as well as a vast part of Kenya, is an arid and semi-arid area, often with scarce water resources. In the case of Turkana, this has been a source of conflict with neighbouring communities as people scramble over scarce water resources and pasture.

Besides water security, assuring food security in agro-climatically challenging settings can be a daunting task for the state. As the two chapters indicate, however, there are various innovative strategies that can be used to enhance water and food security in arid and semi-arid settings. In the case of water security, much more focus should be on existing underground water while at the same time optimizing the use of available surface water. Harvesting of rain water can also go a long way in augmenting the country's water security. Already, a number of counties are investing in water provision for households and livestock in their counties. But much more needs to be done especially on harnessing rain water for livestock and for promotion of irrigated agriculture.

On food security, additional measures may include: educating communities to embrace other forms of foods that are hitherto a taboo in their local cultures, modernizing existing traditional forms of production (e.g. nomadic pastoralism) to more sustainable forms of livestock production that lay focus beyond subsistence consumption. In the case of arid and semi-arid areas, the counties and the national government need to focus on the entire livestock value chain with an emphasis on opportunities for value addition at various levels of the value chain. For instance,

establishing abattoirs near the livestock production sites as well as revitalizing the livestock products marketing channels.

In 2018, the African Development Bank stated that small-scale horticultural projects can transform lives if appropriate technology such as irrigation is deployed. Kenya has one of the most dynamic and innovative economies in sub-Saharan Africa and some counties are already reaping the benefits of horticulture. A decade after going through a food crisis, and in the aftermath of the drought in 2016-2017, Kenya aims to achieve self-sufficiency in food products such as maize, tomato, cabbage, rice, beans, milk and meat. This clearly stated ambition of the Kenyan government has received support from the African Development Bank, which sees food security as a catalyst for growth and development of the country's productive sectors.

9.7 SOCIAL WELFARE

The chapter by Ocharo on social welfare complements the human rights theme that flows throughout the book. This chapter makes a strong case for the society to guarantee decent well- being for the disadvantaged segments in our society including orphans, vulnerable children, and the elderly. The intensity of social welfare programs in Kenya has rapidly expanded in terms of geographical coverage, targeted population as well as the amount of resources committed for the exercise. Currently, there is a nationwide cash transfer scheme that targets needy persons aged 70 years or more, in which they receive a monthly stipend to cushion them from livelihood shocks.

While social welfare does matter, however, questions abound about the efficacy of the program in meeting its stated objectives. One such challenge relates to the issue of targeting. By their very nature, social welfare schemes are meant to benefit specific needy categories within a society. Proper targeting of social protection schemes ensures that only those who meet the identified criteria benefit from the scheme in question. This means that if it is the cash transfer scheme for the elderly persons or the youth, those who benefit should fall within the identified parameters. Besides targeting, there is the challenge of the resource envelope for the program. Meeting the needs of all vulnerable groups in a society is no mean task and can be very expensive. Thus, social welfare programs in Kenya operate in the context of constrained resources, making it difficult to include all potentially deserving cases. Finally, there is the challenge of the diversity of stakeholders involved in various social welfare programs in the country. Besides the state, there are various non-profit organizations that run independent social welfare schemes. This calls for the

need to evolve a pragmatic approach in synchronizing the various actors in the social welfare schemes to guarantee a more coordinated and efficient approach for the program.

9.8 POLICY IMPLICATIONS

This chapter has identified a number of cross-cutting themes that run through this book. These issues have varied policy implications for national and county governments. The overarching goal of *Construction of Knowledge Societies* is to make devolution work. Such a goal can be realized through empowering communities to participate effectively in the devolved system of government. Community empowerment can be achieved through scaling up civic education on the Constitution, and in particular on devolution, and also rationalising people's participation mechanisms across the country. Civic education should aim at creating knowledge and an understanding among citizens on rights and responsibilities of various actors in the devolved system of governance. It should also raise consciousness amongst citizens on how to hold duty bearers to account in case of shortcomings in service delivery and violation of rights. Empowered communities are also likely to create opportunities for effective governance and respect for human rights as state agencies get confronted with a more informed citizenry.

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