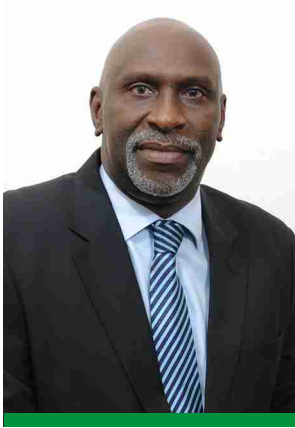


ASSESSMENT OF THE IMPLEMENTATION OF THE SYSTEM OF DEVOLVED GOVERNMENT

FROM STEPS TO STRIDES

JUNE 2014

FOREWORD



The Constitution of Kenya (CoK, 2010) seeks to transform the way we govern and manage our society. As such, a central tenet of the Constitution is the implementation of the system of devolved Government. In implementing this system, the Constitution in Articles 174 and 175 envisions the power of self-governance by the people and their enhanced participation in decision-making. In addition, the Constitution requires proximate and easily accessible service delivery for the benefit of the people of Kenya. In this regard, the Constitution envisages that the implementation of the system of devolved government will focus on empowerment, equity, prudent use of public resources and enhanced service delivery.

It has now been a year since the operationalization of County Governments following the elections held on the 4th March 2013. In line with its mandate, CIC undertook an assessment of the status of the implementation of the system of devolved government and has developed this report for the People of Kenya. From the assessment, it is clear that commendable progress has been realized in the operationalization of the system of devolved governance. To a great extent, the key institutional structures and systems in the County Executives and County Assemblies have been established to enhance service delivery.

However, there are substantive challenges, which if not addressed will severely compromise the success of the system of devolved government in Kenya. Key in this regard are incongruent policy, legal and institutional frameworks that are “clawing back” on the devolution of power, resources and functions. The second major challenge faced, is the politicization of the implementation process as evidenced in the current trend of impeaching or threatening to impeach Governors, Speakers and members of the County Executive Committees.

In order for Kenya to realize the desired transformation, the people of Kenya need to proactively work together. I therefore take this opportunity to urge all implementing partners including the people of Kenya to pursue full implementation in both the letter and Spirit of the Constitution. As this report reflects, this will require that we prioritize as well as relentlessly focus on fundamental and sustainable legal, institutional and service delivery reforms to ensure that the objects of Kenya’s system of devolved government are actualized. Let us individually and collectively work towards inclusion in governance and decision making; equitable sharing of resources; responsive leadership; a society based on values and ethics and a country where there is enhanced service delivery to ourselves and to our future generations.

It is our hope that this report and the experiences and observations it records, will make a contribution to this process.

A handwritten signature in black ink, appearing to read 'Charles Nyachae', written in a cursive style.

CHARLES NYACHAE,
CHAIRPERSON

ACKNOWLEDGEMENT

The Commission for the Implementation of the Constitution (CIC) wishes to recognize and appreciate the effort from all those individuals and institutions/agencies who contributed to the success of this exercise. As a Constitutional Commission charged with the responsibility of monitoring the implementation of the Constitution, we would like to acknowledge that meaningful discharge of this mandate requires support from many other institutions and all the people of Kenya. We therefore express our deepest appreciation to all stakeholders who have facilitated the Commission's work including contributing to this assessment.

Special gratitude goes to the forty-seven Governors of County Governments and Honorable Speakers of the County Assemblies for supporting the exercise. Further, we sincerely appreciate the efforts by the County Secretaries who took part in the exercise, mobilized and coordinated respective county respondents. The Commission would also like to thank the County Assembly Clerks and the Secretaries to the County Public Services Boards for their willingness to respond to all questions, giving insights into achievements, strengths and challenges in the implementation of system of devolved government for the last one year.

We recognize the contributions of County Executive Committee members who, despite their busy schedules, supported the exercise either through participating as respondents or availing the required information. The Commission also appreciates the **County Transition Coordinators** who offered valuable insights regarding the conduct of the transition activities.

Special thanks go to the Kenya National Bureau of Statistics for their technical support in the analysis of data. Specific gratitude goes to Mr. Bernard Obasi and Ms. Yvonne Rhono who throughout the analysis stage worked with the CIC technical team.

In a special way, we would like to appreciate the CIC Secretariat by the Secretary/Chief Executive, Mr. Joseph Kosure for designing and implementing this assessment. The exercise would not have been successful were it not for efforts put in by the teams involved in design of the instruments, data collection through holding focus group discussions with county representatives. Real gratitude goes to the following members of the CIC technical team that wrote the report: Mr. Mugita Gesongo, Ms. Elizabeth Obiero, Ms. Esther Kodhek, Ms. Lucy Gaithi, Ms. Christine Njeru, Mr. Kephias Okach, Mr. Caroline Gaita, Mr. Timothy Kariuki, Ms. Goretti Orwa, Ms. Valerie Okumu, Mr. Victor Odhiambo, Ms. Ruth Muthui and Ms. Edith Cheramboss.

Finally, this work would not have been completed without the guidance of the CIC Commissioners. The Assessment Committee chaired by Commissioner Prof. Peter Wanyande and Commissioners Kamotho Waiganjo, Dr. Florence Omosa and Ms. Catherine Mumma guided the technical team throughout the process.

The Commission would like to make a CAVEAT: This report is not designed to rank counties in their performance. Rather it talks to the reviews the structures, systems, legislation, policies, etc., that should be in place to facilitate implementation of the system of devolved government at the county level. This is a situation report and therefore the results herein could change with time as counties improve their systems and structures. As a Commission, we apologize for any misrepresentation and take full responsibility.

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LIST OF ACRONYMS

CA	County Assembly
CBEF	County Budget and Economic Forum
CDF	Constituency Development Fund
CEC	County Executive Committee
CIC	Commission for the Implementation of the Constitution
CPSB	County Public Service Board
IFMIS	Integrated Finance Management Information System
KURA	Kenya Urban Roads Authority
MCA	Member of County Assembly
PFM	Public Finance Management
RRI	Rapid Results Initiative
TA	Transition Authority
WDF	Ward Development Fund

EXECUTIVE SUMMARY

The Constitution of Kenya, 2010 and the Commission for the Implementation of the Constitution Act, 2010, mandates the Commission for the Implementation of the Constitution (CIC) to monitor the implementation of the system of devolved government. In exercise of this mandate, CIC undertook an assessment of the operationalization of county governments, which is - one level of the system of devolved government, covering the period March 4th 2013 to March 4th, 2014.

The assessment sought to establish the progress the county governments had made in operationalizing the structures and systems required by each county government to deliver services to the people, as per the functions allocated to county governments in the Fourth Schedule to the Constitution of Kenya (CoK), 2010. The specific issues the assessment focused on were; (1) establishment of county governments, (2) analysis and transfer of functions, (3) legal, policy and institutional frameworks developed and applied (4) human capacity development, (5) county planning and financial management systems, (6) inter and intra governmental mechanisms, (7) decentralized units in the counties, (8) establishment of cities, towns and municipalities, (9) civic education, public participation, communication and access to information.

The analysis of the data collected was informed by (i) CIC's experiences in monitoring county governments as they implement the system of devolved government and (ii) and drew from relevant Articles of the Constitution and sections of relevant laws, in particular those focusing on the systems and structures for the implementation of the system of devolved government by county governments. This report documents the findings and challenges as analyzed from the focused group discussions, gives the implications of the findings on the implementation of the system of devolved government and concludes with some recommendations on the way forward.

The issues which emerged from the analyses are summarized below:-

1. **Establishment of County Governments:** The forty-seven counties have established their County Assembly and Executive structures and are at various stages of operationalizing the structures such as the County Assembly Service Boards. It was found that all County Assemblies had met the constitutional thresholds regarding affirmative action, i.e., provisions regarding gender balance, representation of persons with disability and other marginalized groups attained through nominations, though the details of the composition of some of them have raised concerns as to their full compliance with the Constitution. As international best practice shows, in the long term this trend of ensuring diversity through nominations is not feasible. Rather it is desirable that the diversity requirement is met through elections. To address the gap it would require a fundamental shift in the electoral frameworks and practices so as to reduce the barriers for disadvantaged groups vying for and being elected to the position of Members of County Assembly.

In the County Executive, counties reported that they had appointed County Executive Committee members, ranging in number between 7 and 10. This provision complies with Article 179 which provides for the threshold of the number of CECs to be appointed. The majority of counties were found to have 10 CECs with 33% representation of women.

2. **Analysis and Transfer of Functions:** As shown in the report, there is a lack of comprehensive functional analysis and costing. This has posed challenges to counties in terms of planning, budgeting and resource allocation. Further, the assessment revealed that most of the functions transferred have been taken up and are being implemented by county governments with the exception of: (i) The control of air pollution, noise pollution and other public nuisance, and (ii) implementation of

specific national government policies on natural resources and environmental conservation. There was however some confusion on what aspects of some functions had been transferred particularly in the housing, tourism and roads sector.

With regards to funds allocated to transferred functions in 2013/14 Financial Year, the findings were as follows: that the actual funds released to the counties were not as provided for in the County Allocations of Revenue Act 2013, while the conditional allocations (grants) were not released to counties.

3. **Legal, policy and other institutional frameworks:** It was established that more than half of the counties had facilitated their officers' access to the laws related to devolution, including through setting up of libraries/documentation centers. Counties were found to be at various stages of developing legislative proposals, policies and regulations for implementing the functions assigned. It was established that there was focus on developing new laws by reviewing existing policies and legislation that affect the implementation of transferred functions. The assessment also revealed that counties were in the process of developing supportive institutional frameworks, including the statutory requirement for a performance management framework.
4. **Human Capacity Development:** It was found that all counties had established County Public Service Boards and County Assembly Service Boards. These boards had commenced work, including recruitment of staff, undertaking capacity needs assessment, and facilitating training of their staff. In order to secure successful capacity development, there is need for a comprehensive and coordinated capacity building programme.
5. **County Planning and Financial Management Systems:** It was found that counties are at various stages of developing the six key plans required by the County Government Act, 2012, i.e., Transition Implementation Plans (once – in year one), County Integrated Development Plan (five years plan), County Sectorial Plans (ten years plan), County Spatial Plans (ten years), Cities and Urban Areas Plans, and County Development Plan (Annual). The engagement of citizens in the development of these plans was found to be unstructured. This is partly because a number of counties had not put in place key mechanisms including civic education, public participation and citizens' service centres to facilitate public participation.

All the forty-seven counties were found to have established functional county treasuries, and installed the IFMIS. These systems were however not yet decentralized, beyond the county's headquarters. Further it was found that some counties had established the County Budget and Economic Forum and established several funds. Among the County Funds that had been established or were in the process of being established are County Emergency Fund, Loans and Mortgages Fund and Ward Development Fund (WDF).

Although all counties developed the 2013/2014 Appropriation and Finance Bills (Appropriation Bills, Finance Bills and Supplementary Appropriation Bills), many of them had faced challenges in finalizing them within the stipulated time. None of the counties met the deadline for the County Fiscal Strategy Paper and County Government Debt Management Strategy for the financial year 2013/2014, and only four and two counties respectively met the deadline for County Budget Review and Outlook Paper and Cash Flow Projections. The reason given by the counties was that this was as a result of the time the county governments came to office and the limitation of human capacity.

6. **Inter governmental Forums:** Some Counties had established county intergovernmental forums including citizens' forums, county policing authorities and information centers, in their respective counties. At the national level, the planning and budgeting forums in which counties had participated are joint intergovernmental technical committee, intergovernmental budget and economic council and sectorial intergovernmental consultative forum.

The assessment further revealed that among the disputes reported were those relating to boundaries, revenue collections, management of water and mining. Disputes between the National Government and County Governments on incomplete transfer of functions and the demarcation of functions, were also reported. Since the Constitution and the Inter-Governmental Relations Act 2012 provide mechanisms to handle disputes, counties are encouraged to use these mechanisms before resorting to judicial proceeding.

7. **Decentralized Units:** All counties were found to be in the process of hiring staff and putting in place structures and systems for the decentralized units. The counties however faced challenges of inadequate capacity and skills, systems, infrastructure and structures to operationalize most of the units. It is therefore necessary that the counties invest in capacity building and systems development for these units.
8. **Cities, Towns and Municipalities:** With regard to the requirement for classification, it was found that some counties had carried out the assessment of existing cities, towns and municipalities to ascertain whether they met the criteria for classifications. Other counties had commenced the process of developing the spatial plans for the urban areas and cities. through which the towns, and municipalities will be identified. It is recommended that such processes be fast tracked to ensure the effective delivery of services to the people, in the urban areas.to the residents of the county.
9. **Civic Education, Public Participation and Access to Information:** It was found that all County Governments had embraced the provisions regarding public participation, civic education and access to information. However, proper and adequate mechanisms as provided for in the Constitution and County Government Act, to facilitate these principles were yet to be put in place, to ensure structured engagements with the public.

It was noted that some counties had established the citizens' service centers in the counties, others in the sub-counties, and others at the ward level. From the assessment it is evident that strengthening of these centres will ensure citizens participation in a structured manner in decision-making, planning, budgeting, and other aspects of the county governance.

Conclusion and Recommendations

The implementation of the system of Devolved Government is largely on course. The required legislation, regulations, systems and structures are at various stages of operationalization. The progress made so far sets the foundation for the realization of the objects and principles of devolved government as provided for in Articles 174 and 175 of the Constitution respectively. That notwithstanding, it was also evident from the assessment that there was need to expedite the establishment as well as the review of existing policies, legislation and some institutions in order to ensure that they facilitate improved governance and service delivery.

Some of the primary threats to the effective implementation of the system of devolved government identified are: (i) politicization of the process of institutional reforms coupled with inadequate focus on institution building; (ii) delays in undertaking a number of critical transitional activities; (iii) a tendency of both levels of government to discharge (in some cases finance) functions that are not within their purview; (iv) policy, legislative and institutional frameworks that are not cognizant of devolution and; (v) low levels of capacity and skills.

In order to address these challenges and mitigate other related risks, the Commission recommends the following:

- That, institutional reforms be prioritized
- Both levels of government individually and collectively expedite the development and review of policies, legislation and administrative procedures,
- That, the process of functional analysis, unbundling, competency assignment and costing be completed.
- That, citizens and non-state actors participate robustly in the process of implementation of the system of devolved government
- An urgent and coordinated capacity building program for county governments be developed and implemented





CHAPTER ONE

INTRODUCTION

1.1 Objectives of the Assessment

The Constitution of Kenya 2010 and the Commission for the Implementation of the Constitution Act, 2010, mandate the Commission for the Implementation of the Constitution (CIC) to monitor the implementation of the Constitution including the system of devolved government. As part of carrying out this mandate, CIC undertook an initial assessment of the operationalization of county governments - one part of the system of devolved government, i.e., covering the period March 4th 2013 to March 4th, 2014. The assessment sought to establish the progress made by the county governments in operationalizing the structures and systems they require to facilitate the implementation of the system of devolved government for effective service delivery to the people of Kenya. The specific objectives of the assessment were to:

1. Assess the implementation of the system of devolved government in Kenya for the past one year of existence of the system of devolved government;
2. Document achievements, challenges, lessons and opportunities arising from the implementation of the system of devolved government;
3. Draw and share recommendations to address identified challenges.

1.2 Scope and Methodology of the Assessment

1.2.1 Scope of the Assessment

The assessment sought to establish the progress of county governments in operationalizing the structures and systems they require to perform their functions and hence effectively deliver services to the people of Kenya. The specific issues of concern were:

1. Establishment of county governments	7. Intergovernmental mechanisms
2. Transfer of devolved functions and allocation of funds,	8. Decentralized units for counties.
3. General legislative framework for devolution	9. Urban areas and cities
4. Human capacity development	10. Civic education
5. County development plans	11. Public participation
6. Budgeting and financial systems.	12. Communication and access to information by the public

See the questionnaire in Annex 9.

1.2.2 Assessment Methodology

1. The assessment questionnaire

The Commission for the Implementation of the Constitution assessed progress on the twelve issues enumerated in the previous section through the administration of a questionnaire. The questionnaire comprised both quantitative and qualitative questions each of which sought to determine the status of the systems and structures that the county governments have put in place for effective implementation of the system of devolved government.

2. Training of data collection teams

The assessment teams comprised of 27 CIC staff members most of whom had been involved in the design of the assessment questionnaire. Before embarking on the assessment exercise, the Commission held a one-day training session for the team. During the training the assessment teams reviewed the questionnaire and agreed on how it would be administered.

3. Pre-testing of the questionnaire

In February 2014, the Commission pre-tested the questionnaire in Marsabit County in a joint meeting of the County Secretary and the County Assembly Clerk. The key issues emanating from the pretesting exercise were that;

- The questionnaire was comprehensive and adequately captured provisions of the law relevant to the implementation of the system of devolved government.
- To complete administration of the questionnaire one required uninterrupted session of about 2-3 hours.
- For effective responses, the administration would require that;
 - The County Secretary, the County Assembly Clerk and the Secretary to the County Public Service Board (CPSB), are in a joint session. Additionally, to address some of the questions, the three key respondents would require support from their technical officers.
 - An assessment team comprising at least two persons; one asking the questions and the other noting the responses.

- The questionnaire is availed to respondents in the counties prior to the exercise in order to facilitate effective preparation

The findings and recommendations from the pre-testing exercise were included in the training of the assessment team.



4. Data collection, feedback and reflections

In line with the assessment plan developed and shared with all the 47 counties, the field assessment exercise targeted all the 47 counties. The data collection methodology adopted was as follows:

a. Focus Group Discussions

The assessment was designed to be a focus group discussion of County government officials. The key respondents were:

- County Secretary;
- County Assembly Clerk; and
- Secretary to the County Public Service Board.

Where possible, also present during the focus group discussions were the technical teams of the respective respondents. Additionally, in some counties, County Executive Committee (CECs) members also participated in the focus group discussions. At the conclusion of data collection, but before analysis, the data collection team met to reflect on experiences in the field, focusing on what worked well, what did not work well and sharing experiences and lessons learnt.

b. Telephone and Email interviews

Where it was not possible to visit and administer the questionnaire through a focus group discussion due to logistical and scheduling challenges, the Commission in liaison with the counties opted for either telephone

or email interviews. The three counties where interviews were held in this manner were:

- Mandera County – Email
- Wajir County – Telephone
- Kakamega – Telephone

Telephone and email interviews were also used as a medium for supplementing any information gaps emanating from the field exercise.

5. Data entry, cleaning and processing

Qualitative data were coded and analyzed along the quantitative data using CSPro. These findings are presented in sections 2 to 10 of the report.

6. Literature review

The Assessment Team carried out an extensive review of the Constitution, especially Chapter Eleven (Devolved Government) and devolution related laws. The documents reviewed included;

1. The Transition to Devolved Government Act, 2012	9. State of the Counties - Celebrating one year of County Governments in Kenya (supplements from county websites).
2. The County Governments Act, 2012	10. CIC progress and county visit reports
3. The Urban Areas and Cities Act 2011	11. TA progress reports
4. The Public Finance Act 2012	12. Human Audit Report for Staff of Former Local Authority and Devolved Function, 2013 by the Transition Authority
5. Intergovernmental Relations Act, 2012	13. Senate Report on the Appeal by Counties for the Transfer of Functions, April 2014.
6. The Elections Act, 2011	
7. The National Government Coordination Act, 2013	
8. Kenya Gazette Supplement No. 116 9th August, 2013 on transfer of functions	

7. Interpretation of results, report writing and presentation

The interpretation of the results and the writing of this report were done by the CIC team. The report was subsequently reviewed by the Assessment Committee and adopted by the Commission.

1.3 Limitations of the Assessment

1. Respondents

As highlighted previously, the targeted respondents were the County Secretary, Secretary to the County Public Service Board and Clerk of County Assembly. Selection of these three officials as the primary respondents was informed by the key role each plays at the county level and the fact that they had access to the required information. However, in some counties the exercise did not proceed as envisioned. This is because, in some instances the identified officials were relatively new in their positions and did not have most of the information needed. In instances where the substantive respondents were unavailable for the focus group

discussions and had delegated attendance, the officers to whom they had delegated lacked some of the information required. In both instances, this resulted in the need to make follow-up calls during which the respondents sometimes gave contradicting responses.

2. Records at county offices

Some of the data required were not readily available. The assessment established that this was because the County Governments were in the process of setting up systems and structures including those relating to records. For example, it proved a challenge to collate data regarding age distribution of MCAs and staff (to determine youth composition) and the marginalized groups.

3. Familiarization with the constitution and devolution related laws

Given that the assessment questions were derived from the Constitution and devolution related laws, and in view of the fact that many respondents were not familiar with relevant provisions, the assessment approach had to be adapted to begin with sensitization of the respondents on the provisions of the relevant laws. Though this served as an opportunity to enhance capacity of the respondents, it resulted in the interviews taking longer than anticipated.

4. Suspicion among some respondents

Some respondents viewed the exercise with a measure of suspicion. Some perceived it to be a premature performance rating exercise. Although the data collection team clarified the purpose of the exercise, it was observed that in some instances the suspicion had the potential of giving biased responses leading to over or under reporting.

5. Focus on county operations

Though the implementation of the system of devolved government requires the involvement of both National and County Governments, the assessment exercise was restricted to County Governments. The next assessment is planned to cover the national government.

6. Insufficient data on affirmative action

Article 27 of the Constitution requires the State to implement affirmative action. Generally the composition of county assemblies adhered to the requirements of article 177. However, the exercise did not include an assessment of the specific composition of the party lists of each county; Article 90(1) and (3), of the Constitution; i.e., *“(1) Elections for the seats in Parliament provided for under Articles 97(1) (c) and 98 (1) (b), (c) and (d), and for the members of county assemblies under 177 (1) (b) and (c), shall be on the basis of proportional representation by use of party lists; and (3) the seats mentioned in clause (1) shall be allocated to political parties in proportion to the total number of seats won by candidates of the political party at the general election”,* or Sections 34, 36(1)(e) & (f), and 36(7)(8)(9) of Elections Act, 2011.

With regards to County Executive Committees (CECs) this analysis did not go into the details of compliance and non-compliance in the appointments of the CECs in relation to the values and principles of the public service as contemplated in Article 232 which include representation of Kenya’s diverse communities, affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of men and women, the members of all ethnic groups; and persons with disabilities.

Subsequent similar studies will be expanded to include the extent to which elections and appointments complied with these requirements.



CHAPTER TWO

ESTABLISHMENT OF COUNTY GOVERNMENTS

Articles 176 of the Constitution of Kenya 2010 provides for the establishment of County Governments. A county government consists of a County Assembly (Article 177) and a County Executive (Article 179). Membership of County Assemblies and County Executives are specified in Articles 177(1)(a)-(d) and 179(3) (a)-(b) of the Constitution, respectively.

Articles 177(1) (a)-(d) provides for the composition of a County Assembly as;

- a. members elected by the registered voters of the wards, each ward constituting a single member constituency, on the same day as a general election of Members of Parliament, being the second Tuesday in August, in every fifth year;
- b. the number of special seat members necessary to ensure that no more than one-thirds of the membership of the assembly are of the same gender;
- c. the number of members of marginalized groups, including persons with disabilities and the youth, prescribed by an Act of Parliament; and
- d. the Speaker, who is an ex-officio member.

Article 179(2) (a)-(b) provides for the composition of a County Executive as;

- a. the county governor and the deputy county governor; and
- b. members appointed by the county governor, with the approval of the assembly, from among persons who are not members of the assembly.

The county governments spent the greater part of the first year establishing the structures and setting up offices necessary for service delivery. Overall, all county governments are now fully constituted and operational in terms of the county assembly and county executive committee structures for the implementation of the system of devolved government, by counties.

2.1 County Assemblies

Table 1 below presents a summary of county assembly membership. In total, there are 2,222 members of county assemblies of whom 1,450 were directly elected and 772 were nominated under Article 90 of the Constitution. Annex 1 provides details of MCAs in each county, by gender, nominations (marginalized gender, and female gender based affirmative action), and CECs as a ratio of MCAs.

Table 1 : Total Members of County Assemblies (Elected and Nominated)

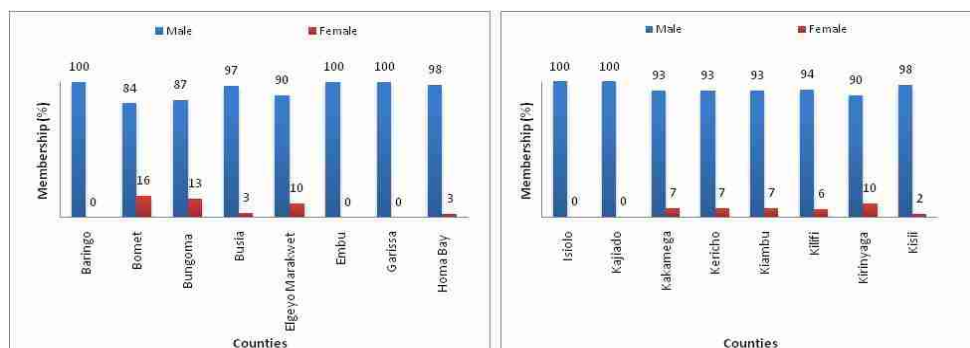
No. of Elected MCAs			Number of Nominated MCAs (IEBC List)				Total number of MCAs (All inclusive)				
Male	Female	Total	Marginalized Male	Margin-alized Female	Gender based Affirmative Action (Women)	Total nominated	Total	Male	%	Female	%
1370	80	1450	97	83	592	772	2222	1467	66	755	34

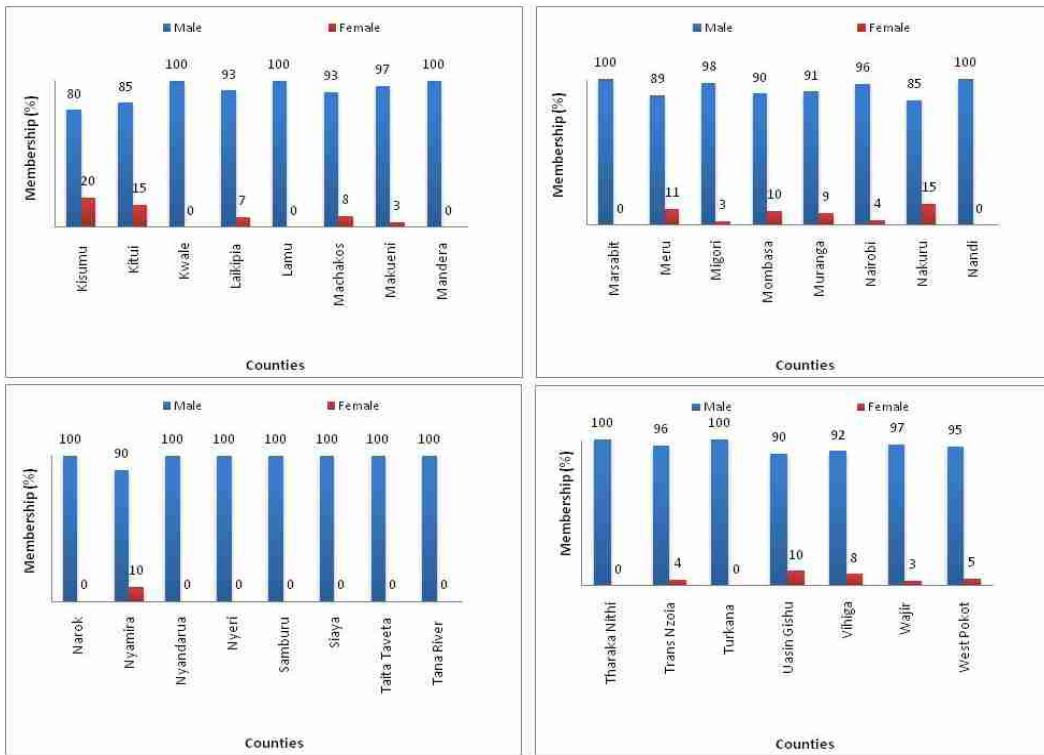
Affirmative Action

i. Gender

Notably, the constitutional requirement under Articles 27(8) and 177(1)(b), for public bodies to have not more than at least two-third of one gender in elective positions was not attained through election in all the county assemblies. They fell short of the requirement on the number of female candidates elected into office. As shown in Figure 1 and detailed in Annex 1, the counties that had the highest proportion of elected women were Kisumu (20%), Bomet (16%), Nakuru (15%), Kitui (15%), Nakuru (15%), Bungoma (13%), and Meru (11%). Nineteen counties had no women elected into office. In terms of totals, out of the elected members, only 5% were women. This resulted in a high number of women being nominated to county assemblies to attain this constitutional requirement.

Figure 1: Elected Members of County Assemblies (%)

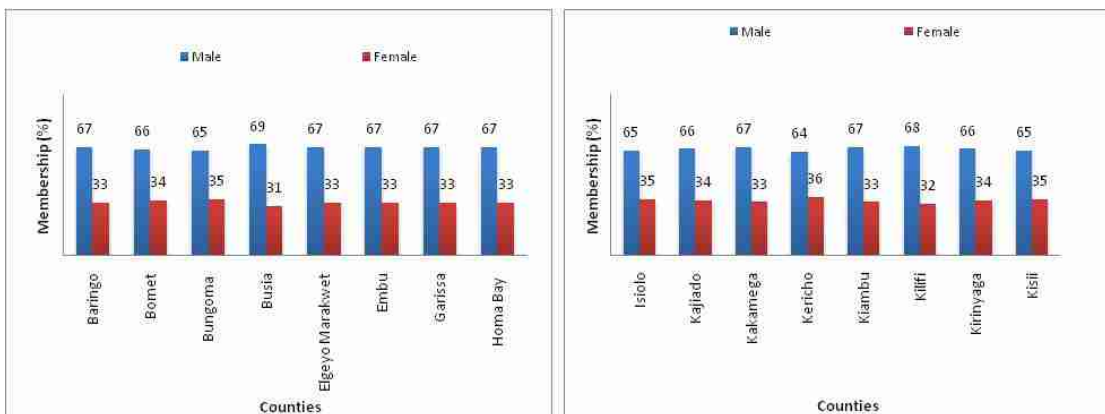


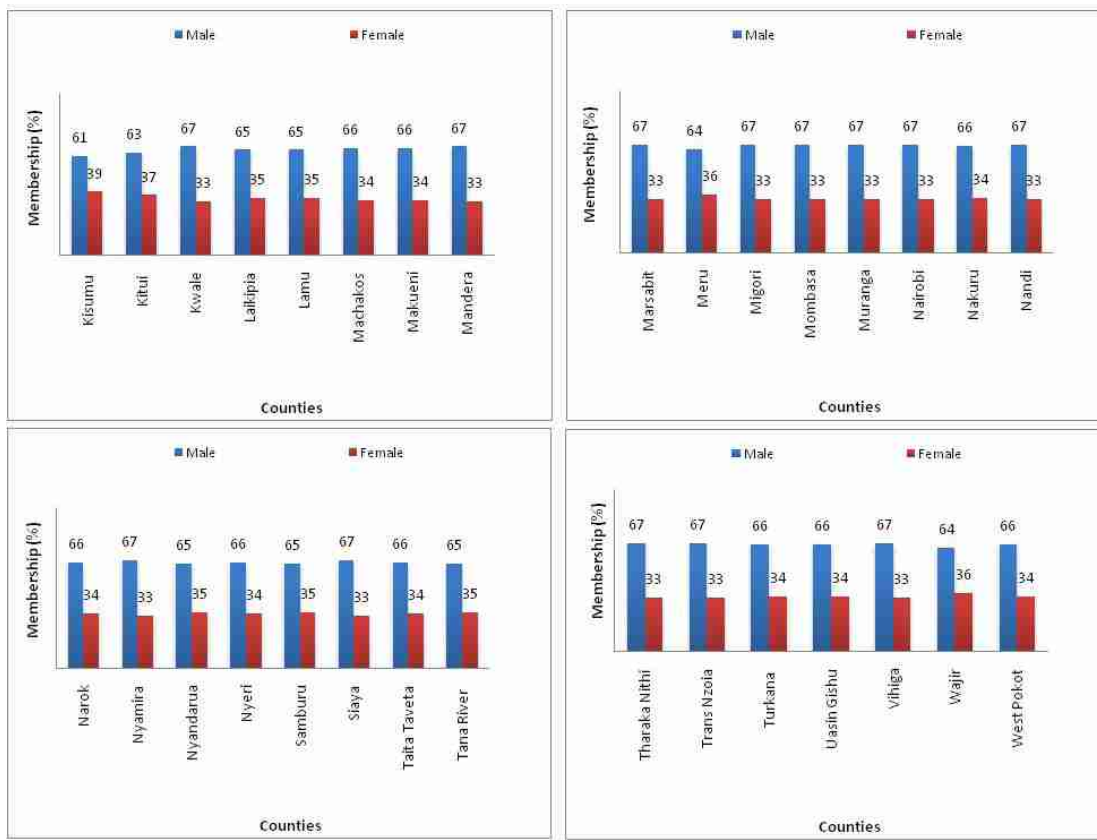


After nominations, the total elected and nominated members of the county assemblies are 2,222, with 34% being women. The female members of county assemblies range between 33% and 39%, with the highest being Kisumu (39%), then Kitui (37%) and Kericho, Meru and Wajir, each having 36% women, (see figure 1 below).

The effect of not attaining gender representation through election is among others, the high wage bill of the affected counties.

Figure 2: Elected and Nominated Members of the County Assemblies (%)





Whereas in the immediate term realization of the gender balance thresholds was attained through nominations, in the long term, as international best practice shows, it is desirable that this requirement is met through universal suffrage elections. This would require a fundamental shift in the electoral frameworks and practices so as to reduce the barriers to female candidates vying for and their election as Members of County Assembly. It will also require increased voter education to change attitudes of both men and women.

ii. Representation of youth

Article 55(b) of the Constitution provides for the youth to have opportunities to associate, be represented and participate in political, social, economic and other spheres of life. For county assemblies, the specific provisions for the youth are in Article 177(c). Guided by that constitutional definition, the question on age disaggregation was meant to establish how many members of the County Assemblies were youth (18 and above and below 35 years). However, the study is inconclusive on this variable because data on age of most MCAs was unavailable.

iii. Representation of marginalized groups

Article 177(1)(c) also requires nominations to county assemblies to include members of marginalized groups, including persons with disabilities. Article 100 of the Constitution - (promotion of representation of marginalized groups) lists marginalized groups as (a) women; (b) persons with disabilities; (c) youth; (d) ethnic and other minorities; and (e) marginalized communities. Further, Article 260 (interpretations) interprets "marginalized community" as;

- a. a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole;

- b. a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole;
- c. an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy; or
- d. pastoral persons and communities, whether they are;
 - i. nomadic; or
 - ii. a settled community that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya as a whole;

“Marginalized group” is also defined as a group of people who, because of laws or practices before, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27(4) of the Constitution.



In line with best practice, there is need for a comprehensive mechanism for identification of the affected groups to give effect to the Constitutional provisions regarding marginalized groups. At present, there is no law to guide affirmative action in this regard. As such, the figures therefore under the “marginalized groups” columns in Annex 1 may not be very reliable. It was noted that marginalized groups differ from county to county. Going forward, there is need to be clear on the definitions marginalized groups to ensure they are well represented in the nominations.

iv. Representation of persons living with disability

Just like youth and marginalized groups, representation of persons with disability is still not interpreted as given in the Constitution. In Article 260 (interpretations) “disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day-to-day activities. Nominating and recruiting bodies need to have this in mind as they carry out the nominations and recruitments.

2.2 County Executive Committees

Article 179 of the Constitution states the composition of County Executive Committees (CEC). In addition to subjecting the appointments to the regional, ethnic and gender balances, Sub-Article 3 requires that the number of executive members appointed under Section (2)(b) shall not exceed;

- a. One-third of the number of members of the county assembly, if the assembly has less than thirty members; or
- b. Ten, if the assembly has thirty or more members.



i. Composition of CECs and their Ratio to MCAs

From Annex 1, a total of 448 CEC members were appointed in the 47 counties. Of these only 33% are female and about 67% are male. Overall, the county executive committee members are about 20% of the total number of county assembly members.

The assessment found that the number of county executive committee members per a county ranges between 7 and 10 (See Annex 1). That majority of counties have 10 CECs, with the least being Lamu and Isiolo counties with 7 CECs each. All counties except Tana River, Lamu, Isiolo, Samburu and Laikipia have more than 30 members of county assemblies. All counties have complied with Article 179(3)(b), as none has more than 10 CECs. Similarly, all counties with less than 30 MCAs, have CECs that are within the required one-third of their MCAs.

Table 2: Composition of CECs and their Ratio to MCAs

County Executive Committee Members			Per cent		Ratio of CECs to MCAs (%)
Male	Female	Total	% Male	% Female	
297	149	448	67	33	20

ii. Departments Established

The departments (ministries) established in respective counties were similar. Most departments adopted the name of the transferred function. See Annex 2 which provides a list of departments as reported by respondents in each county. The lists across the counties show a lot of similarities in terms of devolved functions.



CHAPTER THREE

ANALYSIS AND TRANSFER OF FUNCTIONS

3.1 Transfer of Functions

The Constitution of Kenya 2010 establishes the system of devolved government comprising national and county level governments. The Fourth Schedule to the Constitution assigns functions and powers to the National and County Governments. Articles 186 provide for the respective functions and powers of national and county governments. While article 187 provides for the transfer of functions and powers between the two levels of government. Further, Section 15 of the Sixth Schedule makes provisions for asymmetrical devolution and criteria for the transfer of functions, i.e

1. Parliament shall, by legislation, make provision for the phased transfer, over a period of not more than three years from the date of the first election of county assemblies, from the national government to county governments of the functions assigned to them under Article 185.
2. The legislation mentioned in subsection (1) shall;
 - a. provide for the way in which the national government shall;
 - i. facilitate the devolution of power;
 - ii. assist county governments in building their capacity to govern effectively and provide the services for which they are responsible; and
 - iii. support county governments;
 - b. establish criteria that must be met before particular functions are devolved to county

- governments to ensure that County Governments are not given functions which they cannot perform;
- c. permit the asymmetrical devolution of powers to ensure that functions are devolved promptly to counties that have the capacity to perform them but that no county is given functions it cannot perform; and
 - d. provide mechanisms that ensure that the Commission of the Implementation of the Constitution can perform its role in monitoring the implementation of the system of devolved government effectively.

The Transition to Devolved Government Act, 2012 was enacted to elaborate the provisions above, in its Fourth Schedule, lists activities of each of the two phases in the transition process.

The first phase, which coincides with the pre-election period entails the preparation of county governments' functional roles, including auditing of assets, liabilities and staff of government and local authorities, facilitating civic education and preparation of county budgets and financial management systems, etc. The second phase involves completion of activities commenced during the first phase.

Essentially, functional analysis involves, unbundling, costing and assigning of functions. To implement the transfer of functions, Section 23(1) – (3) of the Transition to Devolved Government Act 2012, states;

1. The Authority shall, by notice in the Gazette at least thirty days before the first elections under the Constitution, identify functions, which may be transferred to the county governments immediately after the first elections under the Constitution.
2. After the initial transfer of functions under subsection (1), every county government shall make a request in the prescribed manner to the Authority for transfer of other functions in accordance with Section 15 of the Sixth Schedule to the Constitution.
3. The Authority shall, upon the request of a county government under subsection (2), determine whether a county government meets the criteria set out under section 24, to allow the transfer of a function.

3.2 Counties Appeal to the Senate on Transfer of Functions

Pursuant to these provisions, the Transition Authority gazetted the initial functions for transfer in the gazette notice of February 06, 2013, listed in Annex 3 of this report. This is the transfer of function provided for in Section 23(1) of the Transition to Devolved Government Act, 2012.

The second transfer of functions contemplated in phase two as provided for under Section 15 of the Sixth Schedule, was effected by the Transition Authority through gazette notice No. 116 of August 09, 2013 (See Annex 4), following the application by the 47 counties. Then 29 counties appealed to the senate against the Transition Authority's decision not to transfer all the functions in the Fourth Schedule. The functions that the counties appealed for and the Senate recommendations were¹:

¹See details in the Senate Report on the Appeal for the Transfer of Functions to the Counties Pursuant to Section 23(F) of the Transition to Devolved Government. April 2014.

Functions appealed for	Senate recommendations
Agriculture	Immediate (Machinery and grain storage)
Management of county roads	Immediate (Schedule 4, part 1, 18c)
Implementation of national government policies on natural resources and environmental conservation;	
Implementation of Rural Electrification Programmes, and	Continuous
Library services.	Immediate

The Senate committee that heard the appeals and visited the counties had several recommendations including that some counties had requisite managerial and technical expertise, capacities and systems to implement the functions appealed for, while others required capacity building. The report also lists the following legislation that will have to be reviewed in order to effect the execution of the functions applied for.

1. Agriculture

- a. Agriculture, Fisheries and Food Authority Act No. 13 of 2013
- b. Agriculture Act, Cap 318
- c. National Cereals and Produce Board Act, Cap 338

2. County Transport

- a. Kenya Roads Act, Cap 408
- b. Kenya Roads Board Act, Cap 408A
- c. Road Maintenance Levy Act, Cap 425D

3. County Planning and Development

- a. Energy Act, Cap 314.

4. The Implementation of National Government Policies on Natural Resources and Environmental Conservation

- a. Water Act, Cap 372
- b. Environmental Management and Co-ordination Act, Cap 387

5. Library Services

- a. Kenya National Library Services Board Act, Cap 225.

The Senate decision required TA to transfer the functions but made recommendations to enhance the capacities of counties to implement the functions.

The decision to transfer all functions at once negated Section 15 of the Sixth Schedule and Sections 23(2) and (3) of the Transition to Devolved Government Act, 2012 which provide that subsequent transfers (after the initial transfer) would be upon request by individual county governments in a prescribed manner and in accordance with Section Article 15 of the Sixth Schedule, following the criteria for transfer of functions provided for in Section 24 of the Act.

The transfer of functions was found to be largely as a result of a political decision made by the National and County Government Coordinating Summit. Following this Summit's decision, TA developed a tool for use by county governments to apply for the functions, which were uniformly transferred to all counties in what is popularly referred to as a "big bang" approach to transfer of functions.

3.3 Functional Analysis

The functional analysis contemplated in the Constitution is necessary as it is the basis for the development of plans, accurate budgets and spending decisions². It is a critical process in the realization of equitable development provided under Articles 10, 174, 201 of the Constitution, and it would inform:

1. Unbundling and definition of functions;
2. Analysis of unbundled functions by staffing/assets/cost;
3. Costing of assigned functions and competencies;
4. Determination of capacity needs per sector by staff/assets/cost;
5. Development of a human resource transition plan for the period until counties commence operations;
6. Establishment of an inventory of assets and liabilities and reassignment plan;
7. Recommendations on transfer of assets and liabilities;
8. Re-clarification of national government roles;
9. Making of budget estimates to inform the budget for transition and subsequent budgets
10. Criteria for proposals of service delivery frameworks;
11. Development of service norms and standards and attendant monitoring framework;
12. Development financing rules to guide resource mobilization and service tariffs;
13. Assigning of monitoring responsibilities;
14. Design of a performance management system;
15. Identification of capacity building needs and preparation of a capacity building plan;
16. Transition implementation plan on per county;
17. A list all relevant legislation and policy and make recommendations for review.

The functional analysis is therefore intended to clarify what a function is in the context of devolution, including its components so that the level of government to which a function has been assigned understand it and allocate resources to perform it. The analysis is necessary because a number of functions listed in the Fourth Schedule are broadly presented. The analysis is particularly important for the purpose of avoiding disputes and duplication of resources.

Despite the relevant provisions regarding the method of transfer of functions, majority of the functions were transferred without function analysis. The findings show that most of the transferred functions have been

²The Final Report of the Taskforce on Devolved Government: A Report on the Implementation of Devolved Government in Kenya, Office of the Deputy Prime Minister and Ministry of Local Government

taken up and are being implemented by county governments with the exception of the functions listed in table 3 below. Annex 5 gives these functions per county.

Table 3: Functions indicated as taken up but not being implemented in some counties

Function not being implemented	No. of counties	Per cent
Control of air pollution noise pollution and other public nuisance	13	29.5
Cultural services, public entertainment and public amenities	9	20.5
County transport	8	18.2
Trade development and regulation	7	15.9
County planning and development**	7	15.9
Village polytechnics	2	4.5
Implementation of specific national government policies on natural resources and environmental conservation	12	27.3
County public works and services	6	13.6
Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participate	17	38.6

Three functions indicated by a majority of counties as not being implemented are:

- Control of air pollution, noise pollution and other public nuisance (13 counties),
- Implementation of specific national government policies on natural resources and environmental conservation (12 counties), and
- Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level (17 counties).

3.4 Funds Allocated to Transferred Functions in 2013/14 Financial Year

The County Allocations of Revenue Act sets out conditional allocation and equitable share of revenue to county governments, pursuant to Articles 202(2) and 218(1)(b) of Constitution. It provides the statutory basis for the transfer allocations from the Consolidated Fund, to the respective County Revenue Funds.

In the financial year 2012/2013, the equitable share of revenue and conditional county allocations were Kshs. 190 billion and 20 billion respectively, (see Annex 6a) as tabulated in the 3rd Schedule of the County Allocation of Revenue Act, 2013. Essentially, the schedule is as approved by Parliament. Despite this provision under the Act, the National Treasury re-allocated the conditional grant of Kshs. 3.5billion to Level 5 Hospital Grants (See annex 6b).

By March 2014, a total of Kshs. 94.3billion (about 49%) share of revenue had been released to the counties (see annex 6c). Under this projection, it is assumed that by June 2014, all counties shall have received the outstanding revenues as per the County Allocation of Revenue Act. However, note that the conditional allocations (grants) of Kshs. 16.5 billion (8.5% of county allocations) is yet to be released to the Counties. This, coupled with the dysfunctional process of revenue allocation which was not guided by costing of functions means that many counties may have been allocated less than they required to deliver services.

3.5 Challenges in Implementing Functions Transferred to Counties

Counties did indicate they were facing challenges in implementing some functions taken up by them. The main challenges reported across counties, are listed below.

- Lack of a functional analysis – this has resulted in failure to comprehensively establish what each function entails;
- Capacity and skills - insufficient infrastructure, lack/limited skills in specialized areas such as health services, planning, road construction, etc.
- Funding gaps – inadequate funds to finance all functions, monthly timing of the release of funds is hampering implementation, funds not yet allocated to decentralized units;
- Tensions between county and national government staff
- Public participation – the high cost of participation as well as lack of administrative capacity were cited as challenges. Additional challenges include apathy from members of the public some of whom had indicated to the respondents that there was “over consultation”. This is complicated by lack of guidelines on public participation.

Further, there were challenges listed by various counties as affecting the implementation of different functions to counties, as given in table 4 below. The figure in bracket indicates the number of counties that mentioned that challenge.

Table 4: Challenges, as reported by counties affecting implementation of different functions

Functions and implementation challenges (Number in bracket is the total number of counties that noted that challenge)	
Implementation of Agriculture function	Implementation of the function of Control of air pollution noise pollution and other public nuisance
Agriculture officers still answerable to national government instead of CEC agriculture (2)	Limited technical capacity among the officers (3)
Salary discrepancy between the officers and challenges with payments of salaries (2)	Lack of appropriate legislation to implement the function (1)
Limited technical capacity among the officers (4)	Resistance to market demarcation by citizens (1)
Revenue collected still goes to the national government (3)	Challenges in establishing effective committees and boards (1)
Lack of appropriate legislation to implement the function (1)	Non-disclosure of information and/or lack of official records (1)
Difficulty in staff retention due to hardships in the area (1)	Difficulty in staff retention due to hardships in the area (1)
Lack of rainfall affects crop farming. Research is needed to increase crop productivity (1)	NEMA is still at the National level and County lacks staff (1)
	Salary discrepancy between the officers (1)
Challenges listed as affecting implementation of county health services	Challenge listed as affecting the implementation of county public works function
Resistance of health sector officials to being devolved and associated political interference (8)	Boda Boda menace on the roads (1)
High wage bill and salary discrepancy between the officers (2)	Unclear Organizational structure i.e., reporting lines to the National or the County Government (3)
Limited opportunities among the health practitioners to do private practice (1)	Road classification and maintenance: No clear classification of roads with class C roads being under the National Government. Inadequate mapping out of the roads and encroachment on roads. Confusion that only buildings of the defunct local authorities and not the national ministry buildings have been devolved (3)

Functions and implementation challenges (Number in bracket is the total number of counties that noted that challenge)	
Irregular release of funds from Medical Funds by the National Government, and limited funds for health services (2)	Mix up in operations at the lands registry (1)
Limited technical capacity among the officers for various health disciplines (e.g., management of sanitation services in markets) (7)	Collection and control of revenue: with revenue from betting and controls being submitted to the National Government (1)
Inadequate facilities, equipment and poor infrastructure in health facilities (5)	Lack of intergovernmental coordination in relation to Public Works (2)
Limited knowledge in budgeting among the officers (1)	Fear over perceived job insecurity is derailing the delivery of services
Lack of appropriate legislation to implement the function (1)	Salary discrepancy between the officers (3)
NACADA is still in charge and hence County Government confused on its role (1)	Inadequate facilities and equipment and regular breakdown of machines
Salaries and challenges related to the payroll for health workers (5)	Limited capacity of officers (especially engineers, etc.,) (5)
Difficulty in staff retention due to hardships in the area (1)	Lack of appropriate legislation to implement function (1)
Staff strikes and difficulty (1)	Insufficient funding (2)
Difficulty in inter-county transfers of some health services (1)	Lack of County Standards in public works. National Standards may not be relevant to County owing to different conditions, soils and material (1)
	Mechanical Transport Fund (MTF) still controlled by the National Government and the County Government is incurring liabilities (1)
Challenges listed as facing implantation of Planning and Development Function	Rigidity of National Government towards new technologies proposed by Counties (1)
Limited capacity of skills (especially economic planning, statistics, accounting, budgeting) (8)	Negative attitude of the seconded staff towards the devolved systems (3)
All former staff in the Ministry of Tourism have been retained as staff of the National Government hence the county governments have to employ staff afresh for this function (1)	Payroll challenges - no smooth flow in service delivery from the changes introduced by new payroll system (2)
Negative attitude of former Local Authorities (1)	Public works is devolved and the resources are not devolved, services still performed by national Government (1)
Difficulty in meeting gender quota and threshold of minorities and marginalized communities in the employment of staff e.g. failure to get Women applicants for some advertised posts (1)	Relationship between County Government and National Government not defined and not understood clearly by citizens and most of staff in the counties (1)
Funding systems have been centralized at county level i.e. no A.I.Es at sub-county and ward levels (1)	Difficulty in staff retention due to hardships in the area (1)
High wage bill, alleged ghost workers and salary discrepancy between the officers (3)	There is no clear demarcation of roles between the different roads bodies such as KERRA & KURRA and the County government hence a confusion on what the relevant County Ministry should deal with (4)
Lack of official records from the various National Ministries on the devolved functions and difficulty in effecting changes (1)	Challenges in Traffic controls issues, lack of weigh bridges leading to increased damages to roads (1)
Confusion in definition of county roads and management of roads i.e., KURRA , KERHA (1)	
Limited connectivity of some counties (1)	Challenges listed as facing implementation of the function of Cultural services public entertainment and public amenities
Lack of appropriate, defined structures to implement functions (1)	Salary discrepancy between the officers (1)
Limited resources (funds) (3)	Lack of cooperation among the officers of county government and national government (3)
Lack of proper cooperation/partnership between National and County Government (1)	Lack of experts and technical capacity in the fields (3)
Lack of appropriate legislation to implement function (1)	Lack of appropriate legislation to implement function (1)
Markets built by national government stimulus program not handed over to county governments (1)	Difficulty in staff retention due to hardships in the area (1)
Monthly disbursement of funds by National Treasury and unclear system of sharing the equalization funds (2)	Limited funding (1)

Functions and implementation challenges (Number in bracket is the total number of counties that noted that challenge)	
Payroll system management challenges resulting from inability of county governments to make changes to the system and ascertain the ghost workers, and limited manpower to prepare the payroll (1)	
Difficulty in staff retention due to hardships in the area (1)	Challenges listed as affecting the implementation of county transport function
Receipt based reimbursement system at the sub-counties posing a challenge as sub-counties operating on a float of Ksh 100,000 which may stall implementation of activities pending reimbursement of payments (1)	Salary discrepancy between the officers (1)
The County Assembly seems to have no accountability structures (1)	The demarcation of roads is unclear, KERRA & KURRA are still being managed by the National Government yet the county citizens still require improved roads (2)
The planning of functions related to land is confusing. Some functions remain with the National Government and presence of absentee landlords (2)	Limited technical capacity among counties (1)
	Lack of appropriate legislation to implement the function (1)
Challenges listed as facing implementation of specific national government policies on natural resources and environmental conservation	Difficulty in staff retention due to hardships in the area (1)
Lack of assessment of liabilities and assets in the counties (1)	Vast areas to be covered by officers and inadequate means of transport for effective service delivery
Big difference in the level of demand and supply of fresh water in the county (1)	Long and complicated procurement process and associated delays (1)
Collection of fees by NEMA and WARMA in the County (1)	Struggle for power especially between chiefs and administrators and associated challenges (1)
Staff establishment challenges with devolution having new set of staff with limited experience (1)	Machinery not transferred for road repair due to overlapping responsibilities (1)
Environment not fully devolved- with forestry still being taken up by the national government. This poses a lot of challenges in management (2)	Limited resources (1)
Salary discrepancy between the officers (1)	Poor road network and a challenge to implementation, Class B roads ignored (1)
Lack of experts in the fields and limited technical capacity (3)	
Lack of appropriate legislation to implement the function (4)	Challenges listed as facing implementation of trade development and regulation function
Lack of finance to facilitate waste disposal (2)	Lack of technical staff in the field of trade (3)
Limited knowledge about Urban Areas and cities Act (1)	Markets built by national government stimulus programme have not handed over to county government, hence difficulty in management (1)
Lack of clear norms and standards and a need to harmonize norms (1)	Negative recommendations from the national government on services offered by the counties (1)
	No clear laws and regulations to guide the counties on trade development and regulation (3)
	Trade development and regulation is not fully devolved hence confusion on roles of various governments (2)
	Trade revenue collected goes to the national government (1)
Listed challenges facing implementation of the village polytechnics function	
Limited allocation of funds to ECD (4)	
Poor infrastructure and transport facilities (2)	
Functions devolved but personnel not devolved and confusion over devolved functions (2)	
Salary discrepancy between the officers (1)	
Lack of experts on village polytechnics (3)	
Lack of appropriate policies and laws. There is a legal vacuum for creation of Youth Council (similar to the National Youth Council) (3)	
Personnel in Youth polytechnics have payment issues (sometimes delayed, missing or misdirected to other counties) (1)	
Difficulty in staff retention due to hardships in the area	
Lack of adequate staffing, staff retention affects education in the County (1)	

Functions and implementation challenges (Number in bracket is the total number of counties that noted that challenge)
Unclear difference between village polytechnics and Youth Polytechnics (1)
Not taking instruction from County Government as they insist they are still under National Government (1)

3.6 Borrowing of Funds for Development

The Constitution of Kenya 2010 and the Public Finance Management Act 2012 provide conditions under which national and county governments may borrow. Article 212 of the Constitution permits county governments to borrow funds for development under the following conditions:

- a. if the national government guarantees the loan; and
- b. with the approval of the county government's assembly.

Section 50 of the PFM Act requires Parliament to set a limit of the money that government may borrow and provides for the setting of borrowing thresholds for governments at each level. Section 58 gives powers to the Cabinet Secretary responsible for Finance to guarantee loans (including those of county governments), which shall be approved by parliament. Sections 140, 141, 142 of PFM Act specifically provide conditions under which county governments can borrow. Finally, Section 143 provides for the persons who are authorized to execute loan documents at county government level.

This assessment sought to find out from counties intending to borrow if they were aware of these conditions and whether the conditions are in place. Although some counties indicated that it planned to borrow funds for development activities during the financial year 2014/15, most respondents indicated that they were unaware whether their respective counties had put in place the requisite mechanisms to facilitate any intended borrowing.

3.7 Grants From Development Partners

Sections 47(b) and 138(b) of the PFM Act, define grants as financial or other assistance by a development partner which is not repayable and —

- i. under which public money is paid to or used by a grant recipient;
- ii. which is intended to finance or facilitate the development of projects or delivery of services or otherwise assist the grant recipient to achieve goals that are consistent with the policy objectives of the national government; and
- iii. under which the grant recipient is required to act in accordance with any terms or conditions specified in a grant agreement.

Further, Sections 138 of the PFM Act, 2012 provides conditions for receiving grants and donations by county governments, its entities or third parties while article 139 of the same requires county assemblies to approve regulations for the administration, control and management of grants. Funds received in the form of grants or donations shall only be spent in accordance with Article 224 of the Constitution, i.e., county annual budgets and appropriation Bills.

The Constitution and PFM Act (Articles and Sections discussed above) provide for administration and management of loans and grants for the national government and the county governments. The law also

requires that article 201 (Principles of Public Finance) applies to grants. Section 47(1)(b)(ii) of PFM Act sets out the principles applying to the use of grants including the financing or facilitation of the development of projects or delivery of services or otherwise assisting the grant recipient to achieve goals that are consistent with the policy objectives of the national government. This means that a grant is a public fund that is used for the benefit of every individual within the specified setting. Therefore the principles of public finance such as openness and accountability are key in administration and management of grants and donations for effective implementation of development projects.

From the assessment, thirteen county governments reported to have entered into agreements with development partners to fund development programmes. They include Mombasa, Isiolo, Meru, Kitui, Makueni, Siaya, Kisumu, Homa Bay, West Pokot, Nyamira, Baringo, Nakuru and Bomet.

On existing agreements, sixteen counties³ indicated they are aware of such agreements entered by the central government with development partners before the establishment of the County Governments.

3.8 Inventory of Government Assets and Liabilities

Section seven and the Fourth Schedule of the Transition to Devolved Government Act 2012, assigns the responsibility to audit assets and liabilities of government entities to the Transition Authority as follows:

- Section 7(e) - prepare and validate an inventory of all the existing assets and liabilities of government, other public entities and local authorities.
- Section 1 of the Forth Schedule
 - a. audit assets and liabilities of the government, to establish the asset, debts and liabilities of the government;
 - b. audit assets and liabilities of local authorities, to establish the asset, debts and liabilities of each Local Authority;
 - c. audit local authority infrastructure in the counties, to establish the number and functionality of plant and equipment in Local Authorities;
 - d. audit the government infrastructure in the counties, to establish the number and functionality of plant and equipment for the purpose of vesting them to either level of government;

Further the Act provides that Transition Authority, in

- Section 7(g) – provide mechanisms for the transfer of assets which may include vetting the transfer of assets during the transition period;
- Section 1 of the Forth Schedule (n) provide for a mechanism for the transfer of government net assets and liabilities to national and county governments.

³Mombasa, Embu, Kitui, Makueni, Kisumu, Migori, Homa Bay, West Pokot, Trans Nzoia, Baringo, Uasin Gishu, Elgeyo Marakwet, Laikipia, Nakuru, Bomet and Bungoma.

⁴Analysis of Transition Authority Progress Reports and Evaluation of Performance, December 2013.

From the analysis of TA reports⁴ carried out by CIC, these activities are yet to be completed. As a result, some county governments have embarked on the audit of assets and liabilities to create their own inventories, and facilitate planning processes. In the assessment, eleven counties indicated that they lacked inventory of assets and liabilities, four did not respond to this question and the remaining thirty-two indicated they have asset inventories. For those that do not have the inventories of assets, the following are some of the mechanisms they indicated they have put in place to establish the inventories.

Table 5: Mechanisms counties have put in place to establish their inventories.

Mechanisms put for establishing inventories	No. of counties
Assessment, validation and verification is ongoing - sponsored by county governments	5
Formed task force/committees to establish assets and liabilities of the county	2
Expecting the Transition Authority to engage a consultant for transfer of assets and liabilities (List not received from TA)	2
Engaged consultants to prepare a report of the assets and liabilities of the County. The County is in the process of analyzing the report	1
Done a circular to sub-county administrators asking them to hand over the assets formally under the local government	1
Planning to meet with former local authorities to hand over inventories**	1
Still experiencing challenges with updating the register	1

From the data gathered it emerged that some counties are still expecting the TA to complete the audit of assets and liabilities as well as provide for a mechanism for transfer.

The audit of assets and liabilities would facilitate transfer of assets formerly owned by the defunct local authorities and national government along with the transferred functions. However, in twenty-four counties it was reported that there are assets and liabilities of the former central government and defunct local authorities that were yet to be transferred to county governments, as listed in the table below.

Table 6: Assets and liabilities not yet transferred to county governments

Assets/Liabilities not yet transferred to county governments	No. of counties
Houses, office buildings formerly managed by national government	11
Mechanical and transport equipment including vehicles	10
Agricultural and livestock machinery (AMS)	8
Legal ownership of assets of the defunct local authorities	5
Land	8
Liabilities and salary arrears	5
Registers/records of liabilities	3
Infrastructure including Government HQs	2
Bank balances relating to the defunct local authority	1
Cereals and Produce Board facilities	1

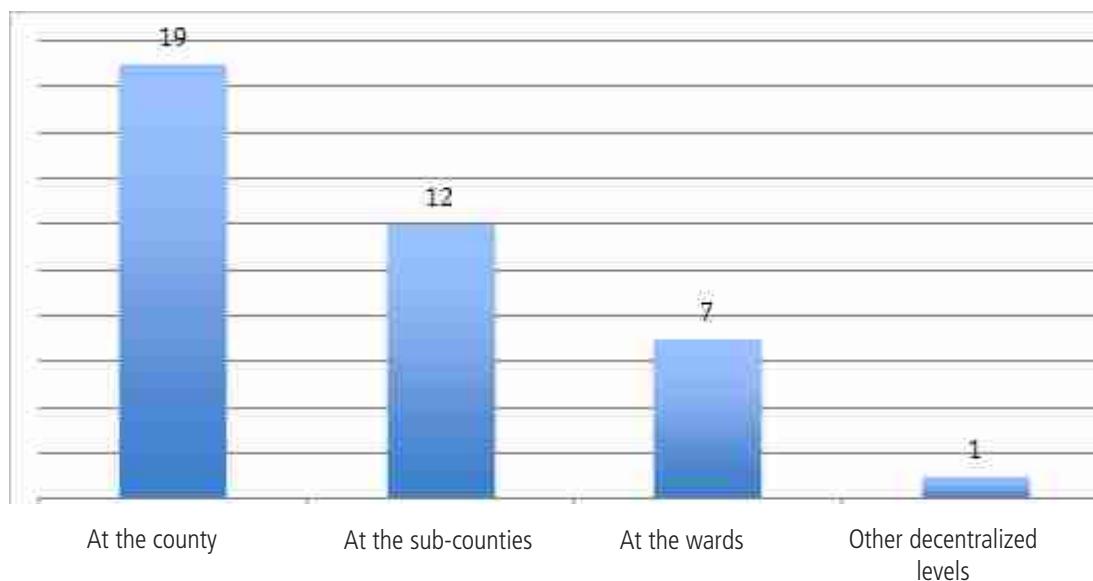
Assets/Liabilities not yet transferred to county governments	No. of counties
Kenya Forests Services	1
Mechanical Transfer Fund	1
Rural Electrification Projects	1
Water services	1

3.9 Citizens' Service Centres

The County Governments Acts, 2012 (Section 119) establishes Citizens' Service Centres at the county, sub-county, ward; and any other decentralized level, to serve as the central office for the provision by the county executive committee in conjunction with the national government of public services to the county citizens. The law further requires the Governor to ensure the use of appropriate information and communication technologies at a Citizens' Service Centre to aid in the provision of timely and efficient services to the county citizens. Once established, these centres offer the venue for county government and national government in the counties to provide services to the public.

Out of the forty-seven counties, nineteen reported that they had established the citizens' service centers in the counties, twelve had established the centers in the respective sub-counties, and seven had established them in the ward level, as summarized in the figure below.

Figure 3: Number of counties that have established citizens' service centres







CHAPTER FOUR

LEGAL, POLICY AND INSTITUTIONAL FRAMEWORKS

The Constitution of Kenya, 2010 provides for a system of devolved government wherein each of the 47 county governments have two arms of government; namely the Legislature and the Executive; as provided for under Article 6 and specified in the First Schedule to the Constitution. The primary objective of devolution is to improve service delivery through the devolution of power, resources, services and representation. Various constitutional provisions require Parliament to enact legislation to operationalize the system of devolved government. To that effect, Parliament has enacted the following (basic) laws relating to the devolved system of government.

a) The Transition to Devolved Government Act (No. 1 of 2012). The Act provides for the legal and institutional framework for a coordinated transition to the devolved system of government while ensuring continued delivery of services to citizens.

b) Intergovernmental Relations Act (No. 2 of 2012). This Act establishes intergovernmental structures to facilitate consultation and co-operation between the national and county governments and amongst county governments in the delivery of services. It also seeks to establish mechanisms for the resolution of intergovernmental disputes.

c) County Governments Act (No. 17 2012). The County Government Act gives effect to Chapter 11 of the Constitution and provides for county governments' powers, functions and responsibilities to deliver services.

d) Public Finance Management Act (No. 18 of 2012). The Act provides for the effective management of public finances by the national and county governments.

e) Urban Areas and Cities Act (No. 13 of 2011). The objects and purposes of the Act are to establish a legislative framework for:

- Classification of areas as urban areas or cities;
- Governance and management of urban areas and cities;
- Participation by the residents in the governance of urban areas and cities; and,
- Other matters for the attainment of the objects provided for in paragraphs (a) to (c).

f) Leadership and Integrity Act No. 19 of 2012. Pursuant to Article 80 of the Constitution, Leadership and Integrity Act, 2012 promotes ethics, integrity and servant leadership among all public officers.. The Act seeks to ensure that public officers discharge their responsibilities with integrity and sets a high threshold for all.

g) National Government Co-ordination Act (No. 1 of 2013). The National Government Coordination Act was enacted to ensure effective co-ordination of national government functions at the national and county levels of governance.

4.1 Access to Devolution Related Laws

The study sought to establish whether county governments had facilitated access of the devolution related laws to their officers, and any mechanisms put in place such as documentation centers/libraries, where the documents could easily be accessible for reference. It was found that more than half of the counties (see table below) had devolution related laws and eighteen indicated that they had libraries/documentation centers where these documents are accessible to their staff for reference.

Table 7: Number of counties that have accessed some of the foundation laws for the system of devolved government to their staff

Devolution Related Laws	No. of Counties	Per cent
The constitution of Kenya, 2010	46	97.9
The Elections Act, 2011	30	63.8
The Transition to Devolved Government Act, 2012	42	89.4
The Urban Areas and Cities Act, 2011	39	83.0
The county Government Act, 2012	44	93.6
The Public Finance Act, 2012	44	93.6
Intergovernmental relations Act, 2012	39	83.0
The National Government Coordination Act, 2013	33	70.2

4.2 Establishment of Necessary Frameworks

The Fifth Schedule to the Constitution prioritizes legislation to be enacted by Parliament within five years after the promulgation of the Constitution. In addition, the Fifth Schedule has a general provision for any other legislation required by the Constitution. This means the enactment of legislation during the five years is not restricted to those listed in the Fifth Schedule.

In view of the fact that not all provisions of the Constitution are self-enforcing, a number of policies, statutory instruments, administrative procedures, programmes and actions are required to give effect to the Constitution. The Fifth Schedule to the Constitution becomes the starting point, meaning that each Ministry/ Department will pick and develop legislation to facilitate the implementation of functions assigned to them. Thus, in order to give effect to the Constitution of Kenya 2010, the following measures have to be undertaken;

a) Development and/or review of policies

Policies are the foundation upon which legislation and administrative procedures are anchored. The Constitution identifies some policies that need to be developed. There also existed sectorial policies that need to be reviewed to align them to the objectives and values of the new constitutional dispensation. The legislation that was enacted prior to development of policies requires the relevant policy framework to be developed. Both levels of government are therefore required to review existing policies and identify and develop new ones that are needed to anchor legislation and administrative procedures.

b) Development and/or review of legislation

Ministries and departments have been developing legislation prioritized in the Fifth Schedule to the Constitution of Kenya 2010. In addition, based on the functions assigned, they need to identify Articles of the Constitution (other than those listed in the Fifth Schedule) that require legislation to facilitate the implementation of the functions in the Fourth Schedule, as assigned to either level of government. There are also legislation that existed before the promulgation of the Constitution that need to be reviewed to align them with the letter and spirit of the Constitution. Finally, there are laws that have been passed recently that need to be audited to identify amendments that will effect the implementation of the Constitution or remove any gaps or lack of clarity and/or consistency in legislation. Counties are also expected to do the same.

c) Development and/or review of regulations and administrative procedures.

At times, the Acts of Parliament specify regulations to effect particular sections. Ministries/departments are therefore required to develop new regulations and/or review existing ones to guide implementation of the relevant Acts of Parliament.

d) Development and/or review of Institutions and Institutional frameworks

This entails but not limited to the following:

- Development and implementation of Transition Implementation Plans as required of both the national and county governments and their agencies.
- Embedding of the Change Management Strategies into institutions' Strategic Plans. Implementation of this would include:
 - Familiarization of the public officers on Constitution and devolution related Acts
 - Undertaking a constitutional compliance audit of the institution's internal systems, processes and structures
 - Development and implementation of capacity building plans
 - Establishment and/or support to the operationalization of the inter-governmental sector based consultative forums
- Domestication of international instruments in line with the Constitution,

Development and/or review of policies, legislation and subsidiary legislation (regulations and administrative procedures) designed to implement the Constitution remain the responsibility of state departments and agencies for which Cabinet Secretaries and Members of County Executive Committees are primarily accountable. This means, it is the responsibility of executives at both level of government to initiate the review/development of policies, legislation and regulations, guided by the functions assigned.

On the other hand, in discharging of their functions, both levels of government should comply with constitutional and statutory obligations and ensure the observance of national values and principles, ethics and integrity and principles of public finance as enshrined in the Constitution. These include:

- Participation of the people;
- Equity, inclusiveness, human rights, social justice, equality; non-discrimination and protection of the marginalized and minorities in all services delivery, recruitment, etc.;
- The principle of gender equity and regional balance in the consideration of opportunities;
- The application of the principle of affirmative action and inclusion of the marginalised and minorities in appointments and public procurement;
- Consultation and cooperation with county governments;
- Good governance, integrity, transparency and accountability;
- Sustainable development;
- The principles on leadership and integrity in Chapter 6 of the Constitution; and
- The principles of fairness, prudence, clarity and the need for fiscal responsibility in the management of public resources as stipulated in Article 201 of the Constitution.
- Values and principles of public service

4.2.1 Development of Legislation

The legislative authority of a county is vested in and exercised by its County Assembly (Article 185). The County Assemblies, while respecting the principle of separation of powers, are also required to provide oversight over the County Executives; approve county policies, plans and budgets, and vet nominees for appointment to county public offices. The other role of the members of county assemblies is representation of the electorate (Section 9 of the County Government Act, 2012).

The Fourth Schedule to the Constitution assigns functions to the two levels of government. The county governments are required to develop legislation to facilitate the execution of the assigned functions. The implementation of the county legislation is vested in the county executive committee (Article 183(1)(a)).

Annex 7 presents a list of Bills developed by counties since March 4, 2013. In total, counties reported that they had developed 291 Bills, of which 93 Bills had been passed by county assemblies and assented to by the governors. Thirty-six Bills had been passed awaiting assent while 162 Bills were under development by the time of this assessment. Most of the legislation enacted relate to financial laws, i.e., Finance Bills (43), Appropriation Bills (39) and Supplementary Appropriation Bills (17).

In Article 199(1) of the Constitution, county legislation does not take effect unless published in the Gazette.

By March 2014, a total of 71 Acts from county assemblies had been gazetted in the Kenya gazette.⁵

In a circular - CIC/Circular 1 of June 2013, CIC outlined guidelines to county executives and county state organs on the implementation of the Constitution. Among other things, the counties were required to;

- Identify, review and develop county government legislation necessary for the effective discharge of the county government functions. These include policies, laws, administrative procedures and by-laws that existed before the coming into effect of the devolved system of government which require review to align with the Constitution and facilitate effective implementation of their mandates.

From the assessment, about half (24) of the counties indicated that they had identified laws that require review. But the lists (see table 8 next page) of the legislation presented as requiring review and/or development were mostly the new legislation (Bills) that had been developed at counties. This means counties have not invested in the review of existing legislation that affect implementation of their functions.

Table 8: List of Existing and New Legislation Indicated by County Governments as Identified for Review or Development

Name of County	List of Existing and New Legislation Identified for Review or Development	Status of the Legislation		Review/Development Status		
		Existing	New	Review/ Development not stated	Work In Progress	Review/ Development completed
Nairobi	County Government Act	1	-	1	-	-
	Disaster and Emergency Management Bill	1	-	1	-	-
	Public Officers Ethics Act	1	-	1	-	-
Kwale	Education Bill	1	-	-	1	-
	Finance Bill	-	1	-	1	-
	Mining Bill	1	-	-	1	-
Embu	Appropriation Bill	-	1	-	-	1
	Finance Act	-	1	-	-	1
	Supplementary Appropriation Bill	-	1	-	-	1
	Youth And Women Fund Bill	-	1	-	-	1
	Flag Coat of Arms Public Seal Governors Portrait Bill	-	1	-	-	1
Makueni	Liquor Licensing Bill	-	1	-	1	-
	Tourism Bill	-	1	-	1	-
	Land Act	1	-	-	1	-
Wajir	County Abattoirs Bill	-	1	-	1	-
	Education Bill	-	1	-	1	-
	Roads and Infrastructure Bill	-	1	-	1	-
	Industrial and Commercial Development Authority Draft Bill	-	1	-	1	-
	Mining Bill	-	1	-	1	-

⁵www.kenyalaw, www.parliament.go.ke and Government Press

Name of County	List of Existing and New Legislation Identified for Review or Development	Status of the Legislation		Review/Development Status		
		Existing	New	Review/ Development not stated	Work In Progress	Review/ Development completed
Kisii	County Assembly Service Bill	-	1	-	1	-
	Provision Of County Bursary Bill	-	1	-	1	-
	Disease Control Bill	-	1	-	1	-
Baringo	Appropriation Bill	-	1	-	1	-
	Public Participation Bill	-	1	-	1	-
	Youth and Women Fund Bill	-	1	-	1	-
Nandi	Protection of Small Scale Tea Farmers	-	1	1	-	-
	Provision of County Bursary-Awaiting Assent	-	1	1	-	-
Laikipia	Elimu Bursary Bill	-	1	-	1	-
	Gender Bill	-	1	-	1	-
Nakuru	County Integrated Development Plan	-	1	-	1	-
	Lavatories Bill	-	1	-	1	-
Bomet	Flags Emblems and Names Act	1	-	-	-	1
	Parliamentary Services Act	1	-	-	-	1
	Powers and Privileges Act	1	-	-	-	1
	Parliamentary Services Act	1	-	-	-	1
	Public Officers Ethics Act	1	-	-	-	-
Vihiga	Legislative Proposal on Fisheries	-	-	-	1	-
	County Administration Act	-	-	-	1	-

4.2.2 Development of Policies

Policies are required to anchor various laws, while regulations are required to give further guidance on implementation of particular sections as identified in the respective laws. One of the key requirements is that the policies, laws and regulations developed at the county level comply with the Constitution and are in tandem with the national policies and laws.

From the assessment, 32 counties indicated that they had developed policies, guidelines, regulations, or subsidiary legislation (See Annex 8). In Table 9 below, a total of 53 policies, 8 plans and 11 regulations were reported to have been in various stages of development.

Table 9: Total number of policies, plans and regulations mentioned by various counties

Policy, Guidelines, Regulations Developed	Development Status		Total
	Completed	W.I.P	
Policies	8	45	53
Plans	4	4	8
Regulations	5	6	11

4.3 Challenges in Developing Policies, Laws and Regulations

The respondents gave the following as challenges they have faced in process of developing policies, laws and regulations.

Table 10: Summary of challenges facing counties in developing policies, laws and regulations

Challenges	Recommendations to address the challenges
Capacities of CECs <ul style="list-style-type: none"> Most CECs were recruited from the private sector and were yet to be fully oriented to the public sector set up. 	<ul style="list-style-type: none"> Induction for the CECs and regular sensitization. Sensitization of CECs on procedures to develop policies and regulations
Delay in establishment of required structures <ul style="list-style-type: none"> Late appointment of chief officers creating delays in the exercise of their duties E.g. delay identification and development of legislation. 	<ul style="list-style-type: none"> Establish required structures Carry out capacity building for effective service delivery
Lack of appropriate National Policies and/or inappropriate national laws in existence <ul style="list-style-type: none"> For example, the National Health Bill and Policy are incomplete) to guide counties 	<ul style="list-style-type: none"> National government should develop and align to the constitution to ensure proper coordination
Frequent disagreement between different levels of government on various issues, e.g., on hiring of staff for county governments <ul style="list-style-type: none"> The national and county governments, The County Executive and County Assembly 	<ul style="list-style-type: none"> Establish and operationalize inter and intra governmental mechanisms and allocate adequate time for negotiation and dialogue between Executive and the Assembly Carry out capacity building of both the arms of government Provide for more Civic education Develop regulations that should guide county operations.
Financial constraints: <ul style="list-style-type: none"> Inadequate funding for devolved functions Monthly releases of funds by the national Treasury Centralizing funds at county level 	<ul style="list-style-type: none"> Commission for Revenue Allocation (CRA) to increase funding to county governments Frequent dialogue between the Executive, and Assembly, and between county governments and the Controller of Budget CRA to appreciate the unique situations of different counties Finalize and harmonize various county plans for accurate budgeting Change release of funds from monthly to quarterly.
Gazettement of Acts <ul style="list-style-type: none"> Government Press delays in publishing Bills 	<ul style="list-style-type: none"> The Government press may need to devolve its services to county level Counties to set up their government printers

Challenges	Recommendations to address the challenges
<p>Inadequate capacities</p> <ul style="list-style-type: none"> • Identification of policies, laws and regulations to be developed has been slow • Lack of legal drafters • Low capacities of MCAs to debate Bills and fast-track the processes. 	<ul style="list-style-type: none"> • Develop and implement a Strategic Human Resource Development Framework well financed. • Outsource legal services (drafters). CIC & KLRC to recommend a pool of credible law firms to provide drafters to County Governments • Recruitment and training of personnel with appropriate skills • Discuss with SRC to improve terms of service to attract lawyers • Recruitment of county Attorneys in each county (establish County AG Offices) • The County Assemblies partnering with Universities to provide interns to help in drafting
<p>Low public participation</p> <ul style="list-style-type: none"> • Inadequate stakeholder consultations due to low level of civic education, • Unclear civic education strategies and lack of resources for its execution 	<ul style="list-style-type: none"> • Formulate and implement civic education mechanisms that will increase public participation • Allocate adequate funds for public consultations • Develop a public participation framework and enhance public sensitization
<p>Commitment from the MCAs</p> <ul style="list-style-type: none"> • Lack of commitment and Frequent quorum hitch of MCAs • Low literacy level limiting debate on Bills leading to sub-standards legislation 	<ul style="list-style-type: none"> • Formulate and implement appraisal system in county assemblies • Adopt the bio-metric signing currently at the national assembly for county assemblies • Amend the law to raise the academic bar for MCAs
<p>Implementation of policies and Legislation</p> <ul style="list-style-type: none"> • Slow implementation of policies and legislation • General resistance to change by officers 	<ul style="list-style-type: none"> • Develop a comprehensive County Integrated Development plan that includes implementation policies, legislation and regulations. • Enacting laws to ensure complete implementation of policies and legislation • Develop change management strategies in the counties.

4.3.1 Performance Management Frameworks/Standards

For each power, function or competency, there shall be minimum service standards or norms of performance provided under relevant laws (Section 27(1) of the Intergovernmental Relations Act, 2012). Counties are expected to develop or adopt performance management standards including regulations, policies and administrative procedures to facilitate delivery of functions taken up. Article 185(2) states that “a county assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule”.

From the assessment, twenty-eight out of forty-seven counties reported that they applied various performance management standards (Table 11 below). Thirteen counties indicated that they did not have any frameworks and respondents from the remaining five counties did not know whether they had or not. For those reported having the performance management frameworks, they either adopted them from the national governments (16 counties) or developed by counties (11 counties). Table below summarizes some of the performance management standards mentioned by various counties.

Table 11: Performance management standards mentioned by various counties

Performance management Standards (mentioned by respondents)	Functions									
	Agriculture	Control of air pollution noise pollution and other public nuisance	County health services	County planning and development	County public works and services	County transport	Cultural services public entertainment and public amenities	Implementation of specific national government policies on natural resources and environmental conservation	Trade development and regulation	Village polytechnics
Performance appraisal systems (PAS)	5	3	5	5	5	4	5	4	3	5
Kenyan Standards and British Standards	-	-	-	-	2	1	-	-	-	-
National standards	1	1	4	1	1	1	1	1	1	1
Performance contracts	1	-	1	1	1	1	1	-	1	1
Policies	-	-	-	-	-	1	-	-	1	-
The RRI built from the set targets by each department	2	2	-	2	2	2	2	2	2	2
Schemes of service	-	1	1	1	1	1	1	1	1	2
Departmental work plans	1	1	-	1	1	1	1	1	1	1
Work ticketing	-	-	-	-	-	1	-	-	-	-



CHAPTER FIVE

HUMAN CAPACITY DEVELOPMENT

Section 7 (2)(i) and the Fourth Schedule of the Transition to Devolved Government Act, 2012 stipulates that the Transition Authority shall audit government staff and local authority staff in counties to establish the number of staff in each county by cadre, grades, gender, age and qualification⁶. This would facilitate deployment and capacity building, the latter of which is a function assigned to the national government by the Fourth Schedule to the Constitution assigns the responsibility of capacity building and technical assistance of the counties to the national government. Further, the Section 15(2)(ii) of the Sixth Schedule requires the national government to assist county governments in building their capacity to govern effectively and provide the services for which they are responsible.

5.1 County Public Service Boards

The County Government Act, 2012, provides in various sections, for the development of county human resources, including establishment and functioning of County Public Services Boards (Sec. 57 & 58) to be in charge of human resources management. Section 58(1) provides for the composition of the County Public Service Board (CPSB) as;

- a chairperson nominated and appointed by the county governor with the approval of the county assembly;
- not less than three but not more than five other members nominated and appointed by the county governor, with the approval of the county assembly; and
- a certified public secretary of good professional standing nominated and appointed by the governor, with the approval of the county assembly, who shall be the secretary to the board.

⁶The Transition Authority carried out the audit, reported in "Transition Authority Resource Audit Report for Staff of Former Local Authorities and Devolved Functions, 2013"

This means, a county may have a minimum of five and a maximum of seven members of CPSB, making a total number of members of the CPSB across the 47 counties between 235 (lower limit) and 329 (upper limit). The study established that all the 47 counties have established County Public Services Boards, with a total membership of 330 (men 207, women 123). Memberships in all CPSBs are within these provisions.

5.2 Capacity Needs Assessment

The Fourth Schedule to the Constitution, Section 32, allocates to the national government the function of capacity building and technical assistance to counties. Section 121 of the County Government Act, 2012, provides for support from the national government to county governments. It provides, in 121(1), that the ministry or government department responsible for matters relating to intergovernmental relations shall provide support to county governments to enable them perform their functions. Section 121(2) (a)-(j) lists functions of the national government in terms of building capacities of the counties, starting from the capacity needs assessment and implementation capacity building, in conjunction with the county governments.

In Section 7 of the Transition to Devolved Government Act, TA is given the functions of (j) assessing the capacity needs of national and county governments; and (k) recommending the necessary measures required to ensure that the national and county governments have adequate capacity during the transition period to enable them undertake their assigned functions.

In Section 23 (6), where the Authority determines that a county government does not meet the criteria for the transfer of function under section 24, it shall propose clear and practical measures to build the capacity of the county government during the transition period to enable the county government undertake its functions within the shortest time possible. Then, in Section 24 (d), it is a criterion for the transfer of function that county governments undertaken a capacity assessment in relation to a function to be transferred.

Neither the National Government nor the Transition Authority have undertaken any comprehensive capacity needs assessment or capacity building. From the field assessment, twenty-eight (28) counties reported that they had carried out a capacity needs assessment (human, equipment, infrastructure capacities), sixteen (16) had not yet undertaken their assessments. Three (3) counties did not respond to this question. Various institutions were reported as having facilitated the capacity needs assessment including, Transition Authority (15 counties), CPSBs (13 counties), National Government (3 counties) and Others (3 counties). The assessment findings are given below.

Table 12: Summary of findings reported by counties on capacity needs assessment they carried out⁷.

Findings of the Assessment	No. of Counties	Counties
Lack of capacity both in numbers and requisite skills	10	West Pokot, Nyamira, Lamu, Mandera, Tana River, Bomet, Wajir, Kisii, Elgeyo Marakwet, Nyandarua
Inadequate infrastructure, equipment and systems	4	Lamu, Elgeyo-Marakwet, Bomet, Busia
Assessment report yet to be finalized	2	Kiambu, Nakuru
Adequate capacity and basic structures for performance of functions assigned to the county by the Constitution	1	Narok

⁷These findings could also apply to other counties.

Findings of the Assessment	No. of Counties	Counties
Few women and ethnic minorities in employment especially in the higher cadre	1	Lamu
Lack of harmonious fusion among employees of the national government, county government and former defunct local authorities.	1	Nyamira
Lack of uniformity in terms of employment and ranking	1	Nyamira
Possible presence of ghost workers especially in the health sector	1	Lamu
High resistance to change and a preference for maintenance of the status quo	1	Nyandarua
Unqualified staff- a significant proportion of the staff lacking in terms of the right qualification	1	Kisumu

Where counties had not conducted an assessment, the following were reported as steps taken towards the assessment.

- Currently developing a policy to ensure that the assessment is carried out
- The CPSB will carry out the assessment. However timelines for this have not been set
- The Transition Authority, CIC, Ministry of Devolution & Planning and Council of Governors are spearheading a committee to advise on the rationalization of staff in the counties.
- A meeting scheduled with directors to plan on capacity assessment
- Arrangement in place for a consultant to do assessment
- Assessment plans are included in the 2014/15 budget
- Staff audit is being carried out and the counties are in the process of establishing capacity needs.
- Assessment needs will be redone to align with devolved personnel

Further, most counties reported that they had received capacity building (training) from various institutions. Forty-one (41) counties indicated that they had training organized for members of their county assemblies and county executives. Table 13 presents institutions mentioned as having facilitated trainings include the following.

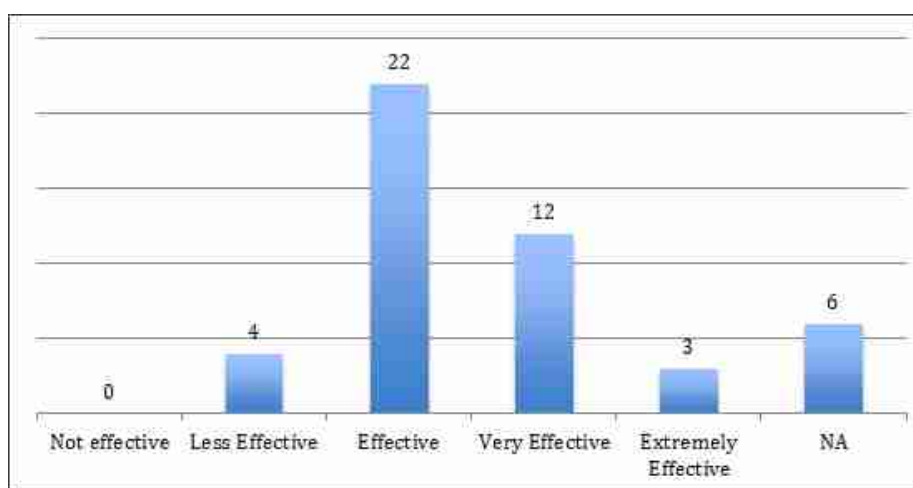
Table 13: Institutions that have facilitated/carried out trainings in counties

Institutions that facilitated the trainings	No. of counties
Own initiative (executive and county assembly) facilitated by the CPSB	30
Transition Authority (TA)	8
U.S. Agency for International Development (USAID)	8
Center for Parliamentary Studies and Training	4
State University of New York (SUNY) and the Centre for Parliamentary Studies	6
National Government	5
Non-Governmental Organizations (NGOs) (names not specified)	5
Ministry of Devolution and Planning	3
Kenya School of Government	3
International Republican Institute	1
Kenya National Commission on Human Rights	1

Institutions that facilitated the trainings	No. of counties
Westminster Foundation	1
Public Service Commission	1
Commission for the Implementation of the Constitution (CIC)	1
Commission for Revenue Allocation (CRA)	1
National Treasury	1
Others (Various institutions)	2
Not sure	1

Though subjective, the majority of counties (22 or 47%) where the trainings had been carried out rated the training as effective. Other ratings by different counties were as in figure below.

Figure 4: Effectiveness of trainings so far given to counties



The mechanisms developed (contemplated) by counties to build capacities of their human resources as reported during the assessment are presented in table 14.

Table 14: Mechanisms put in place by counties to build capacities of their staff

Capacity Building Mechanisms	Number of counties
Induction programmes, team building activities including bonding, functional staff relationship building and public fora for sensitization	22
Developing frameworks on capacity building, including training policy, change management strategies and training needs assessment	7
Resolved to have regular capacity building but no programmes have been developed yet	6
Budgetary allocation for training, including bursaries	5
Partnering with local institutions including, e.g., Centre for Parliamentary Studies and Kenya School of Government, and engaging resource persons to build the capacities of the staff including the County Assemblies	4
Performance management training, introduction of staff appraisal system and computerized records management system	4

Capacity Building Mechanisms	Number of counties
Exchange programmes and sponsoring employees for seminars, workshops, short and long courses	3
Recruitment to fill the human resource gaps and redeployment of employees to match skills to job requirements - through the County Public Service Board.	2

Pursuant to the provisions of Section 7(2)(m) of the Transition to Devolved Government Act, 2012, TA issued the guidelines through gazette notice No. 825 on rationalization of public service during the transition period. The purpose of the guidelines is to provide for;

- a. the administration of the transfer of service of seconded officers to county governments;
- b. the mechanisms and process for the deployment and redeployment of seconded officers between the national government and county governments, among county governments and between the county governments and the national government;
- c. the effective management of human resource during the transition period by the national government and county governments;
- d. the safeguarding of the terms and conditions of service of seconded officers;
- e. the collaboration and co-operation between the national government and county governments during the transition period; and
- f. the distribution of human resources among county governments and between the national government and county governments.

These guidelines apply to public officers who are seconded officers during the transition period. All except ten counties indicated that they were aware that the guidelines had been developed. Those that were not aware include Embu, Garisa, Mandera, Kisumu, Homa Bay, Kisii, Nandi, Nakuru, Vihiga and Bungoma.

5.3 Deployment/Recruitment of Human Resources

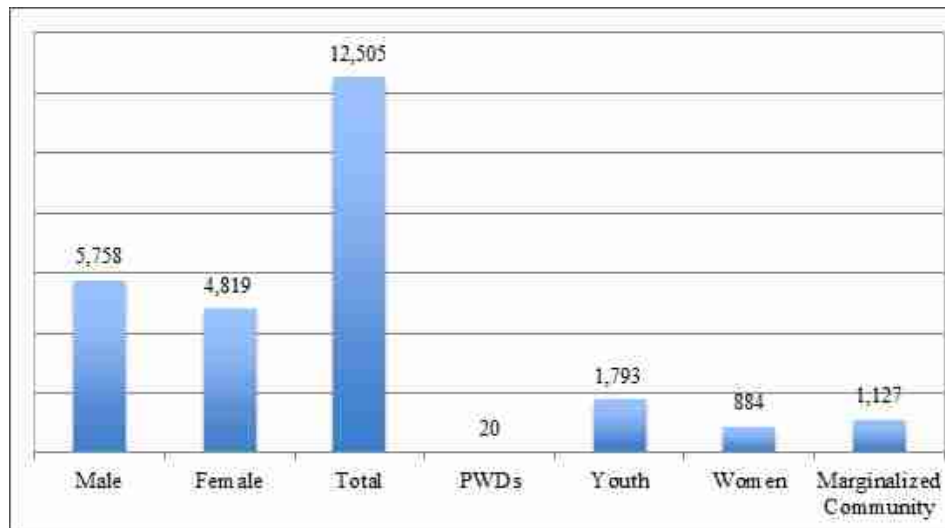
The transferred functions and hence those taken up provide guidance for deployment and/or recruitment of staff. Article 187(2)(a) of the Constitution thus states;

- If a function or power is transferred from a government at one level to a government at the other level.
 - a. arrangements shall be put in place to ensure that the resources necessary for the performance of the function or exercise of the power are transferred; and

Section 60 of the County Government Act, 2012 provides for the establishment of public offices within the county public service and competitively and transparently appointment of staff.

The assessment sought to establish the breakdown, by gender, PWD, youth, women, and marginalized groups of staff deployed/recruited by counties into different offices.

The findings from the counties that responded to the question show that a total of 12,505 staff of different categories are shown in figure 5.

Figure 5: Number of staff recruited by gender, PWD, youth, women, and marginalized groups

Section 138(1) of the County Governments Act, 2012 provides for arrangements for public servants in the counties. Sub-section 1 states that “Any public officer appointed by the Public Service Commission in exercise of its constitutional powers and functions before the coming to effect of this Act and is serving in a county on the date of the constitution of that county government shall be deemed to be in the service of the county government on secondment from national government with their terms of service as at that date”

This provision is amended by Section 24 of the national Government Coordination Act, 2013 that the sub-section shall not apply to a public officer serving in a county government and performing national government functions under the Constitution or any other written law.

Given these provisions, counties were asked the actions they took on national government seconded staff and defunct local authorities staff. Twenty-three (23) counties said that they had been absorbed. Fourteen (14) counties regard them as seconded national government staff. The use of the word absorption could be misleading because the above provision talks of “secondment”. Absorption of seconded staff only happens after advertisement and recruitment into the county governments.

The responses by county governments as regards to seconded and defunct local authorities staff are summarized in table 17.

Table 15: Actions taken on the seconded on staff from the national government and staff of the defunct local authorities

Actions taken on the seconded staff from the national government	No. of counties
Absorbed and redeployed as per their competency and availability of vacancies	23
They remain National government staff. Waiting for head count and capacity assessment to decide on whether to absorb or return to national government	14
Actions on staff of the defunct local authorities	
Absorbed and redeployed at county, sub-county and other levels	27
Currently reviewing the capacities of defunct local authority staff, including head count to decide on absorption or discharge.	6

Although the defunct local authority staff have been absorbed, county governments have been advertising different positions for which these officers have been encouraged to apply, if they qualify. It was also noted that stations managed by former local authorities are still functional with staff aligned to the various departments of the county governments. However, most of them have not yet been given job descriptions. Counties are in the process of determining what skills they possess so that they can be adequately deployed. Once these assessments are completed, Sections 46 and 60 of the County Government Act, 2012 should be followed by the County Executive Committees and the County Public Service Boards to determine organization of counties and establishment of public service offices.

5.4 Challenges Counties Have Faced in Relation to Staffing

The respondents listed challenges below that counties have faced in terms of staff, and provided recommendations to address them.

Table 16: Challenges facing counties in relation to staffing

Challenge	Recommendations
<p>Inadequate capacity and limited expertise;</p> <ul style="list-style-type: none"> Especially to manage payroll, Unqualified staff both in county executive and assembly 	<p>Develop and implement an effective capacity building programme</p> <p>Better remuneration to attract qualified staff</p> <p>Employ qualified personnel</p> <p>Enforcing strict codes of regulation when hiring staff</p> <p>Harmonization of the different terms of service between the county government and those of the defunct local authorities</p>

Challenge	Recommendations
<p>Attitude of employees;</p> <ul style="list-style-type: none"> Suspicion between defunct local authorities staff and those of national government on one hand, and county government employed staff Rigidity to change in line with the new constitution 	<ul style="list-style-type: none"> Conduct staff evaluation to ensure a matched placement in terms of the jobs and skills held. Carry out audit to ensure there is no duplication or non-existent roles that are being paid for. Initiate and institutionalize Change Management Harmonization of the different terms of service between the county government and those of the defunct local authorities Team building strategies
<p>Discrepancies in scheme of services,</p> <ul style="list-style-type: none"> Wide gaps in salaries and benefits, Some casuals not confirmed despite working on a continuous basis for 10 years plus Unclear reporting lines Difficulty in effecting promotions and transfers 	<ul style="list-style-type: none"> Harmonization of the different terms of service between the county government and those of the defunct local authorities Develop clear reporting structures, Remuneration according to qualifications and experience Developing guiding policy and enforcing strict codes of regulation Develop staff policies and regulations
<p>Meeting the gender, ethnic and minority threshold;</p> <ul style="list-style-type: none"> Women were reported not applying for certain jobs Not finding qualified candidates among the minority and marginalized groups 	<ul style="list-style-type: none"> Balanced recruitment and let the issue of gender parity not be looked at from the perspective of each cadre of staff but overall numbers Sensitization and awareness creation programme to engage female gender, minority and marginalized groups to apply for jobs Scholarship programme for women, minority and marginalized groups to increase their skills.
<p>Disciplinary cases</p> <ul style="list-style-type: none"> Pending cases from defunct Local Authorities 	<ul style="list-style-type: none"> Enforcing strict codes of regulation Clear cases and those found guilty to be relieved of their duties.
<p>Bloated wage bill</p> <ul style="list-style-type: none"> Inadequate funding Releasing staff from national government without their salaries 	<ul style="list-style-type: none"> Carry out staff evaluation to ensure a matched placement in terms of the job and skills Carry out audit to ensure there is no duplication or non-existent roles Staff rationalization, suitability assessment and retrenchment
<p>Inadequate infrastructure</p> <ul style="list-style-type: none"> Lack of enough offices Dilapidated offices at decentralized units 	<ul style="list-style-type: none"> Building of offices Equip offices at the decentralized units

5.5 Emerging Challenges in Capacity Building

Since the establishment of the County Governments, there has been a rush by different institutions to offer capacity building. In the event, the counties have fallen victims to sub-standard trainings, with the following emerging challenges

- **Uncoordinated and fragmented approach to capacity building:** This is as a result of lack of data on capacity building needs and unclear policies and guidelines on capacity building. As a result, there have been witnessed uncoordinated training programmes and poor linkages between training outputs and needs of national and county governments. Consequently, lack of capacity building polices results to lack of quality assurance mechanisms without enforcement of norms and minimum standards acceptable for professional programmes.
- **Duplication of capacity building efforts and resources between various stakeholders.** Scramble for capacity building providers to offer quick solutions especially to county governments has led to duplication of efforts and resources. Because the need for resourcing of capacity building is real; and the capacity building requires heavy financial allocations, yet resources are limited at both national and county governments, there should be a well coordinated capacity building process to avoid these wastages.
- **Poor feedback and tracking progress mechanisms in capacity building.** There is no database on what kind of capacity building has been given, by who, and what is yet to be done. Further, there is no record on the perception of target audience on particular capacity building programmes conducted by various stakeholders.
- **Monitoring and evaluation of capacity building programmes.** There are no frameworks that have been established to monitor and evaluate capacity building programmes offered. Are recipients of the trainings feeling any change?
- **Limited scope of capacity building initiatives.** There is an apparent perception that only county governments lack capacity to carry out their functions, with limited focus on capacity needs for the national government. Similarly, there is much focus to training as opposed to other capacity building areas such as infrastructure, structures and systems development.
- **Sustainability of capacity building.** There has been much concentration on inductions calling for the need to value adding capacity development.





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CHAPTER SIX

COUNTY PLANNING AND FINANCIAL MANAGEMENT

6.1 County Planning

Article 220 requires that Counties budget on the basis of plans and requires legislation for the structure of such plans. The Fourth Schedule to the Constitution assigns counties the function of county planning and development. The Public Finance Management Act, The Transition to Devolved Government Act, section 16(3), County Government Act sections 104-115, and the Urban Areas and Cities Act, provide for the various plans (see table 17) the counties are required to prepare the plans in order to facilitate service delivery.

This section sought to establish the various plans developed by the counties as per the relevant statutes. Overall, 10 of the counties had approved the Transition Implementation Plans, 23 the County Integrated Development Plans, 8 the County Sectorial Plans, 3 County Spatial Plans and 6 the County Development Plans. Only one county reported to have approved the Cities and Urban Areas Plan. Most of the plans are still under development and majority of the counties are yet to commence the processes of developing the various plans, as tabulated below.

Table 17: Processed County Plans and Status as at March 2014

Type/name of development plan	Development status (number of counties)			
	Not Started	W.I.P	Approved	None Response
Transition Implementation Plans (once – in year one)	21	9	10	7
County integrated development plan (five years plan)	0	20	23	4

Type/name of development plan	Development status (number of counties)			
	Not Started	W.I.P	Approved	None Response
County sectorial plans (ten years plan)	8	23	8	8
County spatial plans (ten years)	14	24	3	6
Cities and urban areas plans	21	17	1	8
County Development Plan (Annual)	17	11	6	13

The Constitution and County Government Act provide for enactment of legislation for development of plans.

- Article 220(2)(a)-(c) of the Constitution, provides for the enactment of a legislation to prescribe;
 - a. the structure of the development plans and budgets of counties;
 - b. when the plans and budgets of the counties shall be tabled in the county assemblies; and
 - c. the form and manner of consultation between the national government and county governments in the process of preparing plans and budgets.
- Section 115 (2) of the County Governments Act provides for laws and regulations giving effect to the requirements for effective citizen participation in development planning and performance management within the counties.
- Section 185(4) provides legislative authority of county assemblies to receive and approve plans for;
 - a. the management and exploitation of the county's resources; and
 - b. the development and management of its infrastructure and institutions.

The assessment results show that the citizen engagement is unstructured as there is no framework to guide the engagement.

6.2 Financial Systems and Structures

The Constitution and devolution related Acts of parliament establish a number of structures for management of public finances. These structures include County Treasury, Integrated Finance Management Information System (IFMIS), County Budget and Economic Forum (CBEF). Counties have had varied experiences in establishing and running these structures, as discussed in this section.

The County Treasuries are established to monitor, evaluate and oversee the management of public finances and economic affairs of the county, (Section 104 of the PFM Act). Their composition as provided in Section 103(2) is;

- a. the County Executive Committee member for finance;
- b. the Chief Officer; and
- c. the department or departments of the County Treasury responsible for financial and fiscal matters (these are finance, accounts, audit, procurement).

6.2.1 County Treasuries and IFMIS

All the forty-seven counties reported that they had established county treasuries. They had also, as per Article 190(2) of the Constitution, installed the IFMIS to comply with any requirements prescribed by national legislation.

6.2.2 County Budget and Economic Forum

The County Budget and Economic Forum (Sec 137 of PFM Act, 2012) is established in each county consisting of;

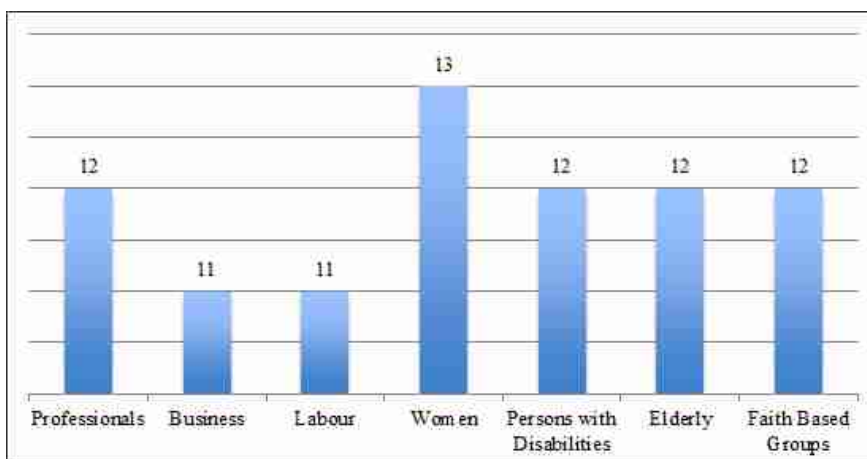
- a. the Governor of the county who shall be the chairperson;
- b. other members of the county executive committee;
- c. a number of representatives, not being county public officers, equal to the number of executive committee members appointed by the Governor from persons nominated by organizations representing professionals, business, labour issues, women, persons with disabilities, the elderly and faith based groups at the county level.

The purpose of the Forum is to provide a means for consultation by the county government on (i) preparation of county plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the county; and (ii) matters relating to budgeting, the economy and financial management at the county level.

In the assessment, twenty-two of the forty-seven counties indicated that they had established the County Budget and Economic Forums, while twenty-four had not.

The law requires an equal number to the executive committee members, of representatives from organizations representing professionals, business, labour issues, women, persons with disabilities, the elderly and faith based groups, to the Forums. The figure below gives the total number of representatives from the twenty-two counties that reported having established the forum.

Figure 6: Total number of representatives in the County Budget and Economic Forums



6.2.3 Establishment of County Funds

The PFM Act authorizes County Executive Committees to establish various County Funds, including County Revenue Fund (Section 109) for receipt of monies raised or received by or on behalf of the county government; Emergency Fund (Section 110) to enable payments to be made in respect of a county when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises, and Loans and Mortgages Fund. Section 116 gives power to the County Executive Committee member for finance to establish other public funds with the approval of the County Executive Committee and the county assembly. Using these powers, counties have established the following Funds.

Table 18: County Funds Established by County Governments

County Funds Established by County Governments	Number of Counties			
	None	W.I.P	Approved	Non Response
County Emergency Fund	15	21	8	3
Loans and Mortgages Fund	21	12	7	7
Ward Development Fund	22	13	4	8
Other County Funds	7	7	8	25

The counties that indicated establishment of other county funds include Kirinyaga, Muranga, Kiambu, Kilifi, Tana River, Taita Taveta, Marsabit, Tharaka Nithi, Embu, Siaya, Kisii, Uasinigishu, Elgeyo Marakwet, Kericho and Bomet.

6.2.4 Appropriation and Finance Bills

Counties develop finance legislation to facilitate budgeting and allocation of funds. During the 2013/14 financial year, counties developed County/Supplementary Appropriation Bills, Appropriation Bills and Finance Bills. Seventeen of the Appropriation Bills were developed after July and nineteen Finance Bills were approved after September, occasioning late release of funds to counties.

Table 19: Months in which appropriation and finance Bills were approved in 2013/2014 financial year - by various counties

Month approved	Appropriation Bills		Finance Bills		Supplementary Appropriation Bills	
	No of counties	Percent	No of counties	Percent	No of counties	Percent
June 2013	17	41	2	6	5	19
July 2013	7	17	0	0	1	4
August 2013	1	2	2	6	1	4
September 2013	8	20	8	26	1	4
October 2013	1	2	0	0	2	7
November 2013	1	2	1	3	3	11
December 2013	4	10	6	19	4	15

Month approved	Appropriation Bills		Finance Bills		Supplementary Appropriation Bills	
	No of counties	Percent	No of counties	Percent	No of counties	Percent
January 2014	2	5	5	16	3	11
February 2014	0	0	5	16	6	22
March 2014	0	0	2	6	1	4
April 2014	0	0	0	0	0	0
May 2014	0	0	0	0	0	0
Total	41	100	31	100	27	100
The normal approval months	July		September		Any time after September	

6.2.5 County Budget Papers

The County Plans are the basis for all budgeting and spending in the county {(Sec 107(2) of CG Act, 2012}. For every financial year, County Treasuries are required to prepare the following Papers

- County Fiscal Strategy Paper, by 28th of February of each year (PFM Act, 117).
- County Budget Review and Outlook Paper, by 30th September of that year (PFM Act, 118)
- County Government Debt Management Strategy, by 28th February of each year (PFM 123)
- Cash Flow Projects by June 15th of each year (PFM Act, 127)

In 2013/2014 Financial Year, only 19 counties had their County Fiscal Strategy Papers and County Budget Review and Outlook Papers approved. Only 8 and 21 counties respectively had their County Government Debt Management Strategy and Cash Flow Projects in the financial year, as in table below.

Table 20: Months in which appropriation bills and finance bills were approved in 2013/2014 financial year in different counties

Month Various Finance Bills were Approved	Approved Budget Papers (2013/2014 Financial Year)			
	County Fiscal Strategy Paper	County Budget Review and Outlook Paper	County Government Debt Management Strategy	Cash Flow Projects
June 2013	-	-	-	2
July 2013	1	-	-	4
September 2013	-	4	-	2
October 2013	-	1	-	-
November 2013	-	-	-	1
December 2013	-	1	1	-
January 2014	-	1	-	1

Month Various Finance Bills were Approved	Approved Budget Papers (2013/2014 Financial Year)			
	County Fiscal Strategy Paper	County Budget Review and Outlook Paper	County Government Debt Management Strategy	Cash Flow Projects
February 2014	7	2	2	1
March 2014	3	1	1	-
Not specified	8	9	4	10
Total Counties	19	19	8	21
Per cent (out of 47)	40.4	40.4	17.0	44.7
Normal approval months	By February 28 th	By September 30 th	By February 28 th	By June 15 th

None of the counties met the deadline for the County Fiscal Strategy Paper and County Government Debt Management Strategy for the 201/14 FY. This is attributable to the fact that none of the governments was in office by February 2013. On the other hand, only four and two counties respectively met the deadline for County Budget Review and Outlook Paper and Cash Flow Projects, according to the responses above.

Since counties have been in office now for a year, it is expected that the 2014/2015 budget papers would be prepared and approved in time. The Table below gives a summary of development status of various budget papers.

Table 21: 2014/15 FY Budget Papers development status as at March 2014

Required Budget Paper (For 2014/2015 FY)	Not Started	W.I.P	Completed	Approved
County Fiscal Strategy Paper (by 28th of February)	1	17	25	2
County Budget Review and Outlook Paper (by 30th September)	15	17	8	3
County Government Debt Management Strategy (28th February)	20	14	8	0
Cash Flow Projects (by 15th June)	23	2	7	1

The County Fiscal Strategy Paper (by 28th of February) and County Government Debt Management Strategy (28th February) were supposed to have been approved by the time of this assessment, i.e., March 2014. But only 2 counties had approved County Fiscal Strategy Paper and none had approved County Government Debt Management Strategy.

6.2.6 Challenges in Preparing the First Budgets (2013/14 & 2014/2015 FY) Under System of Devolved Government

Challenge	Recommendations
<p>Identification of budget items</p> <ul style="list-style-type: none"> Blanket disbursement of funds made it difficult to allocated the funds 	<ul style="list-style-type: none"> Capacity building to county staff on budgeting making process and itemization
<p>Delays in submission and approval of budgets – occasioned by</p> <ul style="list-style-type: none"> Delayed appointment of the CECs Rejections of some CEC nominees by County Assemblies Some appointees turning down the offers Delayed opening of accounts in 2013/2014 - chief finance officers had not been seconded or recruited in time 	<ul style="list-style-type: none"> Now that all counties have functional executive with full house CECs, delays linked to CECs appointments should not be experienced.
<p>County Assembly Delays</p> <ul style="list-style-type: none"> Tensions emerged between the County Executive and County Assemblies in instances where the County Assembly sought to amend the budget to receive larger allocations at the expense of service delivery and insisted on being in the budget some expenditure items for their favour Go slow by the County Assembly demanding salary increment 	<ul style="list-style-type: none"> Develop capacities of MCAs on planning and budgeting Link budget to planning so that Assemblies do not introduce items into the budgets that are not in the county plans. Develop clear regulations on planning and budgeting
<p>Limited staff capacity on budget process and key budget documents</p> <ul style="list-style-type: none"> Both in terms of numbers and technical know- how and experience in the budget preparation Limited understanding of PFM ACT 2012 Limited access to and understanding of IFMIS over the budgeting period 	<ul style="list-style-type: none"> Employment of skilled staff and experts in County Planning and Treasury offices Develop capacities of County Planning and Treasury staff Provide targeted training on PFM Act and IFMIS Provide Standardized format for budgeting
<p>Limited financial resources</p> <ul style="list-style-type: none"> Funds released by National Treasury did not match functions transferred by TA 	<ul style="list-style-type: none"> Resources follow functions Release funds as per functions transferred Follow recommendations by the Commission for Revenue Allocation CA and CEC to work together to eliminate the problems of limited funds
<p>Tight budget deadline</p> <ul style="list-style-type: none"> County governments came to office in March and were expected to submit budgets before June Delayed from the National Treasury budget guidelines 	<ul style="list-style-type: none"> Start the budgeting process early The National Treasury to release budgeting information and requirements on time Proper acquaintance with the Public Finance Management Act 2012 Establishment of County Budget and Economic forum

Challenge	Recommendations
<p>Lack of County Plans</p> <ul style="list-style-type: none"> The 2013/14 county budgets were not based on any county plans Limited historical data to base the planning 	<ul style="list-style-type: none"> Finalize annual plans on time Base annual plans on county annual plans Work with the national government to access historical data.
<p>Poor public participation</p> <ul style="list-style-type: none"> Yet the law requires their participation in planning and budgeting process The public were unaware to the extent of their participation 	<ul style="list-style-type: none"> More civic education and sensitization of the public on their role in the planning and budgeting process. Acquaintance with the Public Finance Management Act 2012 and County Government Act 2012 on planning and budgeting Establishment and operationalization of County Budget and Economic forum
<p>Limited understanding of devolution</p> <ul style="list-style-type: none"> Functions have not been unbundled and costed The transfer of functions not finalized leading to many supplementary budgets 	<ul style="list-style-type: none"> Unbundle and cost the functions that have been transferred Develop capacities of MCAs and CECs on transferred functions, their unbundling and costing Have clear understanding functions to be performed at county level Complete transfer of functions to avoid many supplementary budgets
<p>Political and public expectations of the budget</p> <ul style="list-style-type: none"> Varied interests of MCA in the budget resulting in interfering with budgeting process and deletion/addition of some budget items, Varied public expectations, Difficulty in including all political party manifestos in budget 	<ul style="list-style-type: none"> CA and CE to work together to reduce tensions during budgeting Budgeting to be based on county plans not political party manifestoes MCAs should include their good manifestoes into county plans for them to be captured in the budgets





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CHAPTER SEVEN

INTER-GOVERNMENTAL RELATIONS

The Constitution, the County Governments Act, 2012, the Inter-governmental Relations Act, 2012, the Urban Areas and Cities Act of 2011 and the Public Financial Management Act of 2012 establish frameworks for consultation and co-operation between the national and county governments and amongst county governments. The intergovernmental structures are meant to;

- facilitate the realization of the objects and principles of devolution provided for under Articles 174 and 175 of the Constitution;
- facilitate co-operation and consultation between the national and the county governments and amongst county governments as provided under Articles 6 and 189 of the Constitution;
- provide a forum/s for coordinating governments' policies, legislation and functions;
- provide a forum/s for sharing and disclosing of necessary data and information;
- provide for mechanisms for the transfer of power, functions and competencies to either level of government; and
- promote accountability between the two levels of government or amongst the county governments.

7.1 Inter-governmental Structures

The Constitution, County Government Act and Inter-governmental Act provide mechanisms for harmonious coexistence of county governments-to-national governments, county-to-county governments and a county executive and a county assembly.

a) County-National Governments Relations

Among the county-national frameworks expected to be established in the counties are:

- Agreements to guide relationships between county governments and national government, including the following as provided for in the Constitution, Articles 204 (3)(b), 212, 213; the IGR Act 2012: s.23 and the Public Financial Management Act
 - Guaranteeing of loans.
 - Management of concurrent functions.
 - Management of functions transferred in accordance with Article 187
 - Management of conditional grants from the National Government
 - Participation at Inter-governmental Budget and Economic Council
- County Intergovernmental Forum (CGA 54(2)) comprising the heads of all departments of the national government rendering services in the county; and the county executive committee members or their nominees appointed by them in writing. The function of the forum, pursuant to the Fourth Schedule (Articles 185(2), 186(1) and 187(2) of the Constitution, is
 - harmonization of services rendered in the county;
 - coordination of development activities in the county;
 - coordination of intergovernmental functions; and
 - such other functions as may be provided for by or under any law.
- Joint Committees between the county and national government as provided for in the Constitution of Kenya Article 189 and the Urban Areas and Cities Act s6(5), 20(1)(j)s.118
- County Policing Authority (National Police Service Act, Sec. 41), to advise on matters of security (Sec 41(9)).
- Citizens Forums (CGA 91) where the county government is required to establish modalities and platforms for citizen participation, including
 - a. information communication technology based platforms;
 - b. town hall meetings;
 - c. budget preparation and validation fora;
 - d. notice boards: announcing jobs, appointments, procurement, awards and other important announcements of public interest;
 - e. development project sites;
 - f. avenues for the participation of peoples' representatives including but not limited to members of the National Assembly and Senate; or
 - g. establishment of citizen fora at county and decentralized units.
- County communication framework or Information Centres. These are mechanisms established by counties to facilitate public communication and access to information in the form of media with the widest public outreach in the county. The forums include television stations, information communication technology centres, websites, community radio stations, public meetings; and traditional media.

b) Inter-County Relations

The County Government Act 2012 provides for the following with regards to inter-county relations:

- Development of inter-county projects or agreements as may be necessary (Sections 20(1)(f) and 118)
- Formation of joint committees between County Assemblies as may be necessary (Section 14(5))

c) County Assembly and County Executive Relations

The Constitution and devolution related Acts stipulate the respective roles of the County Executive and County Assembly. While respecting the doctrine of separation of powers, the arms of government are expected to complement each other in the delivery of their distinct functions in order to ensure effective and uninterrupted service delivery to the citizens.

7.2 Inter-governmental Forums Established

Out of the 47 counties, twenty-two (22) reported that they had established County inter-governmental forums and twenty (20) had established citizens forums. During the year 2013/14 the forums organised cumulatively as indicated in table 22.

Table 22: Inter-governmental Forums Established

Inter-governmental Forums Established	Number of counties	Cumulative number of times
County inter-governmental forums interesting	22	15
County policing authorities	9	1
Citizens forums	20	7
Information centres	13	1

7.3 Planning and Budgeting Forums

The following forums are expected to facilitate planning and budgeting in the counties.

- Inter-governmental Budget and Economic Council (PFM Act, Sec 187), which already exists, to provide a forum for consultation and cooperation between the national government and county governments on budgeting and fiscal matters. The counties are represented by the Chairperson of the Council of Governors and the CECs in charge of finance.
- Joint Inter-governmental Technical Committee (PFM Act, Sec 100). The Joint Committee shall meet at least once every three months.
- Sectoral Inter-governmental Consultative Forum (IGR Act, Sec 13(1)(2).

Critical to these budgeting/fiscal related structures is the participation of counties in their meetings. The table below is a summary of the aggregate number of times the CEC members from various counties indicated they had attended these meetings during the 2013/14 financial year.

Table 23: Summary of the aggregate number of times the CEC members attended planning and budgeting forums

Inter-governmental Forums	The aggregate number CECs attended the meetings
Joint inter-governmental technical committee (PFM Act, Sec 100)	24
Inter-governmental budget and economic council (IBEC) -PFM Act, Sec 187	39
Sectorial Inter-governmental Consultative Forum	26
Other forums	10

7.4 Inter-governmental Disputes

Inter-governmental mechanisms included in the constitution, Articles 6 and 189 and operationalized in the Inter-governmental Relations Act, 2012, is an indication that the Constitution envisaged disputes amongst governments would arise. Section 32 of the Inter-governmental Relations Act states that;

1. Any agreement between the national government and a county government or amongst county governments shall;
 - a. include a dispute resolution mechanism that is appropriate to the nature of the agreement; and
 - b. provide for an alternative dispute resolution mechanism with judicial proceedings as the last resort.
2. Where an agreement does not provide for a dispute resolution mechanism or provides for one that does not accord with subsection (1), any dispute arising shall be dealt with within the framework provided under this Part.

Since the county governments were established, 21 counties reported that they had experienced some form of disputes, as listed below.

Table 24: Forms of disputes experienced in the counties

Forms of disputes experienced	Number of Counties
Cross boundary resources – markets, revenue collections, management of water services boards, rivers, mining	13
County boundary disputes	9
Transfer of functions not complete (KERRA and KURRA, health functions, Mombasa county and Kenya Ports Authority.	5

National and county government disputes (office buildings, posting staff to counties, donor funds being held at national government), roles (Provincial Administration)	4
Cross border raids and nomadism	3
International boundary conflict (West Pokot and Uganda)	1
Senate versus County Assembly	1

Since the Constitution and Inter-Governmental Act provides mechanisms to handle the disputes, counties are encouraged to use such avenues, starting with internal mechanisms within a county.

On the other hand, an overwhelming number (33 counties) indicated that there are potential areas of intergovernmental disputes, and listed the following.

Table 25: Potential disputes

Potential disputes	Number of counties
Boundary disputes between counties, and within counties in setting up villages	9
Resource access and use (oil, water, pasture, agriculture and forest): unclear mining benefits, sharing agreements with national government, encroachment of agriculture areas by pastoralists, livestock theft, settlement in forests	9
Arrangement and framework on what should be implemented by the county CDF and Equalization Fund	7
Revenue collection: double taxation in hotel industry by both the national government and county government, relation between citizens and county revenue collection body	5
Devolution of infrastructure: The national government has kept hold of the Kenya Ferries yet harbors and ferries were transferred to the county, classification of roads especially class C.	3
Record management especially in land, development on government land and business along road reserves	3
Sharing of service delivery to and resources in towns and centres along the border	3
People working in one county and being paid from another county?	2
Schools management: Schools and buildings repairs and maintenance conflicts with national government	2
County Service Board operations and appropriation	1
National government initiating projects without consulting county governments	1
Dispensaries in one county being supervised by officials from another county and offering service to people from different counties??	1
Unbundling and costing of transferred functions and matching them with funds	1

Table 26: Possible solutions as given by counties to experienced disputes

Dispute Experienced	Solution
Boundary dispute between neighboring counties e. g Nyamira and Kisii etc	Boundary surveys before formal negotiations, Establishment of joint economic activities Arbitration by Courts, IEBC and National government Maps to be followed Negotiations and Setting up of mutually agreeable management teams Equitable Sharing of resources
Forest access and use (eg Embobut forest)	Sensitization on peace initiatives
Health service delivery	Regular consultation with the citizens
Nomadism and associated problems	Awareness creation for peace and harmony, Consistent dialogue between communities, Equitable resource sharing and Political will Skills development through establishment of polytechnics to keep the young people busy (youth empowerment)
Cross border raids e.g., between Pokot and Marakwet, Pokot and Turkana and along the borders	Establishment of joint economic activities Sensitization on peace
Provincial administration	Boundary of operation and the pecking orders on matters of security
Sharing of resources of cross-border towns/urban centres, including markets and slaughter houses	Respective governors to form joint fora and conflict resolution committees involving the citizens Regular Consultations
Taxation and revenue collection	Consistent dialogue between county governments and with citizens Equitable resource sharing and Political will
Water Management and Sanitation Services and water resource disputes e.g., between Lamu and Garissa	Continued dialogue between the counties involving the National Government Negotiations and Setting up of mutually agreeable management teams

Table 27: Recommendations as given by counties to address potential disputes

Potential Dispute	Recommendation
Agricultural encroachment into grazing areas	<p>However the county government cannot adequately regulate this as the land function belongs to the National government</p> <p>Regulation of agriculture and grazing area with proper demarcation of such boundaries</p> <p>County Governments Act or the Urban Areas & Cities should have come up with a criteria for the identification of trust land</p>
County government funds, CDF and other funded projects	<p>The CIDPs should provide guidance on which funds finance which projects.</p> <p>Where disputes persist, they should be presented to intergovernmental forum discussions.</p> <p>CDF is unconstitutional.</p>
Border disputes between counties	<p>Common surveillance teams and involving citizens in community policing.</p> <p>Dialogue between the two counties involved</p> <p>Intergovernmental consultations and Negotiation</p> <p>Regular meetings between the counties so that issues can be identified and dealt with before they escalate into disputes.</p> <p>Sensitization on peace</p> <p>Water tight agreements, especially over resources</p>
Resource issue related to oil and water: for instance mining benefits sharing agreements with national government, water conflicts	<p>Meetings between governors and communities to resolve issues</p> <p>Negotiations and Setting up of mutually agreeable management teams</p> <p>Share resources and Sticking to maps</p> <p>Regular meetings between the counties so that issues can be identified and dealt with before they escalate into disputes</p> <p>Binding agreements signed, especially over resources</p>
Supremacy wars	<p>There must be clear guidelines as to what belongs to counties and what does not and the costing of the same</p>
Cattle raids along borders	<p>Common surveillance teams and involving citizens in community policing and</p> <p>Negotiation</p>
Forest resource access and use: eg settlement of the Ogiek in the forest	<p>Dialogue and Coming up with an agreement with the communities</p>
Identification of villages by the County Governments	<p>IEBC or the County Governments Act or the Urban Areas & Cities should have come up with a criteria for the identification of villages</p> <p>On the other hand, there would be need for clear agreements between the county assembly and the executive for the number and criteria</p>
Revenue Collection and taxation	<p>Regular meetings between the counties so that issues can be identified and dealt with before they escalate into disputes</p> <p>Binding agreements, especially over resources and taxation</p>

7.5 Participation in Inter-County Projects

Before the creation of 47 County Governments, there were some existing government projects that cut across districts and which is still the case. In this section, the assessment sought to establish the participation of county governments in such projects. Nineteen (19) counties indicated that during financial year 2013/14, they participated in such projects. Thirteen (13) counties reported that they had signed inter-governmental agreements; four with national government, six with other county governments and three did not specify, as shown in table below.

Table 28: Inter-governmental agreements signed

Areas County Governments have signed Agreements	Signed with		Total
	National	County	
Inter County Project	1	1	2
Lake Transport	-	2	2
Provision of Wi-Fi services	1	-	1
Railway Project	1	-	1
Uzima Two Project	1	-	1
Water Resources	-	3	3
Not specified	-	-	3
Total	4	6	13

7.6 The National and County Government Cooperation at County Levels

Article 6(2) of the Constitution states that “the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation”. The assessment sought to establish areas, which have exhibited cooperation between the National Government structures at the county level and the county government, i.e., how the two levels of government are interrelating, consulting and cooperating in the delivery of service. The responses were varied, but generally they include;

Table 29: Areas of cooperation by national governments and county governments

Type of facilitation by the national governments to county governments	No. of counties	Per cent
Assist in delivery of security e.g., Security	24	51
Housing and infrastructure to county personnel	7	15

Resolve conflict jointly	6	13
Cooperation in implementation/provision of devolved and shared functions (e.g., education, environmental services, health services, land issues, licensing of alcohol)	5	4
Help in mobilization of the citizens for meetings and development functions	4	9
Facilitation in terms of personnel and staff policy guidelines	3	6
Capacity building	2	4
Disaster management	2	4
Dissemination of information	2	4
General good working relationship	2	4
Installation of required financial systems e.g., IFMIS	1	2
Provision of funds	1	2

As envisaged however, the cooperation experiences challenges, some of which are highlighted below.

Table 30: Challenges faced in county-national government cooperation at counties

Among the challenges they face in these cooperation	No. of counties	Per cent
Resistance of some employees of the national government to cooperate with county officials	7	15
Competition for power and duplication of work between the county and national government structures	5	11
Confusion on the roles of the two levels of government especially the provincial administration	5	11
Infrastructure challenges including communication and transport	5	11
Inadequate capacity and staff transfers of Provincial Administration	3	6
Insecurity	3	6
Political interference and conflict between governors and senators	2	4
Delays in establishing intergovernmental structures for cooperation and dispute resolution	1	2
Lack of legislative procedures	1	2
No challenges as everyone's job is well defined	1	2



CHAPTER EIGHT

ESTABLISHMENT OF DECENTRALIZED UNITS

The Constitution establishes county governments for each county (Articles 176(1)), consisting of a county assembly and a county executive. Further, Sub-Article 2 requires every county government to decentralize its functions and the provision of its services to the extent that it is efficient and practicable to do so. The decentralized units to be identified (CGA 2012, section 48 (1)) include:

- Sub-counties (equivalent to constituencies established under Art 89 of the constitution), Wards {within the county as established under Art 89 and CGA section 26)},
- Villages (as may be determined by the county assembly) and any further units that the county government may determine.

8.1 Decentralized Units Identified and Functional

As at the end of the first year since county governments came into existence, the counties reported that they had identified (and some established) different decentralized units – i.e., sub-counties, wards and villages, as summarized below.

Table 31: Number of Decentralized Units Identified as at March 2014

Type of decentralized unit identified	Decentralized units identified		Decentralized units functional	
	Units	No. of counties	Units	No. of counties
Sub-counties (Article 89)	330	44	214	38
Wards {within the county (Article 89)}	1122	42	722	29
Villages (as may be determined by the county assembly)	1002	13	800	9



A total of 330 sub-counties were reported to have established in 44 counties, of which 86 per cent (214 sub-counties) in 38 counties) were reported to be functional. The wards established in 42 counties totaled to 1122, with 722 wards (83%) from 29 counties reported to be functional. Finally, a total of 1002 villages had been established in 13 counties, with 800 villages (67%) from nine counties being functional.

8.2 Administrative Challenges Facing Decentralized Units

The administrative challenges facing decentralised units range from inadequate skilled manpower, equipment, offices, and understanding their roles in the system of devolved government. Some of these challenges are summarised in table 32.

Table 32: Administrative challenges faced in the decentralised units

Administrative challenges faced in the decentralised units	No of Counties	Per cent (%)
Staffing and staff skills	13	28
Inadequate equipment and facilities	12	26
Budgetary constraints	7	15
Lack of proper structures and systems	4	9
Conflict of roles between "provincial administration" and decentralised units administration	4	9
Poor Infrastructure	4	9
Inadequate understanding of roles of decentralized units by the citizen	3	6
Lack of supportive legislative framework	2	4
Operationalization of IFMIS currently at the county level	2	4



CHAPTER NINE

ESTABLISHMENT OF CITIES, TOWNS AND MUNICIPALITIES

Article 184 of the Constitution provides for a national legislation for the governance and management of urban areas and cities, in particular to

- establish criteria for classifying areas as urban areas and cities,
- establish the principles of governance and management of urban areas and cities,
- provide for participation by residents in the governance of urban areas and cities.

The Urban Areas and Cities Act, 2011 (Sections 4 & 5) includes mechanisms for identifying different categories of urban areas and cities, and for their governance. This section presents a discussion of establishment of the cities, towns and municipalities by the county governments.

9.1 Assessment of Existing Cities, Towns and Municipalities

Twenty counties⁸ indicated they had carried out the assessment of existing cities, towns and municipalities to ascertain whether they met the criteria for classifications as set out in Section 5(a)-(h) of the Urban Areas and Cities Act. Overall, 3 cities were identified based on Section 60 of the Urban Areas and Cities Act, 5 municipalities identified by four counties, with Nyandarua county reporting 2 municipalities and Nakuru, Narok and Kakamega each reporting one municipality. A total of 55 towns were reported.

Some counties including Nakuru, Bomet and Makueni reported that they had commenced with the process of developing the spatial plans through which the towns, and municipalities will be identified, while in others (Nandi, Uasin Gishu and Kiambu) plans were underway and the activities had been budgeted for. Other counties including Turkana, Kilifi, Muranga, Vihiga and Kajiado had no plans yet of carrying out the assessment. Nairobi City County that they had no new structures.

9.2 Management and Governance Structures

Sections 12, 13, 14 & 31) of the Urban Areas and Cities Act, provide for management and governance structures for cities, municipalities and towns respectively. The structures include boards of cities (Sec 13), boards of municipalities (Sec 14), and an administrator for every town (Sec 31). Section 28 requires establishment of general or special purpose committees of the boards. To facilitate service delivery by boards as specified in Sections 32 – 37, the counties had established the following number of management and governance structures for the cities, municipalities and towns.

Table 33: Management and governance structures established by counties for the cities, municipalities and towns

Among the challenges they face in these cooperation/ consultations	Total number in.....		
	Cities	Municipalities	Towns
Number of board	4	1	13
General or special purpose committees of the boards	0	0	1
Appointed managers	0	0	0
Appointed administrators	2	0	2
Total number of other staff	2	1	10

Overall, two counties, Mombasa and Nakuru, indicated they have each appointed managers and administrators for the cities. Only one county, Nakuru, had appointed managers for the municipality. For towns, one county, Marsabit, established a board, two counties (Trans Nzoia and Baringo) had appointed managers, and 10 counties (including Isiolo, Meru, Homabay, Kisii, Nyamira, Baringo, Laikipia, Nakuru, Narok and Bungoma) had appointed administrators for the identified towns.

The results indicate varied levels of establishment of the urban areas, municipalities and towns as decentralized units. Where the towns and municipalities had been identified, appropriate structures were still being established. Also it was not clear if the procedures set under Section 9 (for Municipalities) and Section 10 (for Towns) were followed. Considering that these are important units of decentralization and that planning of urban areas in Kenya are expected by CoK 2010 (Article 184) to attract unique governance and management issues, there is need to fast-track the process of their establishment for effective service delivery.

9.3 Management and Infrastructure of the Capital City

Section 6(1)(2) of Urban Areas and Cities Act, 2011, the capital city of Kenya, Nairobi, should be governed and managed in the same manner as a county government. In Section 4, the capital city should decentralize its functions and the provisions of its services to the extent that it is efficient and practicable to do so. In the study however, respondents said no decentralized units had been defined yet. Services were being rendered as per the units existing prior t the county government coming into office.

Section 6(5) of the Act requires the National Government and Nairobi City County Government to sign agreements regarding performance of functions and delivery of services in Nairobi. By the time of the study, no known agreements had been signed as envisaged by the Act.

To facilitate service delivery in cities, municipalities and towns, Section 20(1)(l) of Urban Areas and Cities Act, 2011 requires the boards to prepare budgets, which are approved by CECs, for which counties release budgets to cities, municipalities and towns' boards. During the 2013/14 financial year, only Kirinyaga and Kisii county governments reported that they had released funds to towns. Many of the identified towns and municipalities were funded under the consolidated budget of the counties, pending establishment of requisite structures and specific budgets.

The Urban Areas and Cities Act, 2011 needs urgent amendment. As it currently is, Nairobi County, since, as a whole, it is also a city, can easily end up with two administrative structures.

9.4 Establishment of Service Delivery Mechanisms

The CoK 2010 and the related frameworks are all about ensuring that services are delivered to the people of Kenya for their benefits and well being. The laws, policies, plans, systems and structures, etc. developed to facilitate the implementation of CoK 2010 are for the delivery of services to the people of Kenya. So are the State organs, to whom the people have delegated their sovereign power and the officer who have been entrusted with the authority to deliver the services.

Sections 32, 33 and 34 of the Urban Areas and Cities Act, 2011, and Section 24 of Transition to Devolved Government Act, 2012, require service delivery mechanisms to be established to facilitate delivery of services to the people. A number of service delivery mechanisms were reported to have been established by counties including legislation to establish service delivery units, operational sectors, partnerships with utility companies mainly for garbage collection and water supplies, joint delivery systems of services cross cities and municipalities and contracting of private entities in line with the Public Procurement and Disposal Act, 2005, as summarized in table below.

Table 34: Service Delivery Mechanisms Established by Counties

Service delivery mechanisms in urban areas, cities towns and municipalities established in counties	Number of counties where mechanisms have been established
Legislation by county assembly on set up and establishment of service delivery entities	4
Operational sectors and service delivery units	11
Partnership with a utility company (in/out of the county boundary)	13
Joint delivery system of cross-city and cross-municipality services	4
Contract private entities (in accordance with the Public Procurement and Disposal Act, 2005)	10

9.5 County Integrated Development Plans

Every city and municipality shall operate within the framework of integrated development planning; (Section 36(1)). An integrated plan for urban/city/ municipality/town shall bind, guide and inform all planning development and decisions, ensuring comprehensive inclusions of all functions; (Section 36(2)). Finally, a city/ urban/municipality integrated plans shall be aligned to the development plans and strategies of the county governments.

The assessment results indicate that the counties are at varied stages in the development of the integrated development plans, as shown in table 36 below. Both Kisumu and Mombasa had developed the integrated development plans but which were yet to be approved by the respective County Assemblies. Only 3 towns out of fifty-five had developed integrated plans with only one (for Nyandarua) being approved, while three municipalities in three counties (Isiolo, Samburu and Narok) had their plans approved. Most of the municipalities and towns were yet to have their integrated plans approved. They were operating without plans and clear frameworks to inform all development planning and decision-making, to ensure comprehensive inclusion of all functions as required under section 36 (2) of the Urban Areas and Cities Act. There is need to fast track the process of development of the plans to direct development.

Table 35: Status of Development of CIDP by County Governments

Counties	Cities Plans		Town Plans		Municipalities' Plans	
	Developed	Approved	Developed	Approved	Developed	Approved
Kisumu	1					
Mombasa	1					
Meru			1			
Laikipa			1			
Nyandarua			1	1		
Isiolo					1	1
Samburu					1	1
Narok					1	1
Total	2	0	3	1	3	3

9.6 Challenges experienced in the establishment of Urban Areas and Cities

The main challenges reported by four counties (Marsabit, Kitui, Kisumu and Narok) as faced during establishment of cities, towns and municipalities include:

- Corruption in acquisition of plots
- Formulation of the counties
- Garbage collection and disposal
- Insecurity
- Poor road network
- Poor town planning
- Poor infrastructure
- Lack of adequate staff
- Criteria of establishing urban areas/cities, for example the population, is too high





CHAPTER TEN

CIVIC EDUCATION, PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

10.1 Civic Education

Sections 99 to 101 of the County Governments Act discusses the purpose and objectives of civic education, the design and implementation of civic education programmes, and the institutional framework for civic education. Civic education is aimed at having an informed citizenry that actively participates in governance affairs of the society on the basis of enhanced knowledge, understanding and ownership of the Constitution.

The Act also provides for the design and implementation of an appropriate civic education programme and establishment of a civic education unit. To support civic education programme in the counties, the national government should design a framework of civic education, to determine the contents of the curriculum for civic education taking into account the provisions of Article 33 of the Constitution, i.e., freedom of expression.

Finally, county governments are required to develop county legislation to provide the requisite institutional framework for purposes of facilitating and implementing civic education programmes.

The assessment showed that, only six out of the forty-seven counties had established civic education units, using them to pass information to the public. These are Kirinyaga, Meru, Makueni, West Pokot, Trans Nzoia, and Vihiga.

Seventeen out of thirty-two counties that responded to the question on legislation and requisite institutional framework required to facilitate implementation of civic education, indicated that they had not put any mechanisms in place. Those which reported they had, appeared to have challenges distinguishing between civic education and public participation. They listed the following as mechanisms to facilitate civic education.

- Consultative meetings
- Database for various groups
- Legal education in the next financial year
- Public forums not for civic education
- Public participation bill
- Skills development bill
- Provisions for civic education have been included in the public participation policy and handbook

The same lack of clarity is shown on responses (below) given for civic education programmes that have been developed in counties.

- A representative of the county goes to the media-interactive radio sessions
- Barazas
- Brochures on government services
- Citizens forums on devolution leadership and integrity to sensitize the public on what to expect from the leaders;
- County Website
- Ensuring availability of the materials
- Forums to demystify the public on PFM.
- Governor's monthly breakfast for a
- Monthly consultative fora
- Non- governmental organization
- Partnering with the civil society
- Public forums
- There are discussions on developing programmes. Made arrangements with National Council for Law reporting. Plans to approach CIC, CAJ and EACC and other NGOs on Civic Education for a 5 days programme.
- Use of media: print electronic
- Documentaries
- Social Media updates

10.2 Public Participation

Public participation is a principle that has been given prominence in the Constitution of Kenya 2010. It is included in the national values and principles of governance, in Article 10(2) provides that Public Participation is a national value and principle of governance as well as patriotism, national unity, sharing and devolution of power, the rule of law, democracy.

The principle of public participation is echoed across the Constitution including article 69(d), which obligates the state to encourage public participation in the management, protection and conservation of the environment (Article 69(d)). The public is expected to participate and be involved in the legislative and other business of Parliament and its committees (Article 118). One of the objects of devolution (Article 174(c) is to 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.

The Constitution and the County Government Act, 2012 provide for legislation to facilitate citizens in public governance. For example,

- Article 184(1)(c) - participation by residents in the governance of urban areas and cities,
- Article 196(1)(b), county assemblies are required to facilitate public participation and involvement in the legislative and other business of the assembly and its committees.
- Sections 15 & 88 of the County Government Act – The right to petition a county assembly to consider any matter within its authority, including enacting amending or repealing any of its legislation.

- Section 91 of the County Government Act – establishment of modalities and platforms for citizen participation.

The assessment therefore sought to establish the level of citizens' participation in county development programmes and operations by looking at:

- Principles of citizen participation that have been enshrined into county operations.
- The structures that have been established in counties to facilitate citizen participation in county governments operations
- List of laws and regulations developed and approved by county assemblies to give effect to effective citizens participation in development planning and governance.
- Modalities and platforms established for citizen participation in counties.

The following table summarizes the structures that county governments should establish to facilitate citizen participation in their government programmes. Overall, above half of the counties indicated that they had established these structures for citizen participation.

Table 36: Structures established to facilitate citizen participation

Structures established to facilitate citizen participation	Number of Counties	Per cent
Information communication technology based platforms;	34	72.3
Town hall meetings (structured meetings)	32	68.1
Budget preparation and validation fora;	37	78.7
Notice boards: announcing jobs, appointments, procurement, awards and other important announcements of public interest;	40	85.1
Development project sites;	33	70.2
Avenues for the participation of peoples' representatives including but not limited to members of the national Assembly and Senate;	35	74.5
Establishment of citizen fora at county and decentralized units. (Also in Section 22(1) of Urban Areas and Cities Act, 2011)	26	55.3

It emerged that not much had been done in terms of policies, laws and regulations to give effect to the requirements for effective citizens participation in development planning and governance. Only Five counties (Tana River, Lamu, Migori, Bomet, Nyeri, Kiambu and Kajjado) indicated they had developed Community/Public Participation Bills. Migori, Tana River and Lamu counties reported that they were using existing national regulations on public participation.

10.3 Public Communication and Access to Information

Communication plays a very important role in governance, building consensus, co-operation and support among key stakeholders. Successful implementation of communication activities can also play a critical role in translating reform objectives to actual results on the ground and in ensuring the citizen's demands for accountability are met.

The transition to the system of devolved government has created new challenges for all the players. Services that were hitherto provided by the Central government have now to be provided by the County governments. In addition, whereas the local communities were previously passive recipients of government services, the Constitution of Kenya 2010, has now given them an opportunity to take a decisive and active roles, not just in governance issues but also on service delivery. This calls for a robust communication system to ensure effective communication between the government (s) and the citizenry. An ICT system may be most appropriate.

The County Government Act (Sec 93, 94 95 & 96), in recognition of the important role played by ICT provides for public communication and access to information based on the following principles:

- a. Integration of communication in all development activities;
- b. Observance of access to information by county media in accordance with Article 35 of the Constitution;
- c. Observation of media ethics, standards and professionalism.

The objective of county information is to create awareness on devolution and governance, promote citizens understanding for purposes of peace and national cohesion, undertake advocacy on core development issues such as agriculture, education, health, security, economics, sustainable development among others and finally, the promotion of the freedom of media. Governments should have continuous feedback mechanisms to ensuring the public participation.

Read together with Article 35 of the Constitution, the provisions establish the foundation of access to information and give the basis for national and county governments to establish mechanisms to facilitate access to information. In this regard County governments should be at the forefront in ensuring that all information pertaining to its activities is accessible by the Public. Article 35 states that;

- Every citizen has the right of access to;
 - information held by the State; and
 - information held by another person and required for the exercise or protection of any right or fundamental freedom.
- Every person has the right to the correction or deletion of untrue or misleading information that affects the person.
- The State shall publish and publicize any important information affecting the nation.

10.3.1 Status of Public Communication and Access to Information at the Counties

From the analysis, it is clear that majority of the Counties were yet to embrace the provision of public access to information. Out of the 47 counties, less than half indicated they had established a county communication framework, about four counties (9%) had legislation on access to information while only 16 counties (34%) had a strategy for inclusion and integration of minorities and marginalized groups in county development and governance, as summarized in table 37.

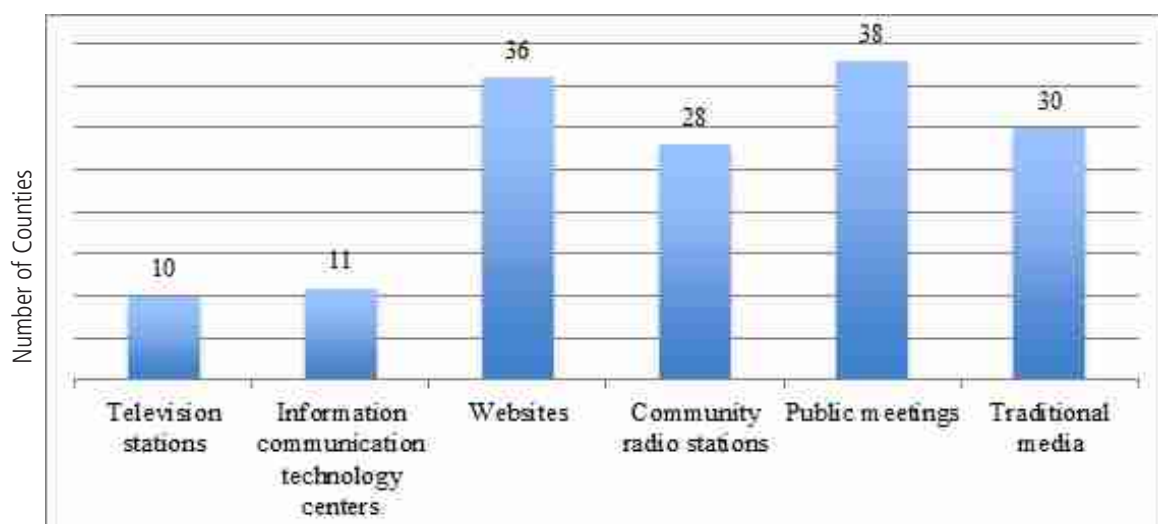
Table 37: Frameworks to facilitate public communication and access to information

A framework to facilitate public communication and access to information	Number of Counties	Per cent
A county communication framework	22	47
A county government legislation on access to information	4	9
A Strategy for inclusion and integration of minorities and marginalized groups in county development and governance	16	34.

The findings depict a very low level of implementation of sections of public communication and access to information considering the importance of communication in dissemination of the government's activities, and in view of the key role that communication can play in enabling the county governments to disseminate decisions on policy, legislation and regulations, education and capacity building of the citizenry, facilitation of public participation and debate and overall, empowerment and ownership of decisions made both by the County Executive and Assembly.

With regards to the media mechanisms to facilitate public communication and access to information, most counties had opted to use traditional media, community (vernacular) radio stations and public meetings. The websites were also being used widely and this is commendable.

Only 11 counties (23%) however reported that they had established ICT Centres while only 10 counties had used TV stations for communication purposes.

Figure 7: Media mechanisms established by counties to facilitate public communication and access to information

It is however worth noting that although the uptake of websites is high, information contained in such media may not be easily accessible to majority of the rural population, who constitute the majority in most counties.

The low uptake and delays to set up Information, Communication and Technology centres means that county governments;

- may miss the opportunity to convey their policies and how they are delivering services and what services they are delivering to the public, leading to low opinions and a disconnect between the county governments and the residents on the priority areas;
- may experience lack of ownership on decisions made, leading to increased litigations as citizens seek to overturn decisions made by county governments.
- may miss out the opportunity to use ICT to complement and enhance public participation and civic education.
- may face litigation due to the failure to operationalize the CG Act, especially those pertaining to inclusion and integration of minorities and marginalized groups.





CHAPTER ELEVEN

GENERAL TRENDS, CONCLUSIONS AND RECOMMENDATIONS

Generally, implementation of the system of devolved government is on course. A number of trends have emerged during the one year of implementation, some notable successes and threats. There are also observed safeguards, some inbuilt into the Constitution and others by the institutions created, as discussed in this section.

11.1 Successes

Laws to give effect to the system of devolved government: Virtually all laws required to give effect to the system of devolved government are in place. The Bills were passed in time as required by the fifth schedule to the constitution. A number of Bills that were not listed in the Fifth Schedule to the Constitution but which are also critical for the implementation of the system of devolved government have been identified, developed and passed. Counties are also developing, some passed crucial laws to implement functions assigned to them.

Structures and systems: Many county governments have established the necessary structures and systems to facilitate the performance of their functions. Virtually every county government has a County Public Service Board, a County Assembly Service Board, and a financial management system. The majority of counties have also appointed chief officers, including County Executive Committee members.

Units of decentralization: There are many counties that have established units of decentralization and appointed administrators of such units. The units include sub-counties, and wards and villages. They are putting in place structures to increase service delivery to the people.

County integrated development plans: Many counties have been able to develop County Integrated Development plans and used these for budgeting purposes. All the counties have also passed their finance Bills.

Public interest in devolution: There has been an appreciable level of public interest in devolution. Members of the public are now keen to know how resources are being used and are ready to demonstrate against laws passed by their county assemblies that they consider to be against their interests. In this way they seek to hold their leaders accountable.

11.2 Threats to Devolution

Tendency for the debates on devolution to be under capture by the elite in society: This is evident in the discussions both in the electronic and print media. Hardly are the ordinary people invited to these media debates. The danger with this trend is that it will alienate the ordinary people from this important process. The implementations of devolution will cease to be owned by the people.

Implementation of devolution has become highly politicized: This is evidenced by the tendency for politicians to focus a lot of their energy wanting to demonstrate which organ is more powerful than the other. The power struggles between the Senate and the National Assembly come to mind as does the power struggles between the Senate and the Governors. The MCAs have not been left behind either. They have been and continue to engage in power struggles with the governors leading in some cases to impeachment or threats of impeachment of governors. Indeed it is quite evident that MCAs have focused more on their oversight roles over the executive and in particular the governors than their other roles. Reports of governors being under siege by the respective assemblies are not uncommon. On the other hand very little is heard about Bills passed by county assemblies, the importance of such Bills for the effective functioning of county governments notwithstanding.

The focus on power as opposed to roles and responsibilities as provided for in the Constitution has adversely affected service delivery. Many counties for example took too long to appoint their chief officers. A number of the Counties are yet to establish units of decentralization because of the misunderstandings between the assembly and the executive arms of government regarding the power boundaries between the two.

Tendency to apportion all ills including corruption on County Governments and on devolution: This has left out the interrogation of what is going on at the national government level. This will undermine people's confidence in devolution, and thereby undermine the effective implementation of the system of devolution.

Tendency for the county governments to spend county resources on functions that constitutionally belong to the national government: A case in point is the expenditure by the Machakos and Mombasa County Governments on purchase of police vehicles when security is a national government function. Many County governments are also spending money on post-early childhood education which is a national government function. While both levels of government may have genuine reasons for doing this, the relevant laws should guide them to avoid confusion. Indeed it may make matters worse in situations where the ordinary people do not quite understand the demarcation of roles between the national government and the county governments.

The practice of national government and some parastatals unilaterally deciding that some functions are residual and therefore treat them as national government functions: This is done without regard for the fact that it is the Transition Authority, in the Fourth Schedule, that is mandated to

facilitate the analysis of functions and thereby determine the functions, if any that are residual. The functions most affected by this trend are policy and standard setting functions. There seems to be an assumption that the national government is responsible for any policy required to guide the performance of functions and that county governments have no role whatsoever in policy making even for functions that clearly are exclusive to county governments. A good example is the Library function, which in schedule four of the Constitution falls under county governments. There is nowhere in schedule four in which any aspect of the library function is given to the national government. One would expect that the county government would deal with any policy issues relating to the library function.

Lack of capacity by County governments to draft Bills: County governments have had to rely on the Kenya Law Reform Commission to draft bills. The challenge with arrangement is that even the Kenya Law Reform Commission may be overwhelmed with requests for assistance from the counties. This may slow down the legislative role of county assemblies. In fact this may be one of the reasons why county assemblies have passed very few bills.

“Parastalization” of functions: There is a trend in which parastatals take up functions that rightly belong to county governments. Some of the affected sectors are agriculture, roads, water and libraries. This challenge can also be characterized as reluctance on the part of the national government to devolve some functions to county governments.

11.3 Potential Safeguards to the System of Devolved Government

Devolution visibility: The visibility given to devolution especially through the raging debates on the functioning of county governments portends well for the new system of devolved government. The more people debate about the new system raising issues of concern the more likely that the system will be made effective.

Effectiveness of Council of Governors and the Summit: The efforts being made to establish a secretariat to support the work of the council of Governors and that of the Summit have the potential of facilitating the success of the system of devolved government.

Enactment of laws that entrench devolution: One of the greatest safeguards to the system of devolved government is the constitutional provision that makes it hard to amend the system. Article 255(1) (i) provides that any amendment to the objects, principles and structure of devolved government can only be undertaken through a referendum. This makes it difficult for those bent on frustrating the system to succeed. It is important that all legislation relating to devolution respects and develops this principle to the fullest extent possible.

Watchdog institutions: Finally, the vigilance by the many watchdog institutions also portends well for the success of the system of devolved government. Particularly important in this regard is the Commission for the Implementation of the Constitution.

11.4 Recommendations

Inclusion of marginalized groups. The Constitution provides mechanisms to identify the marginalized groups (women, youth, persons with disabilities, marginalized communities). This notwithstanding, there lacks a comprehensive mechanism for identification of the affected groups, e.g., an affirmative action law. Such law should enacted guide to counties as they make appointments.

- **Transition period.** Several activities relating to the transition to the system of devolved government require attention. Among the activities those requiring urgent attention are;
 - Unbundling and costing of shared functions,
 - Defining concurrent functions and the national government to give up functions which do not belong,
 - Counties to fully taking up their functions and develop and apply frameworks which will enable the people of Kenya receive services as they wished for under the Constitution.
- **Legislative framework to facilitate service delivery at county government level.** The primary objective of the decentralization is to devolve power, resources and representation down to the local level. Counties should;
 - identify and review existing polices, legislation and regulations to facilitate implementation of functions assigned.
 - develop new polices, legislation regulations necessary for implantation of functions assigned.
 - identify and develop institutional frameworks to facilitate implementation of the system of devolved government and delivery of services.
- **Capacity Building.** A comprehensive and coordinated capacity building programme should be developed and implemented for both national and count governments.
- **A Common national and county governments plan.** There is need for both levels of government facilitating the development of a common plan from which each government will draw its development plan. There is also need to harmonize the law on Sectorial Plans and spatial plans (both ten-year plans), according to the County Government Act, which are components of County Integrated Development Plan, which is a five-year plan.
- **Availability of plans and budgets to the public.** All the plans and budgets for each county should be available and be public documents for transparency and accountability as required by law. This is the only way the public may be able to play its role of monitoring the use of its taxes.
- **Structures and systems to facilitate delivery of services.** These are critical for the delivery of services by both the county and national governments under the new dispensation It is therefore imperative that each government and State organ develops and applies structures and systems that will facilitate the delivery of services for the benefit and well being of the people. Such structures include legal frameworks, HR, financial, administration and management, service delivery charters.
- **Civic education, public participation.** These are key requirements of the Constitution as avenues for the people to actively participate in governance affairs of the society. It is recommended that;
 - Counties establish mechanisms given in the County Government Act to promote civic education, public participation and access to information
 - Frameworks required by Constitution and the laws should be put in place to enable the people participate and meaningfully do so in the exercise of the powers of the State and in making decisions affecting them.
 - The people, being the ones with sovereign power, should play their role in monitoring the State organs they have delegated power to and the officer whom they have entrusted authority to.
- **Access to information.** To fully utilize these provisions on access to information, the governments should:
 - Provide the required capacity, including infrastructure, human capital and equipment, required for the establishment of the ICT centres;

- Develop the necessary framework to facilitate public communication and access to information as required by the County Government Act, 2012;
- Build political and public will through strengthening the communication capacity of counties, including participatory communication such as town hall meetings, use of community media, stakeholder fora and new ICTs;
- Use the media and media forums for agenda setting and gate keeping, in terms of collecting views from the public and facilitating stakeholder engagements;
- Improve accountability at county level by putting in place an access to information regime; and
- Ensure they meet the constitutional and legislation requirements on the inclusion and integration of minorities and marginalized groups.

Annexes

Annex 1: Total MCAs Membership and CECs as a Percentage of MCAs (Article 179 of the Constitution)

Name of County	No. of Elected Members			No. of Nominated Members (IEBC List)					Total members (Elected and Nominated)					CECs			CEC/ MCA %
	Male	Female	Total	Marginalized Male	Marginalized Female	Gender based Affirmative Action (Women)	Total Nominated MCAs	Total	Male	%Male	Female	% Female	Male	Female	Total		
1 Baringo	30	0	30	2	2	14	18	48	32	67%	16	33%	7	3	10	20.8%	
2 Bomet	21	4	25	2	2	6	10	35	23	66%	12	34%	6	4	10	28.6%	
3 Bungoma	39	6	45	2	0	16	18	63	41	65%	22	35%	7	3	10	15.9%	
4 Busia	34	1	35	2	0	15	17	52	36	69%	16	31%	7	3	10	19.2%	
5 Elgeyo Marakwet	18	2	20	2	2	6	10	30	20	67%	10	33%	7	2	9	30.0%	
6 Embu	20	0	20	2	2	9	13	33	22	67%	11	33%	7	3	10	30.3%	
7 Garissa	30	0	30	2	2	14	18	48	32	67%	16	33%	7	3	10	20.8%	
8 Homa Bay	39	1	40	3	1	19	23	63	42	67%	21	33%	7	3	10	15.9%	
9 Isiolo	10	0	10	3	1	6	10	20	13	65%	7	35%	5	2	7	35.0%	
10 Kajiado	25	0	25	2	0	14	16	41	27	66%	14	34%	7	3	10	24.4%	
11 Kakamega	56	4	60	2	2	22	26	86	58	67%	28	33%	5	4	9	10.5%	
12 Kericho	28	2	30	2	2	13	17	47	30	64%	17	36%	6	4	10	21.3%	
13 Kiambu	56	4	60	2	2	23	27	87	58	67%	29	33%	4	6	10	11.5%	
14 Kilifi	33	2	35	3	1	14	18	53	36	68%	17	32%	8	4	10	18.9%	
15 Kirinyaga	18	2	20	1	3	5	9	29	19	66%	10	34%	6	3	9	31.0%	
16 Kisii	44	1	45	2	2	22	26	71	46	65%	25	35%	6	4	10	14.1%	
17 Kisumu	28	7	35	2	2	10	14	49	30	61%	19	39%	6	4	10	20.4%	

Name of County	No. of Elected Members			No. of Nominated Members (IEBC List)						Total members (Elected and Nominated)						CECs		CEC/ MCA
	Male	Female	Total	Marginalized Male	Marginalized Female	Gender based Affirmative Action (Women)	Total Nominated MCAs	Total	Male	%Male	Female	% Female	Male	Female	Total	%		
18	34	6	40	2	2	13	17	57	36	63%	21	37%	7	3	10	17.5%		
19	20	0	20	2	2	9	13	33	22	67%	11	33%	7	3	10	30.3%		
20	14	1	15	1	3	4	8	23	15	65%	8	35%	4	4	8	34.8%		
21	10	0	10	3	1	6	10	20	13	65%	7	35%	4	3	7	35.0%		
22	37	3	40	2	2	15	19	59	39	66%	20	34%	5	5	10	16.9%		
23	29	1	30	2	2	13	17	47	31	66%	16	34%	5	4	9	19.1%		
24	30	0	30	2	2	14	18	48	32	67%	16	33%	7	3	10	20.8%		
25	20	0	20	2	2	9	13	33	22	67%	11	33%	7	3	10	30.3%		
26	40	5	45	4	0	20	24	69	44	64%	25	36%	7	2	9	13.0%		
27	39	1	40	2	2	17	21	61	41	67%	20	33%	7	3	10	16.4%		
28	27	3	30	3	1	11	15	45	30	67%	15	33%	7	3	10	22.2%		
29	32	3	35	2	2	12	16	51	34	67%	17	33%	6	2	8	15.7%		
30	82	3	85	3	1	38	42	127	85	67%	42	33%	7	3	10	7.9%		
31	47	8	55	2	2	15	19	74	49	66%	25	34%	6	3	9	12.2%		
32	30	0	30	2	2	14	18	48	32	67%	16	33%	7	3	10	20.8%		
33	30	0	30	1	3	13	17	47	31	66%	16	34%	7	3	10	21.3%		
34	18	2	20	4	0	9	13	33	22	67%	11	33%	7	3	10	30.3%		
35	25	0	25	1	2	12	15	40	26	65%	14	35%	6	3	9	22.5%		
36	30	0	30	1	2	14	17	47	31	66%	16	34%	8	2	10	21.3%		

Name of County	No. of Elected Members			No. of Nominated Members (IEBC List)				Total members (Elected and Nominated)					CECs		CEC/ MCA %	
	Male	Female	Total	Marginalized Male	Marginalized Female	Gender based Affirmative Action (Women)	Total Nominated MCAs	Total	Male	%Male	Female	%Female	Male	Female		Total
37 Samburu	15	0	15	2	2	7	11	26	17	65%	9	35%	6	3	9	34.6%
38 Siaya	30	0	30	2	2	14	18	48	32	67%	16	33%	7	3	10	20.8%
39 Taita Taveta	20	0	20	3	1	11	15	35	23	66%	12	34%	7	3	10	28.6%
40 Tana River	15	0	15	2	2	7	11	26	17	65%	9	35%	7	2	9	34.6%
41 Tharaka Nithi	15	0	15	1	3	5	9	24	16	67%	8	33%	5	3	8	33.3%
42 Trans Nzoia	24	1	25	2	2	10	14	39	26	67%	13	33%	5	4	9	23.1%
43 Turkana	30	0	30	1	3	13	17	47	31	66%	16	34%	6	4	10	21.3%
44 Uasin Gishu	27	3	30	2	2	10	14	44	29	66%	15	34%	7	3	10	22.7%
45 Vihiga	23	2	25	3	1	10	14	39	26	67%	13	33%	6	4	10	25.6%
46 Wajir	29	1	30	0	4	11	15	45	29	64%	16	36%	7	3	10	22.2%
47 West Pokot	19	1	20	2	2	8	12	32	21	66%	11	34%	7	3	10	31.3%
TOTAL	1370	80	1450	97	83	592	772	2222	1467	66.0%	755	34.0%	297	151	448	20.2%

Annex 2: List of Departments Established in Counties

Name of Counties		List of Departments	
1	Nairobi	1	Agriculture, Livestock & Fisheries
		2	Education, Youth, Children Affairs, Culture and Social Services
		3	Finance and Economic Planning
		4	Health Services
		5	Information, Communication and E-Government
		6	Lands, Housing and Physical Planning;
		7	Public Service Management;
		8	Public Works, Roads and Transport;
		9	Trade, Industrialization, Cooperative Development, Tourism and Wildlife
		10	Water, Energy, Forestry, Environment and Natural Resources
2	Nyandarua	1	Agriculture, Livestock and Fisheries
		2	Education, Youth, Children Affairs, Culture and Social Services
		3	Finance and Economic Planning
		4	Health Services
		5	ICT and E-Government
		6	Industrialization, Cooperative Development, Tourism and Wildlife
		7	Lands, Housing and Physical Planning;
		8	Legal and Public Services
		9	Public Works, Roads and Transport;
		10	Water, Energy, Environment and Natural Resources Management
3	Nyeri	1	Agriculture, Livestock Development & Fisheries
		2	Education and ICT
		3	Finance And Economic Planning
		4	Health Services
		5	Planning and Housing
		6	Public Service Administration And Communication
		7	Public Works Roads and Transport;
		8	Tourism, Culture and Social Services
		9	Trade, Investment and Industrial Development
		10	Water, Environment and Natural Resources
4	Kirinyaga	1	Agriculture, Livestock, Veterinary and Fisheries
		2	Co-operative Development, Tourism, Trade, Industry and Enterprise Development
		3	Culture, Social Services, Gender, Youth, Sports And Children Services
		4	Education and Public Service
		5	Finance, Economic Planning, Marketing and ICT
		6	Lands, Physical Planning and Housing
		7	Public Health, Medical Services And Sanitation
		8	Transport and Public Works
		9	Water, Environment and Natural Resources

Name of Counties		List of Departments	
5	Murang'a	1	Finance and Planning
		2	Health Services
		3	Lands and Physical Planning
		4	Public Service and Administration
		5	Transport and Infrastructure
		6	Culture, Sports Youth and Social Services
		7	Agriculture, Livestock and Environment
		8	Agro-Marketing and Cooperative Development
		9	Trade Enterprise and Industries
		10	Education, Information Technology and Tourism
6	Kiambu	1	Co-operative Development, Tourism, Trade, Industry and Enterprise Development
		2	Finance and Economic Planning
		3	Health Services
		4	Roads and Public Works
		5	Water and Environment
		6	Agriculture, Livestock and Environment
		7	Administration and Public Service
		8	Education Culture and Social Services
		9	Sports and Youth Affairs
		10	Physical Planning and Development
7	Mombasa	1	Agriculture Livestock and Fisheries
		2	Education
		3	Environment Water and Natural Resources
		4	Finance
		5	Health Services
		6	Infrastructure and Roads
		7	Planning and Housing
		8	Tourism and Culture
		9	Trade and Energy
		10	Youth Gender and Sports
8	Kwale	1	Agriculture Livestock and Fisheries
		2	Decentralized Units, Urban Areas and Cities
		3	Education and Human Resource Development
		4	Finance and Economic Planning
		5	Land Mining and Natural Resources
		6	Tourism Promotion and ICT
		7	Trade, Investment and Industrial Development
		8	Water, Health and Sanitation
		9	Infrastructure and Housing
		10	Youth, Women Empowerment and Social Services
9	Kilifi	1	Agriculture, Livestock Development and Fisheries
		2	Education, Youth, Gender, Culture and Social Services
		3	Finance and Economic Planning

Name of Counties		List of Departments	
		4	Health Services
		5	Information Communication and E-Government
		6	Lands, Housing, Energy and Physical Planning
		7	Public Service Management;
		8	Public Works Roads and Transport;
		9	Trade, Industrialization, Cooperative Development, Tourism and Wildlife
		10	Water, Forestry, Environment and Natural Resources
10	Tana River	1	Culture, Social Services and Gender
		2	Education, Sports and Vocational Training
		3	Environment, Natural Resources and Wildlife
		4	Finance
		5	Land, Agriculture, Livestock and Fisheries Development
		6	Legal and Public Services
		7	Roads and Public Works
		8	Special Programs and Cohesion
		9	Trade and Industrial Development
		10	Water Health and Sanitation
11	Lamu	1	Agriculture
		2	Agriculture, Livestock and Fisheries
		3	Finance
		4	Health Services
		5	ICT
		6	Lands and Infrastructure
		7	Public Service and Administration
		8	Tourism
		9	Youth Affairs, Sports and Education
12	Taita Taveta	1	Administration and Devolution
		2	Agriculture
		3	Community Affairs
		4	County Public Works
		5	Education
		6	Finance
		7	Health Services
		8	Lands
		9	Mining and Natural Resources
		10	Roads and Infrastructure
13	Marsabit	1	Administration Coordination And ICT
		2	Education, Skills Development, Youths and Sports
		3	Energy, Lands, Housing and Urban Development
		4	Finance and Economic Planning
		5	Health Services
		6	Public Roads
		7	Public Works, Roads and Transport;
		8	Tourism, Culture And Social Services

Name of Counties		List of Departments	
		9	Trade and Enterprise Development
		10	Water, Environment and Natural Resources
14	Isiolo	1	Agriculture Livestock, Fisheries and Physical Planning
		2	Education
		3	Health and Medical Services
		4	Roads Transport Public Works and Housing
		5	Tourism Promotion and ICT
		6	Treasury And Economic Planning
		7	Water Irrigation and Environment
15	Meru	1	Agriculture Livestock and Fisheries
		2	Co-operative Development, Tourism, Trade, Industry and Enterprise Development
		3	Education
		4	Finance And Treasury
		5	Gender, Youth, Culture and Sports
		6	Health Services.
		7	Lands and Physical Planning
		8	Public Service and Administration
		9	Transport and Infrastructure
		10	Water, Environment and Natural Resources
16	Tharaka	1	Agriculture Livestock and Water Services
		2	Education Youth Gender Culture And Social Services
		3	Finance and Economic Planning
		4	Health Services.
		5	Physical Planning Lands Energy And ICT
		6	Public Service and Urban Development
		7	Roads Transport Public Works and Legal Affairs
		8	Tourism Environment and Natural Resources
		9	Trade Industry And Co-Operative Development
17	Embu	1	Education
		2	Health Services
			(list not complete)
18	Kitui	1	Agriculture And Fisheries
		2	Cooperatives Marketing And Livestock Development
		3	Education Sports And Vocational Training
		4	Finance
		5	Health Service & Sanitation
		6	Public Works Roads & Transport;
		7	Social Services And Economic Planning
		8	Trade Energy Tourism And Industry
		9	Urban Planning Land And Housing
		10	Water, Environment And Natural Resources
19	Machakos		(list not provided)

Name of Counties		List of Departments	
20	Makueni		(list not provided)
21	Garissa	1	Energy Environment & Natural Resources
		2	Finance And Economic Planning
		3	Health Services
		4	Lands, Housing And Public Works
		5	Transport And Infrastructure
			(list not complete)
22	Wajir	1	Agriculture and Livestock Development
		2	County Public Service Management
		3	Education Youth Gender Culture and Social Services
		4	Finance and Economic Planning
		5	Information Communication And E-Government
		6	Lands Housing And Physical Planning;
		7	Public Health Medical Services And Sanitation
		8	Public Works Roads and Transport;
		9	Trade Industrialization Cooperative Development Tourism and Wildlife
		10	Water Energy Forestry Environment And Natural Resources
23	Mandera	1	Agriculture and Irrigation
		2	Finance
		3	Health Services
		4	Lands and Housing
		5	Livestock
		6	Public Works Roads and Transport;
		7	Water Energy Environment And Natural Resources Management
24	Siaya	1	Agriculture
		2	Education Youth Gender Culture and Social Services
		3	Finance
		4	Health Services
		5	Lands Housing and Physical Planning;
		6	Public Service and Administration
		7	Public Works Roads and Transport;
		8	Tourism
		9	Water And Irrigation
25	Kisumu	1	Agriculture
		2	Communication
		3	Environment
		4	Health Services
		5	Physical Planning
		6	Roads
		7	Tourism
		8	Trade
		9	Treasury

Name of Counties		List of Departments	
		10	Water and Natural Resources
26	Migori	1	Finance and Planning
		2	Health Services
		3	Lands Physical Planning and Housing
		4	Public Service Management;
		5	Public Works Roads and Transport;
		6	Water and Energy
		7	Environment and Disaster Management
		8	Trade Tourism and Regulation
		9	Agriculture Livestock and Veterinary Services
		10	Education Youth Culture and Social Services
27	Homa Bay	1	Agriculture Livestock and Fisheries
		2	Education and ICT
		3	Finance and Economic Planning
		4	Health Services
		5	Lands Physical Planning and Housing
		6	Trade Investment and Industrial Development
		7	Transport and Infrastructure
		8	Water and Environment
		9	Tourism Sports Youth and Culture
		10	Energy and Natural Resources
28	Kisii	1	Agriculture Livestock Fisheries and Co-Operatives.
		2	Education Labor and Manpower Development
		3	Health Services.
		4	Industrialization and Trade
		5	Roads Transport Public Works & Housing
		6	Treasury and Economic Planning
		7	Water Energy Environment and Natural Resources Management
		8	Administration Cooperate Services and Stakeholder Management
		9	Culture Sports Youth and Social Services
		10	Land Physical Planning and Urban Development
29	Nyamira	1	Agriculture Fisheries and Cooperatives
		2	Culture Social Services Gender Youth Sports And Children Services
		3	Education Sports And Vocational Training
		4	Environment And Natural Resources
		5	Environment Forestry and Water Conservancy
		6	Environment Water and Natural Resources
		7	Land Agriculture Livestock and Fisheries Development
		8	Planning And Housing
		9	Tourism Culture and Social Services
		10	Trade And Enterprise Development
30	Turkana	1	Education Human Resource Culture and Social Services
		2	Energy Environment and Natural Resources

Name of Counties		List of Departments	
		3	Finance And Economic Planning
		4	Health Service and Sanitation
		5	Land Urban Area and Management and Physical Planning
		6	Pastoral Economy and Fisheries.
		7	Public Service Decentralized Administration and Disaster Management
		8	Roads Transport Public Works and Housing
		9	Trade Industry And Tourism
		10	Water Irrigation and Agriculture
31	West Pokot	1	Agriculture and Irrigation
		2	Education and ICT.
		3	Finance And Economic Planning
		4	Health Service and Sanitation
		5	Lands Housing and Physical Planning;
		6	Livestock Fisheries and Cooperative Development
		7	Public Works Roads and Transport;
		8	Tourism Social Development And Culture
		9	Trade, Industry, Mining and Energy
		10	Water Environment And Natural Resources.
32	Samburu	1	Agriculture
		2	Culture Social Services and Gender
		3	Education
		4	Finance
		5	Health Services.
		6	Lands and Planning
		7	Tourism
		8	Transport and Infrastructure.
		9	Water and Environment
33	Trans Nzoia	1	Agriculture Livestock Fisheries and Co-Operatives.
		2	Economic Planning and Commerce and Industry.
		3	Education and ICT.
		4	Finance
		5	Gender Youth Culture and Sports.
		6	Health Services.
		7	Lands Housing and Urban Development.
		8	Public Service Management;
		9	Transport and Infrastructure.
		10	Water Environment and Natural Resources.
34	Baringo	1	Agriculture And Fisheries
		2	Education
		3	Environment and Natural Resources
		4	Finance
		5	Health Services
		6	Industrialization Commerce Tourism And Enterprise Development
		7	Lands And Housing

Name of Counties		List of Departments	
		8	Livestock
		9	Roads and Infrastructure
		10	Water And Irrigation
35	Uasin Gishu	1	Agriculture Livestock Development and Fisheries
		2	Education Social Services Sports Culture and Youth
		3	Environment Energy Water and Natural Resources
		4	Finance and Economic Planning
		5	Health Services
		6	ICT and E-Government
		7	Lands and Physical Planning
		8	Public Service Management;
		9	Public Works Roads and Transport;
		10	Trade Industry and Tourism
36	Elgeyo Marakwet	1	Agriculture Livestock and Fisheries
		2	Education and Technical Training
		3	Finance
		4	Health Services
		5	ICT and Public Service
		6	Public Works Roads and Transport;
		7	Trade Cooperatives Energy and Tourism Development
		8	Water Physical Planning and Natural Resources
		9	Youth Sports Women and Social Services
37	Nandi	1	Agriculture Livestock and Fisheries
		2	Devolved Units and Special Programmes
		3	Education Research and Vocational Training
		4	Finance and Economic Planning
		5	Health Service and Sanitation
		6	Land Environment and Natural Resources
		7	Tourism Culture and Co-operative Development
		8	Trade Investment and Industrial Development
		9	Transport and Infrastructure.
		10	Youth Gender Sports and Social Services
38	Laikipia	1	Agriculture
		2	Culture Social Services and Gender
		3	Education And ICT.
		4	Finance and Planning
		5	Lands Housing and Public Works
		6	Trade Industry and Tourism
		7	Water Health and Sanitation
39	Nakuru	1	Agriculture Livestock and Fisheries
		2	Education Sports Culture and Social Services;
		3	Finance and Planning
		4	Health Services

Name of Counties		List of Departments	
		5	ICT
		6	Lands Housing and Physical Planning;
		7	Public Service Management;
		8	Roads Transport Public Works and Housing
		9	Trade Tourism and Co-operative;
		10	Water Environment and Energy;
40	Narok	1	Agriculture Livestock and Fisheries
		2	Education Youth Gender Culture and Social Services
		3	Finance and Economic Planning
		4	Health Service and Sanitation
		5	Information Communication and E-Government
		6	Public Service Management;
		7	Public Works Roads and Transport;
		8	Trade Industrialization Cooperative Development Tourism and Wildlife
		9	Water Energy Environment And Natural Resources Management
		10	Land, Physical Planning and Urban Development
41	Kajiado	1	Finance and Economic Planning
		2	Health Services.
		3	Roads Transport Public Works and Housing
		4	Trade
		5	Water and Irrigation
		6	Land Physical Planning and Urban Development
		7	Public Service and E-Government
		8	ICT Gender and Citizen Participation
		9	Education Youth Culture and Social Services
		10	Agriculture Livestock and Tourism
42	Kericho	1	Agriculture Livestock and Fisheries
		2	Education Youth Gender Culture and Social Services
		3	Environment Energy Water And Natural Resources
		4	Finance and Economic Planning
		5	Health Services.
		6	ICT and E-Government
		7	Lands Physical Planning and Housing
		8	Public Service Management;
		9	Public Works Roads and Transport;
		10	Trade Industrialization Cooperative Development Tourism and Wildlife
43	Bomet	1	Agriculture and Fisheries
		2	Cooperatives Marketing and Livestock Development
		3	Education Sports and Vocational Training
		4	Finance
		5	Health Service and Sanitation
		6	Public Works Roads and Transport;
		7	Social Services and Economic Planning
		8	Trade Energy Tourism and Industry

Name of Counties		List of Departments	
		9	Urban Planning Land and Housing
		10	Water Environment and Natural Resources.
44	Kakamega	1	Agriculture Livestock Development and Fisheries
		2	Education and ICT
		3	Environment Energy Mining and Resources
		4	Finance and Planning
		5	Gender Youth Sports Culture and Social Services
		6	Health Services.
		7	Lands Housing and Public Works
		8	Public Works Roads and Transport;
		9	Trade Tourism Industry and Cooperatives
		10	Water And Irrigation
45	Vihiga	1	Agriculture
		2	Education
		3	Environment Forestry and Water Conservancy
		4	Finance
		5	Gender Youth and Sports
		6	Health Services.
		7	Industrialization and Trade
		8	Lands and Planning
		9	Public Service and Administration
		10	Transport and Infrastructure.
46	Bungoma	1	Agriculture Fisheries and Cooperatives
		2	Education
		3	Finance and Economic Planning
		4	Gender Youth Culture and Sports.
		5	Health Services.
		6	Lands And Planning
		7	Public Administration
		8	Roads
		9	Tourism
		10	Trade Energy And Industries
47	Busia	1	Agriculture and Animal Resources
		2	Community Development Social Services Gender and Sports
		3	Education and Vocational Training
		4	Finance And Economic Planning
		5	Health Service and Sanitation
		6	Housing And Urban Development
		7	Public Service (ICT and Communication)
		8	Public Works Transport And Disaster Management
		9	Trade Tourism Industry and Co-operatives
		10	Water Environment And Natural Resources.

Annex 3: Initial Functions Transferred - Gazettment notice by Transition Authority Wednesday, 06 February 2013

Functions for Transfer (Gazettment) - by Transition Authority, 06 February 2013	
<p>1. Agriculture</p> <ul style="list-style-type: none"> • Livestock sales yards • County Abattoirs/slaughter house services <p>2. County Health Services</p> <ul style="list-style-type: none"> • County health facilities and pharmacies (specific to Nairobi County, Mombasa County, Nakuru County and Uasin Gishu County) • Ambulance services (specific to Nairobi, Kisumu, Mombasa, Nakuru, Uasin Gishu Counties) • Cemeteries, Funeral Parlors/ Mortuary services and Crematoria Services Refuse removal, refuse dumps and solid waste disposal <p>3. Control of outdoor advertising</p> <p>4. Cultural services, public entertainment and public amenities but limited to:</p> <ul style="list-style-type: none"> • Betting services, • Liquor licensing, • Video shows and hiring • Sports and cultural activities and facilities • County parks, beaches and recreation facilities <p>5. County Transport:</p> <ul style="list-style-type: none"> • Access roads • Street lighting • Traffic and parking 	<p>6. Animal Control and Welfare</p> <ul style="list-style-type: none"> • Livestock sale yards • Licensing of dogs <p>7. Facilities for the accommodation, care and burial of animals</p> <p>8. Trade development and regulations:</p> <ul style="list-style-type: none"> • Markets • Trade licensing (excluding regulation of professionals) • Local tourism <p>9. County planning and development:</p> <ul style="list-style-type: none"> • Land survey and mapping; and • Housing <p>10. Pre -primary education, home-craft centre and childcare facilities</p> <p>11. Implementation of specific National Government policies on natural resources and environment conservation</p> <ul style="list-style-type: none"> • Protection of water springs • Protection of wells and dams <p>12. County public works and services specific to storm water management systems in built-up areas</p> <p>13. Fire fighting services and disaster management</p> <p>14. Control of drugs and pornography</p>

Annex 4: Functions Transferred After March 4th 2013 - Kenya Gazette Notice by Transition Authority Supplement No. 116 9th August, 2013

Transferred and gazetted functions - by the Transitions Authority

- | | |
|--|--|
| <p>1. Agriculture:</p> <ul style="list-style-type: none"> • Crop husbandry • Animal husbandry including livestock extension services • Plant and animal disease control • Fisheries <p>2. County health services:</p> <ul style="list-style-type: none"> • County health facilities and pharmacies • Ambulance services; • Promotion of primary health care <p>3. Control of air pollution, noise pollution and other public nuisance</p> <ul style="list-style-type: none"> • Control of noise pollution and other public nuisances; • Licensing for persons exceeding the permissible noise levels; and • Noise mapping and action plan development, <p>4. Cultural services, public entertainment and public amenities:</p> <ul style="list-style-type: none"> • County betting, casinos and other forms of gambling; • Racing; • Cinemas; • Libraries excluding Kenya National Library Services; and museums. <p>5. County transport</p> <ul style="list-style-type: none"> • County roads (primary roads and minor roads) excluding roads being managed by KURA, KERA, KWS and KFS. | <ul style="list-style-type: none"> • Mechanical and transport equipment • Public road transport on licensing of public service vehicles operations. <p>6. Trade development and regulation:</p> <ul style="list-style-type: none"> • Fair trading practices • Co-operative societies <p>7. County planning and development:</p> <ul style="list-style-type: none"> • Statistical services • Boundaries and fencing • Identification of the renewable energy sites for development <p>8. Village polytechnics.</p> <p>9. Implementation of specific national government policies on natural resources and environmental conservation:</p> <ul style="list-style-type: none"> • Soil and water conservation— • Forestry <p>10. County public works and services:</p> <ul style="list-style-type: none"> • Public works • Water and sanitation services <p>11. Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.</p> |
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Annex 5: List of Functions reported as not yet Taken Up by Counties

Name of Counties	Transferred function
Nyandarua	Control of air pollution noise pollution and other public nuisance
	Cultural services public entertainment and public amenities
	County transport
	Trade development and regulation
	Implementation of specific national government policies on natural resources and environmental conservation
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation
Taita taveta	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation
Taraka Nithi	Control of air pollution noise pollution and other public nuisance
	Implementation of specific national government policies on natural resources and environmental conservation
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation
Embu	Implementation of specific national government policies on natural resources and environmental conservation
Makueni	Agriculture - (this is surprising) – it should be clarified
	Cultural services public entertainment and public amenities
	County transport
	Trade development and regulation
	County planning and development
	Village polytechnics
	Implementation of specific national government policies on natural resources and environmental conservation
	County public works and services
Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation	

Name of Counties	Transferred function
Garissa	Cultural services public entertainment and public amenities
	Trade development and regulation
	County planning and development
	Implementation of specific national government policies on natural resources and environmental conservation
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation
Wajir	Control of air pollution noise pollution and other public nuisance
	Cultural services public entertainment and public amenities
	Trade development and regulation
	Implementation of specific national government policies on natural resources and environmental conservation
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation
Mandera	Control of air pollution noise pollution and other public nuisance
	Cultural services public entertainment and public amenities
	County transport
	County planning and development
Siaya	Control of air pollution noise pollution and other public nuisance
	Trade development and regulation
	County planning and development
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation
Kisumu	Control of air pollution noise pollution and other public nuisance
	Cultural services public entertainment and public amenities
	County transport
	Trade development and regulation
	Implementation of specific national government policies on natural resources and environmental conservation
	County public works and services
Homa Bay	County public works and services
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participate
Nyamira	Control of air pollution noise pollution and other public nuisance

Name of Counties	Transferred function
Trans Nzoia	Control of air pollution noise pollution and other public nuisance
	Cultural services public entertainment and public amenities
	Implementation of specific national government policies on natural resources and environmental conservation
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participate
Baringo	Control of air pollution noise pollution and other public nuisance
	Cultural services public entertainment and public amenities
	County transport
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participate
Elgeyo Marakwet	Control of air pollution noise pollution and other public nuisance
	Implementation of specific national government policies on natural resources and environmental conservation
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participate
Nandi	Control of air pollution noise pollution and other public nuisance
	Implementation of specific national government policies on natural resources and environmental conservation
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participate
Narok	County planning and development
	Village polytechnics
	Implementation of specific national government policies on natural resources and environmental conservation
	County public works and services
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participate
Kajiado	County transport
Bomet	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participate

Name of Counties	Transferred function
Bungoma	Control of air pollution noise pollution and other public nuisance
	County transport
	Trade development and regulation
	County planning and development
	Implementation of specific national government policies on natural resources and environmental conservation
	County public works and services
Busia	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participate
	Agriculture
	Control of air pollution noise pollution and other public nuisance
	Cultural services public entertainment and public amenities
	County transport
	County planning and development
	County public works and services
Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participate	

Annex 6a: Equitable Transfers And Conditional Transfers From National To County Governments (3rd Schedule County Allocations Of Revenue Act, 2013)

No	County Name	Total Equitable Share of Revenue	Conditional Allocation	Grand Total
1	Baringo	3,247,853,215.00	382,555,501.00	3,630,408,716.00
2	Bomet	3,442,638,623.00	272,582,727.00	3,715,221,350.00
3	Bungoma	6,180,666,881.00	334,595,329.00	6,515,262,210.00
4	Busia	3,412,404,160.00	266,369,417.00	3,678,773,577.00
5	Elgeyo Marakwet	2,392,011,591.00	744,501,814.00	3,136,513,405.00
6	Embu	2,807,082,691.00	557,198,402.00	3,364,281,093.00
7	Garissa	4,221,433,715.00	475,032,960.00	4,696,466,675.00
8	Homa Bay	4,121,429,825.00	1,604,785,613.00	5,726,215,438.00
9	Isiolo	2,235,583,337.00	187,893,545.00	2,423,476,882.00
10	Kajiado	3,227,409,859.00	284,382,199.00	3,511,792,058.00
11	Kakamega	6,515,510,758.00	840,702,017.00	7,356,212,775.00
12	Kericho	3,295,019,652.00	317,792,977.00	3,612,812,629.00
13	Kiambu	5,458,860,860.00	805,574,808.00	6,264,435,668.00
14	Kilifi	5,442,533,482.00	377,885,641.00	5,820,419,123.00
15	Kirinyaga	2,587,865,089.00	242,055,751.00	2,829,920,840.00
16	Kisii	5,188,303,957.00	635,954,331.00	5,824,258,288.00
17	Kisumu	4,155,298,066.00	711,380,679.00	4,866,678,745.00
18	Kitui	5,315,309,833.00	519,086,118.00	5,834,395,951.00
19	Kwale	3,748,952,670.00	280,447,997.00	4,029,400,667.00
20	Laikipia	2,523,013,037.00	234,821,897.00	2,757,834,934.00
21	Lamu	1,500,755,102.00	99,237,004.00	1,599,992,106.00
22	Machakos	4,950,617,061.00	523,080,848.00	5,473,697,909.00
23	Makueni	4,366,239,078.00	354,912,725.00	4,721,151,803.00
24	Mandera	6,550,232,929.00	230,310,408.00	6,780,543,337.00
25	Marsabit	3,795,591,042.00	272,856,567.00	4,068,447,609.00
26	Meru	4,749,444,426.00	758,421,849.00	5,507,866,275.00
27	Migori	4,269,095,296.00	490,967,787.00	4,760,063,083.00
28	Mombasa	3,801,758,313.00	545,817,618.00	4,347,575,931.00
29	Murang'a	3,917,395,471.00	404,431,503.00	4,321,826,974.00
30	Nairobi	9,505,766,405.00	390,470,421.00	9,896,236,826.00
31	Nakuru	5,936,313,837.00	1,024,998,693.00	6,961,312,530.00
32	Nandi	3,477,901,827.00	408,946,759.00	3,886,848,586.00
33	Narok	3,867,590,331.00	278,791,611.00	4,146,381,942.00
34	Nyamira	3,038,643,767.00	278,440,754.00	3,317,084,521.00
35	Nyandarua	3,150,207,289.00	284,911,755.00	3,435,119,044.00
36	Nyeri	3,254,175,229.00	817,147,697.00	4,071,322,926.00
37	Samburu	2,598,153,222.00	206,938,875.00	2,805,092,097.00
38	Siaya	3,653,579,335.00	318,012,871.00	3,971,592,206.00
39	Taita Taveta	2,420,630,003.00	205,852,212.00	2,626,482,215.00
40	Tana River	2,914,328,551.00	204,478,573.00	3,118,807,124.00

No	County Name	Total Equitable Share of Revenue	Conditional Allocation	Grand Total
41	Tharaka Nithi	2,294,827,947.00	139,762,124.00	2,434,590,071.00
42	Trans Nzoia	3,729,874,627.00	193,134,230.00	3,923,008,857.00
43	Turkana	7,664,402,594.00	229,995,474.00	7,894,398,068.00
44	Uasin Gishu	3,796,628,687.00	270,261,206.00	4,066,889,893.00
45	Vihiga	2,831,564,442.00	196,974,298.00	3,028,538,740.00
46	Wajir	5,290,052,180.00	357,469,372.00	5,647,521,552.00
47	West Pokot	3,155,049,726.00	437,777,043.00	3,592,826,769.00
	TOTAL	190,000,000,000.00	20,000,000,000.00	210,000,000,000.00

Annex 6b: County Allocations of Revenue Act, 2013 Conditional Allocation and the National Treasury Commitments

No.	County	Conditional Allocation as Per CAR Act, 2013(Shs)	Conditional Allocation as Per Treasury (Shs)	Changes in County Allocations
		A	B	C = A - B
1	Baringo	382,555,501.00	216,480,769.00	166,074,732.00
2	Bomet	272,582,727.00	177,362,613.00	95,220,114.00
3	Bungoma	334,595,329.00	334,595,329.00	0.00
4	Busia	266,369,417.00	266,369,417.00	0.00
5	Elgeyo Marakwet	744,501,814.00	187,740,683.00	556,761,131.00
6	Embu	557,198,402.00	641,507,206.00	(84,308,804.00)
7	Garissa	475,032,960.00	159,440,115.00	315,592,845.00
8	Homa Bay	1,604,785,613.00	257,207,606.00	1,347,578,007.00
9	Isiolo	187,893,545.00	53,007,974.00	134,885,571.00
10	Kajiado	284,382,199.00	226,501,247.00	57,880,952.00
11	Kakamega	840,702,017.00	529,398,840.00	311,303,177.00
12	Kericho	317,792,977.00	172,753,726.00	145,039,251.00
13	Kiambu	805,574,808.00	437,687,056.00	367,887,752.00
14	Kilifi	377,885,641.00	298,984,395.00	78,901,246.00
15	Kirinyaga	242,055,751.00	280,974,461.00	(38,918,710.00)
16	Kisii	635,954,331.00	280,568,938.00	355,385,393.00

No.	County	Conditional Allocation as Per CAR Act, 2013(Shs)	Conditional Allocation as Per Treasury (Shs)	Changes in County Allocations
17	Kisumu	711,380,679.00	315,744,198.00	395,636,481.00
18	Kitui	519,086,118.00	216,536,152.00	302,549,966.00
19	Kwale	280,447,997.00	180,075,146.00	100,372,851.00
20	Laikipia	234,821,897.00	272,097,979.00	(37,276,082.00)
21	Lamu	99,237,004.00	99,237,004.00	0.00
22	Machakos	523,080,848.00	414,551,564.00	108,529,284.00
23	Makueni	354,912,725.00	354,912,725.00	0.00
24	Mandera	230,310,408.00	131,726,619.00	98,583,789.00
25	Marsabit	272,856,567.00	329,809,618.00	(56,953,051.00)
26	Meru	758,421,849.00	2,383,623,375.00	(1,625,201,526.00)
27	Migori	490,967,787.00	292,262,549.00	198,705,238.00
28	Mombasa	545,817,618.00	131,435,960.00	414,381,658.00
29	Murang'a	404,431,503.00	404,431,503.00	0.00
30	Nairobi	390,470,421.00	2,124,446,709.00	(1,733,976,288.00)
31	Nakuru	1,024,998,693.00	324,494,325.00	700,504,368.00
32	Nandi	408,946,759.00	307,878,340.00	101,068,419.00
33	Narok	278,791,611.00	236,525,372.00	42,266,239.00
34	Nyamira	278,440,754.00	213,469,260.00	64,971,494.00
35	Nyandarua	284,911,755.00	284,911,755.00	0.00
36	Nyeri	817,147,697.00	432,991,224.00	384,156,473.00
37	Samburu	206,938,875.00	102,459,829.00	104,479,046.00
38	Siaya	318,012,871.00	318,012,871.00	0.00
39	Taita Taveta	205,852,212.00	91,870,591.00	113,981,621.00
40	Tana River	204,478,573.00	204,478,573.00	0.00
41	Tharaka Nithi	139,762,124.00	368,448,894.00	(228,686,770.00)
42	Trans Nzoia	193,134,230.00	106,804,189.00	86,330,041.00
43	Turkana	229,995,474.00	433,007,328.00	(203,011,854.00)
44	Uasin Gishu	270,261,206.00	175,115,740.00	95,145,466.00
45	Vihiga	196,974,298.00	231,867,578.00	(34,893,280.00)
46	Wajir	357,469,372.00	357,469,372.00	0.00
47	West Pokot	437,777,043.00	169,408,826.00	268,368,217.00
TOTAL		20,000,000,000.00	16,530,685,543.00	3,469,314,457.00

Source: Office of the Council of Governors

Annex 6c: List of Cash Releases to Counties as at March 4th 2014

County Title	Equitable share	Provincial & Level 5 Hospitals	Total Funds Expected from National Treasury	National Treasury Disbursement
	A	B	C=A+B	D
Baringo	3,247,853,214	-	3,247,853,214	1,494,012,478
Bomet	3,442,638,623	-	3,442,638,623	1,927,877,630
Bungoma	6,180,666,881	-	6,180,666,881	2,843,106,765
Busia	3,412,404,160	-	3,412,404,160	1,910,946,333
Elgeyo/Marakwet	2,392,011,591	-	2,392,011,591	1,100,325,332
Embu	2,807,082,690	259,887,438	3,066,970,128	1,410,806,259
Garissa	4,221,433,714	184,227,575	4,405,661,289	2,026,604,193
Homa Bay	4,121,429,825	-	4,121,429,825	2,308,000,702
Isiolo	2,235,583,336	-	2,235,583,336	1,028,368,335
Kajiado	3,227,409,858	-	3,227,409,858	1,484,608,535
Kakamega	6,515,510,757	311,303,177	6,826,813,934	3,140,334,410
Kericho	3,295,019,652	-	3,295,019,652	1,515,709,040
Kiambu	5,458,860,860	367,887,752	5,826,748,612	2,680,304,362
Kilifi	5,442,533,482	-	5,442,533,482	2,503,565,402
Kirinyaga	2,587,865,089	-	2,587,865,089	1,449,204,450
Kisii	5,188,303,957	211,155,681	5,399,459,638	3,023,697,397
Kisumu	4,155,298,066	395,636,481	4,550,934,547	2,093,429,892
Kitui	5,315,309,832	-	5,315,309,832	2,445,042,523
Kwale	3,748,952,670	-	3,748,952,670	2,099,413,496
Laikipia	2,523,013,037	-	2,523,013,037	1,160,585,997
Lamu	1,500,755,101	-	1,500,755,101	690,347,346
Machakos	4,950,617,060	108,529,284	5,059,146,344	2,833,121,952
Makueni	4,366,239,078	-	4,366,239,078	2,008,469,976
Mandera	6,550,232,929	-	6,550,232,929	3,013,107,147
Marsabit	3,795,591,041	-	3,795,591,041	1,745,971,879
Meru	4,749,444,426	183,151,299	4,932,595,725	2,268,994,033
Migori	4,269,095,295	-	4,269,095,295	2,390,693,366
Mombasa	3,801,758,312	414,381,658	4,216,139,970	2,361,038,383

County Title	Equitable share	Provincial & Level 5 Hospitals	Total Funds Expected from National Treasury	National Treasury Disbursement
Murang'a	3,917,395,470	-	3,917,395,470	2,193,741,464
Nairobi City	9,505,766,405	-	9,505,766,405	5,323,229,287
Nakuru	5,936,313,837	600,436,911	6,536,750,748	3,006,905,344
Nandi	3,477,901,826	-	3,477,901,826	1,599,834,840
Narok	3,867,590,331	-	3,867,590,331	1,779,091,552
Nyamira	3,038,643,767	-	3,038,643,767	1,397,776,133
Nyandarua	3,150,207,289	-	3,150,207,289	1,449,095,353
Nyeri	3,254,175,229	382,128,747	3,636,303,976	1,672,699,829
Samburu	2,598,153,222	-	2,598,153,222	1,195,150,482
Siaya	3,653,579,334	-	3,653,579,334	1,680,646,494
Taita/Taveta	2,420,630,003	-	2,420,630,003	1,113,489,801
Tana River	2,914,328,550	-	2,914,328,550	1,340,591,133
Tharaka -Nithi	2,294,827,946	-	2,294,827,946	1,055,620,855
Trans Nzoia	3,729,874,627	-	3,729,874,627	2,088,729,791
Turkana	7,664,402,593	-	7,664,402,593	3,525,625,193
Uasin Gishu	3,796,628,687	-	3,796,628,687	1,746,449,196
Vihiga	2,831,564,441	-	2,831,564,441	1,302,519,643
Wajir	5,290,052,179	-	5,290,052,179	2,433,424,003
West Pokot	3,155,049,726	-	3,155,049,726	1,451,322,874
Total	190,000,000,000	3,418,726,003	193,418,726,003	94,313,630,880

Annex 7: List of County Legislative Proposals (as at March 2014)

Developed by Counties Since March 4, 2013.

Legislation Developed	Development Status			Total
	Assented to	Passed	W.I.P	
Health Facilities Management Committees Bill	-	-	1	1
Agriculture Bill	-	-	1	1
Agriculture Development Fund Bill	-	-	2	2
Agriculture Livestock And Fisheries Development Bill	-	-	1	1
Agriculture Produce (Tobacco Farming) Regulations Bill	-	-	1	1
Alcoholic Drinks and Control Bill	2	3	14	19
Animal Welfare Bill	0	0	2	2

Legislation Developed	Development Status			Total
	Assented to	Passed	W.I.P	
Appointment (Assembly) Approval Act	2	0	0	2
Appropriation Bill	35	4	4	43
Bursary Management Fund	0	4	4	8
Business Development Bill	0	0	1	1
Business Licensing Bill	0	1	2	3
Charcoal Bill	0	0	1	1
Citizenship Participation Bill	0	1	1	2
Coconut Bill	0	0	1	1
Construction Noise Control and Pollution Bill	0	0	1	1
Cooperative Development Fund Bill	1	0	0	1
County Administration Bill	0	1	0	1
County Agencies Establishment Bill	0	0	1	1
County Assembly Powers and Privileges Bill	0	0	2	2
County Assembly Revolving Fund Bill	0	1	1	2
County Assembly Service Bill	2	1	6	9
County Assembly Ward Offices Bill	0	0	1	1
County Betting Lotteries and Gaming Bill	0	1	0	1
County Government Coordination Bill	0	0	2	2
County Integrated Development Plan Bill	1	1	2	4
Development Bill	0	1	4	5
Disaster Management Bill	0	0	3	3
ECD and Polytechnics Bill	0	0	3	3
Economic Development Corporation Bill	0	0	1	1
Education Bill	1	1	2	4
Education Policy	0	0	1	1
Emblem Flag Seal and Court of Arms Bill	0	0	4	4
Emergency Fund Act	1	0	0	1
Empowerment of Youth Women and Vulnerable Groups	0	0	1	1
Environmental Protection and Management Bill	0	0	1	1
Environment and Wildlife Bill	0	0	1	1
Finance Bill	22	6	11	39
Fire and Rescue Service Bill	0	0	1	1
Fiscal Strategy Plan	0	0	1	1
Flag Emblem and Names Policy	0	0	2	2
Flags Emblems and Names Bill	2	2	2	6
Industrial And Commercial Development Authority Draft Bill	0	0	1	1
Investment Promotion Agency Draft Bill	0	0	1	1
Legislative Proposal on Agriculture	0	0	1	1
Legislative Proposal On Fisheries	0	0	1	1
Livestock Bill	0	0	1	1
Livestock Policy	0	0	1	1
Livestock Sales Yards Bill	0	0	2	2
Loans and Mortgages Bill	0	1	1	2
Maasai Mara Community Development Bill	0	0	1	1

Legislation Developed	Development Status			Total
	Assented to	Passed	W.I.P	
Management of Heritage Resources	0	0	1	1
Markets And Farm Produce Trade Bill	0	0	1	1
Membership Car Loan and Mortgage Scheme	0	0	1	1
Mortgage and Car Loan Bill Fund	1	1	1	3
Nawini Fund Bill	0	0	1	1
Office of the County Attorney	0	0	1	1
Plant Health Bill	0	0	2	2
Polythene Materials Bill	0	0	2	2
Powers and Privileges Act	0	0	1	1
Protection of Small Scale Tea Farmers Bill	0	0	1	1
Provisional Collection of Revenue Act	1	0	0	1
Public Participation Bill	0	1	6	7
Rating Bill	1	0	1	2
Revenue Enhancement	1	0	2	3
Revenue Fund Bill	1	1	1	3
Roads And Infrastructure Bill	0	0	1	1
Safety of County Roads Bill	0	0	1	1
Sand Harvesting Bill	0	0	1	1
Scholarship Fund Act	1	0	0	1
Skill Development Support Fund Regulations Bill	1	0	0	1
Spatial Plan Bill	0	0	1	1
Street Children And Families	0	0	1	1
Sugar Factory Bill	0	0	1	1
Supplementary Appropriation Bill	11	0	6	17
Tax Waiver Bill	2	0	1	3
Tourism and Disaster Management Bill	0	0	1	1
Trade Licensing Bill	1	0	3	4
Trade Policy	0	0	1	1
Trade Revolving Fund Bill	0	0	2	2
Traffic Bill	0	0	1	1
Transport Bill	0	0	2	2
Village Polytechnics Bill	0	0	5	5
Ward Development Fund Bill	3	3	5	11
Ward Development Fund Policy	0	0	1	1
Ward Operational Bill	0	1	0	1
Ward Operational Policy	0	0	1	1
Water Bill	0	0	2	2
Youth and Women Fund Bill.	0	0	1	1
Youth Empowerment Bill	0	0	2	2
Total	93	36	162	291

Annex 8: Policies, Regulations and Administrative Procedures Developed

Policy, Guidelines, Regulations and Subsidiary Legislation	Development Status		Total
	Completed	W.I.P	
Alcohol and Livestock Policy	0	1	1
Appointment and Operations of Council and Village Polytechnics	0	1	1
Bursary Fund Policy	0	2	2
Children's Policy	1	1	2
Citizenship Policy	0	1	1
Common Interest Group Policy	0	1	1
Cooperative Policy	1	1	2
County Assembly Revolving Fund	1	0	1
County Enterprise Fund Policy and Operations Procedures	0	1	1
County Health Policy	0	2	2
County Public Service Policy	0	1	1
Early Childhood Development Policy	0	2	2
ECD/ Polytechnic Policy	0	2	2
Education Policy	0	1	1
Emergency Fund Policy	0	1	1
Employment Policy	0	2	2
Finance Policy	2	2	4
Flag Emblem and Names Policy	0	1	1
Harmonization of Salaries Policy	0	1	1
Human Resource Plan.	0	1	1
Investment Policy	1	0	1
Legal Frameworks For Starting Up Mew Departments/Parastatals	0	1	1
Livestock Identification and Traceability Policy	0	1	1
Livestock Policy	0	1	1
Location Market Place Transformation Policy	1	0	1
Older Persons Policy	0	1	1
Project Implementation Policy	0	1	1
People With Disabilities, Youth And Women Fund Policy	0	1	1
Remuneration Policy	0	1	1
Roads and Infrastructure Policy	1	0	1
Sports Policy	0	1	1
Trade Development/Investment Policy	0	2	2
Trade Revolving Fund Policy	0	1	1
Training Policy	0	1	1
Transport Policy	0	2	2
Vocational Training Policy	0	1	1
Ward Development Fund Policy	0	1	1
Ward Operational Policy	0	1	1
Water Policy	0	1	1
Women Enterprise Fund Policy	0	1	1

Policy, Guidelines, Regulations and Subsidiary Legislation	Development Status		Total
	Completed	W.I.P	
Youth Development Policy	0	1	1
Total Policies	8	45	53
County Integrated Development Plan	1	2	3
Spatial Plan	1	0	1
Strategic Plan	2	1	3
Strategy Fiscal Paper	0	1	1
Total Plans	4	4	8
Regulations on Alcohol Control Drinks Act	0	1	1
Mortgage And Loans Regulations	1	1	2
ECD Recruitment Guidelines	1	0	1
Provisional Revenue Collection Act Regulations	1	0	1
Bursary Regulations	0	1	1
Code of Regulations	0	1	1
Guidelines Under the Finance Act	2	0	2
Lands (Lands Governance) Regulations	0	1	1
Liquor Regulations	0	1	1
Total Regulations	5	6	11

Annex 9: Questionnaire: Assessment of Implementation System of Devolved Government

Name of the County: _____, County No. _____, Date: _____

Name of Field Researcher _____, Name Field Supervisor (SPO) _____

Name of Respondent _____, Designation of Respondent _____

Indicator and Short Definition/ Explanation	Study Questions	Rules																																													
Output 1: Establishment of County Governments (County Assembly and County Executive) as per Articles 177(1) & 179(3) (a)-(b) of the Constitution																																															
1. County government established as per Art. 177(1) & 179(3) (a)-(b) <ul style="list-style-type: none"> Articles 177(1) & 179(3) (a)-(b) of the Constitution requires members elected per ward, special seats to ensure no same gender is more than 2/3, marginalized groups (PWDs & youth). Members of CEC: Not exceed 1/3 of MCA if CA has less than 30 members or 10, if CA has 30 or more members. 	1. What is the total membership of the County Assembly?	PWD – People With Disability																																													
	<table border="1"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">Gender</th> <th colspan="2">Age</th> <th rowspan="2">Total</th> <th colspan="3">Marginalized/Minority</th> </tr> <tr> <th>M</th> <th>F</th> <th><35</th> <th>>35</th> <th>PWDs</th> <th>Youth</th> <th>Women</th> <th>Marginalized communities</th> </tr> </thead> <tbody> <tr> <td>Elected</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Nominated (Article 90)</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			Gender		Age		Total	Marginalized/Minority			M	F	<35	>35	PWDs	Youth	Women	Marginalized communities	Elected									Nominated (Article 90)									Total									
				Gender		Age			Total	Marginalized/Minority																																					
			M	F	<35	>35	PWDs	Youth		Women	Marginalized communities																																				
	Elected																																														
	Nominated (Article 90)																																														
	Total																																														
	<i>Comments/Observations/Additional Information</i>																																														
	2. What is the total membership of County Executive Committee members?	<table border="1"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">Gender</th> <th rowspan="2">Total</th> <th rowspan="2">PWDs</th> <th colspan="3">Marginalized/Minority</th> </tr> <tr> <th>M</th> <th>F</th> <th>Youth</th> <th>Women</th> <th>Marginalized communities</th> </tr> </thead> <tbody> <tr> <td>CECs members</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Gender		Total	PWDs	Marginalized/Minority			M	F	Youth	Women	Marginalized communities	CECs members																															
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M			F	Youth	Women	Marginalized communities																																									
CECs members																																															
<i>Comments/Observations/Additional Information</i>																																															
3. Give a list of departments (<i>ministries</i>) established in your county. <ol style="list-style-type: none"> 																																															
	<i>Comments/Observations/Additional Information</i>																																														

Indicator and Short Definition/ Explanation	Study Questions	Rules																					
Output 2: Analysis and Transfer of Devolved Functions																							
2. Proportion of functions transferred to county governments that have been taken up by respective county governments <ul style="list-style-type: none"> A list of functions transferred to national and county governments (Gazette Notice No. 116 of August 2013) 	4. Out of the functions transferred to county governments, which ones have been taken up and are being performed by your county?	Make reference to gazette Notice No. 116 of August 2013) Use separate sheet if space																					
	<table border="1"> <thead> <tr> <th rowspan="2">Transferred Function</th> <th colspan="2">Taken Up</th> </tr> <tr> <th>Yes</th> <th>No</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>		Transferred Function	Taken Up		Yes	No																
	Transferred Function			Taken Up																			
			Yes	No																			
<i>Comments/Observations/Additional Information</i>																							

Indicator and Short Definition/ Explanation	Study Questions	Rules										
	<p><i>Comments/Observations/Additional Information</i></p> <p>5. From the functions taken up, which ones does your county have challenges in implementing/performing, and what are the challenges?</p> <table border="1" data-bbox="535 457 921 808"> <tr> <td data-bbox="535 457 921 606">Functions with challenges</td> <td data-bbox="926 457 1252 606">Challenges</td> </tr> <tr> <td data-bbox="535 612 921 808">.....</td> <td data-bbox="926 612 1252 808">.....</td> </tr> </table> <p><i>Comments/Observations/Additional Information</i></p>	Functions with challenges	Challenges	<p>not enough</p> <p>Make reference to gazette Notice No. 116 of August 2013</p> <p>Use separate sheet if space not enough</p>						
Functions with challenges	Challenges											
.....											
<p>Performance management frameworks (standards) including regulations, policies, administrative procedures.</p>	<p>6. Are there performance management frameworks (standards) developed for the delivery of the functions taken up?</p> <p>a. Yes b. No c. Do not know</p> <p>7. If Yes to Q6, who developed the performance management frameworks/set the standards?</p> <p>a. National government b. County government</p> <p>8. If Yes to Q6, specify the standards applied in each function.</p> <table border="1" data-bbox="535 1159 921 1319"> <thead> <tr> <th data-bbox="535 1159 877 1202">Functions</th> <th data-bbox="881 1159 1252 1202">Standards</th> </tr> </thead> <tbody> <tr> <td data-bbox="535 1208 877 1251"></td> <td data-bbox="881 1208 1252 1251"></td> </tr> <tr> <td data-bbox="535 1257 877 1300"></td> <td data-bbox="881 1257 1252 1300"></td> </tr> <tr> <td data-bbox="535 1306 877 1349"></td> <td data-bbox="881 1306 1252 1349"></td> </tr> <tr> <td data-bbox="535 1355 877 1393"></td> <td data-bbox="881 1355 1252 1393"></td> </tr> </tbody> </table> <p><i>Comments/Observations/Additional Information</i></p>	Functions	Standards									<p>If No/Do Not Know, Go Q9</p> <p>Tick () as appropriate</p> <p>Use separate sheet if space not enough</p>
Functions	Standards											
<p>3. Inventory of government assets and liabilities previously held by central government, local authorities and public cooperation prepared, updated and protected.</p> <ul style="list-style-type: none"> Inventory would include physical assets, debts and liabilities, infrastructure and equipment, of the government and local authorizes. 	<p>9. Does your county have an inventory of assets and liabilities relating to it?</p> <p>a. Yes b. No</p> <p>10. If No to Q9, what mechanisms are in place to establish an inventory of assets and liabilities of the county?</p> <p>a. b. c. d.</p>	<p>If Yes, Ask for the list of inventory and liabilities</p>										
<p>4. Proportion of assets and liabilities that have been transferred to county governments from national government</p> <ul style="list-style-type: none"> A list of all assets and liabilities 	<p>11. From the inventory of assets and liabilities of the former central government and defunct local authorities, are there any (assets and liabilities) that were supposed to be transferred to your county government but have not been transferred?</p> <p>a. Yes b. No</p>	<p>If No, Go to Q13</p>										

Indicator and Short Definition/ Explanation	Study Questions	Rules																		
<ul style="list-style-type: none"> Out of these assets and liabilities, which ones have been transferred to counties to facilitate delivery of services? 	12. If Yes to Q11, which ones are they? a. b. c. d.																			
5. A Citizens' Service Centre (Sec 119 of CGA, 2012) established to serve as the central office for the provision by the county executive committee in conjunction with the national government of public services to the county citizens. <ul style="list-style-type: none"> Appropriate information and communication technologies available at a Citizens' Service Centre to aid in the provision of timely and efficient services to the county citizens. 	13. From the following decentralized units, in which one(s) has the county executive committee established a Citizen's Service Centre? (<i>Alternative but similar question - Has the county established any Citizens' Service Centers? Is so where?</i>) <table border="1" data-bbox="535 544 1248 774"> <thead> <tr> <th></th> <th>Yes</th> <th>No</th> </tr> </thead> <tbody> <tr> <td>a) the county</td> <td></td> <td></td> </tr> <tr> <td>b) the sub-county</td> <td></td> <td></td> </tr> <tr> <td>c) the Ward</td> <td></td> <td></td> </tr> <tr> <td>d) any other decentralized level (specify..)</td> <td></td> <td></td> </tr> <tr> <td>.....</td> <td></td> <td></td> </tr> </tbody> </table> <p><i>Comments/Observations/Additional Information</i></p>		Yes	No	a) the county			b) the sub-county			c) the Ward			d) any other decentralized level (specify..)					Tick () as appropriate
	Yes	No																		
a) the county																				
b) the sub-county																				
c) the Ward																				
d) any other decentralized level (specify..)																				
.....																				

Indicator and Short Definition/ Explanation	Study Questions	Rules																											
Output 3: Legislative framework to facilitate service delivery at county government level (<i>Transferred functions are being performed "effectively"</i>)																													
6. Operationalization of legislation provided for in the 5th Schedule of the Constitution to facilitate implementation of devolution. <ul style="list-style-type: none"> Speaker of County Assembly (Article 178) Urban Areas and Cities (Article 184) Support for County Governments (Article 190) Removal of County Governor (Article 181) Vacation of office by member of County Assembly (Article 194) Public participation and county assembly powers, privileges and immunities (Article 196) Legislation to effect Chapter Eleven (Article 200/sixth schedule, section 15) Revenue Funds for County Governments (Article 207) 	14. Has the county government facilitated access to the following devolution related laws to its officers? <table border="1" data-bbox="531 1038 1248 1327"> <thead> <tr> <th></th> <th>Yes</th> <th>No</th> </tr> </thead> <tbody> <tr> <td>a. The Constitution of Kenya, 2010</td> <td></td> <td></td> </tr> <tr> <td>b. The Elections Act, 2011</td> <td></td> <td></td> </tr> <tr> <td>c. The Transition to Devolved Government Act, 2012</td> <td></td> <td></td> </tr> <tr> <td>d. The Urban Areas and Cities Act 2011</td> <td></td> <td></td> </tr> <tr> <td>e. The County Government Act 2012</td> <td></td> <td></td> </tr> <tr> <td>f. The Public Finance Act 2012</td> <td></td> <td></td> </tr> <tr> <td>g. Intergovernmental Relations Act, 2012</td> <td></td> <td></td> </tr> <tr> <td>h. The National Government Coordination Act, 2013</td> <td></td> <td></td> </tr> </tbody> </table> 15. Is there a documentation center/library in your county where these documents are available and accessible to MCA, CECs and county government staff for reference? <ul style="list-style-type: none"> a. Yes b. No <p><i>Comments/Observations/Additional Information</i></p>		Yes	No	a. The Constitution of Kenya, 2010			b. The Elections Act, 2011			c. The Transition to Devolved Government Act, 2012			d. The Urban Areas and Cities Act 2011			e. The County Government Act 2012			f. The Public Finance Act 2012			g. Intergovernmental Relations Act, 2012			h. The National Government Coordination Act, 2013			Tick () as appropriate Circle as appropriate
	Yes	No																											
a. The Constitution of Kenya, 2010																													
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f. The Public Finance Act 2012																													
g. Intergovernmental Relations Act, 2012																													
h. The National Government Coordination Act, 2013																													
7. Any other legislation required by the Constitution to implement devolution <ul style="list-style-type: none"> Fifth Schedule to the Constitution 	16. Provide a list of legislative proposals developed by your County since March 4, 2013. <ul style="list-style-type: none"> a. b. c. 17. Out of the legislative proposals listed in Q16, which ones have been passed by the county assembly? <ul style="list-style-type: none"> a. b. c. 	Use separate sheet is space provided not enough Use separate sheet is space provided																											

Indicator and Short Definition/ Explanation	Study Questions					Rules
						not enough
	18. Out of those passed by the county assembly (Q17), which ones have been assented to by the county governor? a. b. c.					Use separate sheet is space provided not enough
	<i>Comments/Observations/Additional Information</i>					
8. Proportion of new and existing legislation that are/have been aligned with the Constitution. <ul style="list-style-type: none"> • All existing laws affecting devolved system of government have been identified • All Articles of the Constitution on devolved system of government and require legislation have been identified • Respective laws have been reviewed/developed and enacted. 	19. Has your county (either executive or assembly) identified the legislation (<i>legislation that existed before August 27th, 2010</i>) that requires review to align them with the Constitution and facilitate effective implementation of their mandates? (<i>This Q is limited to devolved functions</i>) a. Yes b. No					If No, Go to Q21
	20. If Yes to Q19, list the legislation that require review, and new legislation that require development to facilitate service delivery at the county level. For each legislation, provide status of review/development, in the table below.					Use separate sheet is space provided not enough
	List of Existing and New Legislation	E/N	Review/Development not started	W.I.P	Review/Development completed	E=Existing N=New W.I.P= Work in progress
<i>Comments/Observations/Additional Information</i>						
9. The requisite policies, laws and regulations approved <ul style="list-style-type: none"> • Identification of functions that require policies, laws and regulations • Review if necessary, the existing policies, laws and regulations in line with the Constitution and delivery of the function • Development of new if none exists • Critical challenges your county has faced in review/development of policies, legislation, and regulations 	21. Has your county government developed any county policies, guidelines, regulations, subsidiary legislation to guide implementation of its functions? a. Yes b. No					If No, Go to Q23
	22. If Yes to Q21, in the space below, list the county policies, guidelines, regulations, subsidiary legislation developed, indicating if they are completed, or work in progress.					
	County policies, guidelines, regulations, subsidiary legislation			W.I.P	Completed	List and tick () as appropriate
	23. What are the critical challenges your county is experiencing in reviewing/developing policies, legislation, and regulations; and what are your recommendations?					Use separate sheet is space provided not enough
	Challenges		Recommendations			
1.						
2.						
3.						
4.						
5.						
6.						
<i>Comments/Observations/Additional Information</i>						

Indicator and Short Definition/ Explanation	Study Questions	Rules
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Indicator and Short Definition/ Explanation	Study Questions	Rules
Output 4: Human capacities deployment and development to facilitate implementation of system of devolved government		
10. County Public Services Boards established and fully functional (Sec 57 & 58 of CGA 2012) <ul style="list-style-type: none"> County assemblies are required to establish County Public Services Boards CBSBs will be in charge of human resources management. 	24. Does your county have a County Public Services Board? <ul style="list-style-type: none"> a. Yes b. No 	If No, Go to Q26
	25. If Yes to Q24 what is its membership	
	Members	Number
	Men	
	Women	
	Total	
11. The level to which establishment of offices and appointments of county government staff comply with the law <ul style="list-style-type: none"> Number and type of offices established in Counties Criteria of establishing offices and hiring staff are found in Section 55-86 of the County Governments Act, 2012. CECs recruited as per the portfolios established 	26. What offices have been established under each department (<i>Ministry</i>) (see Q4), in your county?	
	Department/Ministry	Offices
<i>Comments/Observations/Additional Information</i>		
12. Mechanisms/programmes to develop capacities of staff in Counties in place (TDGA Act, 2012) <ul style="list-style-type: none"> A list of human resource and respective skills. A list of human resource assigned to the two levels of government, and decentralized units of the county governments. The requisite regulations for managing human resources in counties developed. Circular by the Public Service Commission issued a guide the county in respect of staff deemed to be seconded. Programmes designed to build capacities of county government staff. The capacity building majorly targeted MCAs, CECs, and other public officers. 	27. Has a capacity needs assessment been carried out in your county in relation to the functions transferred? (<i>Capacity in the broad meaning - human, equipment, infrastructure, etc.,</i>) <ul style="list-style-type: none"> a. Yes b. No 	If No, Go to Q30
	28. If Yes to Q27, who did the assessment? <ul style="list-style-type: none"> a. Transition Authority b. The County Public Service Board c. National Government d. Other (Specify.....) 	
	29. If Yes to Q27, what were the key findings/results of the assessment? <ul style="list-style-type: none"> a. b. c. 	Go to Q31
	30. If No to Q27, what arrangements are there to carry out the capacity needs assessment in your county? <ul style="list-style-type: none"> 	
	31. Has capacity building been carried out in your county for CMAs, CECs, and/other public officer? <ul style="list-style-type: none"> a. Yes b. No 	If No, Go to Q34
	32. If Yes Q31, who facilitated/funded the capacity building? <ul style="list-style-type: none"> 	

Indicator and Short Definition/ Explanation	Study Questions	Rules																																																																																																																																									
	<p>33. If there has been a capacity building carried out in your county, on a scale of 1-5, to what extent has it been effective? 1 = Not effective 2 = Less Effective 3 = Effective 4 = Very Effective 5= Extremely Effective</p> <p>34. Describe mechanisms/programmes your county has designed to develop capacities of staff in your county </p> <p>35. Has the Public Service Commission issued a circular to guide the county in respect of staff deemed to be seconded? a. Yes b. No</p> <p><i>Comments/Observations/Additional Information</i></p>																																																																																																																																										
<p>13. Human resources deployed and/or recruited according to transferred functions.</p> <ul style="list-style-type: none"> • Marginalization and gender requirements in County public service recruitment adhered to. 	<p>36. For each office that has been established in the county (see Q26), what is the breakdown of staff by gender, PWD, youth, women, and marginalised/minority groups?</p> <table border="1" data-bbox="535 953 1242 1430"> <thead> <tr> <th rowspan="3">Name of Office</th> <th colspan="7">Number of staff</th> </tr> <tr> <th rowspan="2">Male</th> <th rowspan="2">Female</th> <th rowspan="2">Total</th> <th colspan="4">Marginalised/Minority</th> </tr> <tr> <th>PWDs</th> <th>Youth</th> <th>Women</th> <th>Marginalized Coom</th> </tr> </thead> <tbody> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr> <td>Total Number</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>37. What challenge(s) is your county facing in relation to staffing and what are the recommendations to minimise these challenges?</p> <table border="1" data-bbox="535 1502 1242 1698"> <thead> <tr> <th>Challenges</th> <th>Recommendations</th> </tr> </thead> <tbody> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr><td>4.</td><td></td></tr> <tr><td>5.</td><td></td></tr> <tr><td>6.</td><td></td></tr> </tbody> </table>	Name of Office	Number of staff							Male	Female	Total	Marginalised/Minority				PWDs	Youth	Women	Marginalized Coom																																																																																																	Total Number								Challenges	Recommendations	1.		2.		3.		4.		5.		6.		<p>Use separate sheet if space provided is not enough</p> <p>Probe for challenges, including ethnicity, secondment, deployment, etc.</p>
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Indicator and Short Definition/ Explanation	Study Questions	Rules
	38. Describe how your county has handled issues of seconded and redeployment of a) National government staff b) Staff of the defunct local authorities	
<i>Comments/Observations/Additional Information</i>		

Indicator and Short Definition/ Explanation	Study Questions	Rules																																			
Output 5: Plans to Facilitate Implementation of System of Devolved Government																																					
14. Transition Implementation Plans (TIPs) based on guidelines issued by TA developed by State organs and public entities and County governments after first election and approved • TDGA Act 2012, Sec 16(3) 15. Number and type of development plans completed and approved by county assemblies. • As required in the County Governments Act (Sec 104-115),	39. In the list of constitutionally required plans below, indicate their development status in your county. <table border="1" data-bbox="546 846 1233 1251"> <thead> <tr> <th data-bbox="546 846 817 921" rowspan="2">Type/name of development plan</th> <th colspan="3" data-bbox="817 846 1233 878">Development status</th> </tr> <tr> <th data-bbox="817 878 951 921">Not Started</th> <th data-bbox="951 878 1065 921">W.I.P</th> <th data-bbox="1065 878 1233 921">Approved</th> </tr> </thead> <tbody> <tr> <td data-bbox="546 921 817 981">a. Transition Implementation Plans</td> <td data-bbox="817 921 951 981"></td> <td data-bbox="951 921 1065 981"></td> <td data-bbox="1065 921 1233 981"></td> </tr> <tr> <td data-bbox="546 981 817 1040">b. County integrated development plan</td> <td data-bbox="817 981 951 1040"></td> <td data-bbox="951 981 1065 1040"></td> <td data-bbox="1065 981 1233 1040"></td> </tr> <tr> <td data-bbox="546 1040 817 1100">c. County sectoral plans</td> <td data-bbox="817 1040 951 1100"></td> <td data-bbox="951 1040 1065 1100"></td> <td data-bbox="1065 1040 1233 1100"></td> </tr> <tr> <td data-bbox="546 1100 817 1159">d. County spatial plans</td> <td data-bbox="817 1100 951 1159"></td> <td data-bbox="951 1100 1065 1159"></td> <td data-bbox="1065 1100 1233 1159"></td> </tr> <tr> <td data-bbox="546 1159 817 1219">e. Cities and urban areas plans</td> <td data-bbox="817 1159 951 1219"></td> <td data-bbox="951 1159 1065 1219"></td> <td data-bbox="1065 1159 1233 1219"></td> </tr> <tr> <td data-bbox="546 1219 817 1278">f. County Development Plan (Annual)</td> <td data-bbox="817 1219 951 1278"></td> <td data-bbox="951 1219 1065 1278"></td> <td data-bbox="1065 1219 1233 1278"></td> </tr> <tr> <td data-bbox="546 1278 817 1338">g. Others (specify.....)</td> <td data-bbox="817 1278 951 1338"></td> <td data-bbox="951 1278 1065 1338"></td> <td data-bbox="1065 1278 1233 1338"></td> </tr> </tbody> </table>	Type/name of development plan	Development status			Not Started	W.I.P	Approved	a. Transition Implementation Plans				b. County integrated development plan				c. County sectoral plans				d. County spatial plans				e. Cities and urban areas plans				f. County Development Plan (Annual)				g. Others (specify.....)				W.I.P – Work In Progress
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Indicator and Short Definition/ Explanation	Study Questions	Rules
Output 6: Financial Systems to Facilitate Implementation of System of Devolved Government		
16. Structures established at county governments for financial management (PFM Act, Sec. 103, • The County Treasury comprises the - County Executive Committee members for finance, - Chief officer, - Departments of the county treasury responsible for financial and fiscal matters (Finance, Accounts, Audit, Procurement)	40. Has your county established a functioning County Treasury with authorised membership? a. Yes b. No	
17. Integrated Finance Management Information System (IFMIS) installed and operational in each County (Sec 12e of PFM Act) • County governments shall operate financial management systems that	41. Has the Integrated Finance Management Information System (IFMIS) been installed and operational in the County? a. Yes b. No 42. If no what Financial Management System is the county using?	If Yes, go to 43

Indicator and Short Definition/ Explanation	Study Questions	Rules																																								
comply with any requirements by the national legislation {Article 190 (2)}																																									
18. County Budget and Economic Forum established for county budget consultation process. <ul style="list-style-type: none"> The Forum established as soon as practicable after the commencement of PFM Act, Sec 137. 	43. Has the County Government established the County Budget and Economic Forum? <ol style="list-style-type: none"> Yes No 44. If Yes to Q43, from the list below how many members of the County Budget and Economic Forum represent the following groups? <table border="1" data-bbox="538 491 1248 746"> <thead> <tr> <th>Persons nominated by organizations representing</th> <th>Total Number</th> </tr> </thead> <tbody> <tr> <td>a. Professionals</td> <td></td> </tr> <tr> <td>b. Business</td> <td></td> </tr> <tr> <td>c. Labour</td> <td></td> </tr> <tr> <td>d. Women</td> <td></td> </tr> <tr> <td>e. Persons with Disabilities</td> <td></td> </tr> <tr> <td>f. Elderly</td> <td></td> </tr> <tr> <td>g. Faith Based Groups</td> <td></td> </tr> <tr> <td>Total</td> <td></td> </tr> </tbody> </table> <i>Comments/Observations/Additional Information</i>	Persons nominated by organizations representing	Total Number	a. Professionals		b. Business		c. Labour		d. Women		e. Persons with Disabilities		f. Elderly		g. Faith Based Groups		Total																								
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19. County Funds established (County Revenue Fund (PFM Act, 2012Sec 109, County Emergency Fund, (Sec. 110), Others.. 116.	45. Which of the following Funds has the County Executive established in the county? <table border="1" data-bbox="538 874 1248 1115"> <thead> <tr> <th>Funds</th> <th>None</th> <th>W.I. P</th> <th>Approved</th> </tr> </thead> <tbody> <tr> <td>a. County Emergency Fund</td> <td></td> <td></td> <td></td> </tr> <tr> <td>b. Loans and Mortgages Fund</td> <td></td> <td></td> <td></td> </tr> <tr> <td>c. Ward Development Fund</td> <td></td> <td></td> <td></td> </tr> <tr> <td>d. Other County Funds (Specify.....)</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Funds	None	W.I. P	Approved	a. County Emergency Fund				b. Loans and Mortgages Fund				c. Ward Development Fund				d. Other County Funds (Specify.....)																								
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20. Legislation developed by County Assemblies to facilitate budgeting and allocation of funds <ul style="list-style-type: none"> List of Appropriation Bills developed and passed by County Assemblies Date these Bills were approved by County Assemblies 	46. For 2013/14 FY budget, which months were County Appropriation Bills and Finance Bills approved by your County Assembly? <table border="1" data-bbox="538 1183 1248 1342"> <thead> <tr> <th>Bill</th> <th>Month Approved</th> </tr> </thead> <tbody> <tr> <td>County/Supplementary Appropriation Bills</td> <td></td> </tr> <tr> <td>Appropriation Bills</td> <td></td> </tr> <tr> <td>Finance Bills</td> <td></td> </tr> </tbody> </table>	Bill	Month Approved	County/Supplementary Appropriation Bills		Appropriation Bills		Finance Bills																																		
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21. The extent to which county budgets are aligned with County Plans <ul style="list-style-type: none"> The County Plans are the basis for all budgeting and spending in the county (Sec 107(2) of CG Act, 2012. County Treasury shall prepare following Papers <ul style="list-style-type: none"> County Fiscal Strategy Paper by 28th of February of each year (PFM Act, 117). County Budget Review and Outlook Paper by 30th September of that year (PFM Act, 118) County Government Debt Management Strategy by 28th Feb. of each year (PFM 123) Cash Flow Projects by June 15th of each year (PFM Act, 127) A list of activities in the County Plans that are funded 	47. a. In table below, indicate for 2013/2014 and 2014/2015 Financial Years, if your county developed the required Budget Papers for preparation of annual budgets, and if and when they were approved <table border="1" data-bbox="538 1417 1248 1619"> <thead> <tr> <th>Required Budget Paper (For 2013/2014 FY)</th> <th>Yes/No</th> <th>Month</th> <th>Year</th> </tr> </thead> <tbody> <tr> <td>a. County Fiscal Strategy Paper</td> <td></td> <td></td> <td></td> </tr> <tr> <td>b. County Budget Review and Outlook Paper</td> <td></td> <td></td> <td></td> </tr> <tr> <td>c. County Government Debt Management Strategy</td> <td></td> <td></td> <td></td> </tr> <tr> <td>d. Cash Flow Projects</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> 47b. Required Budget Paper (For 2014/2015 FY) <table border="1" data-bbox="538 1630 1248 1898"> <thead> <tr> <th></th> <th>Not Started</th> <th>W.I.P</th> <th>Completed</th> <th>Approved</th> </tr> </thead> <tbody> <tr> <td>a. County Fiscal Strategy Paper</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>b. County Budget Review and Outlook Paper</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>c. County Government Debt</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Required Budget Paper (For 2013/2014 FY)	Yes/No	Month	Year	a. County Fiscal Strategy Paper				b. County Budget Review and Outlook Paper				c. County Government Debt Management Strategy				d. Cash Flow Projects					Not Started	W.I.P	Completed	Approved	a. County Fiscal Strategy Paper					b. County Budget Review and Outlook Paper					c. County Government Debt					Month = Number (e.g. 03) Year (13)
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Indicator and Short Definition/ Explanation	Study Questions				Rules
	Management Strategy				
	d. Cash Flow Projections				
	48. What challenges did you face in preparing these first budgets (2013/14 & 2014/2015 FY) under system of devolved government? What are your recommendations to minimise these challenges?				
	Challenges		Recommendations		
22. Proportion of County budgets funded by the National Treasury <ul style="list-style-type: none"> The budgets from all county governments submitted to Controller of Budget for funding from the National Treasury. 	49. In the table below, provide your county total budget for 2013/14 FY, and the source of funding.				Probe on how they intend to finance the deficit
		Total Budget (Kshs)			
Source of funding	National (Kshs)				
		Own Revenue (Kshs)			
		Deficit (Kshs)			
23. Total budget made available for implementation of the function <ul style="list-style-type: none"> Costs to each of the activities identified under functional analysis Costs compared with the cost of providing the basic minimum standard of the service The budget requested for in the national and county budgets Actual budgets allocated (and released) County plans (if any) for borrowing and the frameworks they are putting in place to facilitate the borrowing. Agreements with development partners in respect of funding / grants etc. 	50. In the 2014/15 FY plans and budgets, have funds been allocated to all transferred functions? a. Yes b. No				If Yes, Go to Q52
	51. If No to Q50, for which functions have funds not been allocated in the budget? a. b. c. d.				
	52. In the 2014/15 FY, is the county preparing to borrow funds for its development activities? a. Yes b. No				If No, Go to Q54
	53. If Yes to Q52, what frameworks is the county putting in place to facilitate the borrowing? a. b. c.				
	54. Has the County entered into any agreements with development partners in respect of funding/grants, etc.? a. Yes b. No				
	55. Are you aware of existing agreements between the National Government and development partners with respect to funding/grants (i.e., agreements signed before the coming into office of County Government)? a. Yes b. No				
	<i>Comments/Observations/Additional Information</i>				

Indicator and Short Definition/Explanation	Study Questions	Rules																																																				
Output 7: Intergovernmental Mechanisms for Interaction																																																						
24. County intergovernmental forums established and functional in each county. <ul style="list-style-type: none"> • County government forums chaired by governors or deputy governors or a member of CEC • The forums comprise of <ul style="list-style-type: none"> - heads of all departments rendering services in the county - CEC members 	56. Has your county established the following county government forums? If Yes, how many times, during this (2013/14) FY have the forums been organised? <table border="1" data-bbox="556 431 1248 649"> <thead> <tr> <th>Intergovernmental Forum</th> <th>Yes/No</th> <th>Number of times</th> </tr> </thead> <tbody> <tr> <td>a. County intergovernmental forum</td> <td></td> <td></td> </tr> <tr> <td>b. County policing authority</td> <td></td> <td></td> </tr> <tr> <td>c. Citizens forums</td> <td></td> <td></td> </tr> <tr> <td>d. Information centre</td> <td></td> <td></td> </tr> </tbody> </table>	Intergovernmental Forum	Yes/No	Number of times	a. County intergovernmental forum			b. County policing authority			c. Citizens forums			d. Information centre																																								
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25. Structures and mechanisms for interaction between national government and county governments, and between county governments established and functional <ul style="list-style-type: none"> • The Intergovernmental Relations Act, (No.2) 2012 • PFM Act 2012, Sec 187 (Intergovernmental Budget and Economic Council) • IRGA, 2012, Sec 32 <ul style="list-style-type: none"> (1) Any agreement between the national government and a county government or amongst county governments shall <ul style="list-style-type: none"> (a) include a dispute resolution mechanism that is appropriate to the nature of the agreement; and (b) Provide for an alternative dispute resolution mechanism with judicial proceedings as the last resort. (2) Where an agreement does not provide for a dispute resolution mechanism or provides for one that does not accord with subsection (1), any dispute arising shall be dealt with within the framework provided under this Part. 	57. During the 2013/2014 FY, how many times did a member of your county (CEC) attend the following forums <table border="1" data-bbox="556 725 1248 910"> <thead> <tr> <th></th> <th>Number of Times</th> </tr> </thead> <tbody> <tr> <td>a. Joint intergovernmental technical committee (PFM Act, Sec 100)</td> <td></td> </tr> <tr> <td>b. Intergovernmental budget and economic council (IBEC) -PFM Act, Sec 187</td> <td></td> </tr> <tr> <td>c. Sectoral Intergovernmental Consultative Forum</td> <td></td> </tr> <tr> <td>d. Others (specify.....)</td> <td></td> </tr> </tbody> </table> 58. Has your county experienced intergovernmental disputes? <ul style="list-style-type: none"> a. Yes b. No. 59. If Yes to Q58, which disputes have been experienced? <ul style="list-style-type: none"> c. d. e. f. 60. Are there any potential areas of disputes identified? <ul style="list-style-type: none"> a. Yes b. No 61. If Yes to Q60, which are these potential disputes? <ul style="list-style-type: none"> a. b. c. d. 62. For both experienced and potential disputes, what are the possible solutions? <table border="1" data-bbox="556 1385 1248 1719"> <thead> <tr> <th>a. Experienced</th> <th>Possible solutions</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr> <th>b. Potential disputes</th> <th>Possible solutions</th> </tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>		Number of Times	a. Joint intergovernmental technical committee (PFM Act, Sec 100)		b. Intergovernmental budget and economic council (IBEC) -PFM Act, Sec 187		c. Sectoral Intergovernmental Consultative Forum		d. Others (specify.....)		a. Experienced	Possible solutions																					b. Potential disputes	Possible solutions																			Probe for IBEC meetings, sectoral, intergovernmental consultative forums, etc. If No, Go to Q60 If No, Go to Q62
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26. Participation of the counties in inter-county projects.	63. In the 2013/14 FY, has the county participated in any inter-county projects? <ul style="list-style-type: none"> a. Yes b. No 																																																					

Indicator and Short Definition/Explanation	Study Questions	Rules			
27. Inter-governmental agreements signed with national government and/or with other county governments.	64. Has the county signed any inter-governmental agreement, either with national government or with other county governments? a. Yes b. No				
	65. If Yes to Q64, in table below indicate the type/name of the agreement, and if signed with national government or county government.				
	Type/Name of Agreement	Signed with ... Government			
		(a) National	(b) County	(c) None	
<i>Comments/Observations/Additional Information</i>					

Indicator and Short Definition/Explanation	Study Questions				Rules	
Output 8: Decentralized Units Defined, Established and Approved by County Assemblies						
28. Number of decentralized units established and functional in each county (Article 176 of the Constitution) <ul style="list-style-type: none"> • Functional means there are established and operational; (1) office of the sub-county administrator, (2) office of the ward administrator, and (3) office of the village administrator and village council. That these offices are staffed, funded and provided with necessary infrastructure, including equipment to deliver services. 	66. From the list below, what is the number of decentralised unit(s) your county has identified and what is their status of establishment?					
	Type of decentralized unit identified	Number	Establishment status			
			Functional	Not functional		
	a. Sub-counties (Art 89)					
	b. Wards {within the county (Art 89)}					
c. Villages (as may be determined by the county assembly)						
d. Any further units of decentralization (specify)						
29. The decentralized units are resourced to deliver services. <ul style="list-style-type: none"> • Structures could include offices, equipment, staffing, committees, etc. 	67. What type of infrastructure, structures and systems do these decentralised units have to deliver their functions?					
	Decentralized unit identified	Infrastructure	Structures	Systems		
	a. Sub-counties (Art 89)					
	b. Wards {within the county (Art 89)}					
	c. Villages (as may be determined by the county assembly)					
	d. Any further units of decentralization (specify)					
68. What is the amount of county government budget for 2013/14 FY released to the boards of the decentralised units?						

Indicator and Short Definition/ Explanation	Study Questions	Rules										
	<table border="1"> <tr> <td>Decentralized Unit</td> <td>Amount of 2013/14 budget released (Ksh) to</td> </tr> <tr> <td>Sub-counties</td> <td></td> </tr> <tr> <td>Wards</td> <td></td> </tr> <tr> <td>Villages</td> <td></td> </tr> <tr> <td>Others (specify)</td> <td></td> </tr> </table>	Decentralized Unit	Amount of 2013/14 budget released (Ksh) to	Sub-counties		Wards		Villages		Others (specify)		
Decentralized Unit	Amount of 2013/14 budget released (Ksh) to											
Sub-counties												
Wards												
Villages												
Others (specify)												
	69. Explain below any administrative challenges these decentralised structures are facing.											
30. The kind of national government decentralised units at the county. • How the two levels of government interrelate, consult and cooperate at the county level. • For Q70, make reference to structures such as County Commissioners, Ministry of Devolution & Planning, National Treasury at county level, Kenya National Bureau of Statistics, etc.	70. To what extent do the National Government structures at the county level facilitate the operations of and service delivery by the county government? a. b. c. d.											
	71. What challenges has the county experienced in interrelating, consulting and cooperating with these national Government structures?											

Indicator and Short Definition/ Explanation	Study Questions	Rules												
Output 9: Cities, Towns and Municipalities Established and Functional														
31. Proportion of cities, town and municipalities established that meet criteria set out in Section 5 of the Urban Areas and Cities Act, 2011. • Assessment undertaken on the existing cities, towns and municipalities to ascertain whether they meet the criteria for classifications • Section 5(2) of Urban Areas and Cities Act, 2011. • Section 5(2) of Urban Areas and Cities Act, 2011.	72. Has your county carried out an assessment on the existing cities, towns and municipalities to ascertain whether they meet the criteria for classifications? a. Yes b. No	If Yes, Go to Q73												
	73. If No to Q71, what plans are there for the county to carry out the assessment on the existing cities, towns and municipalities to ascertain whether they meet the criteria for classifications?													
32. Number of urban areas, cities and municipalities established. • Article 184 of the Constitution & the Urban Areas and Cities Act, 2011.	74. If Yes to Q72, what is the total number of cities, towns and municipalities established in your county? <table border="1"> <tr> <td>Cities, towns and municipalities</td> <td>Total number</td> </tr> <tr> <td>a. Cities</td> <td></td> </tr> <tr> <td>b. Municipalities</td> <td></td> </tr> <tr> <td>c. Towns</td> <td></td> </tr> </table>	Cities, towns and municipalities	Total number	a. Cities		b. Municipalities		c. Towns		Ask for a list of cities, towns and municipalities established				
Cities, towns and municipalities	Total number													
a. Cities														
b. Municipalities														
c. Towns														
33. Management and governance structures established for cities, municipalities and towns • A board constituted in accordance with section 13 or 14 of Urban Areas and Cities Act, 2011	75. From the list of management and governance structures below, which one(s) have been established for the cities, municipalities and towns? <table border="1"> <tr> <td>Management Structures</td> <td>Cities</td> <td>Municipalities</td> <td>Towns</td> </tr> <tr> <td>established</td> <td></td> <td></td> <td></td> </tr> <tr> <td>A board</td> <td></td> <td></td> <td></td> </tr> </table>	Management Structures	Cities	Municipalities	Towns	established				A board				Tick () as appropriate For the Unit that is zero (0) in Q74
Management Structures	Cities	Municipalities	Towns											
established														
A board														

Indicator and Short Definition/Explanation	Study Questions				Rules	
<ul style="list-style-type: none"> General or special purpose committees of the board Manager appointed pursuant to section 28 of Urban Areas and Cities Act, 2011 Administrators of towns Such other staff or officers as the County Public Service Boards may determine. 	General or special purpose committees of the board				do not ask for the same in Q75	
	Manager					
	Administrators					
	Other staff (Specify)					
	<i>Comments/Observations/Additional Information</i>					
34. The extent to which capital city (i.e., Nairobi County) has decentralised its functions and provisions of its services. <ul style="list-style-type: none"> Section 6 (4) of Urban Areas and Cities Act, 2011 	76. What are the number and type of decentralised units created for the Nairobi City County?				Qs 76 – 78 should be asked to Nairobi City County Government only.	
	Type of decentralised units		Total Number			
35. The nature of agreements entered into by National Government and Nairobi City County Government regarding performance of functions and delivery of services in capital city <ul style="list-style-type: none"> Section 6 (5) of Urban Areas and Cities Act, 2011 	77. Have the National Government and Nairobi City County Government signed any agreement regarding performance of functions and delivery of services in Nairobi capital city? a. Yes b. No				If No, Go to Q79	
	78. If Yes to Q77, what is the type of the agreements? a. b. c.					
	<i>Comments/Observations/Additional Information</i>					
36. Proportion of county government budgets released to cities, municipalities, cities boards. <ul style="list-style-type: none"> Section 20(1)(l) of Urban Areas and Cities Act, 2011. Cities, municipalities and towns budgets developed and approved by CECs 	79. Out of the total budget of your County Government for 2013/14 FY, what is the proportion that is released to cities, municipalities boards?					
			Boards of	% of 2013/14 budget released		
			Cities			
			Municipalities			
			Towns			
<ul style="list-style-type: none"> Service delivery mechanisms established to facilitate delivery of services in urban areas, cities towns and municipalities. (Urban Areas and Cities Act, 2011, Sections 32, 33 & 34). 	80. From the following list of service delivery mechanisms, which one(s) have been established and functional in your county?				Tick () as appropriate. For each mechanism established, describe which ones have been established.	
	Service delivery mechanisms in urban areas, cities towns and municipalities		Established	Not Established		
	a. Legislation by county assembly on set up and establishment of service delivery entities					
	b. Operational sectors and service delivery units					
	c. Partnership with a utility company (in/out of the county boundary)					
d. Joint delivery system of cross-city and cross-municipality services						

Indicator and Short Definition/Explanation	Study Questions			Rules
	e. Contract private entities (in accordance with the Public Procurement and Disposal Act, 2005)			
37. Integrated urban areas, cities and municipalities development plans developed and approved <ul style="list-style-type: none"> • Every city and municipality shall operate within the framework of integrated development planning; (Section 36(1)). • An integrated plan for urban/city/municipality/town shall bind, guide and inform all planning development and decisions, ensuring comprehensive inclusions of all functions; (Section 36(2)). • A city/urban/municipality integrated plans shall be aligned to the development plans and strategies of the county governments. • Section 20(l)(b) of Urban Areas and Cities Act, 2011. 	81. In your county, how many cities and municipalities have developed their integrated development plans? Cities (.....) Towns (.....) Municipalities (.....)			
	82. From Q81, how many of these plans have been approved by the executive? Cities (.....) Towns (.....) Municipalities (.....)			
	83. In the space below, list the challenges experienced in the establishment of urban areas and cities. <ul style="list-style-type: none"> a. b. c. 			
	Comments/Observations/Additional Information			

Indicator and Short Definition/Explanation	Study Questions			Rules		
Output 10: Public Participation						
38. Level of Citizens Participation in Counties development programmes and operations <ul style="list-style-type: none"> • Extent to which principles of citizen participation have been enshrined into County operations • Structures established to facilitate citizen participation in county governments operations • List of laws and regulations developed and approved by county assembles to give effect to the requirement for effective citizens participation in development planning and governance. • Modalities and platforms for citizen participation established in counties. 	84. Which of the following structures has your county government established to facilitate citizen participation in county government programmes					
	Structures established to facilitate citizen participation		Yes	No		
	1. Information communication technology based platforms;					
	2. Town hall meetings (<i>structured meetings</i>)					
	3. Budget preparation and validation fora;					
	4. Notice boards: announcing jobs, appointments, procurement, a Wards and other important announcements of public interest;					
	5. Development project sites;					
	6. Avenues for the participation of peoples' representatives including but not limited to members of the national Assembly and Senate;					
	7. Establishment of citizen fora at county and decentralized units. (<i>Also in Section 22(1) of Urban Areas and Cities Act, 2011</i>)					
	8. Others (Specify....)					
85. Which policies, laws and regulations has your county developed and approved by county assemblies to give effect to the requirement for effective citizens participation in development planning and governance?						
Policies		Laws		Regulations		

Indicator and Short Definition/ Explanation	Study Questions	Rules
<i>Comments/Observations/Additional Information</i>		

Output 11: Enhanced Knowledge, Understanding and Ownership of the Constitution – Civic Education (Sec 99 of CGA, 2012)		Rules
<ul style="list-style-type: none"> County legislation developed to provide requisite institutional framework to facilitate implementation of civic education The County Governments Act, 2012, Section 101. 	86. What county legislation and requisite institutional framework has your county developed to facilitate implementation of civic education? a. b. c. d.	
<ul style="list-style-type: none"> The kind of civic education programmes designed and being implemented National design and framework of civil education to determine the content of the curriculum for civil education that takes into account Article 33 of the Constitution The national and county governments shall facilitate implementation of civil education 	87. What type of civic education programmes has your county developed? a. b. c. d.	
<ul style="list-style-type: none"> Civic education units established in each county- The County Governments Act, 2012, Section 100(1) 	88. Has your county established any civic education unit(s)? a. Yes b. No	If No, Go to Q90
	89. If Yes to Q88, describe how the units function. a. b. c. d.	
<i>Comments/Observations/Additional Information</i>		

Indicator and Short Definition/ Explanation	Study Questions	Rules			
Output 12: Public Communication and Access to Information					
<ul style="list-style-type: none"> Observance and application of public communication and access to information principles (County Government Act) Mechanisms established to facilitate public communication and access to information in the form of media with the widest public outreach in the county, which may include Principles of public communication (Sec 93) County communication framework (Sec 95) County government legislation on access to information (Sec 96(3)) 	90. Has your county developed the following to facilitate public communication and access to information?	Tick () as appropriate (Multiple responses are possible)			
	A framework to facilitate public communication and access to information		<table border="1"> <tr> <td>Yes</td> <td>No</td> </tr> </table>	Yes	No
	Yes		No		
	a. A county communication framework				
	b. A county government legislation on access to information				
c. A Strategy for inclusion and integration of minorities and marginalized groups in county development and governance					
d. Others, (Specify.....)					

Indicator and Short Definition/ Explanation	Study Questions			Rules
<ul style="list-style-type: none"> Inclusion and integration of minorities and marginalized groups (Sec 97) 	91. Which of the following mechanisms in the form of media has your county established to facilitate public communication and access to information?			Multiple responses are possible
	Media mechanism	Yes	No	
	a. Television stations;			
	b. Information communication technology centres;			
	c. Websites;			
	d. Community radio stations;			
	e. Public meetings; and			
	f. Traditional media.			
<i>Comments/Observations/Additional Information</i>				