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info@internationalbudget.org.
Introduction

This is the Facilitator Manual for use in the IBP's Kenya County Budget Training. It is meant to be used along with the Participant Manual and the Annex of Key Documents. Both can be found on the IBP Kenya website at http://www.internationalbudget.org/publications/kenya-county-budget-workshop-training-materials/. In addition, you will find an Annex of Key Documents with additional materials that are needed for the various exercises throughout the training. These documents should be printed in advance, or soft copies made available to participants where that is possible.

It is important to emphasize that the training is designed to use all of these materials, so potential users should be advised that if they try to use only one of the manuals, or only some of the documents in the Annex, they may find themselves unable to conduct certain exercises.

These materials have been used with CSOs and journalists around the country since February 2013, and have been tested and modified many times over the past three years. They have also been used in tandem with partners, such as Media Council of Kenya, Twaweza Communications, Media Focus on Africa, Uraia and many CSOs around the country.

The materials are designed to increase the capacity of key oversight actors at local level—particularly civil society and media—to play their part in the new governance structure in Kenya, with a focus on the county budget process. This version of the materials has been modified and expanded to make it easier for people who have never worked directly with IBP to simply pick up and use the materials. To this end, we have added more detailed facilitator notes, explanations of objectives of various activities, and tailored questions/notes for civil society versus journalist audiences.

With proper acknowledgement, these materials are for free use by anyone who is committed to improving the capacity of ordinary Kenyans and oversight bodies to engage with county budgets. For questions or clarifications, please contact Dr. Jason Lakin at jason.lakin@gmail.com.

Dr. Jason Lakin
IBP Kenya
Nairobi, Kenya
May, 2017
This brief guide is designed to assist facilitators in facilitating the Kenya County Budget Training Workshop. The guide gives pointers that have been developed over the years from the experience of other facilitators using the training manuals. The guide has five parts. It gives the structure of the training manuals (part one); the goals and principles of the workshops (part two); tips on how to start a workshop (part three) and general tips on how to run the workshops (part four). Part five provides guidance in cases where the facilitator undertakes one or more selected tasks, sessions or modules (‘shorter version workshop’) independently.

**PART ONE: STRUCTURE OF THE WORKSHOP**

- This part describes the structure of both the participant and facilitator manuals. Both Manuals have four modules and two to three sessions as listed below:

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1. Each module has specific learning outcomes. The sessions are organised to include various tasks with specific task objectives.

2. Each task in every session in the facilitator manual has the following sub-sections:

- **Key Takeaways**
- **Task Objectives**
- **Resources Needed**
- **How to Run this Task**
- **Background Information**
- **Task**
- **Further Readings**
3. Each session in the participant manual has the following sub-sections:
   - Task Objectives
   - Resources Needed
   - Task Explanatory Notes
   - Task
   - Background Information and Extra Readings (Optional)
   - Key Takeaways

4. Facilitators should familiarize themselves with the structure of the sessions in advance.
5. It may be useful to explain the structure of the manuals to the participants at the beginning of any workshop.

**PART TWO: GOALS AND PRINCIPLES OF THE WORKSHOP**

- As the facilitator, you must highlight the goals and underlying principles of the workshop at the start of any training and refer to these throughout the training. The workshop also has specific goals related to learning about Kenya’s budget process. The **SPECIFIC GOALS OF THE WORKSHOP** are to enable participants:

  1. Review and comment on the role of counties and national government in providing services, financing those services and generally managing public funds under the Constitution of Kenya, 2010 and the Public Finance Management Act, 2012 as well as appreciating the complexities related to distribution and unbundling of county and national government functions.

  2. Enhance their understanding and ability to engage with the Kenya’s budget cycle, including the four stages of the budget process, the key actors at each stage, and the key documents related to each stage of the budget cycle.

  3. Enhance their ability to read, comprehend and analyze budget documents in order to engage meaningfully with the executive and legislature.

  4. Enhance their understanding of principles of public participation and deliberation and be able to advocate for improvements in the conduct of budget participation at county level.

  5. Understand principles and practices around equity in resource sharing and be able to advocate for changes in how resources are distributed at the county level.

- The Workshop has **TWO UNDERLYING PRINCIPLES**. These principles relate to ways of thinking that participants should learn through the training as a whole and that the facilitator should keep in mind at all times during the workshop. They are designed to help people participate more effectively in the budget process after the training is over. The box below highlights the two principles.
1. **After the workshop, participants should understand that good budget decisions are based on reasonable justifications and public deliberation about those justifications.** Throughout the workshop, the facilitator should encourage participants to identify the reasons for decisions taken in the budget, whether those reasons are adequately explained in key documents, and whether it is clear that there was (or could be) public deliberation on the basis of what the documents contain. At the same time, participants must hone their own skills of deliberation and practice providing adequate justifications for the inputs they wish to give into the budget process. Participants should leave the workshop with a clear sense of what constitutes a reasonable justification and what to look for in budget documents and participation processes supported by the county.

2. **After the workshop, participants should understand the importance of relative changes and comparisons in conducting budget analysis especially with regards to prioritization.** Budgets are about choices and choices are about comparisons: between sectors, across years, and so on. While all functions of the county governments are important, not all can be prioritized at the same time given limited resources. In making choices about priorities, it is important to:
   - Compare the current year to previous years when looking at revenue and expenditure; to establish what is reasonable, what is ambitious, and what is improbable;
   - Compare sector/department allocations and expenditure to other departments;
   - Compare targets and actual revenues and expenditure; and
   - Compare across sub-national and sub-county units (such as wards) to look at issues of equity in the budget.

These two principles must guide the facilitator when conducting budget facilitation work.
The following are instructions on how to effectively start a workshop.

1. Distribute copies of the Participant Manuals to everyone in the group. Explain that it contains almost all of the information participants will need during the course of the training.
2. Distribute the relevant annex of document requires for all the sessions to be undertaken in the workshop.
3. Ensure you have all the resources needed (hand-outs, flipchart paper, etc.) before undertaking any module, task or session.
4. Always begin by explaining the underlying principles of the workshop and briefly discussing with participants the goals of the workshop and why they are important.
5. Explain that the workshop while containing substantive or heavy content, is intended to be participatory. The training approach that will be used throughout the course emphasizes active participation, open discussion and debate, mutual respect, and learning by asking and doing.
6. To begin, ask the participants to pair up with the person next to them and share the following pieces of information: 1) their name, 2) the work that they do in their organization, 3) their favourite interest, activity, or hobby (outside of work), and 4) why they are attending this workshop and what they hope to learn. After a few minutes, draw participants’ attention back to the larger plenary gathering. Invite each participant to introduce his or her partner and to name their partner’s expectation for the workshop.
7. Write up each participant’s expectation for the workshop on a piece of flipchart paper, so that there is a full list of expectations. Hang this on the wall in the workshop venue.
8. Before starting the workshop, ask participants to name some ground rules for the workshop (e.g., regarding cell phone and laptop use, punctuality, participation, respect for others’ ideas, etc.) and write these up on a sheet of flipchart paper.
9. This list of ground rules should also be posted on a wall in the workshop venue as a reminder throughout the workshop. A polite reminder may be made at the beginning of any session or module as necessary.
10. Briefly highlight the structure of the workshop, which appears in the introductory section of the Participant Manual and Facilitator manual.
PART FOUR: TIPS FOR RUNNING AN EFFECTIVE WORKSHOP

1. In undertaking tasks that require formation of small groups, the following is the recommended number of participants in each group. This depends on the space being utilised for the training and the time available.

<table>
<thead>
<tr>
<th>Total Number of Participants</th>
<th>Groups of Two</th>
<th>Groups of Three</th>
<th>Groups of Five</th>
</tr>
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<tbody>
<tr>
<td>2-12</td>
<td>√ (Maximum 6 groups)</td>
<td>√ (Maximum 4 groups)</td>
<td>×</td>
</tr>
<tr>
<td>12-30</td>
<td>×</td>
<td>√ (Maximum 10 groups)</td>
<td>√ (Maximum 6 groups)</td>
</tr>
<tr>
<td>30-52</td>
<td>×</td>
<td>√ (Maximum 13 groups)</td>
<td>√ (Maximum 11 groups)</td>
</tr>
</tbody>
</table>

× - It is not advisable to form these groups.
√ - It is advisable to form these groups.

2. Ensure that where there are group tasks each group appoints someone to present the group’s findings.
3. Ensure you as a facilitator are familiar with the further readings over and above the background information if the subject of the task/session is completely new to you. This is to ensure that you are more knowledgeable about the content than the participants.
4. Ensure the participants are aware of the learning outcomes for each module and the objectives for each session and task before beginning any activity.
5. Always ensure you have understood the key takeaways from a session before undertaking it.
6. Where a discussion naturally leads into the next task or next question, it is best to allow this to flow and not force the next task or question simply to follow the structure. Encourage discussion as long as it is focused on the matters at hand.
7. Where tasks involve scrutinising entire budget documents, direct the participants to one or two sectors of heavily devolved (county) functions, for example: health or agriculture.
8. Encourage participants to come with laptops to the training or organise for computers to minimise on printing long budget documents. Where a projector is available set it up for ease of reference.
9. Where the background information is from legislation or pending legislation ensure you update the same to the current status quo. For example, where a bill has been passed or where an act has been repealed by Parliament or county assemblies.
PART FIVE: TIPS FOR FACILITATING SHORTER VERSION WORKSHOPS

The training manuals have been designed in such a way that the sessions build on one another. However, it is possible to use individual sessions independently to accommodate time constraints or learner interests. For example, participants may request you to take them through the County Fiscal Strategy Paper (CFSP) task only, especially in the months leading to its approval. In such cases, it will be important to provide additional background at the start of the session so that the participants can effectively engage with the chosen session. For example, with the CFSP task, participants may need to understand the connection between the sector ceilings provided in the County Budget Review and Outlook Paper (CBROP) and how these ceilings ultimately affect the budget estimates.

Below is a session with a task that may assist you in providing this background information. While this background information is not built into each session to avoid repetition, this tasks offers some guidance on how to introduce basic budget concepts to the participants whenever a session/sessions are used independently in shorter version workshops rather than as part of a full workshop.

1. Take note of the underlying principles, goals and tips in part one to four of this guide.

2. At the beginning of the shorter version workshop, ensure you highlight the budget cycle, key budget documents and timelines as provided for in the IBP Kenya’s budget calendar infographic. Available at:  

Here is a brief task to assist you in going through the budget cycle.

**TASK 0.1: ABRIDGED VERSION OF THE BUDGET CYCLE SESSION (30 MINUTES)**

**STEP 1:** Hand out copies of the budget calendar (Annex I) and ask the participants in groups of two or three to go through the budget cycle and notes that follow, noting down any unclear issues.(15 minutes)

**STEP 2:** In plenary go through the budget cycle with the participants answering any questions and elaborating on any issues raised on the budget calendar.(15 minutes)

**NOTE:** refer to Module 2 Session 1 for further details.

3. Place each session/task you plan to undertake in the proper stage of the budget cycle, highlighting the key actors and the relevance of other key budget documents to the current session.

4. Ensure you are familiar with the entire manual in order to address any relevant queries arising from the participants pertaining to other sessions not included in the selected shorter version workshop.

5. Refer participants to relevant sessions where further information on a particular issue is available.
## Structure of Modules

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<th>What are Counties Responsible for?</th>
<th>5 Hours 30 Minutes</th>
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<td>Introduction</td>
<td>Case Study: Counties Slash Health Care Budgets?</td>
<td>45 Minutes</td>
</tr>
<tr>
<td>Session 1</td>
<td>Review of the Fourth Schedule of the Constitution</td>
<td>2 Hours 30 Minutes</td>
</tr>
<tr>
<td>Task 1.1</td>
<td>Responsibilities Of National Government and Counties</td>
<td>45 Minutes</td>
</tr>
<tr>
<td>Task 1.2</td>
<td>A Closer Look at Functions According to the Fourth Schedule</td>
<td>1 Hour</td>
</tr>
<tr>
<td>Task 1.3</td>
<td>The August 2013 Gazette Notice on Transfer of Functions</td>
<td>30 Minutes</td>
</tr>
<tr>
<td>Task 1.4</td>
<td>The April 2016 Gazette Notice on Clarification of Functions</td>
<td>15 minutes</td>
</tr>
<tr>
<td>Task 1.5</td>
<td>Interlude: An Application to Nyeri</td>
<td>15 Minutes</td>
</tr>
<tr>
<td>Session 2</td>
<td>County Priorities and County Planning</td>
<td>2 Hours</td>
</tr>
<tr>
<td>Task 1.5</td>
<td>A Look at your County's Data</td>
<td>1 Hour</td>
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<td>Task 1.6</td>
<td>Reflecting on your County’s Plan</td>
<td>45 Minutes</td>
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<td>Task 1.7</td>
<td>Interlude: An Application: Embu Story</td>
<td>15 Minutes</td>
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<tr>
<td>Session 3</td>
<td>County Revenues</td>
<td>30 Minutes</td>
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<td>Task 1.8</td>
<td>Reviewing County Revenue Sources</td>
<td>30 Minutes</td>
</tr>
<tr>
<td>Module 2</td>
<td>County Planning and Budgeting Processes</td>
<td>7 Hours</td>
</tr>
<tr>
<td>Session 1</td>
<td>Overview of the Budgeting Process</td>
<td>30 Minutes</td>
</tr>
<tr>
<td>Task 2.1</td>
<td>Mapping the County Budget Process and Key Kenyan Budget Documents</td>
<td>45 Minutes</td>
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<tr>
<td>Session 2</td>
<td>How to Read Key Budget Documents/Understanding Key Budget Documents</td>
<td>3 Hours 45 Minutes</td>
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<tr>
<td>Task 2.2A</td>
<td>Understanding County Fiscal Strategy Papers.</td>
<td>1 Hour 30 Minutes</td>
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<tr>
<td>Task 2.2B</td>
<td>Understanding the County Budget Review and Outlook Paper</td>
<td>1 Hour 30 Minutes</td>
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<td>Task 2.3</td>
<td>Understanding County Budgets: Twenty Questions about your County Budget</td>
<td>2 Hours 15 Minutes</td>
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<tr>
<td>Session 3</td>
<td>Responsibilities of Citizens Under the Constitution and Legislation</td>
<td>2 Hours</td>
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<tr>
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<td>Recommendations for Effective Public Participation</td>
<td>2 Hours</td>
</tr>
<tr>
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<tr>
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<td>Implementation and Audit</td>
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<tr>
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**Module 1 • What Are Counties Responsible For?**

**5 HOURS, 15 MINUTES**

**LEARNING OUTCOMES**

By the end of this module, the participants will have:

- identified the functions assigned to the national government and county governments, according to the Fourth Schedule of the Constitution;
- examined the division of functions between national and county government, especially for the education, health, and agriculture sectors;
- pointed out gaps in clarity about the functions assigned to national and county government, especially for the education, health, and agriculture sectors;
- reviewed the August 2013 Gazette notice issued by the defunct Transition Authority on the transfer of functions;
- Reviewed the January and February 2016 Gazette notices issued by the defunct Transition Authority on the transfer of specific functions to county governments.
- Reviewed the extent to which the April 2016 gazette notice issued by the defunct Transition Authority clarifies the roles and responsibilities of county governments;
- learned about county revenue sources (national and own revenues)
- studied data at county and ward level from various data sets as a starting point for identifying county priorities; and
- examined an existing county development plan in order to consider how to move from a plan to a budget.

**Introduction to Budget Analysis**

**CASE STUDY: COUNTIES SLASH HEALTH CARE BUDGETS?**

**45 MINUTES**

**KEY TAKEAWAYS**

**GOOD BUDGET ANALYSIS REQUIRES THE ANALYST TO TAKE INTO CONSIDERATION:**

- **✓** CHANGES OVER TIME IN ALLOCATIONS TO DIFFERENT SECTORS/ITEMS
- **✓** THE IMPORTANCE OF ALLOCATING BOTH RECURRENT AND DEVELOPMENT (CAPITAL) EXPENDITURE IN ACHIEVING SECTOR OBJECTIVES
- **✓** DIFFERENCES ACROSS COUNTIES IN PRIORITIES AND NEEDS THAT AFFECT ALLOCATION OF RESOURCES
OBJECTIVE

- IDENTIFYING STRENGTHS AND WEAKNESSES IN BUDGET ANALYSIS

RESOURCES NEEDED

- Flipchart paper, markers, and tape
- Paul Wafula's articles from The Standard available at:
- Jason Lakin's article from The Star (optional) available at:
  - http://www.the-star.co.ke/news/article-144691/paper-was-wrong-health-budgets

HOW TO RUN THIS TASK

1. Ask participants to read the two articles by Paul Wafula (Participant Manual (PM), page 2) and then ask for volunteers to explain what the stories are about in plenary. Try to focus first on the purpose and logic of the stories, and not on their strengths and weaknesses.

2. After it is clear what the story is about, then try to encourage a discussion about whether the stories make sense and capture important challenges in county budgeting.

3. Certain key points need to come out at a minimum. These are covered here and in point 4 and 5. The first key point is related to budget comparisons. Explain the importance in budget analysis of making comparisons between the previous year and the current year, but also the challenges of doing this in the first year of devolution (There were no counties in 2012/13, but there was data from national government on how much was spent roughly in each county before devolution. This is the basis of the comparison in Wafula’s analysis and is laudable, though not fully explained. At the time, maintaining service levels during the transition was important and is still important as counties continue to grow. Thus, assessing whether they were maintaining funding in the first year of devolution at pre-devolution levels for key services like health was an important question).

4. A second key point relates to the difference between recurrent and development expenditure and what this means in the health sector. The key point here is that when making budget comparisons from year to year, and when focusing on service delivery sectors like health or education, it is not possible to draw firm conclusions from looking only at development/capital budgets. First, most service delivery costs in these sectors are recurrent: salaries, supplies, etc. Second, spending on recurrent and development has different patterns from year to year. If a health facility spends X and Y on recurrent and capital respectively in a given year, what can we say about the budget for the next year? If the facility spends less than X in the next year, this likely means fewer staff or fewer drugs, since it is not possible to pay less and maintain salaries and supplies. However, if the facility spends less than Y on capital, this may be perfectly adequate in a number of cases. For example, if Y was spent to buy new equipment in the first year, or to refurbish the maternity wing, it is not necessary to spend Y again in the next year. In fact, we might expect Y to go down and X to go up, because new equipment or facilities now require operational and maintenance costs which are recurrent in nature. Thus we cannot react in the same way to a cut in X and a cut in Y. This is a weakness of the article and a key point about budget analysis.

5. A final point in this discussion is about comparison across units. Comparison across time and comparison across units are both important, but they must also be done carefully. In the case of
comparing across units, we need to understand the needs of each unit first before we decide whether to compare them. For example, it would not make sense to say that a county with many facilities and few doctors should continue to spend more on capital rather than recurrent as might be the case in a county with few facilities and many personnel.

6. After completing the discussion, if there is time, ask the participants to look at the rejoinder article by Jason Lakin.

**BACKGROUND INFORMATION**

- **Recurrent expenditure**: Expenditure that does not result in the acquisition of long-term assets. It consists mainly of expenditure on salaries, goods and services (like medicines), etc.

- **Capital expenditure**: Funds spent for the acquisition of a long-term asset; the total spending on such assets would be divided over several years. This includes expenditure on equipment, land, buildings, etc.

- Example of the recurrent and development expenditure in the health sector is paying for workers and building hospitals, respectively. Increasing development from year to year does not necessarily relate directly to quality of services in that year, though it should have some impact over time if the assets are productive.

Note: In Kenya, traditionally “development” expenditure has included both capital and recurrent expenditure (the latter was often included if it was funded by “development partners”). The PFM Act, 2012 actually defines development expenditure as “capital” expenditure, so eventually the two should mean the same thing in Kenyan budget documents. However, there continues to be a fair amount of confusion about this matter. At the same time, it is important to understand that there is no perfect line between capital and recurrent (or what is sometimes called current) spending. For example, money spent on an asset like a road or building will involve paying wages to construction workers. Normally, wages are considered recurrent, but a wage in service of developing an asset is part of capital expenditure.

- It is essential for one to know their county well and the fact that every county is different with its own needs. A common assumption is that spending more on capital/development is always better, but this is frequently not the case. It is also not as easy to compare per capita development expenditure as it is to compare per capita recurrent spending. This is partly due to the ongoing and consistent relationship between population and many services, such as health or education. For example, for every 30 students, a new teacher may be needed, or additional surgical gloves, but a new road or bridge may only be needed for every 1000 additional people, and even then, we might not need a new road (capital) but just more and better maintenance (recurrent). Because every additional person has a closer link to recurrent spending than to capital spending, per capita recurrent spending is more useful than per capita development spending.
DISCUSSION

For journalists, the focus of the discussion should be:

1. Is the story framed properly? Is there really a “crisis”?
2. What contextual information is included and what is missing?
3. What are the sources for the story and how could these have been used better?
4. How would you write the story differently?

For CSOs, the focus of the discussion should be:

1. Is this type of analysis useful for advocacy? How would you use it in your own county?
2. What other information would you need for a successful advocacy campaign on this issue?
3. How would you structure an advocacy piece or short policy brief to achieve your goals?

Analysis

- Strengths of the analysis include the fact that it tries to look at previous year spending and compare to the current year to determine whether services are expanding or contracting, and tries to compare per capita expenditure across counties.

- A major weakness is that the analysis is limited to development spending and therefore misses the key issues in the health sector. It also does not clearly state this at the outset, giving the impression that budgets as a whole are falling when only development is referred to. Health is a sector where recurrent and operational costs are the main driver of expense. While investing in new facilities is also important, such spending is not necessary in a given year to be able to maintain services.

- Moreover, recurrent spending and development spending have different properties. If recurrent spending falls in a given year, it is likely going to lead to firing of staff or severe contractions in medicines, etc. But the development budget can go up and down depending on project cycles for infrastructure projects.

- The series confuses these two things and focuses on a “crisis” in the sector that is actually only about development, not recurrent, expenditure, and is therefore not a crisis. The title is misleading.

- Why doesn’t the article look at recurrent spending? Partly because county budgets were not transparent in 2013/14 and it was very difficult to find health worker salaries in many budgets. This being the largest part of the recurrent health budget, it made it difficult to do proper analysis. This issue continues to be a challenge even today in many counties, and not only in the health sector.
Alarm as 30 counties slash health budgets

Updated Tuesday, November 12th 2013 at 00:00 GMT +3
By Paul Wafula

Kenya: Thirty counties will spend less on health this year, compared to what the national government spent on citizens in 2012. In their rush to beat the June 30, 2013, deadline set by the Public Finance Management Act, many counties ended up under-budgeting on health, a move that could drastically affect service delivery and create a national health crisis.

Tharaka Nithi, Nyeri, Homa Bay, Kitui and Kericho top the list of counties that slashed their budgets by more than half, compared to what the Ministry of Health previously spent in each of the areas before the advent of devolution. But there are also counties that before the advent of devolution. But there are also counties that doubled their health development expenditure, a move that could improve health services in these areas. These include Kisii, Bomet, Laikipia, Kakamega and Turkana. However, only 17 counties increased their development expenditure, money which goes directly into improving infrastructure to boost service delivery. The revelation will hurt the expectations of many Kenyans who had hoped that devolution would solve their most pressing problems that the central government had ignored for decades. More than six months on the devolution road, an examination of the county health budgets and priorities reveals that most county governments may be failing the test of investing innovatively for the health of the people.

It is conceivable that many of the counties that were already doing badly before devolution will have slim chances of improving. Some counties have invested as little as Sh24 per person in developing health, while the best spenders are counting on donors to honour their promises to supplement funds.

Failure

Starting Tuesday November 11, The Standard will provide comprehensive coverage of devolution of health services to help Kenyans visualise the state of health in their counties and know what the local governments are doing to improve healthcare.

Our two-month investigation reveals that the race by most of the 47 new county governments to prepare budgets to beat the deadline by the central Government may inadvertently have set them up for failure.

Our investigation reviews how much each county is spending on your healthcare and the challenges faced in service delivery to deal with neglected diseases such as trachoma in West Pokot and elephantiasis in and Kilifi. Finally we will look at the challenges of politics and priorities in Tharaka Nithi.

NEW REPORT REVEALS TOP AND BOTTOM COUNTIES IN HEALTH SPENDING

Last updated on 13 Nov 2013 00:00
By Paul Wafula

Kenya: Kisii is the top spending county on health per person in the ranking that saw Tharaka Nithi become the least spender among the 47 counties. A breakdown of the development budgets by the Commission on Revenue Allocation (CRA), County Budgets: 2013-2014 report, shows that Kisii County will spend Sh 2,555 on each of its residents to improve their health infrastructure. This is 10 times more than what the bottom five counties combined plan to spend per person in developing health services in what has seen most counties miss their first opportunity to fix the ailing healthcare system.

Invest less
It comes at a time when it is becoming clearer that most counties will invest less in healthcare than what the National Government did the previous years before the onset of devolution. Before devolution, the National Government spending saw Nairobi, Kiambu and Nakuru counties take the lion's share of the development budget, spending that explains the better health infrastructure in these regions. To earn the top spot, Kisii will spend Sh3.2 billion, which is about 10 per cent of its entire budget, on its 1.2 million citizens as projected in June 2013. But CRA notes that Kisii is among a host of other counties, including Mombasa, that are relying on huge unexplained external sources to boost their budgets, a pointer that its generous spending is influenced largely by its muscle in sourcing for health development partners.

Second and third
Lamu County came in second having set aside Sh 1,659 to develop health for each of its citizens, while Isiolo was third with Sh 1,484 per person. The calculations are limited to what counts intend to spend on development expenditure. Also in the list of the top five spenders are Laikipia and Marsabit counties which plan to spend Sh 1,159 and Sh734 per person, taking the fourth and fifth positions respectively. Three counties from the Western region followed closely in the top 10 big spenders on health per person. Busia County was sixth after it set aside Sh734 per person, while Kakamega and Bungoma Counties set aside Sh689 and Sh671 on each of its citizens. Kakamega was seventh followed closely by Bungoma County. Kakamega and Bungoma counties are also in the top five of the populous counties in Kenya. Busia County is also the only county whose health development expenditure is over 15 per cent of its overall budget. To complete the list of the top 10 spenders on health are Bomet and Mombasa counties, at position nine and 10 respectively. Bomet County will spend about Sh654 per person while a resident in Mombasa County will have Sh498 set aside to improve his or her health this financial year. Some counties that are the least spenders ironically have bigger disease burdens and more pressing health issues.

It was expected that after devolution, county governments would be best placed to address local challenges, but it appears most counties are yet to fill this given that their spending priorities may not give them the financial headroom to start fixing the healthcare system. At the bottom, Tharaka Nithi, Nyeri, Homa Bay, Narok and Siaya counties which spend Sh24, Sh32, Sh57, Sh85 and Sh93 respectively. Also in the list of the bottom 10 counties are Siaya (Sh102), Kericho (Sh109), Kajiado (Sh118), Mandera (Sh140) and Nandi (Sh150). Tharaka Nithi’s total development budget is at Sh1.3 billion. Agriculture, livestock and water services had Sh312 million, roads, public works, transport and legal affairs took the lion share of Tharaka Nithi’s development budget, receiving Sh911 million.
Public hospital
This has made it the least spenders on health despite having only one major public hospital at Chuka, the other being a church-sponsored institution. An analysis of the data shows disconnect between what counties plan to spend against their manifestos and strategic plans. A look at the various county strategic plans and manifestos show that though most counties seem to have appreciated their health challenges, they have begun on a the wrong footing in terms of using hard data and facts to support their expenditure. Nairobi County, the heart of Kenya’s healthcare system, had huge plans to build more health facilities and pharmacies, create ambulance services, promote primary health care, license and control outlets that sell food to the public, create and improve cemeteries, funeral parlours and cremations and show great leadership in liquor licensing. But it is not among the top 10 health spenders in the country. It is at position 33, after it allocated only Sh249 to be spent on developing health for each of its 3.4 million people. This is just about 3.5 per cent of its overall budget. Mombasa County had bigger plans for its health sector. According to its governor’s website, there were plans to have every wards to have a modern health centre that is well equipped and staffed.

Total budget
But the county has allocated Sh498 to be spent on developing health for each of its citizens, bringing its total health development budget to Sh520 million. This is less than 3 per cent of its total budget. Mombasa is ranked position 16 in terms of spending per person in out of the 47 devolved units.

Machakos County, which is emerging as a model county due to its speed in implementing its strategic plans, however, has not allocated money that would roll out its ambitious plan of converting every dispensary in every sub-location to a community hospital to meet World Health Organisation (WHO) standards of a hospital every 5 kilometres. It also plans to add a few rooms in every health centre for bed wards, maternity, mini-theatre, laboratory and x-ray. Information on the Machakos County website also gives an insight of their plans to build doctors and nurses quarters to attract health care personnel and give an allocation of Sh300 million to purchase and equip ambulances for every location to ensure that no patient will ever be carried on wheelbarrows to hospitals. According to the CRA report, Alfred Mutua’s administration allocated Sh420 million was to health development. This is about 5 per cent of its overall budget. This puts the county at position 24.

Counties are counting on donors to support health services, a factor that partly explains the little allocation to health services despite being ranked as one of the top three priorities in most counties.

The spending per person was calculated using data is contained in a CRA booklet presented to the Inter-Governmental Budget and Economic Council Meeting of August 12, 2013. The CRA booklet also contains a breakdown of intergovernmental transfers by county, revenue generated at county-level, and expenditure estimates. “An aggregation of county budgets shows that 69 per cent of revenues will come from National Government transfers while 31 per cent will be generated from own revenue sources,” CRA chairman Micah Cheserem notes in the report.

The article was retrieved from the Standard Digital News.
The Standard deserves commendation for actually writing any story at all comparing county budgets.

This story is several months overdue and no other major news outlet has done the hard work of collecting and analyzing the available budget information and comparing to estimates of how much was spent last year in each county. That, unfortunately, is where the praise for this series must end.

The journalists involved in this effort did not analyze the entire health budgets of the counties they are looking at. Rather, they analyzed only the development (or capital) budget.

They proceeded to write a headline (and story) that implies that counties are cutting their total health budgets. This is misleading.

Quite a substantial share of health spending goes to pay health workers and is captured under the recurrent part of the budget, along with money spent on drugs and supplies.

By my estimates (using Treasury data), this was about 70 percent of total health spending in 2012/13. Development spending was less than 1/3 of total health spending. Ignoring the majority of health spending and then claiming that counties have “slashed” their health budgets is poor journalism.

The analysis goes on to justify the focus on development spending in terms that are at odds with basic public finance. First, the report consistently refers to money spent on “developing health.”

It is not clear what this means, but seems to be a corruption of “development” spending. Yet developing health, like developing education, depends heavily not only on investment but health care workers. For many counties, their focus will need to be on recruiting more and better workers rather than new buildings.
Second, the report seems to miss the different logics between recurrent and development spending. Recurrent spending, for wages and supplies, must happen every year in order to keep the health system running.

A substantial drop in a given year in recurrent spending suggests that health workers may be laid off, facilities closed, or drugs out of stock.

But development spending works differently. Suppose that a county decides that it needs 5 new health facilities. It builds these facilities over three years.

For three years, we will see a large development budget, but in the fourth year, this budget should fall, because the facilities are completed.

Now the focus shifts to operations and maintenance (recurrent spending). So for development spending, the budget can rise and fall each year without endangering the health system, if it is linked to the start and completion of projects.

The problem with many county budgets is that it is not easy to tell if this is happening, because they do not offer multi-year projections for their development expenditures and there is insufficient detail to know what projects are really being proposed or how much they cost.

That is what needs to be questioned. A drop from last year in development spending is not in and of itself a cause for alarm. The problem is that it is not clear where the money is going.

Indeed, one of the reasons why it is effectively impossible to actually analyze the full health budgets for counties, using both recurrent and development expenditure, is because most counties made a major blunder in compiling their budgets this year.

The majority put all staff costs for each sector under a single budget line, such as “executive services,” or “public service.” Thus, all wages for health workers, extension officers, ECD teachers, and so on are under a single budget line.

This is bad budget practice and makes it impossible to know how much each county is spending on each sector. This is the major story this year: not that counties slashed health budgets, but that we cannot even know if they slashed health budgets.

A good investigative story would be to ask county finance officers how they came up with the figures that are contained in that single budget line for staff costs.

There is a good chance that some counties did not budget enough for health workers. Nairobi, for example, one of few counties which has provided sector figures, seems to have cut its recurrent health budget to less than half of last year’s allocations. But more digging is required to determine how widespread this problem really is.
Module I Session 1: Review of the Fourth Schedule of the Constitution

**KEY TAKEAWAYS**

- The functions for both county and national governments are spelled out in the Fourth Schedule of the Constitution and the Transition Authority Gazette Notice 2013.
- However, there are still a number of functions that are unclear and there are disagreements among stakeholders about who is supposed to do what.
- County and national governments have concurrent/shared roles in different sectors, and both governments have a constitutional duty to cooperate with each other in carrying out their roles and responsibilities.
- Residual functions not assigned to any level explicitly belong to the national government.
- Parliament has a role in clarifying responsibilities of the two levels of government through legislation.
- Budget advocacy, analysis, and reporting should take into account the roles and responsibilities of counties and national government and push for further clarification of the functions of both levels of government.

**TASK 1.1: RESPONSIBILITIES OF NATIONAL GOVERNMENT AND COUNTIES**

**45 MINUTES**

**Task Objective**

- Understanding the functions of both levels of government according to the Constitution and other statutory documents.

**Resources Needed**

- Fourth Schedule of the Constitution of Kenya 2010 (Annex II below)

**How to Run the Task**

1. Explain that the 2010 Constitution's Fourth Schedule assigns functions to national and county governments.
2. Remember to indicate that some roles and responsibilities are concurrent (and the lines between the two are ambiguous), while in other cases it is simply unclear which level is responsible for a specific issue as it is not mentioned explicitly. This is inevitable, as a Constitution cannot fully specify all functions in a detailed fashion. That is why the Transition Authority was created and further legislation is ultimately necessary.
3. Refer participants to Task 1.1: Responsibilities of National Government and Counties (PM, p.9) and explain the task, which involves filling out a table.
4. Have participants break up into small groups of three to five individuals for this task. Ask the participants to answer the questions WITHOUT referring to the Constitution. The language used in the exercise is lifted directly from the Fourth Schedule, so if participants raise questions about the lack of
of clarity of the language, remind them that it is not your language, but the official legal language. It is good to remember that official legal language can also have gaps.

5. Give the participants 10 minutes to work on the task.

6. Once the participants are done, have them gather back in plenary and review the answers by asking the participants to volunteer their responses. Discuss and correct as needed.

Emphasize: The answers are “provisional,” in the sense that this is the language in the Constitution of Kenya 2010, but in many if not most cases, it needs to be further defined. This usually comes up in discussion as participants will question some of the functions and whether they are actually national or county functions. The process of defining this was given to the now defunct Transition Authority.

Note: The facilitator should be prepared for many specific questions that cannot be anticipated in this section because they will be based on what participants have heard or seen, as opposed to what the constitution says. The notes (under task 1.2) below try to address some of the most common issues arising in practice when discussing the functions of government. While we believe these notes are fairly comprehensive, the situation on the ground is always changing and facilitators should investigate the degree to which the situation has changed in particular sectors as they prepare for trainings using these materials.

**BACKGROUND INFORMATION**

- In general, if a particular area is not mentioned in the Fourth Schedule, and cannot be reasonably thought to be included in an area that is mentioned, the national government has the “residual” responsibility for it. However, much of the debate is about whether an area can be “reasonably” thought to be included in another area. For example, does the responsibility for pre-primary education at county level reasonably include hiring of pre-primary teachers or not? Generally, there are no easy answers to these questions, which is why legislation is often needed and some of these matters have gone to court for interpretation. (The background notes in the tasks below update the progress made in resolving some of these contentious areas)

**TASK 1.1**

(Questions and Answers)

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<thead>
<tr>
<th>Question</th>
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<tr>
<td>1. Primary Education</td>
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<td>2. Housing Policy</td>
<td>National</td>
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<td>3. Ambulance Services</td>
<td>County</td>
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<td>4. Courts</td>
<td>National</td>
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<td>5. Pre-Primary Education</td>
<td>County</td>
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<td>6. Housing</td>
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1. Ask the participants to read through the Fourth Schedule.
2. In groups of two or three, ask the participants to answer the questions provided for in Task 1.2 (PM, p.11).
3. Ask the participants to come back to plenary and have at least one group answer one of the task questions below.
4. Have a discussion on the matters arising and draw some pointers from the background notes below to enrich the discussion.

In SUMMARY, the purpose of the discussion is to make the participants aware of the fact that there are some gaps and ambiguities in the Constitution, and that this is one of the reasons there must be a process of “unbundling functions” and assigning these functions to a level of government, even though the Fourth Schedule gives broad direction on who will do what.
## Notes on Approved and Pending Legislation in Various Sectors

### A. Education Sector

**Basic Education Act 2013**

The approved Basic Education Act 2013 addresses some issues related to the division of functions, but also creates further confusion. The Act establishes a National Education Board (NEB) and County Education Boards (CEB). In spite of the name, the County Boards are “agents” of the National Education Board. There shall be on this Board a County Director of Education who, despite the title, is also an agent of the national government. The county has one seat on the County Education Board, which is given to the CEC Member for Education or their representative. By and large, the County Education Board is a national body with national representation.

Section 26 of the Act describes the role of the County as providing funds for infrastructure for ECD, childcare facilities, polytechnics, and so on. However, Section 28 mentions that the Cabinet Secretary, in consultation with the NEB and the CEB, will provide for establishment of pre-primary schools. This introduces confusion.

No mention is made of the teachers or staff who will work in these institutions. Section 26 indicates that national government may transfer the function of infrastructure for primary and secondary schools to counties, and may provide conditional grants for the same, but human resources are not mentioned. One interpretation of this is that human resources are with national government and they cannot be transferred.

Another area where confusion is created is in the appointment of Boards of Management (Sections 55 and 56). The Act says that these shall be appointed by the County Education Board (which as we saw, is a national agent) at every school, including pre-primary schools. These Boards will also (Section 63) be paid according to national government regulations. Why should the national government appoint the Boards at pre-primary level if this is a county function?

**Basic Education Regulations, 2015**

These regulations highlight how boards of management and heads of institution for both pre-primary, primary, secondary and adult education will be appointed. The TSC shall appoint and dissolve management boards on recommendation of the CEB. The CEB is required to constitute *ad hoc* committees to vet the suitability of nominees to school boards of management. The area Members of Parliament and chiefs shall form the national representation to these *ad hoc* committees. The other members will be drawn from the county government (County Director of Education, County Assembly Member and a representative of CEB) and other independent bodies/persons (institution sponsors, parents association representative and head of institution). Regulation 49 indicates that all persons to teach in basic education institutions of learning and training shall be required to have undertaken a training programme approved and recognized by the cabinet secretary and registered by TSC.

**Basic Education Amendment Bill, 2014**

This bill may correct some of the confusion we have seen in the original act. The CEB will still have the county commissioner and an additional member: the area Members of Parliament (Clause 4), who may attend the CEB meetings but will have no right to vote. The bill also proposes for constitution of sub-county education boards consisting of members appointed by the Cabinet Secretary for Education. These
sub-county boards will oversee youth polytechnics, pre-primary education at the sub-county level (Clause 5). It is unclear why these sub-county boards will be in charge of county functions yet they are constituted by a national government agent. The bill indicates that TSC will be responsible for assigning teachers to public institutions and training teachers for pre-primary education, child care facilities and home craft centers (Clause 6).

The bill intends to give additional functions to the board such as maintaining a databank on learners and facilities. (Clause 3) County governments will be responsible for development of infrastructure for institutions of basic education conducting pre-primary education and child care facilities. In essence, TSC will be in charge of assigning and training of all teachers and counties will be in charge of infrastructure. These two will have to coordinate with TSC in development projects to secure qualified personnel for their classrooms. This bill was passed by the National Assembly on 25/2/2016 and awaits Senate consideration.

The County Early Childhood Bill, 2014
This Senate Bill indicates that ECD teachers will be recruited by an ECD education recruitment committee: a body that draws members from the county government (Clause 38). In addition, each county government will be responsible for remuneration of ECD teachers in public education centers (Clause 36(3)).

B. HEALTH SECTOR

There are at least two bills that touch on the issue of functions in the health sector. The Health Bill 2016 and the Reproductive Health Bill 2014.

The Health Bill 2016
This bill is an improvement over the earlier Health Bill, 2015 that still left many gaps regarding devolved and national functions. The Health Bill, 2016 has a number of clauses touching on functions. In Clause 15(1) c, the national government is given responsibility to ensure access to emergency services and reproductive health care. It is not clear if this means that the national government must provide counties with funding to implement these functions (which are county functions, as per the TA Gazette Notice from 2013 August). This is implied by Clause 15(1) p, which mentions ensuring adequate finances through “intergovernmental” mechanisms. However, Clause 68 suggests that national government will “implement” a “comprehensive programme” to address reproductive and maternal health (among other things). Similarly, implementation of environmental health programmes is mentioned, yet this was also devolved to counties via the Gazette Notice from August 2013.

The bill also establishes a new body known as the Kenya Health Sector Intergovernmental Consultative Forum. The functions of the forum are not clearly indicated. This will be left to the forum’s discretion as guided by the Inter-Governmental Relations Act. This forum will consist of the Director-General for health and each County Director of health or designated representatives.¹ The Director General for health shall be a national government appointee (by the Public service commission) and shall be vetted by Parliament (Clause 16).

¹ The DG will be a new office created by the law. This office will be the technical advisor to both levels of government and cabinet secretary, facilitating and promoting research and investigations on health as well as publishing reports and statistical information.
The First Schedule of the bill gives the much needed description of how different hospitals are classified. Unlike the 2015 bill, which proposed putting Level 5 (secondary) and Level 6 (Tertiary) hospitals under the national government as national referral hospitals. The 2016 bill only puts Level 6 hospitals under the national government. These national referral hospitals will then be established in each county. The thinking behind this is unclear but current Level 5 hospitals (and all other hospitals) may be upgraded by the Director General to Level 6 and thus will be under the national government (First Schedule Notes (Level 6: tertiary hospitals)).

Clause 24 indicates the functions and services that the national government shall be responsible for. The national government shall be responsible for procurement and supply chain management of public health goods including vaccines, pharmaceutical and non-pharmaceuticals. Under Clause 107, all specialists shall be treated as a national asset in order to sustain internship training and specialist services. The Health Human Resource Advisory Council will formulate policies on the management and rotation of specialists (Clause 31e). It is unclear how the distribution and remuneration of specialists will play out in the context of devolution but we can tell from the First Schedule that the function of specialized services and highly specialized services is given to Level 5 and 6 hospitals which are county and national hospitals respectively. If specialists operate at L5 facilities, they would be county employees. Does this mean counties can hire specialists? What this implies is that there will be specialized staff in county hospitals that are supervised by the national government. It is not clear from the Act how specialists will be managed in the instances that they work in county hospitals.

Clause 67 provides some insight on how procurement will be done. This will be in line with the Public Procurement and Disposal Act and inter-governmental arrangements for ‘medicine and medical products agreed upon will be from KEMSA as the primary provider’. Clause 67(3) of the bill provides that KEMSA may be the first call for procurement of health products at the ‘county national referral level’. It is not clear what is meant by ‘county national referral level’. KEMSA must endeavor to have branches in all counties. Presumably, where KEMSA is unable to meet the demands of the county then the counties may source health products and technologies elsewhere.

The bill also creates a state corporation to be known as the Health Professions Oversight Authority under clause 45. This body has no representation from the counties. One of the roles of this body is to facilitate redeployment, transfers and secondment of staff to the national and county government (Clause 110 (7)). This will be done in consultation with the Public Service Commission, the County Public Service Board, the national ministry of health and county executive departments. This is for a transitional period (upon the expiry of ninety days from the date of publication of the Act). There is no mention on the mechanisms of cooperation between the county government and the authority nor does the bill provide for the principles that will be used in the process such as assessment of needs. The respective county governments have the mandate to promote or appoint an officer to another position. This may not resolve the ongoing struggle on whether counties are required to absorb new health staff assigned after the end of the transition to devolution. It has been reported that counties have rejected staff posted to them after 2013 for various reasons, including lack of funds to cater for new staff. The Health Bill is still at the Senate.

The Reproductive Healthcare Bill 2014, from the Senate, discusses health facilities. It guarantees that all health workers providing maternal and child health services shall operate in adequate facilities. Clause 23 suggests that this means every county should have a Level 5 hospital (these are regional hospitals currently, and would not exist in every county; there are 11 recognized facilities currently). Since Level 5 hospitals currently are a county function, and the existing conditional grant for them does not cover their full costs, the implication is that counties will be forced to build and maintain such facilities from their own resources. While the Bill leaves the health worker numbers to the discretion of the county, each facility is required under
Clause 24 to have 5 ambulances, another “unfunded mandate” for counties (which are responsible for ambulance services).

C. AGRICULTURE SECTOR:

The Agriculture, Fisheries and Food Act of 2013 is the main piece of legislation governing devolution within the agriculture sector. The Act establishes an Authority to take over the functions of a number of state corporations in the sector, listed below:

(i) The Coconut Development Authority;
(ii) The Kenya Sugar Board;
(iii) The Tea Board of Kenya;
(iv) The Coffee Board of Kenya;
(v) The Horticultural Crops Development Authority;
(vi) The Pyrethrum Board of Kenya;
(vii) The Cotton Development Authority;
(viii) The Sisal Board of Kenya;
(ix) The Pests Control Products Board;
(x) The Kenya Plant Health Inspectorate Service;

It is assumed by the act that these bodies do not perform any county functions as per the Constitution. But that is not entirely clear, given that these boards deal with crops, and crop husbandry is a county function. The act does not clarify the roles of counties in the sector beyond what is in the Constitution, and gives them no role in the new authority, which is entirely national in terms of its focus, the members of its board, and the financing.

OTHER SECTORS (not included in the Participant Manual questions)

D. WATER AND SANITATION

While the Constitution refers to water and sanitation services as county functions, water protection and other related issues are national functions. Also, water is a shared resource across county boundaries so it cannot be fully managed by counties alone. There is a need for a regional body or some way of working across county boundaries.

The Water Act takes cognizance that there will be need for some collaboration in the management of shared water resources. The Act, for example, provides for Basin Water Resources Committees. It expressly indicates that each committee must have a representative from each county government whose area falls within the basin. The county representative will be approved by the county assembly. These committees play an advisory role to the Water Resources Authority.

Under the Water Act, 2016, Water Service Boards (WSB) will continue as Water Works Development Agencies (WWDA). WWDAs will be national agencies funded nationally (Section 65). These agencies shall have boards (Boards of Water Works Development Agencies) whose members are appointed by a national government actor: the cabinet secretary responsible for matters relating to water. The members shall consist of members from counties within the basin area.
The WWDA will undertake development, maintenance and management of the national public water works as well as operating waterworks in the interim period before the counties or joint committees take over. National public water works include water works that depends on a water resource that is cross county in nature (section 8). WWDA will also give technical support to counties on request. County governments should establish water service providers that will be responsible for the provision of water services and development of county assets for water service provision (section 78).

The Water Resources Regulatory Authority, a national government agency will be responsible for coordinating with “regional bodies” on regulation of water resources, though it is not clear what exactly this means.

E. ROADS SECTOR

There has been contention about the responsibility of county governments and national governments regarding roads. This has centered on defining county versus national roads and their management, development, rehabilitation and maintenance. Previously there was no clarity about Class C roads, though it had been recommended by the Senate that they be taken up by national government. State corporations Kenya Rural Roads Authority (KeRRA), Kenya National Highways Authority (KeNHA) and Kenya Urban Roads Authority (KURA) have long been in charge of national roads. Following a judgment by the high court and a subsequent legal notice (2 of 2016), it is now clear that the county governments will be in charge of Class D, E, F and G (County Roads) and the national government is in charge of Class A, B and C (National Trunk Roads).

KENYA ROADS BILL, 2015: published in June 2015, this Bill once passed will provide further clarification over the classification of national trunk roads and county roads and management, development, rehabilitation and maintenance. Section 7 and 8 refer to Part A and B of the Bill’s First Schedule that extensively describe the various classifications of roads. National trunk roads which shall be under the supervision of two national government agencies will consist of primary and secondary trunk roads. Primary trunk roads include Class ‘S’ ‘A’ ‘B’ ‘H’ and ‘J’ and will be the responsibility of a new ‘Kenya National Highway Authority (KeNHA)’ (S.9) while secondary trunk roads which include Class ‘C’ and ‘D’ will be the responsibility of a new authority called Kenya National Secondary Roads Authority (S.12). The Bill provides for winding up of the current national agencies KeNHA, KERA and KURA. County governments will be required to establish County Road Agencies that will be responsible for the management, development and maintenance of county roads. (S.95). County Roads under Part B of the First Schedule are Class E, F, g, K, L, M, N and P. National roads may be managed by county governments and the Bill also envisions cost sharing of the roads function between the national and county governments (S.66). Notably, the Bill contradicts the legal notice 2 of 2016 as it proposes classification of Class D roads as national (secondary) roads while the legal notice stipulates that these will be county roads. This may be reviewed by Parliament in approving the Bill.

Note: the transfer of this function (and other functions) is not dependent on the passing of the legislation. Once gazettement of the transfer is done, the county governments may begin to manage the county roads. In the Judgment delivered on 11th December, 2015, the court ordered that the Attorney General should gazette the report of the Senate Sessional Committee on Devolved Government on the Appeals for Transfer of Functions to Counties as passed by the Senate on 17th April 2014 within 90 days (by March, 11) to allow

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2 Council of County Governors v Attorney General & 4 others [2015] eKLR
29 counties to exercise their mandate concerning county roads. The report indicates that class A, B and C should be classified as national roads and class D and E and unclassified roads should be classified as county roads. In that same judgment the court ordered that state corporations (KURA and KeNHA) should cease from transactions falling within the mandate and control of county governments.

F. COURTS

COURTS: The Constitution of Kenya 2010 mentions Subordinate courts as Magistrate Courts and Kadhi courts and any other that may be established by an Act of Parliament. The Judicial Service Act does not establish any other Court. The Chief Justice in exercising his constitutional mandate recalled all municipal court staff and ordered that the cases therein be transferred to Magistrate courts under a separate registry on 18th November, 2014. These municipal courts were rendered obsolete upon passing of the new Constitution. See https://www.google.com/url?sa=t&rct=j&q-&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiVl6s4wMhUHVxoKHYFAB88QfgeeMAA&url=http%3A%2F%2Fwww.judiciary.go.ke%2Fportal%2Fassets%2Ffilemanager_uploads%2FCJ%2520Speeches%2FCChief%2520Justice%2520COG%2520Meeting%2520Remarks.pdf&usg=AFQjCNHySQC1hfYBiXuc17c_wvCAc2_amg&sig2=qCVx4x2PfTrLg1_yy6ORA&bvm=bv.119408272,d.d2s

G. FORESTS

The Forest Conservation and Management Act, 2016

This act was passed in September, 2016. Section 30 classifies forests into three: public (national government), community forest (county) and private forests (individuals). Overall, the Cabinet Secretary is responsible for developing national forest management guidelines for sustainable use of forests and forest resources in the country. Public forests include those held as trust land by the county governments excluding any public land vested in the county governments by the Constitution (Article 62(2)). While the national government through the KFS is in charge of all public forests (Section 31), county governments only play a supervisory and advisory role to communities and private forest owners. County executive committee members shall supervise the implementation of national policies and prepare annual reports on the activities of the county around forest management. Counties can also get into joint management agreements with communities and individuals for management of community forests or private forests.

The national government is responsible for most functions through an established national body, the Kenya Forest Service (section 7). The Kenya Forest Service (KFS) will be managed by a board that has no representation from the county governments. The KFS will be responsible for management of the public forests, and will be funded by the national government. Among its functions, the service will also, in collaboration with the county governments, assist the county governments to build capacity for forestry development on county and private land, and help produce the Forest Status Report and Resource Assessment Report which are to be released every two and five years, respectively. County governments will be responsible for drawing management plans with respect to community and private forests in the county (Section 47). The KFS in consultation with forest conservation committees will prepare management plans with respect to public forests, nature reserve and provisional forests (provisional forest are community or private forests that have been mismanaged or neglected (Section 35)). The Service registers community

3 Provisional forest are community or private forest that have been mismanaged or neglected but also fall within a catchment area, rich in biodiversity of endangered species or has cultural or scientific significant or supporting an important industry ad is a source of livelihood.
The Act also establishes Kenya Forestry College to provide forestry education, vocational and technical training courses in conservation, management, sustainable utilization and protection of forests and allied natural resources (Section 17). The college is in charge of developing training programmes from certificate to diploma level in forest management and utilization. There is no mention of where the staff of this college will come from, though the Kenya Forest Service Board shall formulate policies for the functioning of the college (Section 17.4). Section 15 also allows the Board to appoint other officers of the Service as needed, which could potentially include those of the college.

Are counties required to set aside funds for development of forests? From S.32 (4b) of the Act, it is implied that communities may apply to county governments to get loans from the Forest Conservation and Management Trust Fund. What this may mean is that the fund, which seems to be a national fund (S.27), will be distributed to counties as grants. There are several drafting challenges with the bill (such as incorrect cross-referencing), making the bill difficult to comprehend.

H. SECURITY

SECURITY. The police and military are national functions, but counties are responsible for “control of drugs” and “pornography” according to the Constitution (Fourth Schedule). Moreover, it is evident that national and county governments must work together in some way on security issues. The National Police Service Act 2011 tries to address this.

The County Policing Authority is detailed in Part 6 of the act. The authority comprises a combination of county government officials, national officers and citizen representatives. The membership includes the Governor, who shall be the chairperson, two members representing the County Assembly, six members from interest groups (business, women, etc.), and representatives from national security agencies. The governor may authorize the deputy governor to chair meetings in his absence.

The roles of the Authority include oversight of the county police, including performance against standards as well as the budget for the county forces. The authority prepares quarterly reports on its oversight that are sent to both national and county officials (including the IG, CS, and the Governor and Assembly). The authority is also responsible for implementation of community policing in each county, per Section 97.

The matter of budget oversight is unclear, since the budget for the county forces will be set at national level and oversight of the national budget should be provided by the National Assembly. It is not entirely clear that the budget for the National Police Service will even be organized by county. Finances of the service are discussed in Section 116, but the main units of the service mentioned are posts, outposts, stations and units, not counties (though the budget of the County Authority itself is mentioned). The costs of the Authority’s activities are to be met by the National Police Service and not the county (S.43 & 44).

Beyond education, health, agriculture, water and roads sectors, there are a number of other issues that are unresolved by the Fourth Schedule:
Wildlife protection: national function, but national parks are in counties and will require coordination.

Veterinary services: veterinary services are a county function, but this excludes regulation of veterinary professionals and the issue of who trains them is not clear in the Constitution.

The future of state corporations: The Constitution of Kenya 2010 implies that state corporations will be restructured like all other national bodies to be consistent with the Fourth Schedule. The Report of the Presidential Taskforce on Parastatal Reform (October, 2013) recommended that most of these parastatals should be joint authorities with national and county representation. This report may be found in the annex of documents.

The April supplement by the Transition Authority also addresses the future of some corporations such as the Regional Development Authorities. The Gazette Notice envisions continuation of regional development authorities whose functions remain planning, developing, managing, monitoring and evaluating programmes and projects within water basins in various regions. This gazette notice also unbundles the functions of the other state corporations in line with the categorisation in the fourth schedule of the constitution. Such state corporations include the National Water Conservation and Pipeline Corporation.

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**Task 1.2**

*(Questions and Answers)*

Q1 & 2 What are the national Government and county governments responsible for in the EDUCATION sector?

The Fourth Schedule:

- COUNTY governments are responsible for:
  9. Pre-primary education, village polytechnics, home craft centres and childcare facilities

- NATIONAL government is responsible for:
  15. Education policy, standards, curricula, examinations and the granting of university charters
  16. Universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and special education institutions.

In a judgement delivered on the 4th November, 2016 the courts held that the county governments have the power to recruit ECD teachers and the TSC has the mandate to register these teachers. County governments were ordered to only recruit from ECD teachers that have been registered.

Q3 EDUCATION: Do the responsibilities listed above cover every activity/service in the education sector? Can you think of anything that’s missing? If yes, indicate whether you think the national government or the county government would be responsible for it.
a) Who is responsible for hiring ECD teachers? This matter went to court as TSC and unions wanted this to be centrally controlled, while counties believe they are in charge of ECD teachers and all other ECD functions. County governments have been hiring ECD teachers. TSC and county governments approached the courts to have the matter resolved.

The Basic Education Amendment Bill has yet to be passed. Those already hired should be registered with TSC working with county governments to regularise their appointment.

b) Who is responsible for setting the curricula of village polytechnics? Curriculum development is a national function, but polytechnics are a county function. This might arguably be a shared responsibility.

c) Who is responsible for training teachers? This seems likely to be a national function, but is it? And who trains ECD, village polytechnic teachers? While the TSC Act and the Constitution (Article 237) give the mandate of registering, hiring, reviewing standards for education and training teachers to TSC, the Fourth Schedule gives the county governments the responsibility of pre-primary education, polytechnics, home craft centres and childcare facilities. We saw from the Basic Education Act which seems to suggest that TSC together with the National Educations Board and Quality Assurance and Standards Council, will be responsible for training and registration. It is now clear from the November, 2016 High Court ruling that TSC doesn’t have the mandate to hire ECD teachers. Counties have the mandate to recruit and manage ECD teachers, but teachers must all be registered with TSC.

Q4 & 5: What are the national government and county governments responsible for in the HEALTH sector?

The Fourth Schedule

- NATIONAL government is responsible for:
  23. National referral health facilities
  28. Health Policy

- COUNTY governments are responsible for:
  2. County health services, including, in particular—
    (a) county health facilities and pharmacies;
    (b) ambulance services;
    (c) promotion of primary health care;
    (d) licensing and control of undertakings that sell food to the public;
    (e) veterinary services (excluding regulation of the profession);
    (f) cemeteries, funeral parlours and crematoria; and
    (g) refuse removal, refuse dumps and solid waste disposal.

- In addition, COUNTY governments are responsible for:
  11b. water and sanitation services

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4 Kenya National Union of Teachers v Attorney General & 4 others [2016] eKLR
Q5. Do the responsibilities listed above cover every activity/service in the HEALTH sector? Can you think of anything that is missing? If yes, indicate whether you think the national government or the county government would be responsible for it.

a) Who is responsible for provincial hospitals? There was some tug of war on these hospitals but they were eventually devolved. However, it is an area of ongoing controversy how they will be funded (e.g., they currently receive conditional grants through the annual Division of Revenue, but these are not sufficient to fully fund them), given that they are actually regional institutions, rather than county specific. The Health Bill, 2016 if passed as is, will allow for upgrading of the level 5 hospitals to level 6 and thus fall into the national referral system. Issues around drugs, immunizations, HIV, etc. remain controversial, as we will see in the next exercise.

b) Is immunization a part of “primary health care” (devolved) or is it an unnamed responsibility and thus a residual role of the national governments? Though this has not been classified in a policy document county governments have been undertaking this function and allocating funds to it. The Transition Authority gave immunization to counties as a function under primary health care, however, because a number of immunizations come via international institutions with contracts with the national government, this remains a complex area.

c) How are counties meant to procure drugs? Should they be procured centrally or by counties? The KEMSA Act, 2013 indicates that this state corporation shall procure drugs and enter into partnership with county governments to procure, warehouse and distribute drugs and medical supplies to them (Section3(3c)). According to the KEMSA business model, counties will order for drugs according to their needs, meeting the cost of the drugs as well as distribution. Most of the counties currently procure drugs through KEMSA, except in cases where KEMSA does not have what is required. Counties directly procure other supplies, for example lab reagents, where KEMSA does not have the needed supplies.

d) Ambulance services: a county function, but there may be a need for ambulances for national referral hospitals which would then be owned and operated by national government.

Q 7 & 8 What are the national government and county governments responsible for in the AGRICULTURE sector?

Fourth Schedule

- NATIONAL government is responsible for:
  29. Agricultural policy

- It also has some responsibilities for:
  21. Land planning
  22. Protection of the environment and natural resources

- COUNTY governments are responsible for:
  1. Agriculture, including—
They are also responsible for implementing:

10. National government policies on natural resources and environmental conservation

As we already saw under health, COUNTIES are also responsible for water and sanitation.

Q9 Do the responsibilities listed under the Fourth Schedule above cover every activity/service in the AGRICULTURE sector? Can you think of anything that’s missing? If yes, indicate whether you think the national government or the county government would be responsible for it. Does this cover all services in agriculture?

a. Marketing of agricultural products? Section 6 of the Crops Act and section 4 of the Agriculture, Fisheries and Food Act., 2013 mandate the Agriculture, Fisheries and Food Authority the role of marketing and promotion of crops, but it is not clear that this should be a national function.

b. Agricultural research? Institutions of research are a national function under the Constitution, but it is not clear if all research is done in such institutions. Agricultural and livestock research is a concurrent function of both levels of government according to the Agricultural and Livestock Research Act 2013. The Act indicates that the Kenya Agricultural and Livestock Research Organization should determine and advise on resource requirements for agricultural research at both the national and county level. The Crops Act 2013 indicates that in promotion of scheduled crops the AFFA shall establish linkages with various governments for the conduct of studies and research designed to promote the production, marketing and processing of crops.

c. Coordination of agricultural services where land crosses the border between multiple counties? Section 29 of the Agriculture, Fisheries and Food Authority Act, 2013 indicates that each county shall within its area of jurisdiction be responsible for agricultural matters as envisioned in the Fourth Schedule. This issue is therefore left to counties to negotiate.

FURTHER READING


TASK 1.3 ▪ The AUGUST 2013 Gazette Notice on Transfer of Functions
40 MINUTES

TASK OBJECTIVE
❖ Enhance understanding of the extent to which the Transition Authority Gazette Notice 2013 clarifies the roles and responsibilities of county governments

RESOURCES NEEDED
✓ Transition Authority Gazette Notice August 2013 (Annex III below)

HOW TO RUN THIS TASK
1. This task is aimed at helping the participants move beyond the Fourth Schedule to see what has actually happened with the transfer of functions by asking to what extent the TA Gazette Notice from 2013 has addressed some of the confusion we saw in the previous sections.

2. Give an introduction about the Transition Authority and the gazette notice, explaining that it was the second gazette notice after the initial transfer in April.

3. Tell participants to refer to Annex III in their manuals (the August 2013 Transition Authority Gazette Notice on the transfer of functions).

Note: Normally, we use a single county example because all counties are more or less the same. It is helpful to use Mombasa, however, because it has a few additional roles, such as Coast Provincial Hospital (Level 5 regional hospital) that other counties would not have. Any former provincial headquarters should have similar information. For this exercise, we will use Mombasa County TA gazette notice.

4. Ask participants to review the gazette notice and then respond to the discussion question in small groups (PM, p.13).

5. Provide 30 minutes for reading the notice and discussing the question in small groups. If time is short this can be done in a guided plenary.

Note: It is sometimes helpful to start with the health sector in the plenary discussion and then move to the other devolved functions because the health sector is the most concrete and people can recognize a number of specific activities (see background notes below for notes on the health sector).

6. Facilitate a short plenary discussion to summarize the participants’ reflections on what the gazette notice says about the three sectors.

Note: one question that may arise with regard to the health sector is: Who has the mandate in the maternal health care scheme? See a discussion on this in the background notes below.
**BACKGROUND INFORMATION**

- **Notes on the August, 2013 Transition Authority Gazette Notice.**
  - The gazette notice was published in the Kenya Gazette in August 2013 by the Transition Authority, and it is an official transfer of most functions to all counties.
  - The gazette notice does clarify that certain functions belong to counties, but it does not explain why, nor does it clarify a number of other functions that are not mentioned and whether they belong to counties or national level. Some of the language is vague as to what was intended.

**Note:** The first legal notice on the transfer of functions was issued in February 2013 (Legal Notice 16 of 2013) the functions therein were to be transferred to county governments immediately after the first elections under the Constitution. See Annex IV below for the legal notice.

- As of March 4, 2016, the Transition Authority is defunct and its role has been taken up by the Intergovernmental Relations Technical Committee established under the Intergovernmental Relations Act, 2012.
- The Transition Authority did not complete its work but it made some attempt to regulate the transfer of functions.
- **Notes on the Health Sector**
  - Some of the key issues mentioned above, such as immunizations, are partly resolved by the notice.
  - However, the implications of the August gazette notice are frequently not clear. For example, HIV has been devolved in the notice, but it is unclear whether this entails direct procurement of ARVs. These have been in the past and are presently being procured through KEMSA. Counties then have to consider the implications for the funding of HIV services. If ARVs are a major cost of HIV services, but KEMSA is procuring the drugs (or they are being supplied by donors), the question then is where the budget for ARV procurement sit and who “controls” HIV services. This may also be asked about immunization. In a sense, these are shared functions, with KEMSA doing procurement on behalf of counties, while counties do have some control over how much they purchase from KEMSA. It is also not clear if the devolution of HIV means there is no room for a national HIV program, which has been an important factor in controlling the disease in other countries.
  - Maternal care: the national government introduced a conditional grant to pay for delivery fees at public facilities, but this was introduced without a clear policy or consultation with counties. Since it is a policy that relates to health care responsibilities of counties, this may introduce problems. For example, if the conditional grant is not sufficient to cover the full cost of eliminating user fees, are counties required to follow the policy? If so, this is what is known as an “unfunded mandate” (a requirement to do something without receiving adequate finance). There are estimates that the full cost of the free maternal care policy is more than the roughly Ksh 4 billion given to counties each year.
- **Follow up to the August 2013 gazette notice.**

The Gazette Notice has been followed up by other notices and decisions that have sought to clarify the functions of county governments. The Legal Notice No. 2 of 2016 (January, 2016) as read with the Legal Notice 22 of 2016 (February, 2016) (found in the annex of documents) has resolved various issues including:

a) **Classification of roads:** Class C roads are the responsibility of the national government
The Roads Bill, 2015 if passed will provide further guidance on the distinct functions of the national and county government.

b) Energy and electrification: this function is a concurrent function under the Fourth Schedule. The national government has the responsibility for ‘energy policy including electricity and gas reticulation and energy regulation; and the county governments planning and development, including 'electricity and gas reticulation and energy regulation’. The Legal Notice gives a breakdown on what the functions of the county governments are. The function predominantly involves planning, regulation and licencing energy systems.

The Energy Bill, 2015 provides for a list of functions of the county government. This list is similar to the one in the January Legal Notice.

c) Libraries: The TA August Gazette Notice did not give much guidance on devolution of libraries except excluding the Kenya National Library Service from devolution. The Third Schedule of the January, 2016 notice provides for ‘distribution of libraries’ listing specific libraries across 27 counties.

The County Library Services Bill, 2015 (Senate Bill) will require establishment of libraries in all counties with county library development committees to manage the county libraries.

Further unbundling is required for sectors such as the water sector to establish the role of county governments and how they should collaborate/coordinate with the national water agencies.

**Task 1.3**

(Questions and Answers)

➢ Does this notice help you to understand better what exactly is being transferred in the education, health, and agriculture sectors?

Refer to background notes above tasks.

**Further Readings**


iii. TA Legal Notice NO. 2 of 2016 on transfer of functions, 26th February, 2016 available at
TASK 1.4 THE APRIL 2016 GAZETTE NOTICE ON CLARIFICATION OF FUNCTIONS AS EXERCISED BY THE NATIONAL AND COUNTY GOVERNMENT IN ACCORDANCE WITH THE FOURTH SCHEDULE OF THE CONSTITUTION

15 MINUTES

**TASK OBJECTIVE**

- FURTHER ENHANCE UNDERSTANDING OF THE EXTENT TO WHICH THE TRANSITION AUTHORITY GAZETTE NOTICE APRIL 2016 CLARIFIES THE ROLES AND RESPONSIBILITIES OF COUNTY GOVERNMENTS.

**RESOURCES NEEDED**

- Transition Authority Gazette Notice on Clarification of Functions as Exercised by the National and County Government in Accordance with the Fourth Schedule of the Constitution, April, 2016 (annex below).

**HOW TO RUN THIS TASK**

1. This task is aimed at helping the participants further understand the functions of county and national governments as unbundled by TA Gazette Notice in April, 2016.

   **Note:** This may be done concurrently with Task 1.3

2. Give an introduction about the Transition Authority and the April gazette notice, explaining that it is the latest gazette notice.

3. Tell participants to refer to the annex in their manuals (the April, 2016 Transition Authority Gazette Notice on Clarification of Functions as Exercised by the National and County Government in Accordance with the Fourth Schedule of the Constitution)

4. Ask participants to review the gazette notice and then respond to the discussion questions in small groups.

5. Facilitate a short plenary discussion to summarize the participants’ reflections on what the gazette notice says about county functions.

**BACKGROUND INFORMATION**

- The gazette notice was published in the Kenya Gazette in April 2016.
Even though the TA was already defunct at the time of the Gazette Notice was published, the contents therein were agreed on a board meeting held on 22nd January, 2016 and the notice itself is dated 2nd March, 2016.

Just like the previous notices, this gazette notice does clarify and unbundle certain functions that belong to counties. It also unbundles national functions, which is not typical of TA gazette notices. However, there is no explanation for how the unbundling was done in the notice.

Generally, the gazette notice is confusing. There is no explanation of what issues it is meant to cover, and it appears to cover some issues more exhaustively than others.

One interpretation is that it is meant to clarify functions and roles in key sectors: water, regional development, housing, lands and planning, and public works. For each of these, it does provide some further detail about national and county functions.

However, in other places it appears to be less about functional areas than clarifying specific institutions and projects. For example, it focuses on the Water Services Trust Fund, the Regional Development Authorities, and the Kenya Informal Settlements Improvement Projects and seems to be organized around clarifying their roles rather than asking how they fit into the functional assignment in the constitution.

In addressing itself to specific institutions, the notice also ignores key agencies and introduces confusion about the agencies it does address. For example, the National Housing Corporation is not discussed at all. Regional Development Authorities are discussed, but while certain functions are said to be devolved to counties on page 1155, they are listed in the subsequent table as national functions.

Below are some further notes on how the gazette notice unbundles county governments functions:

### WATER SECTOR

The notice specifies the functions of key bodies like the Water Resources Management Authority, Water Services Boards and Water Services Regulatory Board.

Water Service Boards (WSBs) are retained as national bodies and given responsibility for national public works in the sector. Counties are given responsibility for county public works in the sector. There is no clarity about the difference between national and county public works from the gazette notice. Counties are given the function of appointment and monitoring of Water Service Providers (WSPs) in the notice. The Water Act, 2016 replaces WSBs with Water Works Development Agencies (WWDAs (section 152). WWDAs are responsible for national public works and WSPs in exceptional cases (section 68). The county government has the responsibility of establishing and monitoring WSPs under the Water Act, 2016.

The TA Gazette Notice retains the National Water Conservation and Pipeline Corporation, a state corporation, and gives it the role of investing in large dams. Again, it is not clear what a large dam would be and whether counties can invest in smaller dams. Many counties have invested in such dams or have plans to do so. The notice also gives the corporation a very specific role to ensure the utilization of trans-boundary water resources/interbasin water, including Chemususu Dam-cross that cuts Baringo and Nakuru counties and Koru Dam- cross that cuts Kisumu and Kericho.

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5 The Water Act, 2016 defines national public water works only.
counties. It is not clear why the notice goes into this level of detail for specific projects and not others. It is still difficult to distinguish Regional Development Authorities and their water-related functions from other parts of the water sector or to understand what has been delegated to counties.

LAND AND HOUSING

Some of the functions of the two levels appear to overlap. For example, both levels are given “revenue collection” as a function (1159) but it is not entirely clear what the distinction is between the two levels. Both levels are given responsibility to mobilize resources for settlement of landless. Presumably there is a need for some coordination here, but it is not spelled out. Both levels are given role of establishing Alternative Building Materials and Technology Centres. It is not clear what the basis is for the large national role in housing. National government is also mandated, along with counties, to mobilize funds for housing infrastructure. It is not clear what this means or how coordination is to happen.

Some county functions are reasonably clear in relation to land registration, administration and planning, including approval of land development proposals and developing spatial development frameworks.

**TASK 1.4**

**(QUESTIONS AND ANSWERS)**

- Does the gazette notice clarify what should happen to key state corporations performing regional functions such as the WSBs, the Regional Development Authorities, and so on?
- Looking at the Land and Housing sector, are you able to clearly understand what counties are supposed to do and what national government is supposed to do?

Refer to background notes above task.

**FURTHER READINGS**


**TASK 1.5 - INTERLUDE: AN APPLICATION**

30 MINUTES

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**TASK OBJECTIVE:**

- IDENTIFYING AVENUES FOR REPORTING ON AND ADVOCACY RELATING TO COUNTY AND NATIONAL FUNCTIONS

**RESOURCES NEEDED**

✓ The Nyeri Article

**HOW TO RUN THIS TASK**

1. Refer participants to the Nyeri Article under Task 1.4 in their manuals (PM, p.14). Give them 5 minutes to read through the story.
2. Ask journalists/CSO to answer the 3 questions in the task using the story.
3. If working with journalists, discuss their answers and how the story could have been written differently.
4. If working with CSOs, discuss the answers given and what and how they would push their advocacy agenda.

**BACKGROUND INFORMATION**

The national government has been providing for conditional allocations to 11 counties that host Level 5 hospitals across the country. This is provided for in the County Allocation of Revenue Act. The amount has fluctuated over the past three years.

<table>
<thead>
<tr>
<th>Hospital</th>
<th>County</th>
<th>2013/14</th>
<th>2014/15</th>
<th>2015/16</th>
<th>2016/17</th>
</tr>
</thead>
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<tr>
<td>1) Coast Province General Hospital</td>
<td>Mombasa</td>
<td>414</td>
<td>210</td>
<td>403</td>
<td>370</td>
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<tr>
<td>2) Garissa Provincial General Hospital</td>
<td>Garissa</td>
<td>184</td>
<td>112</td>
<td>360</td>
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<td>3) Embu Provincial General Hospital</td>
<td>Embu</td>
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<td>193</td>
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<td>4) Machakos Level 5 Hospital</td>
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<td>157</td>
<td>304</td>
<td>365</td>
</tr>
<tr>
<td>5) Nyeri Provincial General Hospital</td>
<td>Nyeri</td>
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<td>198</td>
<td>369</td>
<td>388</td>
</tr>
<tr>
<td>6) Thika Level 5 Hospital</td>
<td>Kiambu</td>
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<td>88</td>
<td>330</td>
<td>393</td>
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<td>7) Nakuru Provincial General Hospital</td>
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<td>318</td>
<td>377</td>
<td>356</td>
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<td>8) Kakamega Provincial General Hospital</td>
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<td>206</td>
<td>343</td>
<td>407</td>
</tr>
<tr>
<td>9) New Nyanza Provincial General Hospital</td>
<td>Kisumu</td>
<td>396</td>
<td>249</td>
<td>339</td>
<td>351</td>
</tr>
</tbody>
</table>
The Nyeri Article

Task
(QUESTIONS AND ANSWERS)

Baby dies at Nyeri Provincial General Hospital after falling headlong from womb
January 17, 2014

A woman lost her baby while delivering at Nyeri Provincial Hospital due to what she terms as negligence by nurses. Charity Wanjiku, 27, said she was taken to hospital by her husband at midnight on Wednesday with severe labour pains. On admission in the labour ward, she alerted the nurses that the baby was due but they did not pay heed. “When the nurses ignored me I stood up due to the pain and that’s when the baby came out and fell head first onto the floor and later died,” she said.

Her husband, Mr. Peter Ndigirigi, said after his wife was admitted he went home, but his wife later called him to inform him of the baby’s death. On arrival at the hospital, he was intercepted by security officers who almost turned violent. “But one nurse was kind enough
to explain calmly to me how our son died,” he said. The 29-year-old father of two daughters, aged 10 and 6, said he was really looking forward to the birth of a son. The distraught father remarked: “I wonder if they are mistreating patients because maternity services are free.” Nyeri hospital medical superintendent Cyrus Njoroge said the hospital had six patients that night, some of whom needed emergency operation, and only four nurses. Mr. Njoroge said the nurses advised Ms. Wanjiku to lie down but she could not owing to severe labour pains. He attributed the tragedy to the severe shortage of nurses. The hospital has 250 but requires 600.

For journalists

1. What are the gaps/weaknesses they can identify in the story?
2. What possible angles could the story have taken that it didn’t?
3. How could the journalists use information from the county budget, knowledge of county functions or county priorities to make it a stronger story?

Example of an issue to raise:
One of the grey areas in devolution of healthcare, is who is responsible for funding former Provincial General Hospitals. The story could examine who is funding the Nyeri hospital and whether the funding is adequate. If the hospital is relying on county funding, how much is it receiving from the county? If it is relying on national funding (through the national conditional grant for regional hospitals), how much is coming? Have there been delays in this funding reaching the hospital? Is it adequate?

For Civil Society Organisations

1. What possible advocacy agenda can you identify from this story?
2. To be sure that this is a good advocacy agenda, what additional information would you need? What additional analysis would you need to do?
3. Would this agenda target national government, county government or both? Why?

Example of an issue to raise:
A CSO might raise the issue of whether there is adequate staff at the provincial hospital. More information would be needed on number of staff on the payroll at the hospital versus standards and versus other facilities. One would want to be sure that there were not ghost staff, making it appear that there is adequate staff on the books, when they are not actually there.

Then you would need to know something about how much the county has allocated, how much it costs to run the hospital, how much was covered by the conditional grant from national government, and so on. Nyeri should have received some money from national government through the conditional grant. Was this received? Was it adequate? What else did the county put in? Has the county been able to recruit? And so on.
FURTHER READINGS

For more on the issue of financing for these hospitals, see:


Key Takeaways

- County planning begins with identifying county priorities: the most important areas of spending when limited resources are available.
- Reliable data about both the county as a whole and differences among sub-counties and wards should be used to inform our priorities.
- Budgets should be based on annual development plans, which should in turn be based on 5-year county integrated development plans.
- County plans and budgets should be organized around a set of consistent programmes (activities oriented toward specific objectives).
- County plans should include measurable indicators, targets and costs for major programmes and projects.

Task 1.5: A Look at Your County’s Data 1 hour

Task Objective:

- Conceptualizing how to utilize scarce county resources taking into account diverse county needs
- Learning to make informed decisions based on available and reliable data and information

Resources Needed

- Demographic and Health Survey, 2014

How to Run This Task

1. Facilitate a discussion in plenary around priorities for the county that is linked to county functions. This discussion should be on what brings the county together, but also its diversity and the diverse needs of different constituents, including the poorest residents and poorest wards. Encourage participants to base their claims on data whenever possible.
2. Remember to consider whose function it is to resolve the various challenges arising in this discussion. Point out when participants choose priority areas where the assignment of functions has not been clarified (water, health, education, etc.).

3. For this task, have participants break up into groups according to which county they are from (but limit each group to a maximum of four people). If all of the participants are from the same county, then have them break up into groups of four.

4. Provide copies of the relevant data to the participants, based on where they are from. In our example, you would use Baringo for everyone (PM, p.18-41), but some regional trainings may involve people from multiple counties. Refer the participants to data from:
   a. CRA/WORLD BANK (county specific)
   b. Demographic and Health Survey (DHS) (sector specific)
   c. Kenya National Bureau of Statistics/Society for International Development (county sub-unit (ward) specific)

   Note: Participants may be aware of and have additional county specific sources to draw on, such as the county’s CIDP, ADPs, and county profiles, etc. They should be encouraged to look at these as well.

5. Ask them to work in groups to identify county priorities and which arm of government is responsible for the function. One good way to do this is to ask them to identify three major priorities for the county and ask them to rank these in order of importance giving reasons for the choices made.

   Alternatively, and if there is time, it is possible to first ask them to identify five priorities and then choose the top three. The point is to get participants to start making hard choices about what is most important, given many competing priorities.

   Note: Using the KNBS / SID data ask the participants to set priorities at the ward level (which wards require immediate attention and related to which county functions?)

6. Come back to plenary to discuss participant answers.

   Note: If there are different counties represented in the workshop, each group should have a copy of the sheets from each county under discussion, so that they can follow what others are saying during the plenary discussion.

When reporting back, ask participants to clarify whether the priorities they have identified correspond to national or county functions. This is an opportunity to ensure that they have understood the discussion on functions and to realize that certain priority areas (such as secondary education) are not going to be solved by counties.

**BACKGROUND INFORMATION**

- **Why priorities?**
  - Even though counties have important functions under the Fourth Schedule, they do not have the resources to undertake all these functions and ensure that the services in the county have reached an optimum level
  - Due to scarce resources, counties have to make choices. They may have to forgo some projects or parts of specific functions to focus on those that have the maximum benefit to citizens.
• Decisions should be informed by
  ▪ the context and circumstances of the county
  ▪ data on diverse parameters of the county in comparison to other counties and inequalities within the county
  ▪ national and county policy documents

• Priority setting is one of the preliminary steps of planning. Priorities inform key planning documents such as the County Integrated Development Plan (CIDP), Annual Development Plans (ADPs), the sector plans, and any other county plans.

Notes on Data

• KNBS/SID:
  ▪ Based on the KNBS/SID data we should think about whether the ward data raises different issues than when we look at the county data alone. For example, the county may have an average water access rate that is pretty high, so water may not seem like a priority. But when we see inequality across wards, we realize that there are a few wards with extremely low access to water, so water may now emerge as an important priority at ward level.

• DHS, 2014
  For sector-specific data, use the Demographic and Health Survey, 2014 which provides the latest data on the health sector in different counties. Though this is specific to the health sector, the data it contains may be useful for budgeting in other sectors as well. For example, demographic information may assist other sectors such as housing, water and sanitation to make better decisions. The Survey can be found here: [http://dhsprogram.com/pubs/pdf/OF28/OF28.pdf](http://dhsprogram.com/pubs/pdf/OF28/OF28.pdf)

• CRA/WORLD BANK
  ▪ This data organized and ranked by IBPK is derived from the CRA Recommendation on the Basis of Equitable Sharing of Revenue among County Governments (November 2014). The primary sources of the data are the National Treasury, Ministry of Roads, 2014, Office of the Controller of Budget KNBS, 2009 & 2014 and CRA.

Note: Poverty Gap measures the extent to which individuals or households fall below the poverty line. Here poverty gap is the number of households below the (rural/urban) poverty line multiplied by the amount they fall below the line, expressed as a percentage/proportion of the poverty line. So, for example, if the poverty line is Ksh 100, and one family falls below the line
by 10 Ksh, then the gap is 1 family*10 Ksh taken as a share of 100 Ksh, which is 10%. This gap is then taken together with all other gaps (including zero for those who are above the poverty line) to calculate an average gap, which is what we call the poverty gap index or measure. (For more information, see this publication, particularly page 72: http://siteresources.worldbank.org/PGLP/Resources/povertymanual_ch4.pdf)

- The information on GDP is derived from a paper published by the World Bank indicating the GDP of counties in Kenya.

Note: Secondary and tertiary sectors are manufacturing and services sectors respectively. The primary sector is agriculture. The gross domestic product is the total value of goods and services created in an economy by all its residents for a specific period/time interval. It includes exports (minus imports) and taxes (minus subsidies).
**Task 1.5**  
**Questions and Answers**

**Question:**
1) Based on the data (KNBS/SID/CRA/WORLD BANK/ DHS) available in the county fact sheet, identify the top three priorities in your county. Explain your ranking and indicate whether these are county or national functions.

2) Based on the KNBS/SID data, which are some of the wards in your county with the highest needs and what are these needs? Identify the top three priorities at the ward level based on the data. Which ward should be prioritized? And why? Is there a difference between the priorities at county and at ward level? Explain your ranking and indicate whether these are county or national functions.

3) Based on the DHS/CRA data, list the top three priorities for the health sector in your county. Explain your ranking and indicate whether these are county or national functions.


**Table 2: Ranking of Counties by Population, Poverty Gap and Land Area**

<table>
<thead>
<tr>
<th>Ranking</th>
<th>County</th>
<th>Population (lowest to highest)</th>
<th>County</th>
<th>Poverty Gap (largest to lowest)</th>
<th>County</th>
<th>Land Area (Square Kms.) (smallest to largest)</th>
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<td>Percentage of Households with Access to Improved Water (Lowest to Highest)</td>
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Table 4: Percentage of households not immunized, delivering at home, without access to improved sanitation and percentage not attending pre-primary

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Source: World Bank (October 2015) Estimates based on night lights as a proxy for industrial and service sector development
Exploring Kenya’s Inequality: Pulling Apart or Pooling Together? – County Report, Kenya National Bureau of Statistics (KNBS) and Society for International Development (SID), 2013. (Primary data source: 2009 Census), can be found here:

EDUCATION

See figure 1.3 on page 12 of the Baringo county report to see the pictorial presentation.

Education

In Baringo County, 16 percent of residents have a secondary level of education or above. Baringo Central is the constituency with the highest share of residents with a secondary level of education or above at 27%. This is nine times Tiaty constituency, which has the lowest share of residents with a secondary level of education or above. Baringo Central constituency is therefore 11 percentage points above the county average. Kapropita ward has the highest share of residents with a secondary level of education or above at 34%. This is 34 percentage points above Silale ward, which has the lowest share of residents with a secondary level of education or above. Kapropita ward is 18 percentage points above the county average.

The proportion of Baringo County residents who only have a primary education stands at 48%. Baringo North constituency has the highest share of residents with a primary education only at 60%. This is four times Tiaty constituency, which has the lowest share of residents with a primary education. Baringo North constituency is 12 percentage points above the county average. Lembus ward has the highest share of residents with primary education only at 64%. This is 32 times Silale ward, which has the lowest share of residents with primary education only. Lembus ward is 16 percentage points above the county average.

The share of Baringo County residents with no formal education is at 36%. Tiaty constituency has the highest share of residents with no formal education at 82%. This is five times the number in Baringo Central constituency, which has the lowest share of residents with no formal education. Tiaty constituency is 46 percentage points above the county average. Silale ward has the highest percentage of residents with no formal education at 98%. This is seven times more than Kabartonjo ward, which has the lowest share of residents with no formal education. Silale ward is therefore 62 percentage points above the county average.
WATER

See figure 1.9 on page 16 of the Baringo county report to see the pictorial presentation.

Water

Improved sources of water comprise protected spring, protected well, borehole, piped into dwelling, piped and rainwater collection while unimproved sources include pond, dam, lake, stream/river, unprotected spring, unprotected well, jabia, water vendor and others.

In Baringo County, 24% of residents use improved sources of water, while the rest rely on unimproved sources. There is no significant gender differential as 24% of male headed households and 23% of female headed households use improved sources.

Eldama Ravine constituency has the highest share of residents using improved sources of water at 46%. This is four times Tiaty constituency, which has the lowest share of improved water source usage. Eldama Ravine constituency is 22 percentage points above the county average of residents using improved sources of water. Ravine ward has the highest share of residents using improved sources of water at 84%. This is 83 percentage points more than Silale ward, which has the lowest share of households using improved sources of water, and 60 percentage points above the county average of residents using improved sources of water.
Sanitation

In Baringo County, 39% of residents use improved sanitation facilities, while the rest use unimproved sanitation facilities. The use of improved sanitation is slightly higher in male headed households at 40% compared with female headed households at 38%.

Baringo Central constituency has the highest share of residents using improved sanitation facilities at 69%. This is 17 times higher than Tiaty constituency, which has the lowest share of households using improved sanitation. Baringo Central constituency is 30 percentage points above the county average of households using improved sanitation facilities. Ravine ward has the highest share of residents using improved sanitation at 84%. This is 83 percentage points above Silale ward, which has the lowest share of households using improved sanitation. Ravine ward is 45 percentage points above the county average of households using improved sanitation facilities.
Housing

Flooring

Figure 1.6: Percentage Distribution of Households by Floor Material in Baringo County

In Baringo County, 25% of the residents have homes with cement floors, while 73% have earth floors. Less than 1% has tile floors and 2% have wood floors. Baringo Central constituency has the highest share of cement floors at 46%. This is 42 percentage points above Tiaty constituency, which has the lowest share of cement floors. Baringo Central constituency is 21 percentage points above the county average of people with cement floors. Kapropita ward has the highest share of cement floors at 63%. This is 63 percentage points above Silale ward, which has the lowest share of cement floors. Kapropita ward is 38 percentage points above the county average of homes with cement floors.
Roofing

Figure 1.7: Percentage Distribution of Households by Roof Material in Baringo County

- Corrugated Iron Sheets: 57.5%
- Tile: 10%
- Concrete: 0.1%
- Asphalt Sheets: 1.5%
- Grass: 26.1%
- Mud/Brick: 0.2%
- Tin: 0.1%
- Mud/Brick: 0.1%
- Other: 0.5%
Baringo County has less than 1% of its residents homes constructed with concrete roofs, while 58% have corrugated iron sheet roofing. Grass thatch and makuti roofs constitute 39% of homes, and less than 1% of roofs are constructed using mud/dung.

Eldama Ravine constituency has the highest share of corrugated iron sheet roofing at 83%. This is 10 times Tiaty constituency, which has the lowest share of corrugated iron sheet roofs. Eldama Ravine constituency is 25 percentage points above the county average of homes with corrugated iron sheet roofs. Ravine ward has the highest share of corrugated iron sheet roofs at 92%. It is thus 91 percentage points above Silale ward, which has the lowest share of corrugated iron sheet roofs. Ravine ward is 34 percentage points above the county average of homes with corrugated iron sheets roofs.

Tiaty constituency has the highest share of grass/makuti roofs at 92%. This is eight times the share of Eldama Ravine constituency, which has the lowest share of grass/makuti roofs. Tiaty constituency is 53 percentage points above the county average of grass/makuti roofing. All the roofing in Silale ward is of grass/makuti roofs, a share of 100%. This is 99 percentage points above Ravine ward, which has the lowest share. Silale ward is 60 percentage points above the county average of grass/makuti roofing.
Baringo County has 9% of its homes built of either brick or stone walls. Some 57% of homes in the county have mud/wood or mud/cement walls. Walls made of wood comprise 26% of structures and corrugated iron sheet walls are 7%, grass/thatched walls are at 2% while 1% are made of tin or other materials.

Baringo Central and Eldama Ravine constituencies are equal in having the highest share of brick/stone walls at 15% each. This is five times Tiaty constituency, which has the lowest share of brick/stone walls. Baringo Central and Eldama Ravine constituencies are 6 percentage points above the county average of housing constructed with brick/stone walls. Lembus/Perkerra ward has the highest share of brick/stone walls at 30%. This puts it 29 percentage points above Siale ward, which has the lowest share of brick/stone walls. Lembus/Perkerra ward is 21 percentage points above the county average of housing constructed with brick/stone walls.

Mogotio constituency has the highest share of mud with wood/cement walls at 77%. That puts it 35 percentage points above Eldama Ravine constituency, which has the lowest share of mud with wood/cement. Mogotio constituency is 20 percentage points above the county average of housing having mud with wood/cement walls. Churo/Amaya ward has the highest share of mud with wood/cement walls at 97%. This is almost four times the share of Mumbere/Maji Mazuri ward, which has the lowest share of mud with wood/cement walls. Churo/Amaya ward is 40 percentage points above the county average of housing having mud with wood/cement walls.
Energy

Cooking Fuel

Figure 1.4: Percentage Distribution of Households by Source of Cooking Fuel in Baringo County
Only 9% of residents in Baringo County use electricity as their main source of lighting. A further 39% use lanterns, and 20% use tin lamps, while 28% use fuel wood. In terms of gender, electricity use is almost equal with 10% of male headed households using it as compared with 9% of female headed households.

Baringo Central constituency has the highest level of electricity use at 24%. This is 23 percentage points above Tiaty constituency, which has the lowest level of electricity use. Baringo Central constituency is 15 percentage points above the county average. Kapropita ward has the highest level of electricity use at 42%. Kapropita is therefore 42 percentage points above Silale, Tangubei/Korossi and Churo/Amaya wards that have the lowest levels of electricity use. Kapropita ward is 33 percentage points above the county average.
### Baringo

**Fertility and Family Planning**

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<th>Measure</th>
<th>Baringo</th>
<th>Kenya total</th>
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<tbody>
<tr>
<td>Total fertility rate (number of children per woman)</td>
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<td>3.9</td>
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<tr>
<td>Current use of <em>any</em> method of family planning (% of currently married women age 15-49)</td>
<td>41</td>
<td>58</td>
</tr>
<tr>
<td>Current use of <em>any</em> modern method of family planning (% of currently married women age 15-49)</td>
<td>33</td>
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**Maternal and Child Health**

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<th>Measure</th>
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<th>Kenya total</th>
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<td>Pregnant women who received antenatal care from a skilled provider¹ (%)</td>
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<td>96</td>
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<tr>
<td>Pregnant women who received 4+ ANC visits (%)</td>
<td>55</td>
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<tr>
<td>Births assisted by a skilled provider¹ (%)</td>
<td>54</td>
<td>62</td>
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<td>Births delivered in a health facility (%)</td>
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<td>61</td>
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<tr>
<td>Child vaccination</td>
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<tr>
<td>Children 12-23 months fully vaccinated² (%)</td>
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<td>68</td>
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<td>Nutrition</td>
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<tr>
<td>Children under 5 years who are stunted (moderate or severe) (%)</td>
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<td>Children under 5 years who are wasted (moderate or severe) (%)</td>
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<tr>
<td>Children under 5 years who are underweight (%)</td>
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<td>Children under 5 years who are overweight or obese (%)</td>
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<th>Malaria Prevention and Treatment</th>
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<td>Households with at least one insecticide-treated net (ITN) (%)</td>
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<td>59</td>
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<td>Households with at least one ITN for every 2 persons in the household (universal coverage) (%)</td>
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<tr>
<td>Children under age 5 who slept under an ITN the night before the survey (%)</td>
<td>49</td>
<td>54</td>
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<tr>
<td>Pregnant women who slept under an ITN the night before the survey (%)</td>
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<tr>
<td>Pregnant women who received 3 doses of SP/Fansidar to prevent malaria during pregnancy, at least one dose was received during an ANC visit (IPTp) (%)</td>
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<td>Children under age 5 with fever in the 2 weeks before the survey</td>
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<td>Among children under age 5 with fever, percentage who took any ACT</td>
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<td>Women 15-49 who know that HIV can be prevented by using condoms and limiting sex to one uninfected partner (%)</td>
<td>73</td>
<td>77</td>
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<td>Men 15-49 who know that HIV can be prevented by using condoms and limiting sex to one uninfected partner (%)</td>
<td>90</td>
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<td>Women 15-49 who have been tested for HIV in the past 12 months and received the results of the last test (%)</td>
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<tr>
<td>Men 15-49 who have been tested for HIV in the past 12 months and received the results of the last test (%)</td>
<td>44</td>
<td>46</td>
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Note: Figures in parentheses are based on 25-49 unweighted cases; an asterisk indicates that data are based on fewer than 25 unweighted cases and have been suppressed. Skilled provider includes doctor, nurse, or midwife. Fully vaccinated includes BCG, measles, three doses each of DPT and polio vaccine (excluding polio vaccine given at birth) and pneumococcal. An insecticide-treated net (ITN) is (1) a factory-treated net that does not require any further treatment, or (2) a net that has been soaked with insecticide within the past 6 months.
Rift Valley: Key Indicators from the 2014 KDHS

Total Fertility Rate
Average number of live births per woman age 15-49

Use of Modern Methods of Family Planning
Percent of currently married women using a modern method of contraception
Use of Modern Methods of Family Planning

Percent of currently married women using a modern method of contraception

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ANC and Place of Delivery

- ANCs 4+ visits: Among women with a live birth in the 5 years before the survey, percent with 4+ ANC visits for their last live birth.
- Delivery in a health facility: Percentage of live births delivered in a health facility.

Kenya total ANCs: 58%
Kenya total delivery: 61%

The 2014 Kenya Demographic and Health Survey (2014 KDHS) was implemented by the Kenya National Bureau of Statistics from May 2014 to October 2014 in partnership with the Ministry of Health, the National AIDS Control Council (NACC), the National Council for Population and Development (NCPD), and the Kenya Medical Research Institute (KEMRI). Funding for the KDHS was provided by the Government of Kenya with support from the United States Agency for International Development (USAID), the United Nations Population Fund (UNFPA), the United Kingdom Department for International Development (DFID), the World Bank, the Danish International Development Agency (DANIDA), the United Nations Children’s Fund (UNICEF), the German Development Bank (KFW), the Clinton Health Access Initiative (CHAI), the World Food Programme (WFP), and the Micronutrient Initiative (MI). ICF International provided technical assistance as well as funding to the project through The DHS Program, a USAID-funded project providing support and technical assistance in the implementation of population and health surveys in countries worldwide.

Additional information about the 2014 KDHS may be obtained from the Kenya National Bureau of Statistics (KNBS), P.O. Box 30268-00100 GPO Nairobi, Kenya; telephone (Nairobi): 3317566/8, 3317612/22, 3317623, 3317651; fax: 3315977; e-mail: directorgeneral@knbs.or.ke, info@knbs.or.ke; website: www.knbs.or.ke.

Note: ‘ANC’ stands for Antenatal Care.
FURTHER READING:


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**Task 1.6 ■ Reflecting on Your County’s Plan**

45 MINUTES

**Task Objective**

- **ENHANCING ABILITY TO READ AND UNDERSTAND COUNTY ANNUAL PLANS, AND BEGINNING TO THINK ABOUT MOVING FROM A PLAN TO A BUDGET**

**Resources Needed**

- The Baringo (and/or any other) County Annual Development plan 2015/16 and 2015/16 (Annex of key Documents)

**How to Run This Task**

1. Describe briefly what a CIDP and ADP are and link these two budget documents.
2. Distribute hard copies of the relevant sections of the Baringo (or relevant county) ADP FY 2014/15 and FY 2015/16 to each group. For this exercise, we use the Baringo ADPs available on the county website.
3. In plenary together with the participants, answer Q1-Q4 under the Task 1.6 (PM, p.42).
4. Ask participants to answer Q4-Q8 under in groups of two or three.
5. Come back to plenary to have a short discussion on the answers from the participants.

**Note:**

a. You may need to explain what recurrent expenditure and development expenditure are again, though this should have been covered in the Wafula story exercise. (Also remind participants that these terms are in the Glossary at the back of their Participant Manual.)

b. Have participants look at health extracts from the ADPs of the county they’re from. Let them review the background and overview (page 2), chapter 3 of the Baringo ADP, beginning on page 45 of the Baringo county ADP for the FY 2015/16. Also, have them look at chapter 4, beginning on page 65. The Baringo ADP is available on the county’s website for this exercise, which is contained in the Annex of Key Documents.

**Background Information**

- The PFM Act requires that counties develop an Annual Development Plan, which is in turn based on the 5-Year CIDP. In a sense, the Annual Plan is the single year extract from the CIDP. This then becomes the basis for the annual budget. So if we want to know what to look for in the budget, we should be starting ideally with the CIDP, then the Annual Plan, and then the budget.
- An annual plan answers the question “what are we going to do this year to advance the overall 5-year plan?”
- The ADP forms the basis of the budget.
All counties have prepared CIDPs and there are ADPs from a number of counties for the FYs 2014/15, 2015/16 and 2016/17. Some counties’ Annual Development Plans are not easily accessible, however. By December 2015, only 16 counties had at least one ADP publicly available.

Some terms used in the ADP are:

- **Recurrent expenditure**: Expenditure that does not result in the acquisition of long-term assets. It consists mainly of expenditure on salaries, goods and services, maintenance, etc.
- **Development (capital) expenditure**: Funds spent for the acquisition of a long-term asset; the total spending on such asset would be divided over several years. This includes expenditure on equipment, land, buildings, legal expenses, and other transfer costs associated with property.
- Note that in Kenya, “development expenditure” has traditionally included both capital and recurrent expenditure, but the Public Finance Management Act 2012 actually defines development expenditure as “capital expenditure.” In practice, however, there is some confusion about this.

**Task 1.6**

(Questions and Answers)

1. Does the ADP identify priorities within the sectors? Prioritization by definition means deciding that some things are more important than others. Yet, it is not always clear what is considered more important and what is considered less important. In the background and overview section (page 2), the ADP provides for seven strategic priorities that will guide the process of identifying and prioritizing the programs of the county. Strategic priority III touches on the health sector indicating:

   “The county will invest in quality affordable and accessible healthcare services through upgrading of Kabarnet County Hospital to a level five and five sub-county hospitals to level four and improvement of existing Health centres and dispensaries.”

   A key question to ask is whether the priorities are clear enough that you could imagine what budget line they would translate into as we move from ADP to budget.

   Under the health service department in the curative health programme, the county intends to undertake projects to improve health status of individual, family and community by upgrading the Kabarnet hospital. This is related to the strategic priority identified under Strategic Priority III earlier (page 46).

   However, it is difficult to link the strategic objectives of the sector listed in page 45 to the two programmes: preventive and promotive health services and curative health services identified in page 46.
2. Does the ADP identify programmes within the sector? The ADP identifies the programmes under the health sector clearly. The two programmes are ‘Preventive and Promotive Health Services’ and ‘Curative Health Services’. The ADP then provides a column giving projects to be undertaken to achieve the objectives of each programme (page 46). The reason this is important is because the ADP should be in the same form as the budget to facilitate links between them and the budget is program-based.

3. Does the ADP provide information on significant capital developments, including:

   Cost? The last column on page 46 gives the budget estimates for each of the specific targets for the FY 2015/16.
   Status (Ongoing, new, etc.)? This is expressly indicated in the ADP. Page 65 of the ADP indicates that all the projects to be undertaken by the health department are new.

4. Does the ADP identify a timeframe for implementation of projects or programmes together with the cost implication? Since this is an annual plan, we can be certain that these estimates are for the relevant period FY 2015/16. However, there is no further breakdown of targets by quarter, which would be helpful for monitoring.

5. Does the ADP indicate where the projects were derived from? Budget documents should justify choices made, particularly about priorities (what to do first or last). In general, as we move through the planning and budgeting choices, we are reducing our options. If not, we are not really doing anything…all decisions were made at the beginning. So if our options are reducing, we must be making choices which we need to explain.

   Possible sources of projects for an ADP include public participation proposals, projects identified in the CIDP and projects derived from sector plans. This should be supported by reliable and accurate data as well as research and feasibility studies. The ADP indicates where the projects were derived from for the preventive and promotive health care program, i.e. from the department’s ‘sector plan’. This health sector plan is not publicly available (online) to verify that these were indeed drawn from the sector plan. The ADP fails to indicate the origin/source of the projects under the curative health services program (p.46).

6. Does the ADP provide performance targets for programmes or projects and/or indicators of success or impact? There are indicators and targets. Even though it is clear what capital spending the county will undertake under the programmes, the measurable indicators relate to the projects as opposed to the outcomes of the programmes. (Page 46). For example, an indicator for preventive health is “number of health centres…constructed”. A programme target, on the other hand, would be something like the percentage decrease in the number of malaria cases (or any other prevalent diseases) in the county, which is more of an outcome of the construction of facilities.
7. Does the ADP provide information that can be used to inform the County Fiscal Strategy Paper, the County Budget Review and Outlook Paper and the annual budget? What information? The ADP does provide some useful information. It provides information about county programmes, information about the cost of major capital projects, and some performance indicators. The ADP does not, however, give the location (ward/sub-county) of the capital projects.

8. What additional information do you need to inform the next stages in the budget cycle that are not provided in the ADP? You would need a genuine prioritization of programmes broken down to the sub-programme level with clear objectives. These should have targets and outcomes that relate to the objectives. It would be helpful for an annual plan if projects were given with specific locations (wards/sub-county) so that the readers know where exactly development funds are planned to go and whether the planned distribution is equitable. One other important piece of information is the comparison of the ADP for the current year to the previous year ADP and budget estimates so that we compare the current years plan and establish whether there are any favourable linkages in achieving the county priorities. This can also help to see that there is no duplication in projects in the previous year.

**TASK 1.7 INTERLUDE: AN APPLICATION: EMBU STORY**

**Task Objective**

- Improving on County Budget Reporting and Advocacy
  - Keeping in Mind the Importance of County Priority Setting and Planning

**Resources needed**

- The Embu Story

**How to Run this Task**

1. Refer participants to the Embu Article under Task 1.7 in their Manuals (PM, p.44) Give them 5 minutes to read through the story.
2. Ask participants to identify gaps/weaknesses of the article.
3. If participants are journalists, task them to rewrite the same story by filling in the gaps/weaknesses they had identified, working individually for 15 minutes. Have them share ideas in plenary and discuss.
4. For CSOs ask the following questions:
   a. What advocacy agenda could you pursue, if any, based on a story like this?
   b. What additional analysis or information would you need?
Embu Story

Members of the Embu county assembly have faulted the area county government for investing hugely in projects that do not have instant impact to the residents. In a debate at the county assembly on Thursday, Muminji ward representative Newton Kariuki said the county government has invested heavily on non-priority areas such as the Embu stadium leaving out others that can positively help residents.

Kariuki said the Sh50 million used to renovate the stadium should instead have been used to provide water and address food shortage in Mbeere region.

“Our mothers and wives have to travel long distances in search for water. Some wake up even before 4am and this has become a perennial problem. The county government should have prioritized the provision of water to residents instead of the stadium,” said Kariuki.

The MCA asked the county government to move with speed to address the possible famine that is likely to hit Mbeere residents due to crop failure after the area was hit by a rain failure in last planting season.

He was supported by Kiambere ward representative Martin Mwangi who asked the county government to tour the area to establish the effect of crop failure and have measures in place to provide food to the residents.

The stadium has since attracted interest from local premier league teams who want to use its home stadium during the coming league season.

However, addressing the press at the stadium on Friday, area Chief Officer, Sports and Youth Empowerment Raymond Kinyua said the stadium will have long term benefits to residents.

Kinyua said two teams participating in the local premier league had already expressed interest to use the stadium as their home turf.

“The Kenya Commercial Bank, Talanta Africa and Thika united football teams have all expressed interest but we will settle on one when the field is ready,” said Kinyua.

Key issues that should emerge:

- The story appears to pit MCAs against the Executive on the matter of spending priorities. Yet the county assembly approves and can change the budget. Did the MCAs who are now complaining approve the budget? Did they raise these issues then? Or did they approve the stadium at that time and now they are trying to blame others for what they did?
- The implication of the story is that the stadium is a “non-priority.” How do we know what is a priority in a county? Did the journalist consult the CIDP? Is it possible that people in the county preferred a stadium when they were asked?
- The MCAs seem to imply that money should have been set aside for a famine that probably was not predicted at the time the budget was approved. The story should have told us whether the county has an Emergency Fund to deal with unforeseen disasters (which is recommended under
The water issue touches on a devolved area where, as we have seen, there is some confusion still about roles and funding, given the fact that most funding for water is nested in Water Service Boards. It would be useful to consider this when looking at the story and how much funding counties really have for water.

For CSOs:
What advocacy agenda could you pursue, if any, based on a story like this?
What additional analysis or information would you need? Example:

- One advocacy issue would be around the formation of a County Emergency Fund to deal with emergencies. Another would be looking at whether the public was able to give its views on priorities and whether it is informed. Is the stadium a priority? How do we know? One advocacy issue would be around public participation for executive processes, and another would be for participation with the assembly.

- Another issue is whether the county has adequate funds for water, related to the overall process of devolving functions and funds as part of the Division of Revenue. The fact that a lot of water money is tied up in state corporations suggests that counties might not have enough money for water. As noted, CRA in its recommendations for the FY 2015/16 (Ksh. 15.05 billion) and 16/17 have indicated that a lot of money meant for devolution is tied up in regional development agencies and water service boards performing devolved. This needs to be dealt with at national level. To deal with these issues, we need to look at the CIDP, ADP, the budget (is there an emergency fund?), and the national budget and basis for the annual Division of Revenue (CRA, Treasury).
Module 1 Session 3: County Revenues

**Key Takeaways**

- County governments primarily rely on national government transfers for their budget.
- Counties need to set realistic targets when preparing their budgets as there is a significant difference in the actual and targeted local revenues for most counties.
- The Commission on Revenue Allocation has a constitutional mandate to give recommendations to Parliament regarding transfers of revenues to counties.
- The national treasury also gives recommendations by tabling the division of revenue and county allocation of revenue (DOR/CAR) bills in Parliament annually.
- Parliament then approves these laws after consideration of both the CRA and Treasury recommendations.

**Task 1.8: Reviewing County Revenue Sources: Charts and Figures**

**Task Objectives**

- Enhancing understanding of national transfers and major local revenue sources for counties
- Comparing the sizes of different streams of local revenue and national transfers

**Resources Needed**

- Flip chart and marker pen

**How to Run This Task**

1. Begin with a short introduction on county government revenue sources. Try to get participants to answer the question in plenary: ‘How do counties pay for the services they provide?’ Ensure you fill in the gaps in their understanding.
2. Ask participants to answer (guess) the three task questions (PM, p.47) in plenary and note down their answers in a flip chart.
3. Ask participants to then look at the charts and tables in their participant manuals in pairs and compare these to what they had guessed.

Come back to plenary to hear what the participants found out. Guide them through a discussion on county revenues. Ensure you fill in the gaps in the participants’ understanding by highlighting issues such as county revenues in relation to previous local governments’ revenues,
the actual and target amounts of revenue collected and key stakeholders giving recommendations on national transfers to counties.

**BACKGROUND INFORMATION**

How do counties pay for the services they provide?
- The Constitution guarantees counties several sources of revenue.
  - First, they can raise their own taxes as per Article 209. This allows a county to charge property tax and entertainment tax. It is also possible for Parliament to permit counties to raise other taxes through new legislation.
  - Second, a county (like national government) can also charge fees for services provided. These include market fees, parking, and so on, just like local authorities did. Counties therefore are able to raise the same types of money that LAs raised to pay for the same services that counties have taken over. They may also introduce new services.

The revenues LAs had traditionally been able to raise fell short of the cost of providing the services they provided, which is why most of them relied heavily on the Local Authority Transfer Fund (LATF). The main exceptions to this were the larger cities that could raise more of their own revenue and depended less on LATF. Even these cities, however, still relied on LATF for a quarter to a third of their revenues. Counties too need more money to pay for the functions they provide than what they can raise on their own. This is why they receive additional funding...
  - Third, for most counties, the main source of funding is, and will remain for a number of years, national transfers. The main transfer is called the “equitable share” but there are also other transfers, known as conditional grants, to be discussed later.

Note: Only Nairobi is collecting locally more than it receives from the national transfer (in 2014/15, Nairobi received 11.37 billion from the equitable share but collected Ksh 11.5 billion in local revenue, according to COB’s annual report 2014/15).
**Q.1 What share of county budgets comes from revenues collected locally?**

The chart below shows the dependence of counties on national transfers and conditional grants versus locally generated revenue. This chart is reproduced in the Participant Manual. The figures were derived from the Controller of Budget Annual County Governments Budget Implementation Review Reports (2013/14, 2014/15 & 2015/16) and County Allocation Revenue Act, 2013, 2014 and 2015. Local revenues account for less than a quarter of the revenues available to county governments. This chart shows that counties depend heavily on the national transfers and conditional grants every year.

**Chart 1: Proportion of local revenues to national transfers in the FYs 2013/14, 2014/15 and 2015/16 (Actuals)**

Source: The Controller of Budget Annual County Governments Budget Implementation Review Reports (2013/14 & 2014/15) and County Allocation Revenue Act, 2013 & 2014

The table below indicates the % of local revenues to total revenue (for both targets and actual revenues) in the FYs 2013/14 and 2014/15. We see that counties rely heavily on national transfers.

Counties not only rely heavily on national transfers but also they have not met their revenue targets in the FYs 2013/14 to 2015/16. Below is chart showing the revenues collected locally against target. The issue, however, may be that counties are setting unrealistic targets in the first place. There has been a slight improvement in the actual revenue collection over the past three years.
Counties in 2013/14 should have been able to raise the same types of money that LAs raised to pay for the services that LAs provided and that counties have taken over. Keep in mind, however, that the revenues LAs had traditionally been able to raise fell short of the cost of providing the services they provide, which is why most of them relied heavily on the Local Authority Transfer Fund. The main exceptions to these were the larger cities that could raise more of their own revenue and depended less on LATF. Even these cities, however, still relied on LATF for a quarter to a third of their revenues.\footnote{World Bank, DwD, pp. 62-66; Figure 7-5 in digital (corrected) version.}

Clearly, since counties are doing more than the Local Authorities, they need more money. For this reason, the Constitution ensured that counties are receiving funding from at least three additional sources:

1. First, counties are guaranteed at least 15 percent of all revenues raised at the national level.\footnote{Constitution, 203:2.} In fact, in the FYs 2013/14, 2014/15 and 2015/16 counties were to receive 20-22 percent of revenues raised nationally. This was highest in the FY 2014/15. There was a slight increase in the amount to counties in 2015/16. However, if compared to the total shareable revenue for the year, the counties got a slightly lesser share from 2014/15. According to the Controller of Budget, counties received the full amount of the equitable share in FYs 2013/14 and 2014/15. Below is a table showing the equitable share as a percentage of shareable revenue from 2013-2016.

Table 6: Percentage of equitable share to national shareable revenue in the years 2013/14 -2015/16

<table>
<thead>
<tr>
<th></th>
<th>2013/14 (billions)</th>
<th>2014/15 (billions)</th>
<th>2015/16 (billion)</th>
<th>2016/17 (billion)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Shareable Revenue</td>
<td>920.4</td>
<td>1,026.3</td>
<td>1,242.7</td>
<td>1380.2</td>
</tr>
<tr>
<td>County Equitable Share</td>
<td>190.0</td>
<td>226.7</td>
<td>259.8</td>
<td>280.3</td>
</tr>
<tr>
<td>Percentage</td>
<td>20.6%</td>
<td>22.1%</td>
<td>20.9%</td>
<td>20.3%</td>
</tr>
</tbody>
</table>

2. The second source of revenue for counties is the Equalisation Fund. This Equalisation Fund is an additional ½ percent of national revenues as per the Constitution. The Constitution allows the national government to spend this money directly to deliver basic services in marginalized areas, or to give it to counties as a conditional grant. According to CRA’s policy (2011-2014), marginalized counties are identified using four development indicators: poverty gap, infrastructure, health, and education. 14 counties have been identified by the CRA as marginalized counties. These are Turkana, Mandera, Wajir, Marsabit, Samburu, West Pokot, Tana River, Narok, Kwale, Garissa, Kilifi, Taita Taveta, Isiolo and Lamu. While money for the EF has been set aside each year since FYs 2013/14, it has not been disbursed yet due to lack of regulations. The fund was launched in March 11, 2016. No funds were disbursed as of end of 2016 due to lack of regulations.  

3. Finally, the Constitution also foresees the possibilities that counties could receive additional funding in the form of conditional or unconditional grants. (There are a growing number of such grants approved each year related to health, roads, etc. which are found in the County Allocation of Revenue Act).

Q.2 How close are our counties coming to their revenue targets?

- Generally, counties are reducing the gap between their targets and actual local revenues over time. See the table below, based on data from the Controller of Budget (COB). The information in the table below is obtained from the COB implementation reports for the FYs 2013/14 and 2014/15 which are included in the Annex of Key Documents. (The table is also in the Participant Manual). Counties are also improving in terms of setting more realistic targets for local revenues. According to the COB implementation reports, counties’ actual local revenue as a percentage of target local revenue improved from 48.5% in the FY 2013/14 to 67.2% in the FY 2014/15 and to 69.2% in 2015/16. It is important that realistic targets be set because the counties use these figures to prepare their budget estimates. Where the actual local revenues collected are lower than the targets, some of the county functions budgeted for will not be fully implemented due to lack of resources.

Note: Whether counties are not reaching, are meeting or are surpassing their targets should be interpreted favourably or otherwise depending on how realistic the targets were in the first place. The best way to gauge the reasonableness of targets is by looking at the revenues collected over time. In the case of county governments, the actual revenue collected by local authorities in the years leading to devolution can form a yardstick of reasonableness for FY 2013/14 targets. The actual revenue collected in 2013/14 should inform targets set for FY 2014/15 and so on. In the absence of any data, revenue growth might normally range between 5% and 15% per year over the previous collections. Counties should not set their targets so low or so high to exaggerate their performance. In instances where the growth in revenue

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9 Constitution, 204:3.
11 There were regulations gazetted in 2015 regarding the management of the funds. The regulations can available at http://www.parliament.go.ke/the-senate/house-business/bills-tracker/item/download/899_fc62ff6695b5b1b2e0c02c7e680aad0a7
12 Constitution, 202:2.
surpasses the average revenue growth in previous years (abnormal growth), then counties should avoid using this abnormal growth to set targets for future years. For example, in the case of Marsabit which collected 104.6% above their target in FY 2014/15, it would not be prudent to expect such high growth again in FY 2015/16.

- There are counties that have consistently collected less than half of their targets. These include counties such as Bungoma, Vihiga, Garissa, Mandera and Tana River. While there may be explanations for this, such as insecurity in these areas, the fact remains that the targets are not necessarily realistic. As can be seen below, these counties had rather ambitious/unrealistic targets. Sometimes it is possible in one year to expect unusually high growth; for example, discovery of a lucrative new source of revenue or an innovative way of collecting existing sources might lead to a spike in revenue. See below a table showing the rather unrealistic projected revenue growth for FY 2014/15.

### Table 7: Projected Revenue Growths for Counties that Failed to Reach Their Local Revenue Targets in the FY 2014/15

<table>
<thead>
<tr>
<th>County name</th>
<th>Actual Local Revenue for FY 2013/14 (A)</th>
<th>Annual Local Revenue Target FY 2014/15 (Kshs.) (B)</th>
<th>Projected Revenue Growth ((B-A)/A)</th>
<th>Highest ‘Reasonable’ Target (15% above current)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Garissa</td>
<td>35,892,845</td>
<td>700,000,000</td>
<td>1850.25%</td>
<td>41,276,771.75</td>
</tr>
<tr>
<td>2. Tana River</td>
<td>31,556,087</td>
<td>120,000,000</td>
<td>280.28%</td>
<td>36,289,500.05</td>
</tr>
<tr>
<td>3. Isiolo</td>
<td>125,064,066</td>
<td>452,699,367</td>
<td>261.97%</td>
<td>143,823,675.90</td>
</tr>
<tr>
<td>4. Vihiga</td>
<td>123,302,433</td>
<td>377,743,491</td>
<td>206.36%</td>
<td>141,797,798.00</td>
</tr>
<tr>
<td>5. Mandera</td>
<td>90,068,630</td>
<td>251,285,781</td>
<td>178.99%</td>
<td>103,578,924.50</td>
</tr>
<tr>
<td>6. TaitaTaveta</td>
<td>126,861,698</td>
<td>521,830,636</td>
<td>311.34%</td>
<td>145,890,952.70</td>
</tr>
<tr>
<td>7. Tharaka Nithi</td>
<td>85,372,943</td>
<td>250,000,000</td>
<td>192.83%</td>
<td>98,178,884.45</td>
</tr>
<tr>
<td>8. Bungoma</td>
<td>182,702,280</td>
<td>1,075,035,502</td>
<td>488.41%</td>
<td>210,107,622.00</td>
</tr>
<tr>
<td>9. Kisii</td>
<td>250,147,453</td>
<td>630,000,000</td>
<td>151.85%</td>
<td>287,669,571.00</td>
</tr>
<tr>
<td>10. Siaya</td>
<td>99,771,315</td>
<td>301,530,027</td>
<td>202.22%</td>
<td>114,737,012.30</td>
</tr>
<tr>
<td>11. Machakos</td>
<td>1,175,227,171</td>
<td>2,850,000,000</td>
<td>142.51%</td>
<td>1,351,511,247.00</td>
</tr>
<tr>
<td>13. Samburu</td>
<td>201,001,447</td>
<td>406,550,140</td>
<td>102.26%</td>
<td>231,151,664.10</td>
</tr>
<tr>
<td>14. Mombasa</td>
<td>1,716,054,436</td>
<td>5,121,608,017</td>
<td>198.45%</td>
<td>1,973,462,601.00</td>
</tr>
<tr>
<td>15. Narok</td>
<td>1,538,560,899</td>
<td>3,366,157,146</td>
<td>118.79%</td>
<td>1,769,345,034.00</td>
</tr>
<tr>
<td>16. Kitui</td>
<td>255,241,581</td>
<td>650,000,000</td>
<td>154.66%</td>
<td>293,527,818.20</td>
</tr>
</tbody>
</table>

- There are also counties in the financial years 2013/14 and 2014/15 that surpassed their local revenue targets. Counties such as Turkana, West Pokot, Kericho and Marsabit have collected more than their targets consistently. (See Table 10 below) How do we interpret this? It could be that that these counties are putting extra ‘effort’ into collection of revenue, or that they are underestimating their revenue capacity to improve their performance. The former is the more likely case for counties like West Pokot.
and Wajir. These counties surpassed their targets despite setting rather ambitious targets (expected growth of 63% & 72%) for the FY 2013/14. See below a table of counties and the projected revenue growth comparing the targets in FY2014/15 as compared with 2013/14 actual revenues. Whatever the case, these counties did not budget to their full capacity in the relevant FYs (they collected more than they budgeted). Marsabit collected 200% of its target revenue in FY 2014/15.

Table 8: Projected Local Revenue Growths for Counties That Surpassed their Local Revenue Targets in the FY 2014/15

<table>
<thead>
<tr>
<th>County name</th>
<th>Actual Local Revenue for FY 2013/14 (A)</th>
<th>Annual local revenue target FY 2014/15 (Kshs.) (B)</th>
<th>Projected Revenue Growth 2014/15 ((B-A)/A)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Turkana</td>
<td>132,882,771</td>
<td>110,000,000</td>
<td>-17.22%</td>
</tr>
<tr>
<td>2. Kericho</td>
<td>371,395,186</td>
<td>383,435,490</td>
<td>3.24%</td>
</tr>
<tr>
<td>3. Marsabit</td>
<td>46,032,691</td>
<td>48,400,000</td>
<td>5.14%</td>
</tr>
<tr>
<td>5. West Pokot</td>
<td>58,887,573</td>
<td>96,197,480</td>
<td>63.36%</td>
</tr>
<tr>
<td>6. Wajir</td>
<td>61,032,930</td>
<td>105,136,917</td>
<td>72.26%</td>
</tr>
<tr>
<td>County name</td>
<td>Annual Local Revenue Target FY 2013/14</td>
<td>Actual Local Revenue for FY 2013/14</td>
<td>% of Local Revenue To Annual Local Revenue Target FY 2013/14</td>
</tr>
<tr>
<td>----------------------</td>
<td>----------------------------------------</td>
<td>------------------------------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>Baringo</td>
<td>260,000,000</td>
<td>201,519,606</td>
<td>77.5%</td>
</tr>
<tr>
<td>Bomet</td>
<td>235,948,424</td>
<td>200,949,332</td>
<td>85.2%</td>
</tr>
<tr>
<td>Bungoma</td>
<td>2,753,780,000</td>
<td>182,702,280</td>
<td>6.6%</td>
</tr>
<tr>
<td>Busia</td>
<td>366,327,150</td>
<td>328,993,569</td>
<td>89.8%</td>
</tr>
<tr>
<td>Elgeyo/Marakwet</td>
<td>85,000,000</td>
<td>61,001,213</td>
<td>71.8%</td>
</tr>
<tr>
<td>Embu</td>
<td>659,165,345</td>
<td>168,486,515</td>
<td>25.6%</td>
</tr>
<tr>
<td>Garissa</td>
<td>150,533,326</td>
<td>35,892,845</td>
<td>23.8%</td>
</tr>
<tr>
<td>Homa Bay</td>
<td>140,678,820</td>
<td>134,985,390</td>
<td>96.0%</td>
</tr>
<tr>
<td>Isiolo</td>
<td>360,000,000</td>
<td>125,064,066</td>
<td>34.7%</td>
</tr>
<tr>
<td>Kajiado</td>
<td>517,000,000</td>
<td>453,371,648</td>
<td>87.7%</td>
</tr>
<tr>
<td>Kakamega</td>
<td>2,813,435,319</td>
<td>325,216,300</td>
<td>11.6%</td>
</tr>
<tr>
<td>Kericho</td>
<td>338,692,707</td>
<td>371,395,186</td>
<td>109.7%</td>
</tr>
<tr>
<td>Kiambu</td>
<td>3,058,567,275</td>
<td>1,246,683,890</td>
<td>40.8%</td>
</tr>
<tr>
<td>---------</td>
<td>------------</td>
<td>---------</td>
<td>------------------</td>
</tr>
<tr>
<td>Kilifi</td>
<td>735,819,493</td>
<td>62.5%</td>
<td>1,000,000,000</td>
</tr>
<tr>
<td>Kirinyaga</td>
<td>437,993,243</td>
<td>45.7%</td>
<td>422,454,650</td>
</tr>
<tr>
<td>Kisii</td>
<td>729,194,738</td>
<td>34.3%</td>
<td>630,000,000</td>
</tr>
<tr>
<td>Kisumu</td>
<td>1,739,539,231</td>
<td>35.7%</td>
<td>1,500,000,000</td>
</tr>
<tr>
<td>Kitui</td>
<td>713,850,291</td>
<td>35.8%</td>
<td>650,000,000</td>
</tr>
<tr>
<td>Kwale</td>
<td>642,361,019</td>
<td>32.5%</td>
<td>500,000,000</td>
</tr>
<tr>
<td>Laikipia</td>
<td>557,173,528</td>
<td>62.3%</td>
<td>400,000,000</td>
</tr>
<tr>
<td>Lamu</td>
<td>86,124,909</td>
<td>41.3%</td>
<td>65,740,000</td>
</tr>
<tr>
<td>Machakos</td>
<td>2,541,819,152</td>
<td>46.2%</td>
<td>2,850,000,000</td>
</tr>
<tr>
<td>Makueni</td>
<td>350,000,000</td>
<td>54.1%</td>
<td>230,000,000</td>
</tr>
<tr>
<td>Mandera</td>
<td>437,400,000</td>
<td>20.6%</td>
<td>251,285,781</td>
</tr>
<tr>
<td>Marsabit</td>
<td>44,000,000</td>
<td>104.6%</td>
<td>48,400,000</td>
</tr>
<tr>
<td>Meru</td>
<td>658,000,000</td>
<td>52.3%</td>
<td>588,038,730</td>
</tr>
<tr>
<td>Migori</td>
<td>795,374,867</td>
<td>30.0%</td>
<td>500,000,000</td>
</tr>
<tr>
<td>Mombasa</td>
<td>5,074,615,602</td>
<td>33.8%</td>
<td>5,121,608,017</td>
</tr>
<tr>
<td>Murang’a</td>
<td>800,000,000</td>
<td>52.5%</td>
<td>800,000,000</td>
</tr>
<tr>
<td>Nairobi City</td>
<td>15,448,045,417</td>
<td>64.9%</td>
<td>13,323,722,061</td>
</tr>
<tr>
<td>Nakuru</td>
<td>3,076,738,273</td>
<td>59.0%</td>
<td>2,755,924,489</td>
</tr>
<tr>
<td>Nandi</td>
<td>422,472,914</td>
<td>30.9%</td>
<td>456,070,000</td>
</tr>
<tr>
<td>Narok</td>
<td>3,698,917,020</td>
<td>41.6%</td>
<td>3,366,157,146</td>
</tr>
<tr>
<td>County</td>
<td>Total Budget</td>
<td>Direct Budget</td>
<td>Direct as %</td>
</tr>
<tr>
<td>--------------</td>
<td>--------------</td>
<td>---------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Nyamira</td>
<td>100,000,000</td>
<td>94,025,895</td>
<td>94.0%</td>
</tr>
<tr>
<td>Nyandarua</td>
<td>174,000,000</td>
<td>138,439,331</td>
<td>79.6%</td>
</tr>
<tr>
<td>Nyeri</td>
<td>479,050,914</td>
<td>432,229,360</td>
<td>90.2%</td>
</tr>
<tr>
<td>Samburu</td>
<td>223,550,000</td>
<td>201,001,447</td>
<td>89.9%</td>
</tr>
<tr>
<td>Siaya</td>
<td>153,000,000</td>
<td>99,771,315</td>
<td>65.2%</td>
</tr>
<tr>
<td>Taita Taveta</td>
<td>244,119,909</td>
<td>126,861,698</td>
<td>52.0%</td>
</tr>
<tr>
<td>Tana River</td>
<td>87,290,000</td>
<td>31,556,087</td>
<td>36.2%</td>
</tr>
<tr>
<td>Tharaka -Nithi</td>
<td>84,000,000</td>
<td>85,372,943</td>
<td>101.6%</td>
</tr>
<tr>
<td>Trans Nzoia</td>
<td>501,503,926</td>
<td>201,655,713</td>
<td>40.2%</td>
</tr>
<tr>
<td>Turkana</td>
<td>250,000,000</td>
<td>132,882,771</td>
<td>53.2%</td>
</tr>
<tr>
<td>Uasin Gishu</td>
<td>821,410,003</td>
<td>563,669,444</td>
<td>68.6%</td>
</tr>
<tr>
<td>Vihiga</td>
<td>204,274,739</td>
<td>123,302,433</td>
<td>60.4%</td>
</tr>
<tr>
<td>Wajir</td>
<td>119,030,873</td>
<td>61,032,930</td>
<td>51.3%</td>
</tr>
<tr>
<td>West Pokot</td>
<td>38,000,000</td>
<td>58,887,573</td>
<td>155.0%</td>
</tr>
<tr>
<td>Total</td>
<td>54,207,798,427</td>
<td>26,296,089,510</td>
<td>48.5%</td>
</tr>
</tbody>
</table>

Source: Office of the Controller of Budget, County Governments Annual Budget Review Report for the FYs 2013/14 and 2014/15
Q.3 What are the main sources of county own revenues? (List the top 3)

- Counties have a variety of revenues available to them. Some common ones across the county include business permit and land rates. These are the two most substantial sources, followed by a number of other fees and cesses for counties. This may vary from county to county. The snippet below from Baringo shows the local revenues expected in Baringo in FY 2015/16 (also see the Participant Manual). The county expected game park fees, hospital revenues and single business permit to be the three highest local revenue sources. The budget also indicated the local sources by geographical location. The budget did not indicate the previous year performance or future projections of these local revenue sources.

Snippet 1: Baringo Local Revenues Estimated for the FY 2015/16

<table>
<thead>
<tr>
<th>NO</th>
<th>LOCAL REVENUE SOURCES</th>
<th>LOCAL REVENUE SOURCES PER LOCATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Game Park Fees</td>
<td>65,378,068.83 Kilisarnet Town</td>
</tr>
<tr>
<td>2</td>
<td>Animal Stock Sale Fees</td>
<td>14,269,644.46 Edama Ravine Town</td>
</tr>
<tr>
<td>3</td>
<td>Produce &amp; Other Cess</td>
<td>26,794,431.28 Edama Ravine Sub - County</td>
</tr>
<tr>
<td>4</td>
<td>Single Business Permit</td>
<td>44,430,982.05 Mogoto Sub - County</td>
</tr>
<tr>
<td>5</td>
<td>Plot Rent/Rates</td>
<td>29,476,585.69 Baringo South Sub - County</td>
</tr>
<tr>
<td>6</td>
<td>Market Fees &amp; Others</td>
<td>28,871,413.05 Tity Sub - County</td>
</tr>
<tr>
<td>7</td>
<td>Kothatek ATC</td>
<td>5,113,620.00 Baringo North Sub - County</td>
</tr>
<tr>
<td>8</td>
<td>Marigat AMS</td>
<td>8,522,700.00 Baringo Central Sub - County</td>
</tr>
<tr>
<td>9</td>
<td>Vetrinary</td>
<td>6,000,000.00 Kothatek ATC</td>
</tr>
<tr>
<td>10</td>
<td>Hospital Revenue</td>
<td>65,182,560.00 Marigat AMS</td>
</tr>
<tr>
<td>11</td>
<td>TOTAL</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TOTAL REVENUES</td>
<td>300,000,000.36 TOTAL REVENUES</td>
</tr>
</tbody>
</table>

Source: Baringo Approved Annual Budget FY 2015/16
## Further Readings

i. CRA, “Recommendation on the Sharing of Revenue Raised Nationally between the National Government and the County Governments for the Financial Years 2013/14-2016/17.”

ii. County Allocation of Revenue Bills and Acts FY 2013/14 -2015/16

iii. Division of Revenue Bills and Acts FY 2013/14-2015/16
Annexes

Annex I: Kenya Budget Calendar

KENYA’S BUDGET CALENDAR: National and County

FORMULATION
APPROVAL
IMPLEMENTATION
AUDIT/OVERSIGHT
AUGUST 30. This is the first major event in the budget calendar. The Cabinet Secretary and the County Executive Member for Finance at the national and county levels respectively must issue a circular to all government departments advising them on how to prepare their budget requests for the year. The circular should also contain the budget formulation calendar for the year, including opportunities for public participation.

SEPTEMBER 1. Counties must prepare and table the Annual Development Plan in the County Assembly by this date. The plan must be made public within 7 days. The ADP is meant to be the key planning document that guides the budget-making process for the next year. It is a one-year extract of the five year County Integrated Development Plan, which every county must also produce.

OCTOBER 21. After cabinet approval, the national and county Budget Review and Outlook Papers must be tabled in the national and county assemblies. These documents serve three purposes: they review the previous year’s budget performance (year-end review), they update current year economic expectations (for inflation, growth, etc.), and they propose a distribution of the coming year’s budget across key sectors like health and education (this distribution is known as the “provisional ceilings” for each sector).

APRIL 30. The national and county budget estimates are tabled on this date in the respective assemblies. This is the detailed budget at program level (which is below the level of ministries). At this stage, the total budget and sector distribution should not be changed, but funds may be moved around between programs. At both levels of government, assemblies have two months to make these changes.

MAY. This is likely when the national and county assembly budget committees will begin to hold public hearings on the budget estimates, a legal requirement.

JUNE 30. End of the financial year. By this date, the national and county Appropriation Bills should be approved by assemblies at both levels. These bills authorize the government to spend against the budget from July 1.

OCTOBER 31. Executives at both levels of government are required to publish quarterly budget implementation reports and table these in their respective assemblies. Counties must produce these within one month of the end of the quarter, while the national government has 45 days. The 1st quarter county implementation report should be produced by October 31. The other reports are to be produced as below:

- NOVEMBER 15. National government publishes 1st quarter implementation report.
- JANUARY 31. Counties publish 2nd quarter implementation report.
- APRIL 30. Counties publish 3rd quarter implementation report.

DECEMBER 31. The Auditor should produce and publish an audit report on the previous financial year within six months of its close (six months after June 30).

FOURTH SCHEDULE (Articles 185(2), 186(1) and 187(2))
Distribution of Functions between the National Government and the County Governments

PART I—NATIONAL GOVERNMENT

1. Foreign affairs, foreign policy and international trade.
2. The use of international waters and water resources.
3. Immigration and citizenship.
4. The relationship between religion and state.
5. Language policy and the promotion of official and local languages.
6. National defence and the use of the national defence services.
7. Police services, including—
   (a) the setting of standards of recruitment, training of police and use of police services;
   (b) criminal law; and
   (c) correctional services.
10. Monetary policy, currency, banking (including central banking), the incorporation and regulation of banking, insurance and financial corporations.
11. National statistics and data on population, the economy and society generally.
12. Intellectual property rights.
13. Labour standards.
14. Consumer protection, including standards for social security and professional pension plans.
15. Education policy, standards, curricula, examinations and the granting of university charters.
16. Universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and special education institutions.
17. Promotion of sports and sports education.
18. Transport and communications, including, in particular—
   (a) road traffic;
   (b) the construction and operation of national trunk roads;
   (c) standards for the construction and maintenance of other roads by counties;
   (d) railways;
   (e) pipelines;
   (f) marine navigation;
   (g) civil aviation;
   (h) space travel;
   (i) postal services;
   (j) telecommunications; and
   (k) radio and television broadcasting.
20. Housing policy.
21. General principles of land planning and the co-ordination of planning by the counties.
22. Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular—
   (a) fishing, hunting and gathering;
   (b) protection of animals and wildlife;
   (c) water protection, securing sufficient residual water, hydraulic engineering and the safety of dams; and
   (d) energy policy.
23. National referral health facilities.
24. Disaster management.
25. Ancient and historical monuments of national importance.
27. Health policy.
28. Agricultural policy.
29. Veterinary policy.
30. Energy policy including electricity and gas reticulation and energy regulation.
31. Capacity building and technical assistance to the counties.
32. Public investment.
34. National betting, casinos and other forms of gambling.
35. Tourism policy and development.

PART 2—COUNTY GOVERNMENTS

The functions and powers of the county are—

1. Agriculture, including—
   (a) crop and animal husbandry;
   (b) livestock sale yards;
   (c) county abattoirs;
   (d) plant and animal disease control; and
   (e) fisheries.

2. County health services, including, in particular—
   (a) county health facilities and pharmacies;
   (b) ambulance services;
   (c) promotion of primary health care;
   (d) licensing and control of undertakings that sell food to the public;
   (e) veterinary services (excluding regulation of the profession);
   (f) cemeteries, funeral parlours and crematoria; and
   (g) refuse removal, refuse dumps and solid waste disposal.

3. Control of air pollution, noise pollution, other public nuisances and outdoor advertising.

4. Cultural activities, public entertainment and public amenities, including—
   (a) betting, casinos and other forms of gambling;
   (b) racing;
   (c) liquor licensing;
   (d) cinemas;
   (e) video shows and hiring;
   (f) libraries;
   (g) museums;
   (h) sports and cultural activities and facilities; and
   (i) county parks, beaches and recreation facilities.

5. County transport, including—
   (a) county roads;
   (b) street lighting;
   (c) traffic and parking;
   (d) public road transport; and
   (e) ferries and harbours, excluding the regulation of international and national shipping and matters related thereto.

6. Animal control and welfare, including—
   (a) licensing of dogs; and
   (b) facilities for the accommodation, care and burial of animals.

7. Trade development and regulation, including—
   (a) markets;
   (b) trade licences (excluding regulation of professions);
   (c) fair trading practices;
   (d) local tourism; and
   (e) cooperative societies.

8. County planning and development, including—
   (a) statistics;
   (b) land survey and mapping;
   (c) boundaries and fencing;
   (d) housing; and
   (e) electricity and gas reticulation and energy regulation.

9. Pre-primary education, village polytechnics, homecraft centres and childcare facilities.

10. Implementation of specific national government policies on natural resources and environmental conservation, including—
    (a) soil and water conservation; and
    (b) forestry.

11. County public works and services, including—
    (a) storm water management systems in built-up areas; and
    (b) water and sanitation services.

12. Fire fighting services and disaster management.

13. Control of drugs and pornography.

14. 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.
Annex III: Transition Authority
August, 2013 Gazette Notice

LEGAL NOTICE NO. 152
THE CONSTITUTION OF KENYA
THE TRANSITION TO DEVOLVED
GOVERNMENTS ACT, 2012
(No.1 of 2012)
TRANSFER OF FUNCTIONS
PURSUANT TO section 15 of the Sixth
Schedule to the Constitution as read with
sections 23 and 24 of the Transition to Devolved
Governments Act, 2012 and further to the Legal
Notice No.16 of 2013, the Transition Authority approves
the transfer of the functions specified in the
Schedule to the county government of
Mombasa, with effect from the 9th August, 2013:
Provided that the responsibility for the
personnel emoluments related to the discharge
of the devolved functions shall be managed by
the national government for a period not
exceeding six months or as shall be agreed upon
between the two levels of government,
whichever comes first.
Legal Notice No. 134 of 2013 is revoked.

SCHEDULE
1. Agriculture:
(a) crop husbandry including—
(i) provision of agricultural extension services or
farmer advisory services;
(ii) development and implementation of
programmes in the agricultural sector to address
food security in the county;
(iii) construction of grain storage structures;
(iv) enforcement of regulations and standards
on quality control of inputs, produce and
products from the agricultural sector;
(v) availing farm inputs such as certified seeds,
fertilizer and other planting materials, such as
cassava cutting or potato vines, to farmers;
(vi) development of programmes to intervene on
soil and water management and conservation of
the natural resource base for agriculture;
(vii) promotion of market access for agricultural
products;
(viii) provision of infrastructure to promote
agricultural production and marketing as well as
agroprocessing and value chains;
(ix) enhancing accessibility to affordable credit
and insurance packages for farmers;
(x) management of agricultural training centers
and agricultural mechanization stations:
Provided that the management of agricultural
training centers and agricultural mechanization
station shall be transferred after six months, to
enable the requisite structures and mechanisms
to be put in place by the
Transition Authority;
(xi) land development services such as
construction of water pans for horticultural
production for food security;
(xii) formulation and review of county specific
policies;
(xiii) developing and enacting legislation and
regulatory frameworks for county specific
policies; and
(xiv) implementation of national and county
specific policies and legislation;
(b) animal husbandry including livestock
extension services to deliver husbandry
technologies to livestock farmers and
pastoralists, through farm demonstrations,
farmer field days, farmer field schools,
agricultural shows, individual farm visits, farmer
training courses (residential and non-
residential), barazas, farmer tours, posters,
brochures or leaf lets ;
(c) plant and animal disease control including
(i) communal dipping and spraying operations
and vaccination campaigns; and
(ii) control of plant pests, diseases and noxious
weeds that are specific to counties; and
(d) fisheries including—
(i) fisheries extension services;
(ii) up scaling sea weed, fin fish and crustacean
culture;
(iii) county fish seed bulking units;
(iv) on-farm trials;
(v) fish health certification;
(vi) development and maintenance of fish
landing stations and jetties, fish auction centers
and fish landing fees;
(vii) demarcation of all fish breeding areas and fencing of fish landing stations;
(viii) fish trade licensing and fish movement permits;
(ix) collection of fish production statistics;
(x) enforcement of fisheries regulations and compliance with management measures;
(xi) implementation of fisheries policy, fisheries management measures and regulation and limiting access to fishing;
(xii) fisheries monitoring, control and surveillance; and
(xiii) zonation for aquaculture-county specific disease control.

2. County health services:
(a) county health facilities and pharmacies including—
   (i) county health facilities including Coast Provincial General Hospital, county health services including county and sub-county hospitals, rural health centres, dispensaries, rural health training and demonstration centres. Rehabilitation and maintenance of county health facilities including maintenance of vehicles, medical equipment and machinery. Inspection and licensing of medical premises including reporting;
   (ii) county health pharmacies including specifications, quantification, storage, distribution, dispensing and rational use of medical commodities: Provided that until alternative intergovernmental arrangements are made, all counties shall procure medical commodities from the Kenya Medical Supplies Authority except where a particular commodity required by a county government is not available at the Kenya Medical Supplies Authority;
   (b) ambulance services including emergency response and patient referral system;
   (c) promotion of primary health care including health education, health promotion, community health services, reproductive health, child health, tuberculosis, HIV, malaria, school health program, environmental health, maternal health care, immunization, disease surveillance, outreach services, referral, nutrition, occupational safety, food and water quality and safety, disease screening, hygiene and sanitation, disease prevention and control, ophthalmic services, clinical services, rehabilitation, mental health, laboratory services, oral health, disaster preparedness and disease outbreak services. Planning and monitoring, health information system (data collection, collation, analysis and reporting), supportive supervision, patient and health facility records and inventories;
   (d) licensing and control of undertakings that sell food to the public including food safety and control;
   (e) veterinary services to carry out, coordinate and oversee veterinary services including clinical services, artificial insemination, and reproductive health management; but excluding regulation of the profession; and
   (f) enforcement of waste management policies, standards and regulations; in particular —
      (i) refuse removal (Garbage) including, provision of waste collection bins, segregation of waste at source, licensing of waste transportation;
      (ii) refuse dumps including zoning waste operational areas, conducting environmental impact assessment for the siting of dumps, fencing of dumps, controlling fires, monitoring waste characteristics and monitoring of waste water from the dumpsite (leachate); and
      (iii) solid waste disposal including enforcement of national waste management policies, standards and laws with respect to landfilling, incineration with energy recovery, composting, recycling and operation of transfer stations.

3. Control of air pollution, noise pollution and other public nuisance including:
   (a) control of noise pollution and other public nuisances;
   (b) licensing for persons exceeding the permissible noise levels; and
   (c) noise mapping and action plan development, excluding the implementation of nationally set ambient air quality standards.

4. Cultural services, public entertainment and public amenities:
   (a) county betting, casinos and other forms of gambling;
   (b) racing;
   (c) cinemas;
libraries excluding Kenya National Library
Services; and
(e) museums.
5. County transport including:
(a) county roads including primary roads
linking all sub-county head quarters and minor
roads linking markets and administrative
centers excluding roads being managed by
Kenya Urban Roads Authority, Kenya Rural
Roads Authority, Kenya Wildlife Service and
Kenya Forest Service;
(b) mechanical and transport equipment shall
be retained by the national government for a
period of six months and the Transition
Authority shall during that period develop
modalities of sharing the mechanical and
transport equipment;
(c) public road transport on licensing of public
service vehicles operations; and
(d) ferries and harbors including development,
maintenance and operations of ferries and
harbors operating in inland lakes and waters.
6. Trade development and regulation:
(a) fair trading practices including—
(i) verification of weighing and measuring
instruments;
(ii) inspection of weighing and measuring
instruments and pre-packed goods;
(iii) investigation of complaints relating to
unfair trade practices; and
(iv) prosecution of offences arising from unfair
trade practices.
(b) co-operative societies—
(i) promotion of co-operative societies;
(ii) processing of application for registration;
(iii) inspections and investigations;
(iv) training needs assessment for co-operative
movement;
(v) market information dissemination &
advisory services;
(vi) banking inspections local Savings and
Credit Cooperative Societies;
(vii) risk assessment in Savings and Credit
Cooperative Societies;
(viii) investment advisory services;
(ix) co-ordination and monitoring of co-
operative indemnity by co-operative leaders;
(x) promotion of co-operative ventures and
innovations for local co-operatives;
(xi) carrying out certification audits;
(xii) carrying out continuous and compliance
audits;
(xiii) co-operative advisory services;
(xiv) pre-cooperative education;
(xv) settlement of disputes (arbitration); and
(xvi) registration of co-operative societies
audited accounts.
7. County planning and development:
(a) statistical services including—
(i) custodian of official statistics in the county;
(ii) maintenance of a comprehensive and
reliable county socio-economic database;
(iii) quality assurance of statistical information;
(iv) collection and compilation of statistical
information;
(v) analysis of statistical information;
(vi) publication and dissemination of statistical
information for public use; and
(vii) coordination, monitoring and supervision
of the county statistical system;
(b) boundaries and fencing including—
(i) determination of property boundaries;
(ii) solving of property boundary disputes;
(iii) showing of property boundaries;
(iv) ensuring fencing and development of
properties; and
(v) finalization of surveying of administrative
boundaries within the counties; and
(c) identification of the renewable energy sites
for development—excluding identification and
implementation of the rural electrification
projects, management of the Rural
Electrification Fund and development of
isolated diesel stations, which shall be
transferred within the transition period as per
the Rural Electrification Authority schedules.
8. Village polytechnics.
9. Implementation of specific national
government policies on natural resources and
environmental conservation:
(a) soil and water conservation—
(i) implementation of county specific water
conservation and forestry policies through water
resource users;
(ii) water pollution control; and
(iii) borehole site identification and drilling; and
(b) forestry including farm forest extension
services, forests and game reserves formerly
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managed by local authorities excluding forests managed by Kenya Forest Service, National Water Towers and private forests.

10. County public works and services:
   (a) Public works including designing, documentation, post contracting, project management of construction and maintenance of public buildings and other infrastructural services. Construction of footbridges; and
   (b) water and sanitation services including rural water and sanitation services, provision of water and sanitation service in small and medium towns without formal service providers, water harvesting (specific to counties), urban water and sanitation services with formal service provision including water, sanitation and sewerage companies, excluding Water Service Water Services Regulatory Board and Water Resources Management Authority.

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.

Dated the 9th August, 2013.

KINUTHIA WAMWANGI,
Chairman,
Transition Authority.
Annex IV: Transition Authority
February, 2013 Legal Notice No. 16

THE TRANSITION TO DEVOLVED GOVERNMENT ACT (No. 1 of 2012)

TRANSFERRED FUNCTIONS IN EXERCISE of the powers conferred by section 23(1) of the Transition to Devolved Government Act, 2012, the Transition Authority identifies functions listed in the Schedule to be functions that may be transferred to county governments immediately after the first elections under the Constitution:

Provided that:

(a) these functions are in addition to the executive, legislative and financial functions provided through the establishment of the County Executive and County Assembly; and

(b) the functions provided for under paragraph 2(a) of the Schedule are limited to health services being provided by the relevant municipalities of the specified counties in the said paragraph.

SCHEDULE

1. Agriculture:
   (a) livestock sale yards;
   (b) county abattoirs/slaughte house services.

2. County Health Services:
   (a) county health facilities and pharmacies (specific to Nairobi County, Kisumu County, Mombasa County, Nakuru County and Uasin Gishu County);
   (b) ambulance services (specific to Nairobi, Kisumu, Mombasa, Nakuru, Uasin Gishu Counties);
   (c) cemeteries, Funeral Parlors/ Mortuary services and Crematoria Services;
   (d) refuse removal, refuse dumps and solid waste disposal.

3. Control of outdoor advertising:
   (a) betting services;
   (b) liquor licensing;
   (c) video shows and hiring;
   (d) sports and cultural activities and facilities;
   (e) county parks, beaches and recreation facilities.

4. Cultural services, public entertainment and public amenities but limited to:
   (a) betting services;
   (b) liquor licensing;
   (c) video shows and hiring;
   (d) sports and cultural activities and facilities;
   (e) county parks, beaches and recreation facilities.

5. County Transport:
   (a) access roads;
   (b) street lighting;
   (c) traffic and parking.

6. Animal control and Welfare:
   (a) licensing of dogs;
   (b) facilities for the accommodation, care and burial of animals.

7. Trade development and regulations:
   (a) markets;
   (b) trade licensing (excluding regulation of professionals);
   (c) local tourism.

8. County planning and development:
   (a) land survey and mapping; and
   (b) housing.

9. Pre-primary education, home-craft centre and childcare facilities.

10. Implementation of specific national government policies on natural resources and environment conservation:
    (a) protection of water springs;
    (b) protection of wells and dams.

11. County public works and services specific to storm water management systems in built-up areas.

12. Fire fighting services and disaster management.

13. Control of drugs and pornography.

KINUTHIA WAMWANGI,
Chairman.
# Glossary of Terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Actual (vs. Estimate)</strong></td>
<td>An actual amount paid or incurred (expenditure), as opposed to an estimated amount. Audit reports present actual expenditures, as opposed to the estimates provided in the budget proposal and enacted budget. See also <em>Estimate</em>.</td>
</tr>
<tr>
<td><strong>Administrative Classification</strong></td>
<td>Answers the question: <em>who spends the money?</em> This classification system indicates which government entity (ministry, department, or agency) will have responsibility for spending funds and ultimately be held accountable for their use.</td>
</tr>
<tr>
<td><strong>Agencies</strong></td>
<td>The term includes all bodies that are part of government and have been given some autonomy and/or independence from the ministries to which they report. They may be subject to a completely or partially different set of management and financial rules than the one applicable to traditional vertically integrated ministries. The fact that they are considered part of the government excludes by definition private firms and non-governmental organizations, even when they are mainly funded by government entities. It also excludes state-owned corporations.</td>
</tr>
<tr>
<td><strong>Allocation</strong></td>
<td>A sum of money designated for a specific use by the government.</td>
</tr>
<tr>
<td><strong>Amendment</strong></td>
<td>A change by the legislature to the executive’s budget proposal, such as to the size of the proposed deficit or surplus.</td>
</tr>
<tr>
<td><strong>Amendment Power</strong></td>
<td>The legal power of the legislature to modify the draft budget proposed by the executive. Such power can vary significantly depending on the legal framework of a specific country: from no restriction on the right of the legislature to modify the budget to complete restriction of the right of the legislature to modify the budget (in the latter case, the legislature only has the power to approve or reject the budget).</td>
</tr>
<tr>
<td><strong>Appropriation</strong></td>
<td>An authority granted to the executive by the legislature to spend public funds up to a set limit for a specified purpose. Annual appropriations are made through annual budget laws, or in some countries, separate appropriation acts consistent with the budget. Supplementary budget appropriations are sometimes granted subsequent to the annual law if the annual appropriation is insufficient to meet the specified purpose. See also <em>Supplementary Budget</em>.</td>
</tr>
</tbody>
</table>
### Appropriations-in-Aid (Kenya)

These are revenues that are raised by a ministry, department, or agency (MDA) itself. They include receipts from administrative fees and charges, as well as receipts from the sale of inventories, stock, and commodities. They can also include donor funds that are disbursed directly to an MDA instead of to the Treasury.

### Arrears (or Payment Arrears)

A type of debt that accrues as a result of the government’s failure to make payments that are due by a specific date in a contract or within a normal period for a given transaction, i.e., bills from suppliers and service providers, salaries, transfers, debt service, etc. These payments must eventually be made, and therefore contribute to the country’s debt stock.

For example, if the government hires a contractor to build a road in a given fiscal year, but is unable to pay the contractor in that same year, this becomes an expenditure arrear that must be paid the following year (often with interest).

### Asset

Government assets are things of value that the government owns or controls. Assets can include **physical assets** (such as land, buildings, and machinery) and **financial assets** (such as cash, bonds, or equities). Unlike private sector businesses, few governments maintain balance sheets that take into account the value of their assets and liabilities; however, many governments keep asset registries that list physical assets. Financial assets are usually tracked as part of the debt management process.

### Audit

An audit is an official, expert examination of a government’s public accounts. Through such an inspection, an auditor can check on the legal and financial compliance of the government’s public financial management practices or its performance. Audits can either be internal (i.e., done by an office/entity within the audited agency/department) or external (i.e., done by an independent entity to meet statutory obligations and to assure the integrity of information provided in the government’s yearly reports).

### Auditor-General (Supreme Audit Institution)

The auditor-general reports on the accounts, financial statements, and financial management of ministries, departments, and agencies. In Kenya, the auditor-general’s office is called the Kenya National Audit Office.

### Budget

A comprehensive statement of government financial plans including expenditures, revenues, deficit or surplus, and debt. The budget is the government's main economic policy document, indicating how the government plans to use public resources to meet policy goals. As a statement of fiscal policy, the budget shows the nature and extent of the
government’s impact on the economy. The budget is prepared by the
executive and then generally is submitted to the legislature to be reviewed,
amended, and adopted as law. The budget preparation process begins many
months before the start of the fiscal year covered by the budget, so that it
can be enacted into law before the fiscal year begins.

**Budget Cycle (or Process)**
The period of time in which a country’s budget is formulated, approved,
executed, and audited. It is made up of four stages: *formulation*, when the
executive branch puts together the budget proposal; *discussion/approval*, when
the legislature debates, alters, and approves the budget; *execution*, when the
government implements the budget; and *audit*, when the supreme audit
institution and the legislature account for and assess the expenditures made
under the budget.

<table>
<thead>
<tr>
<th>Capital Expenditure (vs. Recurrent Expenditure)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Funds spent for the acquisition of a long-term asset; the total spending on such asset would be divided over several years. This includes expenditure on equipment, land, buildings, legal expenses, and other transfer costs associated with property. See also <em>Recurrent Expenditure</em>.</td>
</tr>
</tbody>
</table>

(Note that in Kenya, “development expenditure” has traditionally included both capital and recurrent expenditure, but most capital expenditure is supposed to be in development expenditure. The Public Finance Management Act 2012 actually defines development expenditure as “capital expenditure,” so eventually the two should mean the same thing in Kenyan budget documents.)

<table>
<thead>
<tr>
<th>Central Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>All units of government that exercise authority over the entire economic territory of a country. In general, the central government is responsible for those functions that affect the country as a whole: for example, national defense, conduct of relations with other countries and international organizations, establishment of the legislative, executive, and judicial functions that cover the entire country, and delivery of public services such as healthcare and education. Non-market, non-profit institutions controlled and mainly financed by the central government are included in the central government.</td>
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</tbody>
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<tr>
<th>Consumer Price Index (CPI)</th>
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<tr>
<td>Measure that reflects the price of a representative basket of consumer goods and services (i.e., goods and services that an ordinary citizen would need to spend money on and consider as their daily living expenses). It is used to measure the impact of inflation on the average consumer.</td>
</tr>
<tr>
<td><strong>Contingency Fund (or Contingency Reserve)</strong></td>
</tr>
<tr>
<td><strong>Contingent Liability</strong></td>
</tr>
</tbody>
</table>

| **D** |
| **Debt** | The accumulated amount of money that the government owes. It can be internal or external (i.e., debt owed to creditors outside of a country, including debt owed to private commercial banks, other governments, or international financial institutions such as the World Bank and International Monetary Fund). |
| **Deficit** | The difference between total (budgeted) expenditure and total (budgeted) revenue in a given year (i.e., the amount of money that the government needs to borrow annually).  
Note: If expenditure exceeds revenue, there is a deficit, which constitutes the annual increase in debt by a government. If revenue exceeds expenditure, then there is a surplus, and the debt does not increase. See also **Surplus**. |
| **Devolved Functions (Kenya)** | The estimates for the costs of services that will be provided by counties but that are provided by the national government until the counties take over. |
| **Discretionary Spending (vs. Mandatory Spending)** | Public expenditure that is governed by annual or other periodic appropriations, rather than by formulas or criteria set forth in authorizing legislation. It is the flexible part of the budget. See also **Mandatory Spending**. |

| **E** |
| **Earmark** | When funds have been earmarked, it means that they have been dedicated to a specific program or purpose. In some cases, a particular stream of revenue is earmarked for a specific purpose. For instance, revenues resulting from taxes on fuel are frequently dedicated to (i.e., earmarked for) transportation-related expenses, such as road construction or mass-transit subsidies. |
| **Economic Classification** | Answers the question: What is the money spent on? The classification of expenditures and assets according to the economic transactions involved or... |
in ways that emphasize the economic nature of the transactions (salaries, interest, transfers, etc).

| **Equitable Share Fund**  
| (Kenya)  
| According to Chapter 12 of the 2010 Constitution, the equitable share of national revenue that is allocated to county governments (for the upcoming financial year) should not be less than 15 percent of all revenue collected by the national government. The equitable share amount is calculated on the basis of the most recent audited accounts of national revenue received, as approved by the National Assembly. While the minimum is 15 percent, actual amounts may vary and are in all scenarios higher than that.  

| **Estimate**  
| (vs. Actual)  
| An approximation or prediction of the cost of activities, programs, projects, etc. prepared for budgeting and planning purposes only. It represents the budget maker's understanding of the scope and expense of what needs to be done. The executive's budget proposal and enacted budget are made up of estimates. See also Actual.  

| **Expenditure**  
| The spending of money by the government or the amount of money spent.  

| **Extra-Budgetary Funds**  
| Special funds owned by the government that are not part of the regular budget. The spending of such funds may take place according to different rules and not under the authority of the annual appropriation act. Such funds may receive revenues from earmarked taxes, possibly together with other sources, such as fees and contributions from the general revenue fund. See also Off-Budget Expenditure.  

| **F**  
|  

| **Fiscal Framework**  
| The framework for taxation, spending, and borrowing by government.  

| **Fiscal Year (also Budget Year)**  
| A period of 12 consecutive months during which a government carries out its budget operations (revenue collection and budget implementation) according to what was agreed on and approved in the budget for that particular year. This 12-month period must be taken into account for taxing and accounting purposes. It may or may not coincide with the calendar year. In Kenya, the fiscal year runs from 1 July to 30 June.  

| **Functional Classification**  
| Answers the question: For what purpose is the money spent? A classification system that organizes government expenditure according to its various activities and policy objectives in different sectors, e.g. health, education, agriculture. This system is independent of the administrative units (i.e., ministry, department, or agency) that carry out the transactions. More than one ministry can contribute to a sector.  

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<table>
<thead>
<tr>
<th><strong>G</strong></th>
<th><strong>Grants</strong></th>
<th>Transfers made in cash, goods, or services for which no repayment is required by the government.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Gross Domestic Product (GDP)</strong></td>
<td>Total value of final goods and services produced in a country during a calendar year. GDP per person – total GDP divided by the population – is the simplest overall measure of income in a country. The change in GDP from one year to another, if positive, is a measure of economic growth.</td>
</tr>
<tr>
<td></td>
<td><strong>I</strong></td>
<td><strong>Intergovernmental Transfers</strong></td>
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<td></td>
<td><strong>L</strong></td>
<td><strong>Line Item</strong></td>
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<td><strong>Loans</strong></td>
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<td><strong>M</strong></td>
<td><strong>Macroeconomic Framework</strong></td>
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<td><strong>MDAs</strong></td>
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<td></td>
<td><strong>Mandatory Spending (vs. Discretionary Spending)</strong></td>
</tr>
<tr>
<td><strong>Medium-Term Expenditure Framework (MTEF)</strong></td>
<td>An approach to policy, planning, and budgeting that estimates revenues and expenditures three years out from the current budget year.</td>
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<tr>
<td><strong>N</strong></td>
<td><strong>Nominal Value</strong>&lt;br&gt;(vs. Real Value)&lt;br&gt;Any price or value expressed simply in monetary terms (i.e., in units of a currency) at a particular time. Nominal value does not take into account the effect of changes in the value of money over time (inflation). Government budgets are in nominal terms and do not adjust totals for inflation. See also <em>Real Value</em>.</td>
<td></td>
</tr>
<tr>
<td><strong>O</strong></td>
<td><strong>Off-Budget Expenditure</strong>&lt;br&gt;Government transactions that are not included in the annual budget (e.g., direct loans, guarantees, and public-private partnerships, among others). See also <em>Extra-Budgetary Funds</em>.</td>
<td></td>
</tr>
<tr>
<td><strong>P</strong></td>
<td><strong>Personal Emoluments</strong>&lt;br&gt;Compensation (wages and salaries) for civil servants.</td>
<td></td>
</tr>
<tr>
<td><strong>Program-level Classification</strong>&lt;br&gt;Answers the question: <em>For what purpose is the money spent?</em> Program-level classification is a type of functional classification, but it is at a more detailed level. In budgets, the term “program” refers to any level of detail below an administrative unit, such as a ministry, department, or agency. For example, the Ministry of Health’s budget could be broken down into a number of programs, such as “primary health care,” “hospitals,” etc. Budget line items for such programs show program-level expenditure.</td>
<td></td>
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<tr>
<td><strong>Public Hearing</strong>&lt;br&gt;A formal hearing at which the public can voice their views and concerns on a government policy or budget proposal or government actions. These hearings can be organized by any of the institutions involved in the budget process, i.e. the executive, legislature, and supreme audit institution.</td>
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<tr>
<td><strong>R</strong></td>
<td><strong>Real Value</strong>&lt;br&gt;A measure of the purchasing power of money that takes into consideration changes in the value of money over time (inflation). See also <em>Nominal Value</em>.</td>
<td></td>
</tr>
</tbody>
</table>
### Recurrent Expenditure (vs. Capital Expenditure)

Expenditure that does not result in the acquisition of long-term assets. It consists mainly of expenditure on salaries, goods and services, etc. See also *Capital Expenditure.*

(Note that in Kenya, “development expenditure” has traditionally included both capital and recurrent expenditure, but most capital expenditure is supposed to be in development expenditure. The Public Finance Management Act 2012 actually defines development expenditure as “capital expenditure,” so eventually the two should mean the same thing in Kenyan budget documents.)

### Revenue

A government’s total annual amount of available resources, i.e., its income collected from taxes on salaries, company profits, sales, etc., as well from loans and foreign aid.

Revenue is usually divided into *tax revenue* (i.e., money collected from direct and indirect taxation of individuals and companies) and *non-tax revenue* (i.e., government revenue not generated from taxes, such as aid, revenue from state owned enterprises, rents/concessions/royalties, fees, etc.).

### Sensitivity Analysis

Analysis of how certain budgetary outcomes are going to change if we change fundamental macroeconomic assumptions. In public budgeting, various scenarios are tested to look at the fiscal effects of alternative macroeconomic assumptions. (For example, how will revenue be affected by a drastic decrease in the price of oil? Lower oil revenue might require alternative revenue raising options, which could have a fiscal impact on income tax.)

### Supplemental (or Supplementary) Budget

Budget legislation passed during the budget year to provide for changes in revenue/spending compared to the original budget (approved at the beginning of the year). Normally, formal rules set a limit for shifts over and above which the approval of the legislature is required.

### Surplus

The amount by which a government’s revenue exceeds expenditure over a particular period of time. Surplus can be used to reduce a government’s debt. See also *Deficit.*
**Tax Burden**

The impact that various taxes would have on different sectors of the population. For example, once income tax, value-added tax, and all other economic adjustments have been taken into consideration, what sector of the population is bearing the greatest cost of paying taxes?

**Tax Expenditures**

It is a loss of revenue attributable to an exemption, concession, deduction, preference, or other exclusion under a “normal” tax structure that reduces government revenue collection. It basically constitutes foregone revenue.

Tax breaks can result from targeted political pressure, but they are typically granted in order to achieve some government policy objective. Given that the policy objectives could also have been achieved through a subsidy or other expenditure, the tax concession is essentially regarded as equivalent to a budget expenditure.

**U**

**Underfunding**

When a sphere of government, department, ministry, or agency is not provided with the funds it needs to perform its functions or fulfill its mandate. Underfunding is a relative term and should be evaluated in relation to time, other implementing units at the same level of government or with a similar mandate, and responsibilities or legal obligations.

**Underspending**

When a sphere of government, department, ministry, or agency does not spend all of the money it has been allocated during the course of the financial period in which the funds were meant to be spent.

**V**

**Virement**

The process of shifting an expenditure from one line item to another during the budget year. To prevent misuse of funds, spending agencies must normally go through approved administrative procedures to obtain permission to make such a transfer.

**W**

**Wastage**

When a government agency or program is not producing the best/most outputs with the funds that it has been allocated.