



**KENYA
DEVOLUTION
PROGRAMME**
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POLITICAL ECONOMY ANALYSIS

Quarterly Briefing Note



July to September 2023

1. Introduction

The Act Change Transform led Consortium is currently implementing the Kenya Devolution Programme (KDP), a four year (2021 – 2025) national programme funded by the Foreign, Commonwealth and Development Office (FCDO). The programme aims to address some of the specific challenges facing devolution in selected counties in Kenya. The KDP has seeks to contribute in five Output Areas. These are:

- i. Intergovernmental relations that supports devolution
- ii. Effective county planning, public finance management and staff performance
- iii. County government and citizens’ engagement to improve service delivery and livelihoods
- iv. Evidence generation, digital technology and learning as enablers of public service delivery and reform
- v. UK Government Portfolio in Kenya is better aligned with county government priorities

Successful delivery of the KDP requires a deep understanding of the intervention context including the power dynamics. To enhance understanding of the implementation context, the Consortium committed to generate political economy analysis briefs on a quarterly basis. The briefs are to provide clear and succinct synthesis of key issues in the KDP implementation context with a focus on the five Output Areas. The bulk of the data that informs the brief report emanates from a close monitoring of the media in Kenya. Additional primary data may also be used to supplement media reviews. This *Quarterly Briefing Note* provides a snapshot of main issues for the period July to September 2023 in Kenya’s political economy that may impact on the implementation of the Kenya Devolution Programme.

2. Highlight of Key Issues

This section provides an overview of key happenings in the country and their implications for the implementation of the KDP and in particular the five Output Areas. The issues identified during the period July to September 2023 included the successful holding of the Devolution Conference in Uasin Gishu County, the violent protests and killings occasioned by high costs of living, and the launch of a scorecard to rate active and productive counties. This brief also documents gains in food production in select counties giving hope that perhaps the rising food prices trend may be reversed. Lastly, the brief also highlights the growing concern of corruption and mismanagement reported in various counties.

2.1. 8th Devolution Conference held in Eldoret, Uasin Gishu County

Between 15th to 19th August 2023, the Council of Governors (CoG) held the biennial Devolution Conference at the Eldoret Sports Club, Uasin Gishu County. It was the eighth devolution conference and was a unique moment in the history of devolution since it was marking ten years since the coming into existence of the sub-national governments. The theme of the conference was 10 Years of Devolution: The Present and the Future with the sub-theme being Driving Transformation from the local level: County Governments as the Centre of economic development. The conference was opened by President William Ruto and brought together over

10,000 local and international delegates drawn from government, the private sector, academia, civil societies, development partners and other devolution enthusiasts¹.

A key highlight of the conference was the taking stock of the devolution journey 10 years later. President William Ruto in his speech promised to transfer to counties all the devolved functions still being discharged by the National Government by mid-October 2023. He also reiterated his commitment to ensure that the Counties shareable revenue is disbursed to Counties in a timely and predictable manner and within the confines of the law to ensure smooth service delivery. It is worth noting that a month earlier in July 2023, for the first time in history of devolution, the Counties had received their end-of-year disbursement on time.

On misses, the CoG Chairperson, Anne Waiguru highlighted a few factors undermining devolution. These included misalignment of policies and laws, slow implementation of intergovernmental decisions and ineffective management of human capital. Regarding the highs, it was noted that Counties have made strides in improving service delivery in devolved sectors such as agriculture by adopting climate-smart technologies and solutions which are key in creating sustainable and resilient communities. To spur such efforts, it was noted that counties have been allocating an average of 7.3 percent of their budgets to Agriculture. This has translated into an increase in dairy animals and resultant increase in milk production by 30 percent and extension services covering 3.9 million farmers across the country. On the business side, it was reported that as of 2022, counties had registered 124,420 micro-enterprises, 87,153 small enterprises, and 34,727 medium enterprises². This is very critical since micro, small and medium enterprises (MSMEs) are a major pillar of Kenya's economy.

Regarding intergovernmental relations, the CoG Chairperson noted that between 2017 and 2022, they experienced more order and stability and the relationship between the national government and county governments had somewhat improved. Due to this, there are notable successes across various sectors. Notable examples include health where in some counties such as Samburu it was reported that maternal deaths had decreased by over 79 per cent in the last decade. This was attributed to the fact that the County government had built houses within health facilities to accommodate expectant mothers together with their families weeks before delivery. At the end of the conference, 32 resolutions were made giving a road map of the action points needed to

¹ Council of Governors, September 2023, *Uasin Gishu Hosts 2023 Devolution Conference marking a decade of devolved governance in Kenya*, Council of Governors, retrieved 18 September 2023, < <https://cog.go.ke/component/k2/item/309-uasin-gishu-hosts-2023-devolution-conference-marking-a-decade-of-devolved-governance-in-kenya>>

² Kibor, F. 2023, 'Anne Waiguru highlights counties' wins in 10 years of devolution', *Daily Nation*, 17 August 2023, retrieved 18 September 2023, < <https://nation.africa/kenya/counties/uasin-gishu/anne-waiguru-highlights-counties-wins-10-years-of-devolution-4338090>>

further entrench the successful implementation of devolution in the country³. Among other things, it is expected that moving forward, we shall see better and effective coordination between the county governments and the national government.

2.2. Rise in cost-of-living spurs violent protests leading to killings and huge disruptions across the country.

The month of July 2023 marked the epitome of political violence arising from protests that had begun earlier in the year in March 2023. In the beginning, the protests which were called by the opposition coalition, Azimio la Umoja were to call out what the coalition termed as a stolen election. However, by July 2023, they had metamorphosized. They were now driven by public anger directed at the government due to the rising cost of living and unpopular tax hikes occasioned by the Finance Act, 2023. This was signed into law by the President on 26th June 2023 and was to take effect on 1st July 2023. Among some of the highly contested clauses was the introduction of a mandatory National Housing Development Fund, a housing levy to be contributed by both the employer and employee. It stipulates that for each employee, the employer must remit its contribution of 1.5% of the employee's monthly gross salary and the employee's contribution of 1.5% of the employee's monthly gross salary. The resultant protests were so deadly that it was reported that on 12th of July 2023, police killed over a dozen people during the Azimio-led demonstrations across the country. If you consider the whole month of July, it is reported that over 70 political violence events experienced with approximately 75 fatalities. The counties that bore the highest brunt were Nairobi and Kisumu which were the epicentres of violence occasioned by the forceful repression of opposition led demonstrations⁴.

Apart from the killings, the protests led to a huge disruption of the business environment in various parts of the country with Nairobi County bearing the worst brunt. Apart from Nairobi, protests were also reported in Kisii, Nyamira, Migori, Kisumu, Nakuru, Machakos, Murang'a, Mombasa, Kilifi and Kajiado counties. Many businesses were closed and those found open were looted. The transport of goods and people along the Northern corridor which connects Mombasa County and the rest of the country including the region was also disrupted. As a consequence, the business community in Kenya announced that the three-day protests had cost them some 42.3 million USD (Kshs 6 billion) in business losses. This was occasioned largely due to delays in the movement of goods along the Northern corridor⁵. Towards the end of July, on

³ See this link chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://cog.go.ke/images/Statements/news/DOC-20230830-WA0000..pdf

⁴ ACLED, Situation Update August 2023, *Kenya: Government operation brings calm to the North Rift Region*, ACLED, retrieved 17 September 2023, < <https://acleddata.com/2023/08/04/kenya-situation-update-august-2023-government-operation-brings-calm-to-north-rift-region/#:~:text=The%20Kenyan%20government%20has%20long,Operation%20Maliza%20Uhalifu%20North%20Rift>>

⁵ Anami, L. 2023, 'Expensive protests: Kenyan manufacturers say demos costing \$42.3m daily losses', *The East African*, retrieved on 16 September 2023, <

29th July 2023, these protests were called off after the Kenya government and the opposition agreed to hold talks through a joint committee to resolve their differences. At the writing of this brief, the talks were ongoing.

2.3. Scorecard launched to rank active and productive counties.

During the month of August 2023, an inaugural scorecard was released by Mzalendo, a Parliamentary Monitoring Organization. The scorecard covered the period between September 2022 to June 2023. In the scorecard, Nandi, Nairobi, Kisumu and Bungoma were listed as the most active and productive counties in the 13th Parliament⁶. The scorecard assesses engagement and legislative contributions of each county. Nandi county emerged top with 7.8 percent participation rate. This was followed by Nairobi with 6 percent rate, Kisumu 4.8 percent, and Bungoma at 3.9 percent. The least active counties were Tana River and Tharaka Nithi both at 0.3 percent engagement. Other included Vihiga, Nyandarua, Samburu and Garissa whose participation rates ranged from 0.5 percent to 0.7 percent.

Across the board, the scorecard identified several National Assembly legislators who were the most active and consistent in their push to address national issues touching on the lives of Kenyans. These were drawn from Kitui Central, Dagoretti North, Seme, and Kilifi South constituencies. At the Senate, the most active legislators were identified as those representing Nandi, Migori, Laikipia and Mombasa Counties. At the National Assembly, deliberations addressed a wide range of issues including high energy costs, the implementation of the Competency Based Curriculum (CBC) as well as the management and implications of the high public debt. At the Senate, issues debated included workplace sexual abuse, the welfare of migrant workers, police brutality and the health care situation in the country following the unearthing of scandals at the National Health Insurance Fund (NHIF).

This aside, the report also revealed that the Kenyan citizenry felt let down by their legislators. It revealed that there was a mismatch between what the citizens expect and what the legislators deliver. It is like the voice of the citizens does not count. For instance, the report noted that even after there was widespread public concern and outcry regarding the high cost of living, the National Assembly still went ahead and passed the Finance Bill 2023 which introduced further taxes on the citizenry. Similarly, it was noted that the Senate had rejected the Division of Revenue Bill 2023 which had suggested additional allocation of Sh22 billion to the counties. This puts to question the extent to which Kenyan legislators are entrenching and embracing public participation in the planning and management of citizens affairs, and more specifically the devolved functions.

<https://www.theeastafrican.co.ke/tea/business/kenyan-manufacturers-say-demos-costing-42-3m-daily-losses-4311120>>

⁶ Simiyu, M. 2023, 'Nairobi, Kisumu and Bungoma shine in inaugural scored', *Daily Nation*, 9th August 2023, retrieved on 20 September 2023< <https://nation.africa/kenya/news/politics/nandi-nairobi-kisumu-and-bungoma-shine-in-scorecard-4330986>>

2.4. Food situation in the country likely to improve if a bumper harvest of maize from six counties is anything to go by.

Kenyans have had to bear with very high food costs for the last couple of years. This has been attributed several factors including a seeming worldwide economic recession particularly associated with disruption of global value and supply chains due to the ongoing Russia Ukrainian war. At the local and regional level, Kenya is also reeling from one of its worst drought situations. It has been reported that the country together with its neighbours Ethiopia and Somalia had witnessed their sixth consecutive failed rainy season. Most parts of the country were affected but counties in the Arid and Semi-Arid areas bore the highest brunt. At the height of the latest drought, it was reported that the number of people in Kenya facing severe hunger was expected to rise to 5.4 million in 2023. This was more so in the Northern part of the country where it was reported that 95 percent of surface water had dried as of April 2023⁷.

It is against this backdrop therefore that the recent news that Kenya is expecting a bumper harvest of maize is worth noting. The news drew on a study whose fieldwork was conducted between July 10th and July 25th, 2023, in six counties. The study whose findings were published on August 14th, 2023, revealed that the country was expected to harvest more than 17 million bags of maize from six counties of Bungoma, Trans Nzoia, Uasin Gishu, Kakamega, Nandi and Vihiga⁸. This bumper harvest was attributed to the subsidized fertilizer program of the National Government. In addition to the fertilizer, the bumper harvest was also attributed to an increase in the land acreage of up to eight percent. In the month of July 2023, the Agriculture Cabinet Secretary Mithika Linturi had indicated that the average national maize consumption was around 50 million to 52 million bags per year. This would be met from the expected bumper harvest across most counties in addition to the six highlighted in the study. It is expected that this will help in driving maize flour prices down at a time when they were retailing at an all-time high of an average of Ksh 200 per packet while a 90kg bag of maize was selling between Ksh 4,800 and Ksh 5,200. Earlier on in July, the Central Bank of Kenya had expressed optimism that inflation would ease in the months of August and September 2023 on the back of the expected bumper maize harvest in the country's maize basket of North Rift and Western⁹.

⁷ Kimeu, C. 2023, 'From bad to worse': drought puts Kenya's hospitals under pressure', *The Guardian*, 17 April 2023, retrieved on 21 September 2023, <<https://www.theguardian.com/global-development/2023/apr/17/from-bad-to-worse-drought-puts-kenyas-hospitals-under-pressure>>

⁸ Ngotho, A. 2023, '17m bags of maize harvest expected from six counties – study', *The Star*, 14th August 2023, retrieved on 20 September 2023, <<https://www.the-star.co.ke/news/star-farmer/2023-08-14-17m-bags-of-maize-harvest-expected-from-six-counties--study/>>

⁹ Amadala, V. 2023, 'Cost of living to ease by August on bumper harvest -Thugge', *The Star*, 18th July 2023, retrieved on 17th September 2023, <<https://www.the-star.co.ke/business/kenya/2023-07-18-cost-of-living-to-ease-by-august-on-bumper-harvest--thugge/>>

2.5. Challenges in effective county planning, public finance management and staff performance

In this section we shall focus on public finance management. As much as we are now celebrating gains made in the devolution journey ten years down the line, one of the challenges that continues to plague counties is corruption and mismanagement of county resources. On 8th September 2023, one of the leading dailies reported that the Ethics and Anti-Corruption Commission (EACC) was investigating 67 high profile cases touching on allegations of corruption and irregular procurement in Marsabit, Mandera, Samburu and Wajir Counties¹⁰. It was further reported that of the four counties, Marsabit County leads with 90 cases. Samburu has 87 cases, Wajir 32 and Mandera 22.

In Samburu the cases related to alleged embezzlement of funds through impost fraud and false surrender of documents totalling to Ksh 50 million. In Marsabit, the allegations touch on embezzlement of donated funds for water as well as drilling and tree planting as well as payments for the procurement of relief food. In Mandera County, the former governor is alleged to have irregularly employed 47 officers without following due process. Lastly in Wajir, the allegations touch on conflict of interest in the payment of Ksh 1.1 billion to 16 companies associated with ex-Wajir Governor Abdi Mohamud between 2016 and 2020.

As can be seen, the sums involved in all these allegations are huge. If they had been put to good use, they could have been used in improving service delivery in these counties. Furthermore, these are counties which have historically faced marginalization and their citizenry were counting on devolution to cure some of the historical injustices meted on them. It is therefore disheartening to note the current situation. One can only hope that the cases will be pursued to their logical conclusion and if the accused are found guilty, that just will be served.

3. Conclusion

This brief has reported on the key highlights during the period between July and September 2023. This quarter experienced what can be considered as highs as well as lows in the journey towards the realisation of the devolution dream for Kenya. These highs and lows demonstrate once again that devolution is a complex and evolving process. More importantly, they also demonstrate that there remain many challenges that need to be addressed. Despite this, significant progress has been made, as was highlighted during the devolution conference, an affirmation that devolution is here to stay.

Some of the lessons picked from the key happenings in the quarter include the following:

- a. There is a need to address challenges relating to corruption and mismanagement of county resources. Collaboration with key stakeholders united in the fight against corruption is key in this quest.

¹⁰ Omulo, C. 2023, 'Here is Kenya's 'most corrupt' counties' *Daily Nation*, 8th September 2023, retrieved on 19th September 2023, < <https://nation.africa/kenya/counties/here-are-kenya-s-most-corrupt-counties-4361912>>

- b. Related to this is the need to strengthen governance structures at the county level directed at the promotion of transparency and accountability. Information sharing with the citizens while encouraging public participation is a good starting point.
- c. Finally, it is important to continue reminding duty bears that their primary mandate is to serve the needs of the Kenyan people. Protection of their basic rights is paramount.
- d. The need to support the government's legislative agenda