



Effective, Open and Accountable County Governance

Focus Areas:

1. Intergovernmental relations that supports devolution
2. Effective county planning, public finance management and staff performance
3. County government and citizens' engagement to improve service delivery and livelihoods

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 make a contribution in five Output Areas. These areas:

1. *Intergovernmental relations that supports devolution*
2. *Effective county planning, public finance management and staff performance*
3. *County government and citizens' engagement to improve service delivery and livelihoods*
4. *Evidence generation, digital technology and learning as enablers of public service delivery and reform*
5. *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 monthly basis. The monthly 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. Each *Monthly Briefing Note* should be no more than two pages. This *Monthly Briefing Note* provides a snapshot of main issues during the month of January 2022 in Kenya's political economy that may impact on the implementation of the Kenya Devolution Programme.

Political Economy Analysis: August 2022

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.



1.1. Intergovernmental relations that support devolution

The Constitution of Kenya requires a general election to be held on the second Tuesday in August every fifth year. Eligible voters elect the President, County Governors, Senators, Members of the National Assembly including women representatives and members of County Assemblies. The Independent Electoral and Boundaries Commission (IEBC) is mandated by the Constitution to conduct the general election and make a declaration of winners in all elective positions.

On August 9th, 2022, Kenyans exercised their democratic right by voting for their preferred candidates. Eight electoral areas however had their elections postponed over ballot paper mix-up, this included the Mombasa and Kakamega governor election. The election process happened smoothly despite the malfunctioning of the electronic voter identification kit in some parts of the country. Voter turnout was much lower compared to past polls. The absence of youthful voters seemed apparent in many parts of the country. Analysts indicate the possibility that the campaigns did not speak to the youth or that they are not convinced that electing any leader will have a particular impact on their lives.

Following the outcome of the general elections, 45 governors took an oath of office on the 25th of August, 2022 in their respective counties in line with the provisions of the Assumption of The office of Governor Act, 2012. The Law states that the swearing-in should be presided over by a High Court judge. The new Governors are required to sign an inauguration certificate and receive from the outgoing Governors county symbols, including the flag, coat of arms, the Constitution, and the public seal, as a sign of transfer of power and authority.

For the first time, the new Governors and their deputies signed the Integrity code to signify their commitment to uphold integrity and protect the public trust from any form of corruption. This took place in the presence of an Ethics and Anti-Corruption Commission official. The law makes it mandatory for new public officers to sign the integrity code before assuming office. The Integrity Code is fronted by the EACC in its oversight and enforcement of the Leadership and Integrity Act.

In the highly contested general election, eight Governors who lost their seats in 2017 made a comeback. They include Kenneth Lusaka (Bungoma), Benjamin Cheboi (Baringo), Issa Timamy (Lamu), Julius Malombe (Kitui), Joshua Iringu (Laikipia), Simon Kachapin (West Pokot), Ahmed Abdillahi (Wajir) and Nathif Jama (Garissa). 28 were elected as first-time governors while 11 incumbents managed to defend their seats.

Whereas election winners celebrated their win, the succession burden awaiting newly elected governors is distressing. Excessive pending bills, unjustifiable wage bill, and numerous multibillion incomplete projects. Critics of the devolved system of governance underscore that the new county executives should have a clear-cut focus on own revenue generation, pending bills, and personnel establishment. Reports from the Controller of Budget indicate that previous county regimes consistently fell short of their targets in revenue collection. What's more, the buildup of pending bills is likely to cause a burden on allocation for investment and stretch out county revenues.

Nairobi city Governor Johnson Sakaja has taken back the county role of revenue collection from the Kenya Revenue Authority (KRA) citing low revenue collection.⁷ The County had transferred some of its functions back to the National Government in 2020 as the former County executive failed to deliver on its mandate. The Governor also resolve to revert all county functions taken up by the Nairobi Metropolitan Services (NMS) through Executive Order No. 3 of 2020. The Intergovernmental Technical Relations Committee sent an advisory to the new governor indicating that reverting functions will require an audit of assets and staff. The director of NMS, General Badi, reported that NMS had accomplished its assignment and was ready to hand over the functions back to the county government.

In Trans-Nzoia County, pending projects include 2 billion Kitale Referral Hospital, an incomplete Kitale bus park, and several water projects. In the neighboring Uasin-Gishu County, the new governor will take up the burden of incomplete sh. 1 billion Ziwa Level 5 Hospital, Sh. 700 million

Burnt Forest level 5 Hospital and the 1 billion project for rehabilitating stadium 64. Uasin Gishu outgoing governor credited himself with empanelling all health facilities in the county with NHIF and increasing access to water from 48 percent to 75 percent. **Error! Bookmark not defined.**

The Baringo and West Pokot Governors are targeting to complete stalled projects that they had initiated during their first term but not completed by their successors. Baringo Governor will be compelled to urgently handle the devastating drought situation in the county and the perpetual insecurity challenge. In West Pokot, Governor Simon Kachapin seeks to consolidate resources generated by the county to complete pending projects.¹

¹ The Star, August 25, 2022

Turkana Governor assured neighboring countries of peaceful coexistence among citizens. Following his swearing-in, Governor Jeremiah Lomurukai held a series of meetings with delegates from Uganda, South Sudan, and Ethiopia to address sources of human conflict in the border areas. The Governor indicated his plan to commit more resources to community engagement and peace mobilization using community elders.² Drought has been a major fueling factor of conflict in the region as it causes pressure on the scarce water and pasture. Under the leadership of the former governor, a tripartite agreement on peace initiatives was signed among the Turkana of Kenya, the Karamoja of Uganda, and the Dassenach and Nyangatom of Ethiopia.³

In the Western region, new governors come into office with work fully cut out for them. The run-down sugar milling factories in the region and the dwindling plight of sugarcane farmers are critical issues to be tackled. Bungoma Governor, Kenneth Lusaka, former Senate speaker, is faced with the task of completing a 6.5 Km dual carriageway to ease congestion in the county's capital and the Sh.700 million Kanduyi stadium that was initiated by his predecessor. Lusaka guaranteed the residents of public participation in development projects and the creation of an advisory Economic Council to aid the county's decision-making processes.⁴

Dr. Wilber Otichilloo was re-elected as the Governor of Vihiga. For his second term, faced with a blotted workforce, he has the task of completing a modern hospital plaza at the County Referral Hospital that has stalled since 2019, completing the installation of a Sh. 30 million oxygen plant at the Referral Hospital, finishing the construction of the governor and deputy governor official residence. Governor Fernandes Baraza of Kakamega will have to oversee the complete transfer of the Teaching and Referral Hospital to the National Government since the county has no financial capacity to complete the project. Other incomplete projects in Kakamega include the stalled Shinyalu tea factory and a sh. 110 million milk processing plant at Tumbeni.⁵

In Murang'a, Governor Irungu Kang'ata seeks to overhaul the county system to ensure staff salaries are paid without delay. Top of his priorities also includes ascertaining the status of the Muranga County Creameries Plant and providing financial support to farmers through cooperatives. Establishing a new Level 5 Hospital at Kenol, completing unfinished health facilities, and enrolling more senior residents into NHIF form part of his main agendas.⁶

The fulfillment of election pledges and honoring commitments to the electorate was accentuated by Governors in the Nyanza region as they were sworn into office. Governor Simba Arati of Kisii plans to enforce accountability within the county structures, improve administration and prioritization in healthcare service delivery and revive the struggling agriculture sector. The Kisii Governor will have to take up the burden of completing a 1.2 billion Cancer Center initiated by his predecessor and implementing the 100 percent salary increment for 962 ECDE teachers that was recently put in place. In Migori, Governor Ochillo Ayako plans to increase access to piped water and drill more boreholes, leverage technology to increase production in agriculture, and enhance inclusivity by enforcing 30 percent of county jobs to go to youth and people living with disabilities.⁷

Fighting graft and ensuring accountability of all resources received from the National Government are the top-ranking agendas for the new Makueni Governor Mutula Kilinzo. The Governor is keen on promoting environmental conservation and providing access to clean water. The county has been running a health insurance scheme that the new government seeks to harmonize with the National Hospital Insurance Fund for sustainability. The Governor also plans to build and equip modern Early childhood Development Education Centres. **Error! Bookmark not defined.**

Governors in the drought-stricken counties come into office with the daunting task of confronting hunger and malnutrition. Most affected counties are Isiolo, Mandera, Samburu, Turkana, Wajir, Laikipia, Marsabit and Baringo. Marsabit County has failed to receive rainfall in three consecutive years leading to the loss of over one million livestock. A report by the National Drought Management Authority indicates close to a million children are facing acute malnutrition for a lack of milk consumption. The Governors will have to collaborate with the National Government to coordinate and implement cash transfers and relief food distribution to starving families.⁷

Healthcare has been fronted as key agenda by several governors. In Homa Bay, Governor Gladys Wanga seeks to functionalize hospital equipment that have not been rendering services, to deploy clinical staff and enhance their remuneration, and also to ensure that essential drugs and commodities are available. Likewise, in Embu County the new Governor, Cecile Mbarie plans to work toward providing sustainable healthcare to the residents. The Governor seeks to increase budgetary allocation for health services to ensure adequate human resources and medical supplies in all health facilities.⁸ On a similar note, Nakuru Governor Susan Kihika will have to take over incomplete health facilities across 11 sub-counties begun by her predecessor. Governor Kihika plans to properly equip hospitals and place all health workers on contract on a permanent and pensionable basis.⁹

Kericho Governor Erick Mutai and his Bomet counterpart Hillary Barchok, have engaged in talks to address the standoff on the management of the shared Itare water project. Kericho county was faulted for non-payment of supplies that occasioned repeated water supply cuts to the residents.¹⁰ To prevent conflict, a memorandum of understanding is required for counties to share resources. This will outline the scope and responsibilities of each county.

² The Standard, August 28, 2022

³ <https://www.kbc.co.ke/drought-fueling-conflict-along-the-kenya-uganda-border/>

⁴ The Standard, August 26, 2022

⁵ The Standard, August 29, 2022

⁶ The Star, August 26, 2022

⁷ Daily Nation, August 29, 2022

⁸ The Star, August 29, 2022

⁹ The Standard, August 22, 2022

¹⁰ Daily Nation, August 23, 2022

The election of Members of the County Assembly is also featured in this review. The Member of County Assembly seat had attracted over 16,000 aspirants competing for 1,882 positions. The tough battle saw a majority of MCAs in the North Rift region, Nyanza, Western and Mount Kenya lose the bid to defend their seats. Residents of the regions complained of underperformance by the MCAs, unending wrangles over power in the county assembly and passage of bills that undermine residents.^{11 12 10}

In an attempt to control County Assemblies political parties and the new governors have intensified lobbying for the speaker's job. The County Assembly speaker is considered one of the most powerful positions in the devolved system. A consensus on the speaker's election is likely to guarantee the county executive a smooth term in office. The election of the county assembly speaker is conducted after the swearing-in of the Members of the County Assembly.¹³⁴ This comes at the height of a High Court running that bars public officers who did not resign from their positions six months before the general election from contesting for the County Assembly Speaker's seat.¹⁴

1.2. Effective county planning, public finance management and staff performance

County Planning

The Kenya Urban Support Program by the World Bank has been offering support to counties to manage the challenges of urbanization by enhancing infrastructure, connectivity, and accessibility. During the month under review, Kakamega County commissioned a multimillion bus park funded by the World Bank program. The facility will streamline the transport sector within the municipality and offer space to small-scale traders.¹⁵ Trans Nzoia county also benefitted from the World Bank program. The County recently launched an ultra-modern market facility that will facilitate traders to work in a conducive environment. The provision of a proper drainage system, water supply, and waste disposal mechanism within the facility will enhance the urban planning works by the county. **Error! Bookmark not defined.**

Public Finance Management

Our highlights for Public Finance Management for the month under review, focus on the burden shifted to the new Governors relating to pending bills and the bloating wage bill. Counties failed to settle pending bills despite making payment plans at the beginning of FY 2021/2022.

The Controller of Budget is pursuing Isiolo and Tana River counties for delays in submitting returns of the last financial year. The delays warrant a disclaimer verdict that might have a negative implication. In such instances, the Controller of Budget may be forced to decline any requisitions raised by the counties until they account for their expenditures.⁶

Homa Bay Governor Gladys Wanga and Amos Nyaribo of Nyamira are confronted by bloated staff and massive wage bill as they begin their term in office. Bloated payroll is likely to reduce resources for public investment and worsen the county's debt situation. The Homa Bay Governor has decried irregular recruitment of staff during the transition period. The county's current 51.3 percent wage bill is likely to cripple service delivery for the first-time governor. In Nyamira, the Governor seeks to weed out ghost workers and cut the wage to a maximum of 35 percent as the Controller of Budget recommended.⁴

In a bid to tackle the issue of pending bills, some Governors are planning to first conduct an audit to verify the bills before settling them. In Murang'a, Governor Irungu Kang'ata is faced with sh. 2 billion of pending bills while in Samburu, Governor Lelelit disclosed that his administration is inheriting sh. 694 million in pending bills. **Error! Bookmark not defined.** A report by the Controller of Budget revealed that counties had accumulated over sh.100 billion in pending bills with Nairobi and Kiambu Counties topping the list.

Staff Performance

Staff performance contracting might be feasible in advancing operational effectiveness and improving service delivery in the counties. As the new Governors settle in office, new county executive committees will be established. Some new staffs are likely to be hired and others dismissed. Uasin Gishu Governor seeks to subject county staff to performance contracting for effective service delivery. During a meeting with the county workers, the new governor assured the employees that their jobs are safe under his leadership and that pledged his commitment to improving their welfare.⁸

In Bomet, the Governor cautioned that he will only work with staff in support of his leadership. Just a day after taking the oath of office, the governor signaled firing staff who oppose him and who openly campaigned for his opponents. The move by the Governor has been sharply criticized by activists in Bomet County stating that it is unconstitutional to sack employees because of their political association. Conflict is foreseen if a faction of the county staff competes against the wishes of the elected governor.^{8 5}

And in Laikipia, the new Governor pledged to reinstate 61 medical doctors fired by the former governor. Governor Joshua Irungu has promised to follow a court order that reinstated the said doctors. The Governor seeks to overhaul the health sector focusing on critical aspects of clinical staff, hospital equipment, and medical supplies.¹⁴ Whereas in Samburu County, Governor Lati Lelelit, revoked the outgoing governor's appointment of 37 new staff conflictingly hired during the transition period.²

Turkana county is enhancing service delivery for Early Childhood Development Education by training the ECDE teachers on mental health. This comes in the backdrop of rising cases of psychological problems among teachers manifested by chronic absenteeism, alcoholism, and

¹¹ The Standard, August 15, 2022

¹² Daily Nation, August 24, 2022

¹³ Daily nation, August 28, 2022

¹⁴ The Standard, August 23, 2022

¹⁵ The Standard, August 4, 2022

anxiety. The training seeks to enhance professionalism among teachers and promote career development. ECDE forms education grounding for learners and should be prioritized by the county administration.¹⁶

1.3. County government and citizens' engagement to improve service delivery and livelihoods

As the new Governors take office, public participation will be key as they develop plans for their 5-year term. During the swearing-in ceremony, Siaya Governor James Orengo made a public declaration that his administration will strengthen citizens' engagement in developing the county by holding weekly kamukunjis where residents can air out their views.⁶ While in Bungoma, Governor Lusaka promised to ensure accountability in decision-making by ensuring public participation in development programs. Makueni Governor also swore to embrace public participation in identifying projects to be funded.⁴

"Public participation will be a strong pillar for our governance system so that the people of Makueni can contribute towards the goals of prosperity in their county" Mutula Kilonzo Jr. Makueni Governor, August 2022.

2. Conclusion

The political economy space in Kenya during the month of August, 2022 was dominated by the outcome of the general elections held on the 9th August 2022. While generally the process of voting and tallying of votes was peaceful, the announcement of presidential results on August 15, 2022 almost triggered violence, but was swiftly contained. Whereas the Azimio la Umoja was not contended with the outcome, the move to follow the judicial procedure in addressing their discontent was a move in the right direction as the country remained largely peaceful. The decision by the Supreme Court on 5th September 2022 has far reaching effect on democracy and transition in Kenya.

As far as devolution is concerned, the elections outcome saw transitions in many counties with new governors taking over from the incumbent. There now twenty-six (26) new governors who were elected while only eleven (11) who were reelected. More interesting is the eight (8) governors who had served in the first regime of devolution who made a come-back. With these transitions and changes, there are expectations that key areas of services delivery are likely to be adversely affected. For instance, a number of new governors have suspended most of financial transactions in the county until forensic audits are undertaken, which has implications on service delivery.

There is a lot of anxiety at county levels as the new administration are expected to appoint the ministers and chief officers in coming days. There are also looming reshuffles of staff who are on long-term employment contracts as the new administration are asserting themselves in the office. All these changes are likely to slow down on service delivery to citizens. This therefore calls for strengthening institutions of devolution to enable smooth and faster transition of county governments.

¹⁶ The Star, August 24, 2022