

## Briefing Paper for Kenya Civil Society Organizations (CSOs) on Health Sector Devolution

The health function is critical to the welfare and prosperity of any nation. The way the health sector is run largely determines the effectiveness of service delivery and hence the health of a national as a whole. As devolution of government functions is realized, there is need to clear the air about the expectations about health services delivery.

The Constitution of Kenya, in its Chapter 11 on devolution stipulates the requirement for the transfer and distribution of some state functions to smaller, semi-autonomous units of government, the counties. Further, it provides that County governments are responsible for all social services except education which shall be executed by the national government alongside foreign affairs, security and defence functions. This constitutional provision presents significant challenges and opportunities to public service delivery.

In the past, Kenya's health care system has remained largely centralised, with decisions taken at Ministry of Health headquarters, from where they were conveyed top-down through the provincial medical officers to the district level and consequently health centre and dispensary levels. Functions at the headquarters included policy formulation, coordinating activities of all stakeholders in the health sector, policy development, review and implementation on various issues including, charging of user fees, and policy changes.

In the devolved system, a larger portion of health services delivery is given to County governments with the exception of providing national referral services. This implies that County governments will bear overall responsibilities for planning, financing, coordinating delivery and monitoring of health services toward the fulfillment of right to 'the highest attainable standard of health' as stipulated in Article 43 (a) of the Constitution.

Devolution presents opportunities and challenges to the health sector that determine the effectiveness of service delivery and the realization of the Right to health for all Kenyans. This is because it would allow for county governments to design innovative models that suit their unique health sector needs, to determine their health system priorities, and grant them the authority to make autonomous decisions on subsector resource allocation and expenditure as informed by priorities.

However, devolving the health function presents equity, institutional and resource challenges that must be dealt with to ensure effective and sustainable health care provision at all levels of government and to Kenyans, regardless of county, tribe, grouping and economic stature. It requires that harmonization is sought through coordination of state agents and other stakeholders in the planning, budgeting, monitoring and evaluation, research and development sectors at national and county levels.

For effective realization of gains under devolution as envisioned, there is need to manage the shared responsibilities between national and county governments (vertically), and between government functions (horizontally) and between county administrations in a strategic manner.

In this brief, we dissect devolution in the health sector, with a special focus on the health care structure, services provision, determinants of health sector financing, services at national and county levels, and management of health services (health care structure). Further, in realization that devolution presents opportunities to improve health indicators in Kenya, while at the same time fuelling inefficiencies, exacerbating existing inequities and increasing policy and structural discord in the sector, we explore the possible challenges in the future in the pursuit for complete devolution in the health sector.

## Background of Devolution in the Health Sector

The Constitution of Kenya 2010 in Chapter 4, Article 43 (a) states that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care. The same constitution in its Chapter 11 provides for the establishment of County governments. The existence of the Vision 2030 policy and the Millennium Development Goals, when combined with the aforementioned constitutional provisions create an impetus for and guiding principles of devolution in the health sector. Below are some of the legal policy frameworks that are the basis of devolution in the health sector

Policy Document / Constitutional Provision	Stipulation
Kenya Vision 2030	A long-term development blueprint in which Kenya aims to become a globally competitive and prosperous country with a high quality of life by 2030 transforming Kenya into “a newly industrializing, middle income country that provides a high quality of life to all its citizens in a clean and secure environment”.
Constitution of Kenya 2010	Art. 26; Every person has the right to life
	Art.42; Every person has the right to a clean and healthy environment
	Art. 43. (1) (a) Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care
	Art. 43. (2) A person shall not be denied emergency medical treatment.
	Art. 53. (1) (c) Every child has the right to basic nutrition, shelter and health care
	Art. 56. The State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups have reasonable access to water, health services and infrastructure
Constitution of Kenya 2010	Art.11 (176) (1) There shall be a County government for each County, consisting of a county assembly and a county executive
	Art.11 (176) (2)- Every County government shall decentralize its functions and the provision of its services to the extent that it is efficient and practicable to do so

## Division of Roles between County and Central Governments (with regards to Health)

### The National government shall be in charge of;

- Health Policy formulation
- National Referral health facilities, including Centres of Excellence
- Capacity building and technical assistance to the counties
- Training institutions including universities and research centres
- Disaster management
- Consumer protection

### The National ministry responsible for health shall be in charge of;

- Quality Assurance and standards
- Health information, Communication and Technology
- Public Private Partnership
- International health Ports, Borders and Trans-boundary Areas
- Monitoring and Evaluation
- Planning and budgeting for National Health Service
- Services provided by Kenya Medical Supplies Agency (KEMSA), National Health Insurance (NHIF), Kenya Medical Training College (KMTC) and Kenya Medical Research Institute (KEMRI).

### The County Governments through the County department shall be responsible for;

- County health facilities and pharmacies
- Ambulance services
- Promotion of primary health care
- Licensing and control of undertakings that sell food to the public
- Disease surveillance and response
- Public health and sanitation i.e. refuse removal, refuse dumps and solid waste disposal
- Disaster management

### Management of health services/ the health care structure

It has been hypothesized that centralised decision making may have contributed to, among others, regional disparities in the distribution of health services, inequities in resource allocations, and unequal access to quality health services, resulting in the wide regional differentials in health indicators. Planning at the county level should enable better definition of local priorities and design of innovative models of service delivery that adapt to local conditions, and improve quality owing to user participation in decision making; and greater equity through distribution of resources toward traditionally marginal regions and groups.

**In the devolved system of government, the health care structure will be 4 tiered as described below i.e.**

- The community services: all community based demand creation activities organized around the Comprehensive Community Strategy defined by the Health Sector;
- The primary care services: all dispensaries, health centers and maternity homes of both public and private providers. Their capacity will be upgraded to ensure they can all provide appropriate demanded services;
- The county referral services: Hospitals managed by a given county. This is made up of all the former level 4 and district hospitals in the county(government and private) and they form the County Referral System, with specific services shared amongst the existing County Referral facilities to form a virtual network of comprehensive services;
- The national referral services: the service units providing tertiary/highly specialized services including high level specialist medical care, laboratory support, blood product services, and research. The units include the former Provincial General Hospitals, and national level semi autonomous agencies, and shall operate under a defined level of self autonomy from the National Health Ministry, allowing for self governance.

**The complementary management structure is as follows i.e.**

- National Directorates for Health: Will provide overall direction- policy formulation, national strategic planning, priority setting, budgeting and resource mobilization, regulating, setting standards, formulating guidelines, monitoring and evaluation, and provision of technical backup to the county level.
- County Health Management Teams: will provide strategic and operational leadership and stewardship for overall health management in the County, including resource mobilization, creation of linkages with national level referral health services, monitoring and evaluation, coordination and collaboration with State and Non state Stakeholders at the County level.
- County Health Facility Management Teams: will develop and implement facility health plans for levels 1–3 health cares services; coordinate and collaborate with stakeholders through County Health Stakeholder Forums; undertake in-service training and capacity building; supervision, monitoring and evaluation

**Illustration of Roles in the Health Sector as Informed by the Implementation of the Constitution and Devolution**

Area	National /Central Government	County government
<b>Commodities</b>	<ul style="list-style-type: none"> <li>• Formulation of policy on collaborations with the private sector and other partners</li> <li>• Appropriate management of procurement and supply chain system</li> <li>• Facilitating manufacturing and production of essential medicines and medical commodities</li> <li>• Developing national quality assurance and standards policy for medical supplies in the country</li> <li>• Reviewing essential drug supplies policy in line with the Constitution</li> <li>• Strengthening the Monitoring and Evaluation system for commodities to eliminate counterfeit commodities</li> <li>• Redefining the role of KEMSA</li> </ul>	<ul style="list-style-type: none"> <li>• Efficient use of commodities</li> <li>• Storage, accounting and procurement of commodities</li> <li>• Developing strategies for implementation of supplies and commodities policies as developed at the national level</li> </ul>
<b>Infrastructure</b>	<ul style="list-style-type: none"> <li>• Defining health infrastructure, mapping and requirement for the country.</li> <li>• Developing infrastructure policy, standards, and guidelines to guide development of infrastructure in the country.</li> <li>• Defining an appropriate management system for physical infrastructure and transport.</li> <li>• Ensuring health infrastructure is responsive to the needs of the children, vulnerable groups, and gender mainstreaming.</li> <li>• Supporting construction of additional referral health facilities</li> </ul>	<ul style="list-style-type: none"> <li>• Ensuring health infrastructure is responsive to the needs of the children, vulnerable groups, and gender mainstreaming.</li> <li>• Implementing infrastructure policies, standards and guidelines.</li> <li>• Supporting construction of additional health centres and county hospitals</li> </ul>
<b>Equipment</b>	<ul style="list-style-type: none"> <li>• Reviewing and harmonizing the existing policies on supply of equipment.</li> <li>• Defining an appropriate management system for equipment to include competency development of medical engineers.</li> <li>• Setting up infrastructure and equipment fund.</li> <li>• Developing equipment replacement policy.</li> <li>• Developing standards and servicing contract for equipment replacement</li> </ul>	<ul style="list-style-type: none"> <li>• Implementing equipment policies, standards and guidelines.</li> <li>• Ensuring timely maintenance of equipment</li> </ul>

<b>HRH (Human Resources for Health)</b>	<ul style="list-style-type: none"> <li>• Reviewing pre-service and in services curricula ensuring their alignment to country's health needs</li> <li>• Creating an enabling environment to facilitate private public partnerships in expanding training capacities</li> <li>• Developing a comprehensive human resources Plan and career progression guidelines</li> <li>• Recruitment, distribution and deployment of the health work force</li> <li>• Establishment &amp; Management of the national Health Management Information System (HMIS) and the health services Regulatory Authority</li> <li>• Development and implementation of the HMIS and E-health Policy and Strategy.</li> <li>• Developing and implementing a National Health Promotion Policy and Strategy</li> </ul>	<ul style="list-style-type: none"> <li>• Implementing the HRH planning policies and guidelines</li> <li>• Implementing staffing norms and guidelines</li> <li>• Recruitment of non technical and short term technical staff in line with laid regulations.</li> <li>• Automating of HRH records at national level</li> <li>• Linking the County HRH records with the HMIS and others sectors within the county</li> <li>• Implementing guidelines for migration of Health workers.</li> <li>• Contracting specialized medical services as per the needs</li> <li>• Establishing continuing professional development programmes and using guidelines to deploy technical assistance support as may be needed</li> <li>• Implementing the National policy on HMIS and E-Health.</li> <li>• Collection and collation of all routine Health Information and &amp; Surveillance data for immediate reporting.</li> <li>• Coordinating and facilitating timely notification and registration of birth and death</li> </ul>
<b>Health Financing</b>	<ul style="list-style-type: none"> <li>• Ensuring increased public health spending on the part of the government</li> <li>• Formulating a health financing policy</li> <li>• Transforming NHIF to play a greater role in social health insurance in line with Vision 2030</li> <li>• Recommending the introduction of health tax to secure additional funding the health sector on goods such as cigarette, alcohol, fuel etc.</li> <li>• Establishing a National Fund to cater for costs incurred by the private and FBOs health service providers during emergency medical treatment in collaboration with stakeholders.</li> <li>• Recommending areas that will lead to cost reduction ins services delivery</li> </ul>	<ul style="list-style-type: none"> <li>• Strengthening cost sharing revenue collection</li> <li>• Creating a special fund for compensating of health facilities for waiver provisions</li> <li>• Developing financial allocations criteria for equitable disbursement of funds in county health</li> <li>• Developing guidelines on health infrastructure development using Constituency Development Fund (CDF) and equalization funds where they are applicable</li> <li>• Developing strategic plans to attract stakeholders funding</li> <li>• Defining incentives for partners to invest in health at county level.</li> <li>• Encouraging community financing</li> </ul>

## References

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