

**COUNTY ASSEMBLIES AND LOCAL DEVELOPMENT IN KENYA: THE ROLE OF
LEGISLATION IN SELECTED COUNTY ASSEMBLIES**

**By:
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T51/12506/2018**

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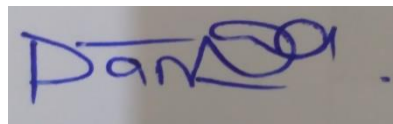
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DEDICATION

To my late grandparents (Atieno Jowi Ojwang' and Christine Ondiala Nyolumo), my late sister Aketch, my parents (John and Rachael), my uncle Clarkson Owino, my siblings Akinyi, Awino, Desmond, Adhis, Paul and Pildash; and to all those who strive to see that Devolution gets to work in Kenya.

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ABSTRACT

Whereas numerous studies have been conducted on European constitutional institutions like legislatures, literature on African legislatures remain scarce. This study makes a contribution by examining the factors that influence the legislative function carried out by the County Assemblies and how these legislations feed into local development. Specifically, the study assesses the characteristics of the legislations passed by the County Assemblies; how the legislations passed by the County Assemblies feed into local development; and finally, the challenges that County Assemblies face in their legislative mandate and how the Assemblies address the challenges.

The study utilised primary data collected across 22 Counties in 2017 under the Agile and Harmonized Assistance for Devolved Institutions (AHADI) programme. Deploying a cross-sectional design, the primary study collected both qualitative and quantitative data using semi structured questionnaires. This study narrows down to three counties; Nairobi, Kakamega and Bomet. The study does not make any comparisons between the three counties. The AHADI data is further complemented by a review of secondary evidence from the County Assembly Bill Trackers, County Integrated Development Plans (CIDPs) and Annual Development Plans (ADPs) of the three Counties and data from Kenya Law.

The results show that the County Assemblies still remain weak in relations to passage of bills, policies and laws. In sectors where legislations have been passed by the County Assemblies, there is increased efficiency in delivery of services and improved development outcomes at the local level. The functions that have been devolved as outlined in the Fourth Schedule of the Constitution of Kenya 2010 are not all supported by legislations in the respective counties. Data shows that the sectors with most legislation across the three counties are ECD, Health, and Agriculture while the devolved sectors with the least number of legislations across the three counties are Energy and Gender Equality. Structural challenges exist especially in the Offices of the Speaker, Clerk and the Legislative Committees which play a vital role in the legislative process. From the findings, there is thus need to build capacity of the MCAs, improve on infrastructure of the County Assemblies and ensure systems of checks and balances between the legislative arm and the executives arm of the county governments for enhanced local level development.

ACRONYMS AND ABBREVIATIONS

ADP	Annual Development Plan
AFIDEP	African Institute for Development Policy
AHADI	Agile and Harmonized Assistance for Devolved Institutions
AIDS	Acquired Immunodeficiency Syndrome
ATC	Agricultural Training College
CCA	County Capacity Assessment
CIC	Commission for the Implementation of the Constitution
CIDP	County Integrated Development Plan
CoG	Council of Governors
CPST	Centre for Parliamentary Studies and Training
ECD	Early Childhood Development
EISA	Electoral Institute for Sustainable Democracy in Africa
EMCA	Environmental Management and Coordination Act
GBV	Gender Based Violence
GoK	Government of Kenya
HIV	Human Immunodeficiency Virus
IDS	Institute for Development Studies
ICJ	International Commission of Jurists
IPU	Inter-Parliamentary Union
KADU	Kenya African Democratic Union
KANU	Kenya African National Union
KPMG	Klynveld Peat Marwick and Goerdeler
MCA	Member of County Assembly
MP	Member of Parliament
MTE	Mid-Term Evaluation
NARC	National Alliance Rainbow Coalition
NCC	Nairobi City County
PSC	Parliamentary Service Commission

SDG	Sustainable Development Goal
SGBV	Sexual and Gender Based Violence
TA	Transition Authority
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNICEF	United Nations Children’s Emergency Fund
US	United States
USAID	United States Agency for International Development

DEFINITION OF CONCEPTS

Decentralization- refers to redistribution of powers within the state between the central government and public authorities (Schneider, 2003).

Deconcentration- refers to a system of government where selected functions are assigned to sub-national units within sector-specific national agencies (Schneider, 2003).

Delegation- refers to a system of government where responsibilities for implementing or maintaining sector investments are assigned to parastatals and other semi-autonomous government agencies (Schneider, 2003).

Devolution- refers to a system of government where responsibilities and functions are assigned to local governments, sometimes with the necessary resources to carry out these functions (Kimenyi and Meagher, 2004).

Devolved Units- are subsidiaries of the national government which are assigned public functions at the lowest level of government and created as such by law and applicable legislation and with competence to oversee the implementation of the public functions (Institute of Economic Affairs, 2010).

CHAPTER ONE

INTRODUCTION

1.1 Background

In a democracy, Parliament is the supreme institution that represents the people. It is elected by the people to articulate their issues and thus possesses the direct mandate of the people what Linz (1990; 1994) refers to as ‘democratic legitimacy’. Beetham (2006:1) argues that Parliaments are central institutions of democracy. Parliaments carry the expectations and aspirations of the people who elect them.

USAID (2000) goes on to elaborate the position taken by Linz (1990; 1994) by arguing that parliaments are the peoples branch of government, the establishment where interests and desires of the people are discussed and deliberated upon so as to advance policies which serve the interests of the general public.

Representative, effective and efficient parliaments are vital in advancing inclusive and sustainable human development and thus improve people’s well-being (Power, 2012). When a Parliament is deemed effective, it helps shape policies and make laws which respond to the needs of the people thus feeding into development needs (Power, 2012). The 2012 Global Parliamentary Report posits that the existence of a parliament has no direct correlation with democracy, but democracy is non-existent without a parliament (Power, 2012).

The name of the legislature connotes precisely that law making is its primary function. Legislation is thus a cornerstone of any parliament. The idea of creating a legislative assembly in Kenya was first mooted in 1905 during the era of colonialism (Centre for Parliamentary Studies and Training, 2015).

Capable, responsive and inclusive government is a prerequisite for development (Mutume, 2005). Parliaments lie at the very heart of democracy (van Vliet, 2014). Members of Parliament are mandated to represent their constituents and make laws on their own behalf. Legislation of good quality is one of the very fundamental pillars of any mature democracy and civilized society. The process of coming up with legislation is as critical as the end product. It is thus very important for legislative entities, policy makers, drafts personnel and the public to not only sufficiently understand, but also have the opportunity to engage extensively in the legislative procedures and to have the capacity to interrogate and ensure strict adherence to established standards and procedures (Kenya Law Reform Commission, 2015).

Legislative power in Kenya since 2010 has been devolved into two levels: National and County (Centre for Parliamentary Studies and Training, 2015). The Constitution of Kenya 2010 under Article 1(3) stipulates that the sovereign power is entrusted to Parliament and the Legislative entities in the County Governments. County Assemblies trace their origins to the Constitution of Kenya 2010. The County Government Act No. 17 of 2012 operationalized and gave the County Assemblies their legal backing.

Devolution was seen as a partial solution which would address the grievances and needs of the marginalized regions and groups in Kenya (Ongwae, 2016). Equity in the distribution of resources was the stated aim of devolution (Ntara, 2013; Kimenyi, 2013). KPMG Africa (2014) shows that the newly created counties, forty-seven in number, were based on Kenya's 1992 district framework. The transfer of functions to the sub-national governments increases efficiency in the public sector thus feeding into development and helps in addressing local needs.

Devolution has legal framework which include: The Constitution; The County Government Act 2012; Public Finance Management Act 2012; Transition to Devolved Government Act, No. 1 of 2012; National Government Coordination Act, No. 1 of 2013 and Intergovernmental Relations Act, No. 2 of 2012. In a nutshell, it was thought that the execution of devolution would bring about unvaried economic growth, address regional inequalities, and promote equity and inclusiveness thus contributing to the achievement of Vision 2030 (Transitional Authority Kenya, 2013).

The Constitution of Kenya 2010 has an elaborate chapter on devolution. Chapter 11 under Article 176 establishes new units referred to as County Governments comprising a County Executive headed by an elected Governor and a County Assembly headed by a Speaker. Article 177 outlines the composition of the County Assembly.

The County Government Act under Section 8 outlines the roles of the County Assembly. The County Assembly is mandated with executing functions outlined under Article 185 of the Constitution; approving budget and expenditure of the County; legislation contemplated under Article 220 (2) of the Constitution, guided by Articles 201 and 203 of the Constitution, vetting and approving nominees for appointment to county public offices; approving borrowing by the county government in accordance with Article 212 of the Constitution, approving county development planning and carrying out other functions that may be set out under the Constitution or legislation.

Article 185 of the Constitution further outlines the legislative authority of the County Assemblies. Legislative authority of a county is thus entrusted to the county assembly. The assembly has the powers to exercise that authority. The Assembly is conferred with authority to come up with laws that are vital for, or auxiliary to, the effectual execution of functions and utilization of the powers of the county government under the Fourth Schedule. This study will focus on legislations touching on Water and Sanitation, Health, Education (ECD), Agriculture and Food Security, Gender Equality, Environment and Climate Change, Energy and Sanitation and link them to local development.

Despite the noble intentions of devolution, it has been realized that the Assemblies in the Counties which are the law making wing of the devolved units are still grappling with a myriad of challenges. Devolution has not entrenched itself and counties are yet to reach their potential. So as to enhance service delivery, laws and legislations should be put in place which addresses the devolved functions delineated in the Constitution of Kenya under the Fourth Schedule. However, a majority of the County Assemblies are not churning the laws and legislation as stipulated. Counties as at 2013 were new thus they were setting up the structures to entrench devolution. This period of transition saw few bills touching on devolved functions find their way to the floor of the County Assemblies. Most of these bills never progressed, they collapsed.

1.2 Statement of the Problem

Whereas numerous studies have been carried out on European constitutional institutions, written works on Legislatures in Africa remain scarce. Prior studies on the functions of the legislatures in Africa, 'largely shaped by a lean, culture-leaning perception of what a very efficacious legislature ought to be', typically reached a conclusion that the said legislature seldom played a key role in making laws or budget processes and did not offer adequate checks and balances on the executive as is expected (Mezey 1983: 512). However, many legislatures (Western legislatures included) play no significant role in decision-making, instead filling other roles. They most act as conveyor belts where decisions arrived at by the executive are rubberstamped.

Parliaments in democracies are considered one of the key institutions. Legislatures are the single most important institutions since they derive their legitimacy from the people. Levitsky and Way (2002) argue that African legislatures are relatively weak while Barkan (2009) show that most of the African legislatures, like other law-making bodies around the globe, have exhibited weakness when compared with the executive. Bolarinwa (2015) argues that African legislatures

and other legislatures across the globe, carry on with exhibiting weakness in the utilisation of power, when compared to the executive. Therefore, a majority of the legislatures can thus be categorized as either policy modification or as only legislatures with a relative influence in policy effect (Baldwin, 2004). They rarely make policy hence remain ineffective. UNECA (2005:127) show that many African parliaments do not enact laws, debate national issues, check activities of the executive or promote the general welfare of the citizenry effectively.

Despite the second wave of democratization which swept across Africa (especially Sub-Saharan Africa) in the early 1990s, the Legislatures in many countries remain dormant. Such parliaments are considered to be weak, marginalized and ineffective (Menocal & O’Neil, 2012) when compared to the dominant executive. This dominance by the executive has been referred to as “Executive Monopoly” by IPU (2008). There is a general consensus that Parliaments in Africa remain weak (UNECA, 2005; 2006).

United Cities and Local Government (2008) conducted studies on governance in Africa and their findings show that most African states perform poorly in their efforts to decentralize due to weak institutions. Hudson and Wren (2007) argue that in their functions of enacting legislation, articulating public concerns, over-sighting the operations of the government and in general advocating for the well-being of the people, Parliaments in Sub-Saharan Africa rarely perform these roles effectively and efficiently. Alabi (2009) further argues that the African parliament’s inefficiency in checking the excess of governments is a common occurrence in most of the emerging democracies especially in the global south. The devolved units in Kenya especially the County Assemblies are thus a reflection of this ineffectiveness as many of these assemblies have remained under the control of the county executive and are not churning out legislations to support and entrench decentralization so that services reach the people. CIC (2014) shows that the MCAs and the County Executive, particularly the governors, have engaged in endless power struggles which has seen the MCAs focus more on the oversight roles and ignore the legislative roles. This has led to minimal information on bills passed by the County Assemblies yet these bills are very necessary in the realisation of efficient functioning of the county governments.

Decentralization be it through devolution (as in Kenya), or other perspectives is viewed as a method of bringing government structures and services closer to the people. This is done with the assumption that bringing the structures and services closer will respond to and address the necessities of the population at the grassroots through the delegation of resources, responsibilities,

authority, functions and power from the centre to peripheral or regional governments which are closer to the population intended to be reached by services (Hope, 2014). Despite these noble intentions of devolution, service delivery is still ineffective, resources are not equitably allocated and the people still live-in poverty. Laws and legislations to ensure equity and transparency at the local level are still inadequate and in cases where they exist, their implementation faces resistance and challenges.

It is slightly over a decade since the Constitution of Kenya 2010 was promulgated. Despite the optimism that characterized the new era, challenges still persist. County Assemblies which are central to service delivery in the devolved units are yet to stamp authority. The Assemblies are characterized by wrangles within the various parties or coalitions as well as with the county executive and the National Government is still not sending enough money to the counties to strengthen devolution. The executive in the Counties still prevail upon the decisions of the County Assemblies hence the need to deepen understanding of the counties legislative mandate and how this feed into local level development.

1.3 Research Questions

1.3.1 Overall Research Question

The overall research question: what factors affect the legislative functions of County Assemblies and how do these legislations feed into local development?

1.3.2 Specific Research Questions

1. What are the characteristics of the legislations and laws passed by the County Assembly?
2. How do legislations passed by County Assemblies feed into local development?
3. What are the challenges that the County Assemblies faces in their legislative mandate and how do they address these challenges?

1.4 Research Objectives

1.4.1 Overall Research Objective

The overall research objective: to establish the factors that affect legislation in county assemblies and how the legislations feed into local development.

1.4.2 Specific Objectives

1. To identify the characteristics of legislations and laws passed by the County Assemblies

2. To establish how the legislations passed feed into local development in the Counties.
3. To establish the challenges that the County Assemblies faces during its legislative mandate and how the challenges are addressed.

1.5 Justification for the study

The study aims to fill the gap in scholarship and augment what we currently know about the role of County Assemblies in legislation by examining three Counties (Nairobi, Bomet and Kakamega) to check on the effectiveness of their functionality. This study will focus on the effectiveness of County Assemblies in passing laws and legislations that address the functions that are devolved as shown in the Fourth Schedule. Effective here insinuates the organisation of activities and operations in compliance with democratic ideals, and the discharge of Parliament's law making functions in a way that addresses the interests of the general population. For any Parliament to be deemed effective, it should have adequate parliamentary facilities and self-organisation including a library and a bill tracker, improved legislative process which entails scrutinizing bills.

The study will add on to the existing literature on the link between legislation and local development with respect to devolved units. The findings of this study will aid in strengthening the devolved units especially the County Assemblies so that they can pass laws and policies. The passage of laws and policies is very instrumental in the realisation of the effective functioning of the county governments.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

The chapter outlines an examination of the literature. It is split into five sections together with this introductory section. Part 2.2 traces the evolution of the legislature in Kenya from colonialism, through independence, to the 2010 Constitution which created the County Assemblies. Part 2.3 presents the theoretical review of the relevant literature under which the theoretical correlation between legislation and local development is dissected. The empirical review of literature comes after in part 2.4 interests in legislation, conflict between the executive and the legislature and challenges faced by the Assemblies in executing their legislative mandate is discussed. The section under 2.4.4 ends by linking County Assemblies, devolved functions and local development. Part 2.5 introduces the conceptual framework under which the relationship between the variables of regard in this study is conceptualized, presented and debated.

2.2 Evolution of Legislatures in Kenya

Parliaments are the representative institution of the people in a democracy. Parliaments are chosen by the people to air their views and represent them. They have the direct mandate of the people a phenomenon Linz (1990; 1994) terms ‘democratic legitimacy’. Legislatures offer the linkage between the people and the government and are the people’s branch of government and the ground on which people can express their interests and engage with the government (USAID, 2000:1). It is natural for the citizens to identify more with their Senator, Member of Parliament (MP) or Member of County Assembly (MCA) than they would identify with the Judges, Governors or even the Presidency.

Barkan (2009) argues that legislatures are important in the context of politics of pluralism and democratic transition since they are agencies of realizing vertical and horizontal accountability of the duty bearers and right holders. He further argues that Africa legislatures initially played the role of rubber stamp to the executives but are now slowly asserting their independence as key actors in policy making and hence have come of age as key institutions which matter in the politics and governance of African countries.

The idea of creating a legislative assembly in Kenya was first mooted in 1905 (Centre for Parliamentary Studies and Training, 2015). Kanyinga (2014) shows that it was not until 1924 that

other races in Kenya were accorded consideration to be represented in the Legislative Council despite the fact that the Council had already been established in 1906 (Centre for Parliamentary Studies and Training, 2015).

Africans had to wait for longer to get representation in the Legislative Council. 1944 marked the year when the first black African (Eliud Mathu) was admitted to the Legislative Council. Africans pressed for more slots in the Legislative Council. The Coutts Commission was formed in 1955 following agitation by Africans yearning for more representation. The Coutts commission gave recommendations that eight electoral regions be created for Africans (Coutts, 1955). This saw the election of eight¹ people to represent the districts (Goldsworthy, 1982). Africans still protested this underrepresentation and the protests culminated into the Lancaster House Conference in 1960 where new provisions for a multiracial legislature were incorporated (Goldsworthy, 1982). The Macleod Constitution of 1960 documented the changes and allowed for a total of 65 elected members 33 who were Africans (Centre for Parliamentary Studies and Training, 2015).

Upon attaining independence, Kenya inherited a bicameral legislature (Westminster model) as per the Lancaster Constitution. Section 34 of the 1963 Constitution had provisions for a Parliament comprising of Her Majesty and a National Assembly (Centre for Parliamentary Studies and Training, 2015). Bicameralism was mooted out of the idea that the Senate would protect the rights of the minorities in Kenya African Democratic Union (KADU) who feared excessive control by the Kikuyu-Luo alliance in Kenya African Nation Union (KANU) (Iqbal, 2010). The Senate would protect local interests (Ojwang, 1990) hence minority groups coalescing around KADU had a sense of satisfaction that they were well represented.

The independence government (KANU) had disdain towards the Senate. KANU regarded the Senate a misuse of resources (Centre for Parliamentary Studies and Training, 2015). KANU initiated propaganda arguing that the Senate was a tribal outfit which played little or no role in the national agenda in a period when there was the talk of 'nationhood'. To do away with the Senate, Constitutional Amendments were initiated. The seventh Constitutional Amendment (No 4) Act No. 9 of 1966 in December 1966 saw the abolition of the Senate and its merger with the House of

¹ Daniel arap Moi (Rift Valley), Oginga Odinga (Nyanza Central), Bernard Mate (Central), Ronald Ngala (Coast), Lawrence Oguda (Nyanza South), James Muimi (Akamba), Masinde Muliro (Nyanza North) and Tom Mboya (Nairobi).

Representatives. Forty-one constituencies were created to be represented by the senators (Centre for Parliamentary Studies and Training, 2015). This marked the end of bicameralism and federalism in the young nation a process achieved mostly through coercion and intimidation.

After dissolution of the Senate followed a period where power was personified and the presidency empowered to an extent where Parliament was merely an extension of the executive. Jackson and Rosberg (1982) called this phenomenon ‘the art and practice of Personal Rule in Black Africa’. It was a period referred to by scholars differently. Bratton and Walle (1997) referred to it as an era of neopatrimonialism rule while Bayart (1993) describe the politics then as ‘politics of the belly’ where the opportunity ‘to eat’ was a common practice. Joseph (1987) describes the regimes as ‘prebendal rule’. The forgoing weakened African legislatures and let them vulnerable to executive control and interference.

With multiparty politics being reinstated through repeal of the Section 2 (a) in 1991, the Legislature started coming of age. Parliamentary Service Commission (PSC) created through Constitutional Amendment No. 3 of 1999 and the ratification of the Parliamentary Service Act of 2000 helped in strengthening the independence of parliament. This move enhanced parliament’s role in legislation, oversight and representation (Centre for Parliamentary Studies and Training, 2015).

The change of guard from KANU to NARC in 2002 breathed fresh air in the life of Parliament. President Mwai Kibaki had come to power with the agenda of change and reforms. Parliament became more assertive and passed statues like the Anti-Corruption and Economic Crimes Act (2003), Constituency Development Fund Act (2003), the Public Officer Ethics Act (2003), the Political Parties Act (2007) and revised Standing Orders (Centre for Parliamentary Studies and Training, 2015). Parliament which was now more independent and assertive stabilized the political system in Kenya by creating the 2008 National Accord and Reconciliation Act and finally played a role in promulgation of the new constitution in 2010 (Centre for Parliamentary Studies and Training, 2015).

The Legislative arm of government in Kenya has thus existed and mutated over time. Devolution which officially began in Kenya in 2013, following the General Elections, restored Bicameralism and introduced the devolved units with County Assemblies. The Constitution decentralized two arms of government while the other remained centralized. The Executive and the Legislature are devolved while the Judiciary remains centralized with some levels of

independence and autonomy. Devolution at its inception was and is still anchored on the primacy of the constitution and the sovereignty of the citizenry (ICJ, 2013). The Constitution of Kenya 2010 had laid down the foundation for devolution. County Assemblies came into existence following the March 2013 general elections. The County Government Act under Section 8 outlines the roles of the County Assembly².

The Constitution further elaborates under Article 185 the legislative power of the County Assemblies. It vests the legislative power of the county and the utilization of that legislative power in its assembly. The Assembly is conferred with capacity to come up with any laws that are requisite for, or incidental to, the effectual performance of roles and application of the powers of the county government as elucidated in the Fourth Schedule. It further stipulates that the County Assembly, while adhering to the doctrine of separation of powers, may exercise oversight over the county executive led by the elected governor. The Assembly is also entrusted with receiving, scrutinizing and approving policies, proposals and plans for the effective superintendence and utilization of the County's resources in addition to the management of infrastructural facilities (Republic of Kenya, 2010).

The County Government Act, 2012 under section 9 further elaborates on the roles of the MCAs. The MCAs are expected to maintain contact with the people they represent and engage these people through public participation on matters at hand before undergoing debate and deliberations in the county assembly. The MCA thus should air views and proposals of the voters to the floor of the county assembly; attend assembly sessions and its committee's sittings; offer the linkage between the county assembly and the voter on delivery of public services; and extend professional and expert knowledge, experience or informed knowledge to any subject matter for deliberation on the floor of the assembly. In a bid to entrench the independence of the County Assembly from the executive, under section 12 the County Government Act established the County Assembly Service Board. The board manages the affairs of the county assembly (Republic of Kenya, 2012).

² The County Assembly shall: vet and approve nominees for appointment to county public offices; execute functions outlined under Article 185 of the Constitution; approve budget and expenditure of the County in accordance with article 207 of the Constitution; and the legislation contemplated in Article 220 (2) of the Constitution, guided by Articles 201 and 203 of the Constitution, approve borrowing by the county government in accordance with Article 212 of the Constitution, approve county development planning and carry out any other roles that may be set out under the Constitution or legislation (Republic of Kenya, 2010)

The County Assemblies are further given the mandate to form Parliamentary Committees just like the National Assembly. Mattson and Strom (2004) argue that the Parliamentary Committee system is core in the process of law making. In these committees, details and facts is collected and gathered, queries and opinions posed, and possible changes and amendments proposed (Martin and Vanberg, 2011). The County Assemblies have powers to establish Committees which are of two types: Sectoral and Select Committees. Legislative committees are key players in the legislative process (Makse, 2014). The legislative process requires lobbying and at times manipulation. Rosenthal (1981) argues that leaders in parliament can sway committees in three ways; one, by allocating committee leadership and members, two by choreographing biased representation on committees and finally by determining committee authority and jurisdictions.

In the case of pluralism as the case with Kenya, Kanthak (2009) shows that committee duties can occasion party loyalty where members can be appointed or removed from plum and powerful committees. Broockman and Butler (2012) further posit that committee assignment can be used by the majority party as a tool for control.

The County Assemblies operate in a political environment embedded with facets of technical knowledge which uses information on law, procedure, research briefings on various items under discussion (TA & EISA, 2013). The Assemblies thus come up with legislations, laws and policies which address the devolved functions thus spurring up local development in the said areas. 1450 Wards in Kenya spread across the 290 Constituencies and 47 Counties exists.

2.3 Theoretical Literature Review

This study draws from the theoretical literature that focuses on legislative effectiveness and productivity. Anderson, Box-Steffensmeir & Sinclair (2003); Cox & Terry (2008); and Hasecke & Mycoff (2007) measure legislative effectiveness as success and the number of bills that a legislator initiates that pass the chambers. Legislators differ in ability. Some are able to draft more legislation than others. However, to be effective, there is need for a collaborative effort.

Mathews (1960) created an index on legislative effectiveness. He was interested in measuring the capability and capacity of legislatures to pass laws. Studies followed focusing on bills passed by legislatures borrowing from Mathews' measurement of legislative effectiveness. These were works of Frantzych, (1979); Moore & Thomas, (1991); Howell, Alder, Cameron & Riemann, (2000); Wawro, (2000); Anderson, Box-Steffensmeier & Sinclair-Chapman, (2003); Alder & Wilkerson, (2005); Grand & Burke, (2006).

Another group of scholars substituted legislative effectiveness with legislative productivity with specific emphasis on output. Their suggestion was on the need to use more ways to gauge yield such as number of bills, legislators who have sponsored the bills (Wawro, 2000; Garand & Burke, 2006) and the amount of bills legislators have backed that have passed (Mathews, 1960; Moore & Thomas, 1991).

Mathews and those who subscribe to his school of thought regarded effectiveness as attaining the end goal of legislation which is passing the bill. However, recent studies have put emphasis on the idea that the process is just as important as the goal. Vanterpool (2007) argues that legislation should be explicit and effective in realizing the intended outcomes.

Volden and Wiseman (2012; 2014) point at gaps of the previous models (they turned a blind eye on several salient aspects of the legislative process) and designed a new metric of legislative effectiveness. This measured how successful a member moves an agenda through the legislative process. Consistent with Volden and Wiseman (2012; 2014) this paper will focus on movement of selected bills through the legislative process into law in specific counties following keenly on the Bill Trackers by the respective County Assemblies and will examine how the passed bills addressed the devolved functions thus feeding into local development.

Volden and Wiseman (2009) advance a research agenda on legislative effectiveness comprising four components: legislators differ in law making abilities based on personal attributes; individual legislative effectiveness should be fabricated to set stage for quantitative examination in Congressional politics; measures of legislative effectiveness should be deployed to test the emerging theories build upon the notion of legislative effectiveness; and measures of legislative effectiveness should be deployed when examining existing theories of law making.

Focusing on members of an Assembly, Volden and Wiseman (2009) posit that effective members' possess important set of skills, that they can nurture over time and these skills often translate into measure of effectiveness. Innate ability, cultivation of skills and institutional position take part in understanding the legislation process.

Volden and Wiseman (2009) thus embrace a multi-stage method of analysis where they considered the number of bills introduced by each legislator, what percentage of those bills reaches the committee stage and how many reach the floor and are passed into law. Legislative effectiveness thus depends on innate abilities of a legislator. Beyond innate abilities, seniority

considerations, previous legislative experience, party influence and leadership in committees' play roles too in achieving legislative effectiveness.

Remember, bills differ in magnitude. For instance, naming a road in memory of someone can be passed with less legislative effort when compared with reforming early educational system. Positions in Parliament also contribute to legislative effectiveness. Chairpersons of committees or Leaders of Majority and Minority Coalitions and their Chief Whips can become more effective legislators.

This study applies the approach looking at the capability and capacity of legislatures to pass laws. There is emphasis on effectiveness where the end goal which is passing the legislation is of importance. There is also emphasis on the number of bills instituted and see their movement from first reading to the final stage of passage. The above approach is deployed because it focuses on the effectiveness and end goal.

2.4 Empirical Literature Review

This segment is divided into three sub-segments. The first looks at the interests which come into play in the assemblies whenever legislation is being done. Of focus is the role of the political parties which sponsor members into the assemblies and the role of legislative committees in the process of legislation. Second, the section looks at the inherent conflict between the executive and the legislature as it executes its mandate. Third, the section tries to highlight the challenges and deficiencies the assemblies face since such challenges impede on the assembly's efficiencies and thus curtail functionality.

2.4.1 Interests in Legislation: Role of Political Parties and Committees

Political parties play leading roles in the political processes in most liberal democracies thus parties should be regarded as the focal actors with respect to formulating policies and making decisions. Therefore, political parties form the cornerstone of the standard practice of parliamentary democracy. Political parties in a parliamentary system whether in government or in opposition are the key enablers of parliamentary business and operations and thus a stabilizing force within parliament (Heidar and Koole, 2000:1).

Since the repeal of section 2(a) in 1991, Kenya has been a multiparty democracy. The Kenyan Constitution 2010 entrenched pluralism and the devolved County Assemblies are expected to have Majority and Minority coalitions. Party pressure exists in all systems (Morgenstern and

Nacif, 2002). The party wants to take charge of the legislation process in the house. Even in systems perceived to enjoy separated-power, internal incentives exist for parliamentary parties to discipline members who go against the party (Rhode, 1991; Cox and McCubbins, 1993). Parliament in own composition is an institution which is political by nature. It is a house of political debate which is sometimes (many times) confrontational by nature. Despite the confrontations, in the long run policies are formulated often through consensus, tensions eased and conflicts that emerged are resolved through either dialogue or compromise or a combination of both (Power, 2012).

The Political Parties which sponsor members to the County Assembly thus have well defined roles in legislation. The political parties determine the items to be placed in the Order Papers (Centre for Parliamentary Research and Training, 2015). Bills sponsored by the majority party legislators in the House are likely to pass (Cox and McCubbins, 2005). The House Business Committee which prioritizes and allocates time in the House is largely comprised of the political party leadership in the house including the Speaker, Majority and Minority Leader. Parties thus have the ability to thwart and frustrate what they have no interest in. Thus, command and dominance over chamber leadership, committee leadership and committee membership often give the majority party the leverage to dictate the bills to be presented for consideration on the floor of the house (Avellaneda et. al, 2012). The parties further determine the voting patterns of members both in the House and in the Committees. Rich (2014) posits that party leadership exerts strong influence on voting as the act of voting in the assembly directly challenges or strengthens the party position in terms of achieving its goals. In many cases, Legislators do not vote based on conscience only but are informed by party position (Centre for Parliamentary Studies and Training, 2015).

In what is considered by many to be the most advanced democracy, the United States of America, evidence shows that the powerful Rules Committee allows the leadership of the majority party to dictate and manipulate legislative outcomes by presenting bills to the floor under constrictive rules which limit the scope of debate and potential amendments (Shepsle & Weingast, 1984; Krehbiel, Shepsle & Weingast, 1987). The committee chairpersons are equally very instrumental in the legislative process. They may obstruct bills from being reported out of house committees, effectively terminating and killing such a bill (Deering, 1982; Smith, 1988). The Speaker, elected by members may also tend to favour his party (the majority party or coalition). Sinclair (1992) posits that the Speaker may give preferential treatment to his/her party by

presenting his party's agenda to the floor thus paving a clear way for bills sponsored by the majority party to be passed into law. Ellickson (1992) basing his argument on the Missouri legislature says that belonging to the majority party wields a major influence upon the passage rates of bills.

In cases where the majority party cannot get the adequate numbers to pass a bill, extensive lobbying is done within the house wooing members from smaller parties. This leads to co-sponsorship of a bill. Patterson (1959) and Hedlund (1975) both argue that co-sponsorship increases the prospects of a bill becoming the law since it is a strong indicator that the bill might pass. In the US Congress, Wilson and Young (1997) find that co-sponsorship improves the prospects that a bill passes. On his part Browne (1985) utilizing data from the Legislatures of Florida, Michigan, Iowa and New Jersey states for the period 1956-1978 show that bills sponsored by eight or more are averagely three times likely to be debated and passed to become laws when compared to other bills.

Committee systems are part of the structural attributes of institutional orientation and parliamentary development and have a functional nature. They are miniatures of the broader body, the assembly, and form the main vehicles and avenues of specialization. This is one of the attributes of internal legislative arrangements that have received the lion's share of scholarly focus and attention (Strom, 1996:65). They have various functions in the legislative process: economies of operation because they often adhere to division of labour and specialization as they perform their functions, gains from trade since it is the epicentre for skilled negotiations, information collection, gathering and acquisition due to their specialization and preferential and sometimes biased coordination since they are often the appendages of party power (Mattson and Strom: 1996:250). Committees are pertinent in particular especially in situations of presence of multiple political parties under a parliamentary democracy with coalitions of parties or governments formed by minorities. As the norm, each party has a vested interest in keeping a check on the government; this henceforth findings in a legislative committee system that accords the backbenchers a considerable and more prominent role in analysing, investigating further and amending government bills. Therefore, the two preminent functions of legislative committees are coming up with decision in regards to legislation and oversight executive ventures in such a way that it influences what is done (or not done).

Committees guarantee effective monitoring, superintendence and scrutiny of the executive arm of government which tends to dominate in most emerging democracies. Parliaments have the constitutional powers to establish Parliamentary committees and legally institute standing orders so as to guide and regulate its business. Parliament can establish four types of committees; departmental committees, financial audit and money related committees, select committees and committee of the whole house³. Committees arrive on decisions on the basis of consensus in most instances. Members however at times disagree even with reports from their own committees. In the Nordic countries for instance, committees are major vehicles for the opposition parties and their membership in influencing and controlling the government (Damgaard, 1997).

UNECA (2005) argues that the legislative committees in many countries are relatively weak. This weakness can be attributed to the limited level of education among members and the limited access to services of technical and professional staff in the assemblies to serve and give expert opinion to the committees. Political patronage plays a key role in determining who is tasked with serving in what committee and in what capacity thus killing meritocracy and competence which should ideally be a consideration. The Committees according to Barkan (2009) must have expert support so as to be effective yet this support is lacking across African legislatures.

2.4.2 Conflict of Interest between the Legislature and the Executive

In most African legislatures, Barkan (2009) argues that legislation takes place at two levels. One, the legislators pass laws which are handed by the executive hence acting as rubberstamps. Bills under this scenario are prepared by the state bureaucrats in the executive arm then forwarded to the legislature for approval after debated in the relevant committee or plenary of the whole house. Two, the legislators also take part in the shaping of public policy through crafting, designing and drafting legislation either independently or in collaboration with the executive and sometimes with the input from the civil society organisations and then push such legislation into law. It is parliaments which enact legislations. This role put the parliamentarians at the centre of the law-making process even when they are not involved in the initiation of the bill (Norton, 1999).

Mattes and Mozaffar (2016) argue that democratic legislatures perform four key functions: law making; oversight of executive; representation which entails literally representing opinions of constituency members in the assembly; and constituency service. However, due to the

³ <http://www.parliament.go.ke/index.php/the-national-assembly/committees> Accessed on January 14th, 2021.

contradictory and conflicting nature of these functions, no legislator can carry out each of the four functions to the same level or extent of effectiveness (Mattes & Mozaffar, 2016).

Legislation is a complex issue which brings together various partners. In most of Western Europe particularly Denmark, the government dictates the legislative agenda (Mattson, 1995). Doring (1995) shows that the executive arm of government in Denmark propose a majority of the bills which are embraced by parliament. This however does not insinuate that the parliament is merely a rubber stamp and plays no role in the legislative process. Pedersen et.al (2014) argue that despite the government being in control, parliamentary majorities are still needed and the legislators have the ability and capacity to do discussions, offer criticism and suggest possible amendments to government bills both on the floor of the house and at the committee level.

Saiegh (2009) deploying evidence from across Latin America comes to a conclusion that executives play key roles in policy making since executive-sponsored and instigated bills enjoy by and large greater passage rates. In Venezuela, the executive led by President Nicolas Maduro discarded a democratically elected parliament and called for elections. Such levels of impunity by the executive as Hugh (2014) argues remain a threat to the rule of law and pose a real danger to the doctrine of separation of powers.

UNECA (2005) provides evidence that in many African countries, the executive is still dominant and overrules the legislature through various methods especially intimidation, coercion, deprivation of resources, divide and rule, patronage among other orthodox means. This has abraded the freedom, independence and impartiality of the legislatures across many of the countries.

In South Africa, Barkan (2009) shows that the legislature has rectified legislation originating from the executive and this enabled the executive to meet policy objectives which it could not meet easily on its own. The Legislature is thus comparatively weak hence in most cases pass executive emanating bills.

In Senegal, the National Assembly initiates few laws. Thomas and Sissokho (2005) show that from 1998 to early 2002, only four of the initiated bills were adopted by the National Assembly and all were acting on electoral code of conduct and internal rules of the legislative chamber. Thomas and Sissokho (2005) further confirm that in the case of Senegal as in many African legislatures, most laws are presented for consideration to the Assembly by the government (executive). Government initiated and sponsored bills are rarely voted down even though at times

they are withdrawn before vote. The government deploys the party leadership in the house to agree on the bill before its presentation and submission on the floor of the chambers for voting thus eliminating any possible tensions between the executive and the legislature.

Even Botswana which has received plaudits from many scholars as a more advanced democracy in Africa due to comparatively free, fair and credible elections, tolerance in the political space, free press, competition among parties with no intimidation, the rule of law and universal suffrage (Holm, 1996; Doorenspleet, 2003; Molomo, 2003) the Parliament has struggled to initiate laws and simply approves government legislation emanating from the executive (Sebudubudu and Osei-Hwedie, 2006). Private members' bills are rare since independence as the procedure of coming up with legislations is dependent on the Attorney General who is the government attorney (Sebudubudu and Osei-Hwedie, 2006). Holm (1996) notes that the Botswana Parliament is left with no choice but to rubberstamp policies crafted by the civil service and state bureaucrats who advance the interests of the Executive/Presidency. The Parliamentary Committee system remains weak and underdeveloped (Sebudubudu and Osei-Hwedie, 2006) despite Botswana being the longest serving democracy. There exist many Parliamentary Committees which overstretch the few numbers reducing the quality of legislations since members have limited time to balance between the various responsibilities (Sebudubudu and Osei-Hwedie, 2006).

The Legislature-Executive relationship has not been very cosy at all in most cases. Mustapha and Whitfield (2009) argue that despite the fact that many Legislatures across Africa have toiled to erase the 'rubber stamp' tag to an extent where they are more involved in decision making, the legacy of authoritarianism, interference and ubiquitous presidentialism of the tyrannical era remains.

2.4.3 Challenges faced in Executing the Legislative Mandate

The legislature performs three roles: representation, oversight and legislation. Scholars of African legislatures notably Barkan (2009) has added a fourth role, constituency service. Legislators in Africa are expected to conduct regular visits to their Constituencies to interact with their electorate and assist them meet some with personal needs. In addition, the legislators are expected to get involved in development projects of various scales often ranging from small to medium which provide public goods including roads, water supply systems, schools, hospitals among others.

Barkan (2009) further argues that these four functions that define African legislatures do not exist in harmony, there are tensions. Tensions exist between representation and legislation since representation is often serving interests of a particular constituency while legislation covers a wider spectrum (national interest). There exists frequent tension and competing interests between legislation and constituency service, because one (legislation) seeks to arrive at decisions that serve the entire nation while the latter addresses a smaller/regional sub-community of society.

One of the major challenges the County Assembly faces is on the process of developing and drafting laws policies and regulations. The procedure undertaken when developing legislative policy and crafting County Bill requires extensive knowledge deep conceptualization of issues at hand and vast skill in policy formulation which is lacking in most of the counties. There exists a colossal gap in knowledge, experience and skills among MCAs in matters pertaining law making⁴. This has seen many pieces of legislation and bills presented on the floor of the county assemblies being drafted by the county assembly staff and not the MCAs. The staff on their end lack capacity in conducting legislative research so as to use evidence in and this derails the quality of bills written⁵. Drafters of legislations across Kenya are quite rare considering the fact that drafting of legislations as a course is neither offered nor instructed extensively in institutions of higher learning in Kenya. This poses a challenge when it comes to conceptualisation and drafting of pieces of policies and laws majorly at the devolved levels of government. A good number of counties are therefore forced to rely on private consultants to conduct the process⁶ on their behalf. These consultants are quite expensive to pay for services offered.

However, much devolution has been attributed to reducing and even eliminating disparities between regions, past experiences show otherwise. Past experiences with devolution have shown that disparities might escalate rather than reduce (Prud'homme, 1995; Eaton et. al., 2010). Evidence from sub-Saharan Africa suggests that decentralization from the centre to the regions or provinces has done way too little to improve the quality, quantity efficiency or equity in public service delivery (Conyers, 2007).

The state capture by elites has also been devolved from the national to county governments. As argued by Cheema and Rondenelli (2007) elite capture might easily take place where the local

⁴ <https://www.afidep.org/challenges-evidence-use-kenyas-legislative-spaces/> Accessed on September 27th, 2021.

⁵ <https://www.afidep.org/challenges-evidence-use-kenyas-legislative-spaces/> Accessed on September 27th 2021.

⁶ <http://kenyalaw.org/kl/fileadmin/pdfdownloads/BenchBulletinIssue31.pdf> Accessed on February 8th, 2020.

community is not empowered. The local elite ends up exploiting this vulnerability of the masses so as to consolidate political support exert influence over the electorate and fully capture the voting bloc (Goddard et. al., 2006).

UNECA (2005) argues that many of the law makers elected or nominated to African parliaments are not well educated and lack the technical knowledge, expertise, information and hence cannot carry out their functions independently, effectively or efficiently.

Parliaments need resources in order to perform all the four functions effectively. As Barkan (2009) argues, financial, human and physical are a necessity for any Parliament to perform the four functions effectively. African executives have the tendency of curtailing the freedom and independence of the legislatures. They do this by starving the legislatures of cash. Barkan (2009) goes further to show that only South African Parliament has the personnel needed to support a modern legislature.

Parliaments by their nature are information intensive/demanding organizations (Global Centre for Information and Communication Technologies in Parliament, 2008). UNECA (2005) shows that most African Parliaments have ill-stocked libraries, no or few electronic equipment such as computers, limited documentation facilities and few professional staff knowledgeable on or trained in legislative affairs. Rugambwa (2010) supports this line of thought and argues that in Parliamentary Democratic Systems, the legislators need objective, accurate and timely information so as to make better informed decisions especially on matters legislation. For this to happen, the legislatures need independent information systems away from the executive.

Evidence shows that while Parliaments have existed in Africa since independence, library and research services are still at infancy in many parliaments (as reported at the Heads of Parliamentary Libraries Workshop held in Rome, In December 2009). Only South Africa and Egypt have made improvements. The other Parliaments are more concerned with establishing and furnishing space, getting budget allocations to assemble a library collection, and recruiting competent and adequate staff. In many Parliamentary Libraries, internet and online resources access is still limited.

There is also a challenge of education levels among the legislators. Although the minimum qualifications for contesting elections as a MCA in Kenya are well detailed in the Constitution of Kenya 2010 together with the County Government Act 2012, ascertaining the level of education or the professional background of the MCAs remain a challenge. A large number of the MCAs are

largely recipients of ethno-party politics or get elected owing to their relationships with the party leaders at the national level as well as their clients working at the grassroots. The level of education plays a secondary role when choosing the MCAs in most of the wards.

The challenges permeate up to the committee level in the house. Financial constraints cripple the work of the committees. Secondly, there is a high turnover of members of committees due to their sessional nature which means members need induction every year or every election cycle. Finally, there exist bureaucratic bottlenecks when it comes to adoption of committee's reports. The Speaker needs to approve a report before it is taken to plenary hence the speaker must have goodwill on a report.

2.4.4 County Assembly, Devolved Functions and Development

Upon the promulgation of the Constitution of Kenya in 2010, the Transition Authority was established through The Transition to Devolved Government Act, 2012. The Transition Authority had a specific authority to facilitate changeover to the new structure of government, the devolved system of government.

The new devolved units were given specific powers by the constitution with regard to their roles and functions. Article 183 and 185 of the Constitution spells out the executive and legislative powers of county governments (GoK, 2010). In addition, counties were and are still expected to develop, align and realign laws and policies (both new and existing) to address key sectors of service delivery including; agriculture, water and sanitation, Arid and Semi-arid areas, roads and energy, public finance and economic affairs, environment and natural resources, forest conservation and management, education, health, trade, commerce and investment, human resource and county public service (CoG & UNDP, 2015). The County executive on its part has the responsibility to implement county legislation (emanating from the county assembly) and those coming from the national legislation within the county.

In order to prioritize socio-economic development at the local development, Article 125 and 126 of the Public Management Act 2012 stipulates that each County will develop an integrated development plan that includes both midterm and long-term priorities to be met. These plans run every five years. In addition, County governments are expected to prepare annual development plans to track on development progress in each financial year. During the preparation of these development plans, county governments are expected to embrace Vision 2030 and MTE plans.

County Assemblies thus are needed to enact laws and policies which enhance local development. Provision of a high quality of life for all Kenyans is one of the objectives under vision 2030. The Constitution of Kenya 2010 on its part spells clearly certain rights that Kenyans are entitled to. Article 42 articulates the right to a clean and healthy environment. Article 43 (1) b and 43 (1) d provides that access to reasonable standard of sanitation and clean and safe water in adequate quantities is an economic and social right to every person. Article 43 (1) a states that every individual has the right to the highest attainable standard of health, which incorporates the right to healthcare services. Article 43 (1) f emphasises on the right to education. Article 43 (1) c talks of the right to be free from hunger, and to have adequate food of acceptable quality. This can be achieved through investment in agriculture. These rights are seen in the devolved function outlined in the Fourth Schedule. As County Assemblies make laws which feed into local development, these rights and functions should inform their decisions.

Table 1: Devolved Functions by Sector

Devolved Function	Specifics
Agriculture	<ul style="list-style-type: none"> ✓ Crop and animal husbandry ✓ Plant and disease control ✓ Fisheries
Health	<ul style="list-style-type: none"> ✓ Promotion of primary healthcare ✓ Licencing and control of undertaking that sell food to the public ✓ Control of pollution (air and noise pollution)
Education	<ul style="list-style-type: none"> ✓ Pre-primary education
Natural resources and environment conservation	<ul style="list-style-type: none"> ✓ Water conservation
County public works and services	<ul style="list-style-type: none"> ✓ Water and sanitation services
County planning and development	<ul style="list-style-type: none"> ✓ Energy regulation

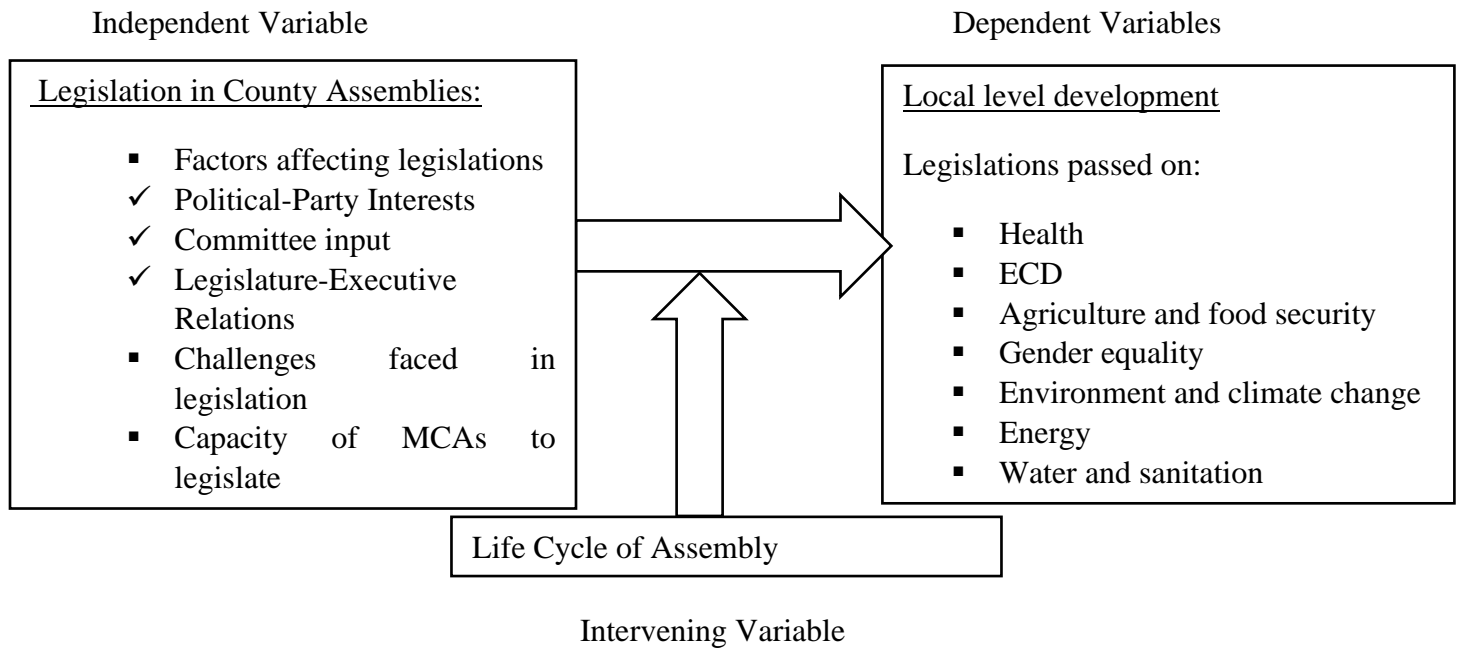
Source: Constitution of Kenya, 2010 (Fourth Schedule)

2.5 Conceptual Framework

The presentation of the conceptual framework in Figure 1 illustrates how the variables interact. It presents the relationship between the main variables under study. The legislations passed by the County Assemblies are categorized as (Procedural Bills, Money Bills, Ordinary Bills, Private Bills, Public Bills and Government Bills). Local development in the Counties (Dependent Variable) is affected by several other factors i.e. Independent Variable e.g. legislations in the County Assemblies which is affected by political party interests, legislative committee functions, executive-legislature relations, capacity of the Members of County Assemblies (MCAs) and challenges faced by the assemblies in carrying out legislation.

The life of a Parliament which ends after every five years is the intervening variable. When elections are held and the life of the Assembly comes to an end, there is a trend where most incumbents are defeated at the ballot killing the institutional memory of the assemblies which is key in legislation. These changes in the Assembly sometimes lead to death of private member bills especially if that sponsor is not re-elected.

Figure 1: A conceptual Framework on Legislation and Local Development in Counties



Source: Author's own Conceptualization (2021)

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter outlines the research methodology deployed in this study. Creswell (2009) posits that the method embodies of how the researcher collects, cleans, analyses and interprets data used in the study. The chapter thus presents the strategies that were utilized to explore the link between legislation in the County Assemblies and how it feeds into local development. It is segmented into six parts including this candid introduction. Part 3.2 elaborates the study design while part 3.3 presents the source(s) of data utilized in the study. Part 3.4 presents the population targeted and sampling as part 3.5 presents the data collection process. Part 3.6 presents the analysis of the data and processing techniques and 3.7 discusses the ethical considerations.

3.2 Study Design

In the words of Bryman (2012), research design is the yardstick that a researcher deploys when assessing social science research. It is “framework for the generation of evidence that is suited both to a certain set of criteria and to the research question in which the investigator is interested” (Bryman, 2012:45). Put differently, this is a foundation utilized when collecting, cleaning, interpreting and analysing the data in a researchers’ disposal. He further lays out five notable research designs as; cross-sectional design, longitudinal design, experimental design, case study design, and comparative design. Following the same trail of thought, Babbie (2010) on his part defines research design wearing the lenses of the objective of the study or the time dimension estimated. Following the two doctrines on articulating a research design, the study cages itself to defining design in the technique in which Bryman (2012) lays it bare, which is closely similar to Babbie’s (2010) aspect of time dimension.

The study will focus on analysis and interpretation since it uses secondary data. Secondary data in this context in the words of Bryman (2004) is the analysis of data by a researcher who did not take part in the actual data collection. The study uses secondary data for logistical reasons. The Covid-19 pandemic which has had global impact made primary collection of data quite difficult. At the time of conceptualizing this work, the country was under lockdown due to the then prevailing Covid-19 situation in the country. However, there are limitations when using secondary

data that the study points out. As Bickman and Rog (1998) point out, there are issues with data accuracy when using secondary data, data whose collection the researcher had no control of.

3.3 Data Sources

Data from Agile and Harmonized Assistance for Devolved Institutions (AHADI) was utilized in the study. The data was collected in 2017 and provides a snapshot of the capacity of the devolved units during the first generation of county governments. Subsequent AHADI data (2018 and 2019) did not contain a detailed assessment of the issues under investigation as compared to AHADI study in 2017. For instance, in both 2018 and 2019, the AHADI study did not assess the functionality of the county assembly, a key issue of focus for this study. Partly, the AHADI study focused on the capacity needs of the legislatures of 22 County Assemblies across Kenya. This study will narrow down to three counties (Nairobi, Kakamega and Bomet) to assess how the legislations passed by the respective county assemblies feed into development particularly the functions that are delegated as outlined in the Fourth Schedule of the Constitution.

To supplement the AHADI data, the study explored available on-line data on Bill Tracker from the County Assemblies in question. Additional data was sourced from the County Integrated Development Plans (CIDPs) and Annual Development Plans (ADPs). This was instrumental in helping address the first research question, which was not captured in the AHADI data set. The AHADI study took a cross-sectional survey design.

3.4 Target Population and Sampling

The AHADI team in 2017 collected data from 22 county assemblies spread across Kenya. The 22 counties are: Bomet; Garissa; Isiolo; Kakamega; Kiambu; Kisii; Lamu; Machakos; Mandera; Marsabit; Meru; Mombasa; Murang'a; Nairobi; Nandi; Nyamira; Siaya; Tharaka-Nithi; Trans-Nzoia; Turkana; Vihiga; and Wajir. The choice of the respondents was purposive and targeted senior county assembly officers working either at the Office of the Clerk, Office of the Speaker; and the House Committees. As stated earlier, this study narrowed down on three Counties (Nairobi, Kakamega and Bomet). The choice of the three counties was arrived at because they are geographically apart and have elaborate bill trackers on their county assembly websites.

3.5 Data Collection Procedure

The AHADI study of the 22 County Assemblies aimed at getting both qualitative and quantitative data. The AHADI study involved the appraisal of secondary data and the collection of primary data from the target respondents. To gather qualitative data, the study employed key informant interviews that targeted senior officers of the County Assembly. Triangulation was used to validate the obtained data. This study will take up the data collected and do an analysis for both the qualitative and quantitative data collected.

Table 2: Data Needs Table

Research Question	Data Needed	Source	Data Type	Instrument
What are the characteristics of the legislations and laws passed by the County Assembly?	Type of bill (e.g by sponsor and by content)	Bill Tracker from County Assembly Websites.	Nominal	Online Source
How do legislations passed by County Assemblies feed into local development?	Legislations Passed on Health	AHADI Data Set, CIDP, ADP	Nominal	Questionnaire
	Legislation passed on ECD	AHADI Data Set, CIDP, ADP	Nominal	Questionnaire
	Legislations Passed on Agriculture and Food Security	AHADI Data Set, CIDP, ADP	Nominal	Questionnaire
	Legislation Passed on Gender Equality	AHADI Data Set, CIDP, ADP	Nominal	Questionnaire
	Legislation passed on Environment and climate change	AHADI Data Set, CIDP, ADP	Nominal	Questionnaire
	Legislation passed on Energy	AHADI Data Set, CIDP, ADP	Nominal	Questionnaire
	Legislation passed on Water and Sanitation	AHADI Data Set, CIDP, ADP	Nominal	Questionnaire
What are the challenges that the County Assemblies faces in their legislative mandate and how do they address these challenges?	System of improving MCAs capacity	AHADI Data Set	Ordinal	Questionnaire
	Capacity of Office of Speaker	AHADI Data Set	Nominal	Questionnaire

Capacity of Office of Clerk	AHADI Data Set	Nominal	Questionnaire
Functionality of House committees	AHADI Data Set	Nominal	Questionnaire

Source: Author's Conceptualization (2021)

3.6 Data Analysis and Processing

The data for this study was analysed by use of Microsoft Excel. Pivot Tables, Pivot Charts and Tables were used to visualize the data. Thematic analysis was used to analyse qualitative data. The variables used in the study were as follows:

- a. **Local level development** (Dependent Variable) in the counties focusing on health; early childhood education; agriculture and food security; gender equality; environment and climate change; energy; and water and sanitation. This was derived from the AHADI data and the respective County Integrated Development Plans (CIDPs) and the Annual Development Plans (ADPs) from the respective counties. The study defined this as the dependent variable.
- b. **Legislative output** in the County Assemblies and categorization of bills by sponsor and by content/devolved function being addressed. This was derived from the Bill Trackers in the three County Assembly Websites and from the Website of Kenya Law.
- c. The **existence of policies, laws and administrative procedures** to address the seven devolved functions under focus in this study. This was sourced from the AHADI data set for 2017. The responses were code to two options where 1 represented existence while 0 represented non-existence of a policy or law. A cumulative score of 15 was further used to show at what stage each of the devolved sectors was in matters implementation of activities in that sector. This varied across sectors where the scores ranged from 0-15. There were milestones and targets on the various indicators being tracked.
- d. The Functionality of the County Assemblies in reference **Office of the Clerk, Office of the Speaker, House Committees and system of improving MCAs capacity on legislation, oversight and representation.** This was sourced from the AHADI data set for 2017. The indicators being tracked included existences of the

physical office structures, existences of Bill Trackers, existences of the Hansard and existence of trained staff among others. A cumulative score of 15 was used to show at what stage each county was.

- e. The **devolved functions and local development**. Data for this was sourced from the AHADI data set for 2017 and supported with the ADPs and CIDPs from the three counties.

In summary, this study deployed descriptive analysis to show percentages at the level of implementation. Tables with cumulative totals are used to show the various stages of implementation across the three counties. Further, themes are developed to discuss the various variables to elaborate on the findings.

3.7 Ethical Considerations

So as to adhere to ethical considerations, the study acknowledges that the data used was collected as part of capacity strengthening programme funded by USAID through AHADI. However, information contained herein only expresses the views of the researcher and not the funding agency. The AHADI researchers at the Institute for Development Studies (IDS), University of Nairobi granted me the leeway to use the data. So as to ensure confidentiality, the analysis carried out by this study never attempted to do any comparison across the three counties under investigation. This is because the study adhered to the promise of not doing any comparisons across counties when using the AHADI data collected in 2017.

CHAPTER FOUR

RESEARCH FINDINGS AND DISCUSSION

4.1 Introduction

This chapter outlines the findings from the research and discussion. The study focused on the role legislation by County Assembly plays in local development with a focus on three counties; Nairobi, Kakamega and Bomet. The study focused on the laws and policies passed by the respective county assemblies. Specific focus was on the laws and policies which address the functions that are delegated as outlined in the Fourth Schedule of the Constitution of Kenya 2010. The specific research objectives are: to identify the characteristics of legislations and laws passed by the County Assemblies; to establish how the legislations passed feed into local development in the Counties; and finally, to establish the challenges that the County Assemblies face in undertaking their legislative mandate and how the challenges are addressed. The devolved sectors under focus were water and sanitation; health; early childhood education; agriculture and food security; gender equality, environment and climate change and energy.

This chapter is segmented into four sections this introduction included Part 4.2 focuses on the characteristics of legislations passed by the county assemblies. Part 4.3 looks at how the bills and legislations passed feed into local development. Part 4.4 examines the challenges the assemblies face when executing their legislative mandates and how the challenges are addressed.

4.2 Characterizing Legislations Passed by the County Assemblies

This section speaks to research objective number one. The first research objective sought to identify the characteristics of legislations and laws passed by the County Assemblies. The bills are characterized by sponsor (private member bill or public bill), by type (by sector or procedural bill). The paper starts with Nairobi, Kakamega then Bomet in that sequence.

A look at the Bill Tracker across the three counties under focus shows different degrees of legislative activity in the County Assemblies. There is no uniformity on the legislative output or the type of legislations passed during specific periods of time. Further, it should be noted that this study did not aim at making any comparison between the three counties. What follows is an overview of the characteristics of legislations processed by the County Assemblies in the three counties of study.

4.2.1. Nairobi City County Assembly

The Nairobi City County Bill Tracker shows the legislative activity of the County Assembly since its inception in 2013 to 2020. The bills are categorized by year. During its first legislative year, the Appropriation Bill, the Finance Bill and the Ward Development Fund Bill were passed. As years progressed, bills touching on the devolved functions featured more as the devolved functions needed laws to entrench them. The Nairobi City County Urban Agriculture Promotion and Regulation Bill, 2014, the Nairobi City County Early Child Education Bill, 2014 and the Nairobi City County Sexual and Gender Based Violence Management and Control Bill, 2019 are some of such legislations. Table 3 shows the legislative activity in Nairobi City County from 2013 to 2020.

Table 3: Legislative Activity in Nairobi County Assembly 2013-2020

YEAR	No. of Bills Presented	No. of Bills Passed	No. of Bills Withdrawn	No. of Bills Rejected	No. of Bills Assented to
2013	6	5	0	0	5
2014	10	5	0	0	3
2015	10	9	0	0	6
2016	6	3	0	0	2
2017	10	6	3	0	6
2018	4	3	1	0	1
2019	10	8	0	1	1
2020	6	1	0	0	0

Source: Bill Tracker, Nairobi City County Assembly

In 2013, six bills⁷ were presented to the Assembly. Five of the bills passed were assented to except the Ward Development Fund Bill, 2013 which collapsed at the First Reading Stage. Most of the Bills passed were procedural and money bills and were presented on the floor of the Assembly by the Chairperson Budget and Appropriations Committee. This was the first year of devolution.

⁷ NCC Appropriation Bill, 2013; NCC Finance Bill, 2013; NCC Provisional Collection of Revenue Bill, 2013; NCC Tax Waivers Administration Bill, 2013; NCC Flag and other Symbols Bill, 2013 and NCC Ward Development Fund Bill, 2013.

In 2014, the Nairobi City County Assembly increased its legislative output. Ten bills⁸ were presented to the Assembly including four procedural and money bills presented by the Chairperson Budget and Appropriations Committee. These were the Ward Development Fund Amendment Bill, 2014, The Supplementary Appropriation Bill, 2014, The County Appropriation Bill, 2014 and the Nairobi County Finance Bill, 2014. Out of the ten, five were passed and three assented to. Bills touching on the devolved functions were two: The Nairobi City County Urban Agriculture Promotion and Regulation Bill, 2014 presented to the Assembly by the Chairperson Agriculture, Environment and Natural Resources Committee; and the Plastic Carry Bags Control Bill, 2014.

In 2015, the Nairobi City County Assembly presented ten bills⁹ (both procedural, money bills) and bills touching on the devolved functions on the floor of the House. Nine out of the ten were passed and six assented to. The Nairobi City County Finance Bill, 2015 and the Nairobi City County Appropriations Bill, 2015 were presented on the floor of the Assembly by the Chairperson Budget and Appropriations Committee passed and assented to. Two bills touching on the devolved functions: The Nairobi City County Urban Agriculture Promotion and Regulation Bill, 2015 and the Nairobi City County Solid Waste Management Bill, 2015 were passed and assented to. The two bills were presented on the floor of the Assembly by the Chairperson Agriculture, Environment and Natural Resources Committee.

In 2016, there was a drop in legislative output at the County Assembly. Leadership wrangles were witnessed between the County Executive led by the governor and the County Assembly. The MCAs refused to pass the budget¹⁰ slowing operations of the County Government. Six bills¹¹ were presented. Out of the six, three passed and two were assented to. Two bills: The Nairobi City County Animal Control and Abattoirs Management Bill reached the Second Reading

⁸ NCC Betting Lotteries and Gaming Bill, 2014; NCC Alcoholic Drinks Control and Licensing Bill, 2014; NCC Wards Development Fund Bill, 2014; NCC Ward Development Fund (Amendment) Bill, 2014; NCC Supplementary Appropriations Bill, 2014; NCC Plastic Carry Bags Control Bill, 2014; NCC Appropriations Bill, 2014, NCC Regularisation of Development Bill, 2014; NCC Urban Agriculture Promotion and Regulation Bill, 2014 and NCC Finance Bill, 2014.

⁹ NCC Regularization of Development Bill, 2015; NCC Urban Agriculture Promotion and Regulation Bill, 2015; NCC Solid Waste Management Bill, 2015; NCC Petition to County Assembly (Procedure) Bill, 2015; NCC Fire and Rescue Services Bill, 2015; NCC Disaster and Emergency Management Bill, 2015; NCC Wards Development Fund (Amendment) Bill, 2015; NCC Appropriations Bill, 2015; NCC Finance Bill, 2015 and NCC Dog Control and Welfare Bill, 2015.

¹⁰<https://nation.africa/counties/nairobi/Crisis-looms-in-Nairobi-as-MCAs-refuse-to-pass-Budget/1954174-3274572-qprrf/index.html> Accessed on July 17th, 2021.

¹¹ NCC Supplementary Appropriation Bill, 2016; NCC Animal Control and Abattoirs Management Bill, 2016; NCC Office of the County Attorney Bill, 2016; NCC Wards Development Fund (Amendment) Bill, 2016; NCC Public Nuisance Bill, 2016 and NCC Revenue (Amendment) Bill, 2016.

stage; and the Nairobi City County Public Nuisance Bill, 2016 also reached the Second Reading stage. Out of the three bills passed, two were procedural-the Nairobi City County Supplementary Appropriation Bill, 2016 presented by the Chairperson Budget and Appropriations Committee (assented) and the Nairobi City County Office of the County Attorney Bill, 2016. The Nairobi City County Ward Development Fund (Amendment) Bill, 2016 presented by the Chairperson Wards Development Fund Committee was also passed.

In 2017, there was a rise in the legislative output when compared to 2016. Ten bills¹² were taken to the Assembly. The procedural Nairobi City County Appropriations Bill, 2017 was presented by the Chairperson Budget and Appropriations Committee. Out of the 10, six were passed and assented to; four did not pass and were withdrawn pursuant to specific Standing Orders. A bill touching on environment, the Nairobi City County Tobacco Control Bill, 2017 was withdrawn pursuant to S/O No. 133 (1). Another bill, the Nairobi City County Evictions, Demolitions and Resettlements Bill, 2017 lapsed after the first reading. The Nairobi City County Outdoors Advertising and Signage Control Bill, 2017 was withdrawn pursuant to S/O No. 133 (1) but was later reintroduced and passed in 2018. Two bills touching on the devolved component of Education, Early Childhood Education, The Nairobi City County Early Childhood Bill, 2017 and the Nairobi City County Child Care Facilities Bill, 2017 were passed and assented to.

The year 2018 saw another sharp decline in the legislative output. The Financial Year 2017-2018 was an election year hence most of the MCAs spent more time in their Wards seeking re-election. This often slows legislative output. Only four bills¹³ were presented to the floor of the house. Out of the four, three were passed and one withdrawn. The Nairobi City County Outdoors Advertising and Signage Control Bill, 2017 which had been withdrawn in 2017 was reintroduced and passed. The Nairobi City County Trade Licensing Bill, 2018 was passed and assented to. The Nairobi City County Public Road Transport and Traffic Management Bill, 2018 was withdrawn by the Committee Chairperson after First Reading.

¹² NCC Inspectorate Services Bill, 2017; NCC Inspectorate Services Bill, 2017; NCC Public Road Transport and Traffic Management Bill, 2017; NCC Tobacco Control Bill, 2017; NCC Cultural Heritage Bill, 2017; NCC Early Childhood Education Bill, 2017; NCC Appropriation Bill, 2017; NCC Child Care Facilities Bill, 2017; NCC Outdoor Advertising and Signage Control and Regulation Bill, 2017; and NCC Evictions, Demolitions and Resettlements Bill, 2017.

¹³ NCC Outdoor Advertising and Signage Control and Regulations Bill, 2018; NCC Public Transport and Traffic Management Bill, 2018; NCC Trade Licensing Bill, 2018; and NCC Tobacco Control Bill, 2018.

In 2019, there were ten bills¹⁴ presented to the floor of the County Assembly. Out of the ten, eight were passed, one assented to and two in the Second Reading stage. One bill, The *Punguza Mzigo* Constitutional Amendment Bill 2019, sponsored by the Thirdway Alliance Kenya was rejected. The procedural and money bills which were five in number were presented on the floor of the House by the Chairperson Budget and Appropriations Committee. The bills touching on devolved functions were: The Nairobi County Sexual and Gender Based Violence Management and Control Bill, 2019; and the Nairobi City County Community Health Services Bill, 2019. These bills were private members' bills and were passed.

In 2020, six bills¹⁵ have been presented to the Assembly. Out of the six, only one has passed. The rest are at the First Reading stage. Three of the bills were procedural and money bills presented to the floor of the Assembly by the Chairperson Budget and Appropriations Committee.

4.2.2. Kakamega County Assembly

From the study, the Kakamega County Assembly Bill Tracker contains bills passed between 2017 and 2018. There are a total of fifteen bills passed over this period¹⁶. Out of the 15 bills available on the Kakamega County Assembly Bill Tracker, 14 are sponsored by the Kakamega County Executive. The Chair of the Budget and Appropriations Committee acting at the behest of the executive sponsored one bill, the County Appropriation Bill 2018. All the 15 bills were assented to. The Bills published in the Bill Tracker seek to address the key devolved functions outlined in the Fourth Schedule of the Constitution of Kenya 2010. Four of these bills touch on the devolved functions being addressed by this paper: The Kakamega County Environmental

¹⁴ NCC Supplementary Appropriations (2) Bill, 2019; NCC Revenue Administration Bill, 2019; NCC Corporations Bill, 2019; NCC Supplementary Appropriations (NO. 3) Bill, 2019; NCC Community Health Services Bill, 2019; NCC Finance Bill, 2019; NCC Sexual and Gender Based Violence Management and Control Bill, 2019, *Punguza Mzigo* Constitutional Amendment Bill, 2019; NCC Appropriation Bill, 2019; and NCC Pop-Up Markets and Street Vendor Bill, 2019.

¹⁵ NCC Supplementary Appropriation Bill, 2020; NCC Betting, Lotteries and Gaming Bill, 2020; NCC Evictions, Resettlements and Demolitions Control Bill, 2020; NCC Public Nuisance Bill, 2020; NCC Appropriation Bill, 2020; and NCC Finance Bill, 2020.

¹⁶ The Kakamega County Dairy Development Corporation Bill 2017; The Kakamega County Trade and Markets Bill 2017; Kakamega County Finance Bill 2017; The Kakamega County Microfinance Bill 2017
The Kakamega County Investment and Development Agency Bill 2017; Kakamega County Appropriation Bill, 2018; The Kakamega County Trade and Licensing Bill 2017; The Lake Region Economic Bill 2018
The Kakamega County Agricultural Produce Cess Bill, 2017; The Kakamega County Alcohol Drinks Control Act 2014 (Amendment) Bill, 2017; The Kakamega County Enforcement Service Bill, 2018; The Kakamega County Finance Bill, 2018; The Kakamega County Youth Service Bill, 2018; The Kakamega County Water Bill, 2017; and The Kakamega County Environmental Management Bill, 2017

Management Bill, 2017; The Kakamega County Water Bill, 2017; The Kakamega County Agricultural Produce Cess Bill, 2017; and The Kakamega County Dairy Development Corporation Bill 2017.

The Kenya Law further documents the laws passed by the Kakamega County Assembly between 2013 and 2020. From their Website¹⁷ the bills are listed. A total of 39 bills are listed to have been passed by the Kakamega County Assembly. Bills addressing the devolved functions under consideration in this paper included: The Kakamega County HIV, AIDS and STI Management Bill, 2020 and the Kakamega County Maternal Child Health and Family Planning (Amendment) Bill, 2020 were presented to the floor of the Assembly by the Chairperson Health Committee. In 2019, the Chairperson Environment, Water and Natural Resources Committee presented the Kakamega County Rural Water and Sanitation Corporation Bill, 2019 while a nominated MCA representing persons living with disabilities sponsored the Kakamega County Persons with Disabilities Bill, 2019.

In 2018, the Kakamega County Enforcement Service Bill, 2018 was presented to the Assembly by the Chairperson Public Finance and Administration Committee. In 2017 the Kakamega County Public Health Bill, 2017 was presented to the floor of the Assembly by the Chairperson Health Committee. The Chairperson Environment, Water and Natural Resources Committee presented the Kakamega County Water Bill, 2017 while the Chairperson Agriculture, Livestock, Fisheries and Cooperatives Committee presented the Kakamega County Agricultural Produce Cess Bill, 2017.

In 2016, five bills were presented to the floor of the Assembly two of them touching on the devolved functions being addressed by this paper. The Kakamega County General Teaching and Referral Hospital Bill, 2016 sponsored by the Chairperson Health Committee and the Kakamega County Environmental Management Bill, 2016 sponsored by the Chairperson of the Environment, Water and Natural Resources Committee. In 2014, five bills were presented to the floor of the Assembly. Kakamega County Revenue Administration and Collection Bill, 2014 was sponsored by the Chief Executive Committee Member Treasury and Economic Planning. The Kakamega County Abattoirs Bill, 2014 and the Kakamega County Alcoholic Drinks Control Bill, 2014 were sponsored by the Chairperson Trade and Tourism Committee. In 2013, the Kakamega

¹⁷<http://kenyalaw.org/kl/index.php?id=9788> Accessed on August 5, 2021

County Appropriations Bill, 2013 sponsored by the Chief Executive Committee Member Treasury and Economic Planning was presented on the floor of the House.

Table 4: Legislative Activity in Kakamega County Assembly (2013-2020)

Year	Number of Bills Presented
2013	1
2014	5
2015	4
2016	5
2017	13
2018	4
2019	4
2020	3
Total No. of Bills	39

Source: Kenya Law

4.2.3. Bomet County Assembly

The Bomet County Assembly Bill Tracker shows legislative activity from 2013-2020. A total of 20¹⁸ bills are available on the bill tracker. On sponsor, they are categorized by ‘Member in Charge’ who are MCAs. The Bills are mostly procedural motions and money bills. The annual county finance bill and the county appropriation bill feature annually. However, there are no records on their passage and assent.

¹⁸ Bomet County Persons Living With Disability Bill; Bomet County Appropriation (Amendment) Act, 2013; Bomet County Support for the Needy Bill, 2014; Bomet County Agencies Establishment Bill, 2014; Bomet County Assembly Car Loan (Members) Scheme Fund Regulations, 2014; Bomet County Assembly Service Act, 2014; Bomet County Supplementary Appropriation Act, 2014; Bomet County Emblems, Protocol and Salutations Bill, 2014; Bomet County Appropriation Bill, 2015; Bomet County Petition to Count Assembly (Procedure) Bill, 2015; Bomet County Appropriation Bill, 2016; Bomet County Public Service Board Bill, 2016; Bomet County Supplementary Appropriation (No. 2) Act, 2016; Bomet County Finance Bill, 2017; Bomet County Finance Bill – 2018; Bomet County Public Service Bill, 2018; Bomet County Public Participation Bill, 2018; Bomet County Equitable Development Bill, 2019; Bomet County Finance Bill, 2020; and The Kenya Constitution(Amendment) Bill, 2020.

Table 5: Legislative Activity in Bomet County Assembly 2013-2020

Year	Number of Bills Presented
2013	2
2014	6
2015	2
2016	3
2017	1
2018	3
2019	1
2020	2
Total Number of Bills	20

Source: Bill Tracker, Bomet County Assembly.

The Kenya Law¹⁹ presents Bills presented on the floor of the Bomet County Assembly from 2013 to 2020. The sponsors of the Bills are indicated. In 2020, the Bomet County Finance Bill, 2020 presented by the Chairperson Finance and Economic Planning Committee is the only bill highlighted. In 2019, eight bills were presented to the Bomet County Assembly. The Bomet County Supplementary Appropriation Bill, 2019 and the Bomet County Supplementary Appropriation (No.2) Bill, 2019 were presented by the Chairperson Budget and Appropriation Committee for the County Executive. The Leader of Majority sponsored the Bomet County Coordination of Government Functions (Amendment Bill, 2019). In 2018, eight bills were presented to the floor of the County Assembly. The Bomet County Supplementary Appropriation (No.2) Bill, 2018 was sponsored by the Chairperson Budget and Appropriations Committee. The Bomet County Vocational and Technical (Polytechnic) Bill, 2018 was sponsored by the Chairperson Committee on Education, Youth and Sports. The Bomet County Persons Living with Disabilities Bill, 2018 was sponsored by a private member. The Bomet County Support for the Needy Amendment Bill, 2018 was sponsored by the Chairperson Health and Sanitation Committee.

¹⁹ <http://kenyalaw.org/kl/index.php?id=5992> Accessed on March 17, 2021

In 2017, two bills were presented to the floor of the House. The Vice Chair Budget and Appropriation Committee presented the Bomet County Supplementary Appropriation Bill, 2017 while the Chairperson Finance and Economic Planning Committee presented the Bomet County Finance Bill, 2017. In 2016, two bills were presented to the floor of the House. The Bomet County Public Service Board Bill, 2016 sponsored by a private member and the Bomet County Appropriation Bill, 2016 sponsored by the Chairperson Budget and Appropriations Committee.

In 2015, six bills were presented to the floor of the House. The Leader of Majority sponsored the Bomet County Emergency Fund Bill, 2015 and the Bomet County Public Participation and Civic Education Bill, 2015. The Chairperson Budget and Appropriation Committee sponsored the Bomet County Appropriation Bill, 2015. Private members sponsored the Bomet County Persons Living with Disability Bill, 2015 and the Bomet County Access to Information Bill, 2015. In 2014, six bills were presented to the floor of the House. The Leader of Majority sponsored three bills; the Bomet County Assembly Service Bill, 2014, the Bomet County Support for the Needy Bill, 2014 and the Bomet County Emergency Fund Bill, 2014. In 2013, the Chairperson Budget and Appropriation Committee sponsored the Bomet County Appropriation (Amendment) Bill, 2013 and the Bomet County Appropriation Bill, 2013.

4.3 Legislation and Local Level Development

This section speaks to objective number two: to establish how the bills feed into local development in the three counties. Local level development refers to interventions by the county governments in the execution of the functions delegated as outlined in the Fourth Schedule of the Constitution. Article 203 (2) states that not less than 15% of the national revenue raised annually shall be devolved to the counties anchored upon the last audited accounts that have been scrutinized and approved by the National Assembly. The revenues are distributed based on a formula designed by the Commission of Revenue Allocation (CRA), a constitutional body set up and mandated for this purpose. Counties are also permitted by law to raise their own revenue through taxation on property, entertainment or any other taxes authorized by law. This is the money that is utilized to realize local development in the counties. This section also presents the bills which have been enacted and published into Acts by the three respective County Governments. For local development to be effective, certain legal frameworks should be developed. The development of these legal frameworks under the devolved system is a constitutional responsibility

of the County Assembly. The three county assemblies under study here have come up with laws, regulations and policies to varying degrees to address the devolved functions.

The Bills passed in the three County Assemblies address different devolved functions outlined in the Fourth Schedule of the Constitution of Kenya 2010. In addressing the devolved functions, the bills help in the attainment of the Big Four Agenda, Kenya's Vision 2030 and the Sustainable Development Goals. The bills when enacted are expected to improve on the development indicators for the specific functions they are addressing. The study found that across the three counties, the legislations passed seek to address challenges of (under)development at the local devolved level so as to improve the development indicators in the counties. In addition, several bills of the three County Assemblies have been assented to and are gazetted as Acts of the County Governments. The Acts provide frameworks for implementation of devolution and service delivery thus local development. Across the three counties, several Acts which address the devolved functions under focus are discussed.

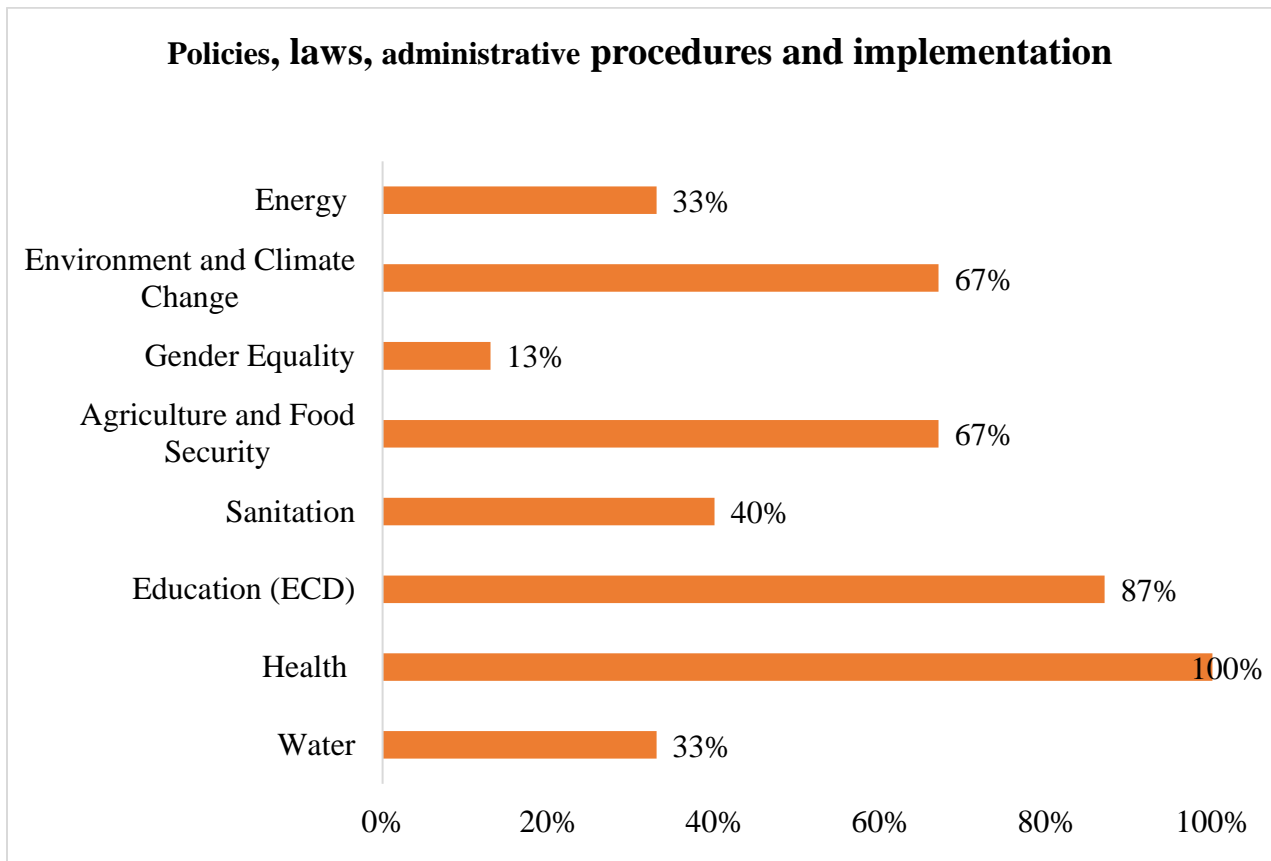
The AHADI data set 2017 checked on the existence of laws, policies, administrative procedures and implementation across eight devolved sectors namely: Water and Sanitation; Health; Education ECD; Agriculture and Food Security; Gender Equality; Environment and Climate Change; and Energy. Five parameters were checked and arrived at a cumulative score of fifteen. The scores varied across the eight sectors showing different degrees of implementation. The first score checked if a policy had been identified or included as a priority and allocated a score of 1. The second criteria checked was if a plan was developed to address issues or whether key objectives were identified for implementation and was allocated a score of 2. The third, fourth and fifth parameters assessed the level of implementation of the various targets as contained in the county's integrated development plan. The third checked if implementation had begun by checking if the implementation had reached 25% of the CIDP targets and allocated a score of 3. The fourth checked if the implementation has been partly achieved by checking if it had reached 50% of the CIDP targets and allocated a score of 4. The fifth checked if implementation had been completed and objectives largely met by checking if it had surpassed 75% of the CIDP targets and allocated a score of 5.

The study found out that the three counties were faring on differently under the different devolved sectors focused on in this study, but in view of their differing contexts. Thus when interpreting the sector scores, it requires an appreciation of the county-specific realities.

4.3.1 Nairobi City County Assembly

In Nairobi County as at 2018, and on the basis of the AHADI study data set of 2017, the study presents the following results by sector: The health sector got a maximum score of 15. That is 100% score. The ECD sector scored 13, translating to 87%. It had not yet attained full implementation of the CIDP targets. The sanitation sector scored 6, translating to 40%. The low score on sanitation was on account of missing work plans, while implementation had begun but had not achieved at least 50% of the CIDP targets. The agriculture sector scored 10, translating to 67%. It had not met more than 75% of the CIDP targets. The gender sector scored 2, translating to 13%. For this sector, the county had only developed a plan to address gender inequality but had not implemented any policies in line with the CIDP. The environment and climate change sector scored 10, translating to 67%. It had not yet achieved completing of objectives outlined in the CIDP targets. The energy sector scored 5, translating to 33%. It had no policy and had begun implementation of projects but had not reached 50% of the CIDP targets.

Figure 2: Policies, laws and administrative procedures score for Nairobi City County



Source: AHADI data set (2017)

Since its inception in 2013, the Nairobi City County Assembly embarked on its legislative mandate churning out legislations. Legislations in the City County Assembly seek to address SDG 11 “Sustainable Cities and Communities” as well the Kenya Vision 2030 and the Big Four Agenda. Below, a breakdown of the legislative activity of the Nairobi City County Assembly since 2013 with specific focus to bills that address the devolved functions outlined in the Fourth Schedule is elaborated.

The AHADI 2017 study found out that Nairobi City County under ECD had no laws, regulations or policies; health had policies and laws in place (The Nairobi City County Health Policy 2016-2025); agriculture had laws in place (The Nairobi City County Dog and Control Act, The Nairobi City County Abattoirs and Meat Act). Water, energy, environment and natural resources had no laws, policies or regulations in place but relied on the legal and policy frameworks of the national government. However, the Nairobi City County Assembly so as to address the devolved function of ECD passed the Nairobi City County Early Childhood Education Bill, 2017. The bill was assented to and an Act (The Nairobi City County Early Childhood Education Act, 2017) was published on the Kenya Gazette. On the devolved component of environment, the Nairobi City County Assembly as at 2015 had enacted an Act on solid waste management, the Nairobi City County Solid Waste Management Act, 2015. It did not cover the whole component of environment and only dealt with the solid waste management component.

The health sector launched in 2017 a ten-year County Health Policy 2016-2025. It further revised the Nairobi City County Health Strategic and Investment Plan for 2013/14 to 2018/19. In order to address the escalating cases of traffic accidents and refugee influx, the sector added policy objective on Emergency, Referral and Rehabilitation care. Before 2017, since the ECD sector had no policy of its own, it relied on national education policy. It however passed the Nairobi City County ECD Bill, 2017. Since the county had no gender policy, it relied on specific guidelines set by the National Gender Commission and other provisions on gender by the national government.

The Nairobi City County Urban Agriculture Promotion and Regulation Bill, 2015 which had failed to be passed in 2014 was tabled by the Chairperson Agriculture, Environment and Natural Resources Committee and was passed and assented. This bill addresses the Big Four Agenda item on Food Security and Nutrition as well as SDG 2 “Zero Hunger”. On Environment, the Nairobi City County passed and assented to the Nairobi City County Solid Waste Management

Bill, 2015 and the Nairobi City County Disaster and Emergency Management Bill, 2015. These two bills address the SDG 6 “Clean water and sanitation”.

The Nairobi City County Early Childhood Education Bill, 2017 was passed, assented and Act published. Access to education is a right every Kenya is entitled to under the bill of rights (Chapter Four) of the constitution. The bill seeks to see that all children living within the city county have access to pre-primary education. It provides that the learning centres should be moved closer to the communities to enhance access. This addresses the SDG 4 “quality education”.

The Nairobi City County Tobacco Control Bill, 2018 addresses an aspect of the devolved function of health. The bills also address issues of environmental pollution caused by the smoke from the tobacco. This will go a long way in the realization of SDG 3 “good health and well-being”. The Nairobi City County Community Health Services Bill, 2019 passed seeks to feed into the Big Four agenda item focusing on Universal Health Coverage.

The Nairobi City County Sexual and Gender Based Violence Management and Control Bill, 2019 was passed in July 2019. The bill addresses issues of discrimination and violence against women and the effects of gender-based violence on the well-being of the victims especially women. The bill feeds into the realisation of gender equality as enshrined in SDG 5” Gender Equality”.

The Nairobi City County Public Nuisance Bill, 2020 which addresses the devolved functions of health and environment was passed and signed into law²⁰. The bill will feed into SDG 6 “good health and well-being” and control general pollution in the city.

Devolution took effect in 2013. The Nairobi City County First Annual Development Plans and County Integrated Development Plan, 2013 – 2017, identified challenges that bedevilled the City as at the onset of devolution. There was high population growth rate in the city. This exerted pressure on the existing facilities like housing, water, health facilities and sewerage system. There was a challenge in the waste collection and disposal. Nairobi generated 2000 tons of garbage daily yet this garbage found its way to Dandora dumpsite in an environmentally unstable way (Republic of Kenya, 2014). The water catchment areas in the city were under attack as people had encroached the riparian lands. There is massive pollution downstream along Nairobi River. Water shortage is thus common. Kibra, Korogocho, Mathare, Sinai, Mukuru Kwa Njenga, Kangemi were identified as areas with no spaces for household toilets or land for public toilets. There were increased cases

²⁰ <https://nairobi.go.ke/nairobi-city-county-public-nuisance-act-2021-signed-law/> Accessed on September 6, 2021.

of violence meted out on women either physically, sexually or psychologically which culminated into gender disparity. These challenges needed to be addressed by the County government through both the executive and the County Assembly through developing legislations to entrench the devolved functions.

A look at the Annual Development Plans for Nairobi further show the progress devolution has made in local development. In the 2014/2015 Financial Year the progress was as follows: Under agriculture, one pelletizer machine was procured and installed in Njiru, in the 2013/2014, 2014/2015 and 2015/2016 Financial Years, 43 fish ponds were constructed, 17 greenhouses were purchased and installed, 130 multi-storey gardens were erected in schools in Dagoretti North and South, Kibra, Langata and Westlands through funding by the county government in Financial Year 2015/2016 and 5 milk dispensers stationed in Financial Year 2015/2016 for groups in Kasarani, Westlands, Dagoretti and Roysambu. Under the environment docket in the 2014/2015 Financial Year, 320,000 tons translating to 876 tons per day of garbage were collected, 2 sound arresters were purchased to handle noise pollution, 94,516 trees were planted in identified areas across all the sub counties, beautification of the city was instigated for major transport corridors including among others; Uhuru Highway, Mombasa Road and Langata Road and 1 quarry rehabilitated. In the 2015/2016 Financial Year, under environment, waste collection was 292,000 tons (800 tons daily), 16 tons of waste was removed from the river, 10 illegal discharge points into rivers blocked.

Several bills of the Nairobi City County Assembly have been gazetted into Acts which further entrench devolution and improve on service delivery. The Acts are: 4 Acts (2013), 7 Acts (2014), 6 Acts (2015), 5 Acts (2016), 9 Acts (2017), 2 Acts (2018), 3 Acts (2019) and 1 Act (2020)²¹. Onto the acts touching on the devolved functions under focus in this study, three Acts are looked at. The Nairobi City County Solid Waste Management Act, 2015 which lays out a framework for the disposal of wastes in the city thereby ensuring sanitation in the city. The Act seeks to address SDG 11 “sustainable cities and communities” and help in addressing health related risks that come from solid waste. The Nairobi City County Early Child Education Act, 2017 gives provision for the establishment of ECD centres as well as access to basic education for children. Education, quality education, is a major focus of the SDGs.

²¹ <https://nairobiassembly.go.ke/acts/> Accessed on June 6th, 2021.

Table 6: Acts of the Nairobi City County Assembly 2013-2020

YEAR	ACT	FUNCTION BEING ADDRESSED
2013	NCC Flag and Other Symbols Act, 2013	Finance and Administration
	NCC Tax Waivers Administration Act, 2013	Finance and Administration
	NCC Provisional Collection of Revenue Act, 2013	Finance and Administration
	NCC Finance Act, 2013	Finance and Administration
2014	NCC Appropriation Act, 2014	Finance and Administration
	NCC Supplementary Appropriation Act, 2014	Finance and Administration
	NCC Gaming Act, 2014	Trade and Commerce
	NCC Betting Lotteries and Gaming Act, 2014	Trade and Commerce
	NCC Alcoholic Drinks Control and Licencing Act, 2014	Health
	NCC Wards Development Fund Act, 2014	Local Development
	NCC Wards Development Fund Amendment Act, 2014	Local Development
2015	NCC Finance Act, 2015	Finance and Administration
	NCC Solid Waste Act, 2015	Environment and Natural Resources
	NCC Regularization of Development Act, 2015	Finance and Administration
	NCC Regularization Act, 2015	Finance and Administration
	NCC Appropriation Act, 2015	Finance and Administration
	NCC Supplementary Appropriation Act, 2015	Finance and Administration
2016	NCC The County Attorney Act, 2016	Administration
	NCC Participation Act, 2016	Public Participation
	NCC Neighbourhood Association Act, 2016	Environment and Natural Resources
	NCC Dog Control and Welfare Act, 2016	Agriculture
	NCC Person with Disabilities Act, 2016	Gender and PWDs
2017	NCC Culture Heritage Act, 2017	Sports and Culture

YEAR	ACT	FUNCTION BEING ADDRESSED
	NCC Inspectorate Service Act, 2017	Finance and Administration
	NCC Inspectorate Act, 2017	Finance and Administration
	NCC Sports Management Act, 2017	Sports and Culture
	NCC Children Facility Act, 2017	Education
	NCC County Attorney Act, 2017	Finance and Administration
	NCC Early Childhood Education Act, 2017	Education
	NCC Appropriation Act, 2017	Finance and Administration
	NCC Supplementary Appropriation Act, 2017	Finance and Administration
2018	NCC Finance Act, 2018	Finance and Administration
	NCC Supplementary Appropriation Act, 2018	Finance and Administration
2019	NCC Appropriation Act, 2019	Finance and Administration
	NCC Trade Licencing Act, 2019	Trade and Commerce
	NCC Supplementary Appropriation Act, 2019	Finance and Administration
2020	NCC Supplementary Appropriation Act, 2020	Finance and Administration

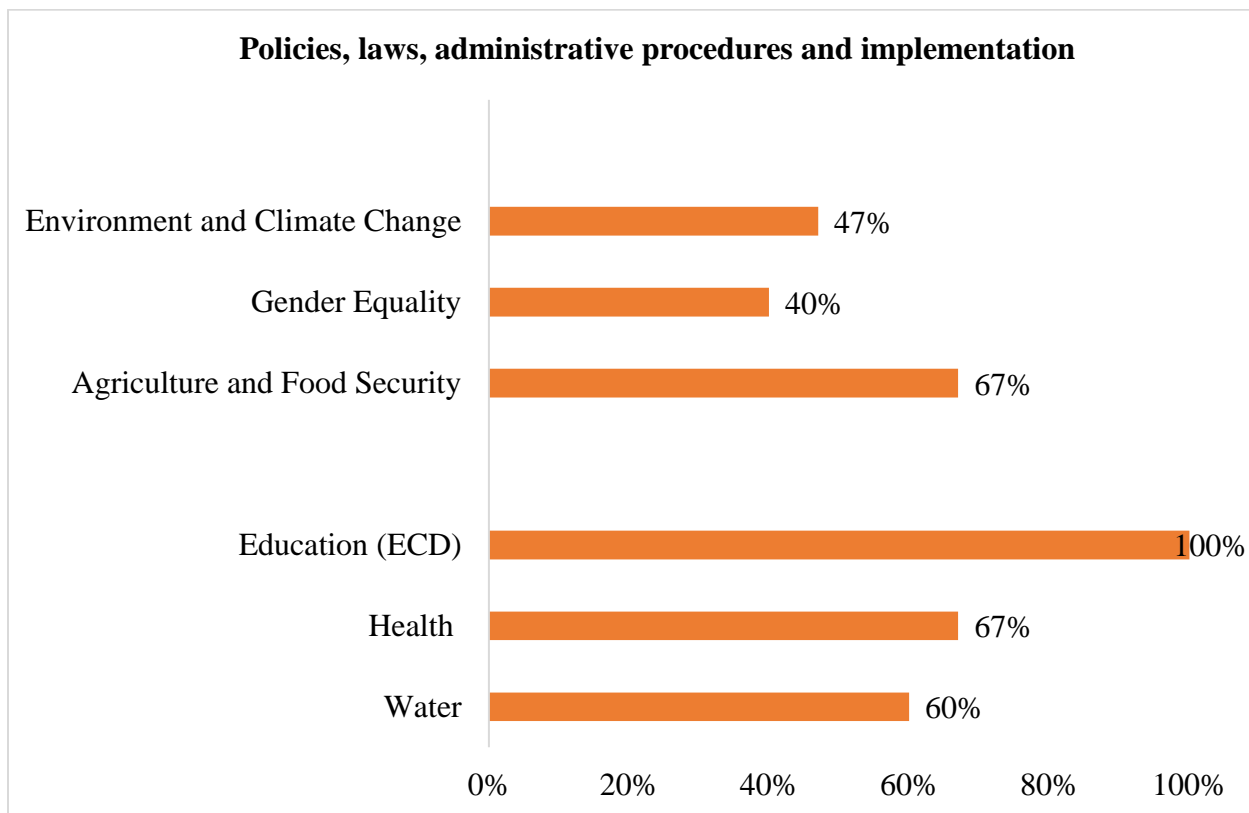
Source: Nairobi City County Website.

4.3.2 Kakamega County Assembly

In Kakamega County, the AHADI 2017 assessment presents the following results by sector: The ECD sector got the maximum score of 15, translating to 100%. It had developed a policy, had work plans and had met over 75% implementation of the CIDP targets. The health sector got a score of 10, translating to 67%. It had policy, work plans were developed and implementation on going. However, it was yet to hit the 75%-mark implementation of the CIDP targets. The water sector got a score of 9, translating to 60%. It had no policy and was yet to hit the 75% implementation of the CIDP targets. Agriculture sector scored 10, translating to 67%. It had not achieved the 75% implementation of the CIDP targets. Gender got a score of 6, translating to 40%. The sector had a policy and had begun implementation of the CIDP targets. However, the implementation was not yet at 50%. Environment got a score of 7, translating to 47%. It had neither a policy nor plans. However, it had achieved partial implementation 50%.

The AHADI 2017 study finds out that Kakamega County has a health law, education law (The Kakamega County Education Act). Agriculture, gender equality, environment and climate change and energy had no laws, policies or regulations in place.

Figure 3: Policies, laws and administrative procedures score for Kakamega County



Source: AHADI data set (2017)

In 2013, the new administration in the Kakamega County Government identified various challenges that plagued the county. The first ADP and CIDP 2013-2017 elaborated on these challenges. The focus here is on those that address the devolved functions. Under water, level of access to water by households was relatively low in comparison with the UN standards which stipulate that each and every person is entitled to between 20-50 litres of water a day. About 53.1% of the springs remain unprotected²². The springs are the main source of water and them being unprotected means people are prone to contracting water borne diseases. Under health, the county

²² <https://kakamega.go.ke/download/the-first-county-integrated-development-plan-2013-2017/> Accessed on July 17th, 2021.

had only one general hospital. The county further had a paltry 47 doctors giving the doctor to population ration of 1:34,916 while the nurse to population ratio was 1:2658²³. This implied staff shortage coupled with irregular supply of drugs. This posed a serious challenge and slowed progress in the fight against malaria, upper respiratory infections and common cold which were prevalent in the county (Republic of Kenya, 2014).

Under agriculture, there was a challenge of food shortage at certain times in the year. A majority of the food crops were cultivated in small scale and once a season. An estimated 6.9% of the maize²⁴ (the main food crop) was harvested and consumed when still green thus reducing the amount of dried maize. Sugarcane which is the main crop around Mumias was allocated close to 100% of the land yet payment to farmers delayed causing food shortage in the households. Under gender, the challenge identified was the reduced number of girls at higher levels of learning. This feeds into early marriages and unemployment. On environment and climate change, there has been increased clearing of forests to create room for agriculture. This has destroyed water catchment areas. Charcoal burning which is attributed to poverty has destroyed indigenous species of trees. There is also lack of proper sewerage system thus causing pollution to the environment.

Since environmental management is key to the achievement of sustainable development, Kakamega County Government emphasized the need to fully articulate and implement the Environmental Management and Coordination Act 1999 (EMCA), the National Climate Change Action Plan (2013-207) and the National Climate Change Response Strategy and Action Plan 2012. This emphasis would help address this devolved function.

A closer look at the Annual Development Plans for Kakamega County further show the emphasis put on the devolved functions. In the ADP covering 2016/2017 Kakamega County so as to increase local development focused on development across the devolved sectors. Under agriculture, there was dairy cow and value chain where the county government supported dairy farmers through start-up of Smart Dairy Farms²⁵ so as to increase milk production; legislations touching on agriculture passed, legislation of the County Fisheries Act passed to enable fisheries licensing. Under health, focus was on family planning; health data management; public health

²³ <https://kakamega.go.ke/download/the-first-county-integrated-development-plan-2013-2017/> Accessed on July 17th, 2021.

²⁴ <https://kakamega.go.ke/download/the-first-county-integrated-development-plan-2013-2017/> Accessed on July 17th, 2021.

²⁵ <https://kakamega.go.ke/county-launches-another-smart-dairy-farm-in-anticipation-of-malava-milk-plant/> Accessed on July 17th, 2021.

standards and regulations; gender mainstreaming in reference to SGBV; and purchase of ambulances. Under ECD, focus was on construction of thirty ECD centres and equipping the centres. Under water, focus was on water harvesting and storage in selected institutions and river bank conservation of Kakamega, Bunyala forest and Nzoia forest stations. The ADP further shows that in the 2015/16 Financial Year under agriculture 1700 acres of land was ploughed under agriculture farm mechanization from 15 tractors purchased, 60,000 seedlings of tissue banana culture was purchased and 60 filed days, 60 demos held with 12 follow ups. Under ECD, 901 ECD assistants were contracted, sub county ECD program officers from the national government absorbed to county government and 140 ECD centres constructed.

In the ADP covering 2017/2018 Kakamega County introduced plans whose aim was improving living standards. Under agriculture, focus was on farm mechanisation, fertilizer and seed subsidisation as well as introduction of one cow initiative, poultry rearing and dairy farming programmes. Under health, focus was on improvement of health services and infrastructure through availing of ambulance services to the community, child maternity programmes and construction, refurbishment and staffing of hospitals and health centres. To specific indicators, under agriculture, Bukura ATC dairy unity was constructed, 27 acres was put under irrigation, 95, 475 bags of 25kg planting, 55, 738 bags of 25kg top dressing fertilizer was bought, 97 fish ponds were constructed, 108 fish ponds were renovated and 138,500 animals vaccinated against major diseases. Under health, Kakamega County Teaching and Referral Hospital Phase I was constructed at 65%, two new level 4 hospitals were constructed in Shinyalu and Mumias Town at 80% and 75% respectively, there was construction, refurbishing, expansion and upgrading of health facilities in various sub counties in the county. Under ECD, construction of additional 40 ECD centres was accomplished. Under water and sanitation, 2 boreholes were drilled and equipped at Likuyani and Lugari; management of county solid waste disposal site was mandated same to the establishment of tree nursery to supply the county with seedlings at Roasterman.

The study finds out that the Kakamega County Assembly has passed legislations touching on the realization of local development. A few bills touching on the devolved functions were looked at by the study so as to illustrate how legislation feeds into local development.

The Kakamega County Agricultural Cess Bill, 2018 seeks to provide for a framework for the imposition of Cess on agricultural produce (both animal and plant) within the county. The Bill coheres to the doctrines of separation of powers between the national and county governments and

goes on to recognize the specific mandates assigned to the county as pertains to agriculture. So as to improve rural development, the bill stipulates that the Cess collected is to be used to improve infrastructure, roads, within the county.

The Kakamega County Rural Water and Sanitation Corporation Bill, 2019 address the devolved function of water and sanitation. The bill seeks to establish Kakamega County Rural Water and Sanitation Corporation and provide a framework for the supply of clean water and sanitation services in rural localities within the county. So as to enhance efficiency, the Corporation is tasked with managing supply of water and ensuring sanitation services in the rural areas within the county, support in rehabilitation and development of rural water infrastructure and embark on water treatment, reuse and recycling. This bill addresses SDG 6 on clean water and sanitation.

So as to mitigate the effects of climate change that is being felt across the globe, the Kakamega County Assembly passed the Kakamega County Climate Change Bill, 2020. The bill seeks to mainstream climate change programs into development planning and decision making. The bill further seeks to create public consciousness and awareness on climate change and establish a climate change fund and governance framework for climate change response and risk mitigation thus addressing SDG 13 on climate action.

The study shows that several bills of the Kakamega County Assembly have been assented and are now Acts. Acts of the County Assembly of Kakamega addressing the devolved functions show the focus of the devolved governments in development. The Kakamega County Environmental Management Act, 2019 stipulates efficacious management of solid waste so as to safeguard public health (Republic of Kenya, 2019). It further seeks to curb air and noise pollution thereby safeguarding the environment there by addressing SDGs 3 “Good Health and Well-being”.

Water is one of the key devolved functions thus the Kakamega County Assembly enacted the Kakamega Water Act, 2019 which details an elaborate framework for the development, regulation and management of all public works in the county related to water and sewerage services, storm water management as well as water conservation. SDG 6 “Clean Water and Sanitation” is addressed by this bill.

To entrench service delivery under health, address the Big Four Agenda on Universal Healthcare and address SDG 3 “Good Health and Well-being”, the County Assembly enacted the Kakamega County General Teaching and Referral Hospital Act, 2017 and the Kakamega County

Maternal Child Health and Family Planning Act, 2017. These two acts seek to provide regulation, promotion and development of health services as well as establishment of the Maternal Child Health and Family Planning Fund to address the gaps in accessible healthcare provision.

Box 1: The Case of The Oparanya Care Program

The Kakamega County CIDP 2013-2017 identified poverty which stood at 51.3% as a major development challenge that plagued the county. This was relatively high compared to the national average which stood at 45.9%²⁶. Inadequate health personnel and health facilities were also highlighted as a challenge that needed to be addressed.

It is against this background that Kakamega Governor Wycliffe Oparanya with the technical support of UNICEF initiated the *Imaarisha Afya ya Mama na Mtoto* Program popularly known as ‘Oparanya Care’. The major objective of this program was to address the high maternal and child mortality rates in Kakamega County. The program targets pregnant women mothers and young children.

So as to facilitate implementation, the Program was aligned at inception with the National Maternal, Infant and Young Child Nutrition (MIYCN) policy (2013) which seeks to promote required nutrition to mothers during and after pregnancy and for the new-born.

To domesticate the program in the county, Governor Oparanya in July 2017 signed into law the Kakamega County Maternal Child Health and Family Planning Bill, 2017. With this bill now being an Act of the County Government of Kakamega, pregnant women living below 1 US Dollar a day are guaranteed additional support so as to access essential antenatal and postnatal care for themselves and their children. A stipend, conditional cash transfer by nature, is given to the women at intervals when they use the recommended services (Republic of Kenya, 2017).

The program has led to improvement of maternal health indicators in Kakamega County. For instance, 50,000 plus beneficiaries have been documented. In addition, 22, 041 mothers plus have gotten at least one payment in the cash transfer program. 5 countries are reported to be learning from the program²⁷.

Despite the success, challenges persist. The health facilities involved in the implementation of the Program are materially far from the target group.

Agriculture is outlined as a key economic activity in the Annual Development Plans of Kakamega County. The Kakamega County Abattoirs Act, 2014 provides for a framework to ensure

²⁶ <https://kakamega.go.ke/download/the-first-county-integrated-development-plan-2013-2017/> Accessed on July 17th, 2021.

²⁷ <http://www.oparanyacare.com/our-impact/> Accessed on July 18th, 2021.

abattoirs and slaughter houses are managed in a healthy manner such that the meat is fit for human consumption. This will ensure good health among the residents of Kakamega County.

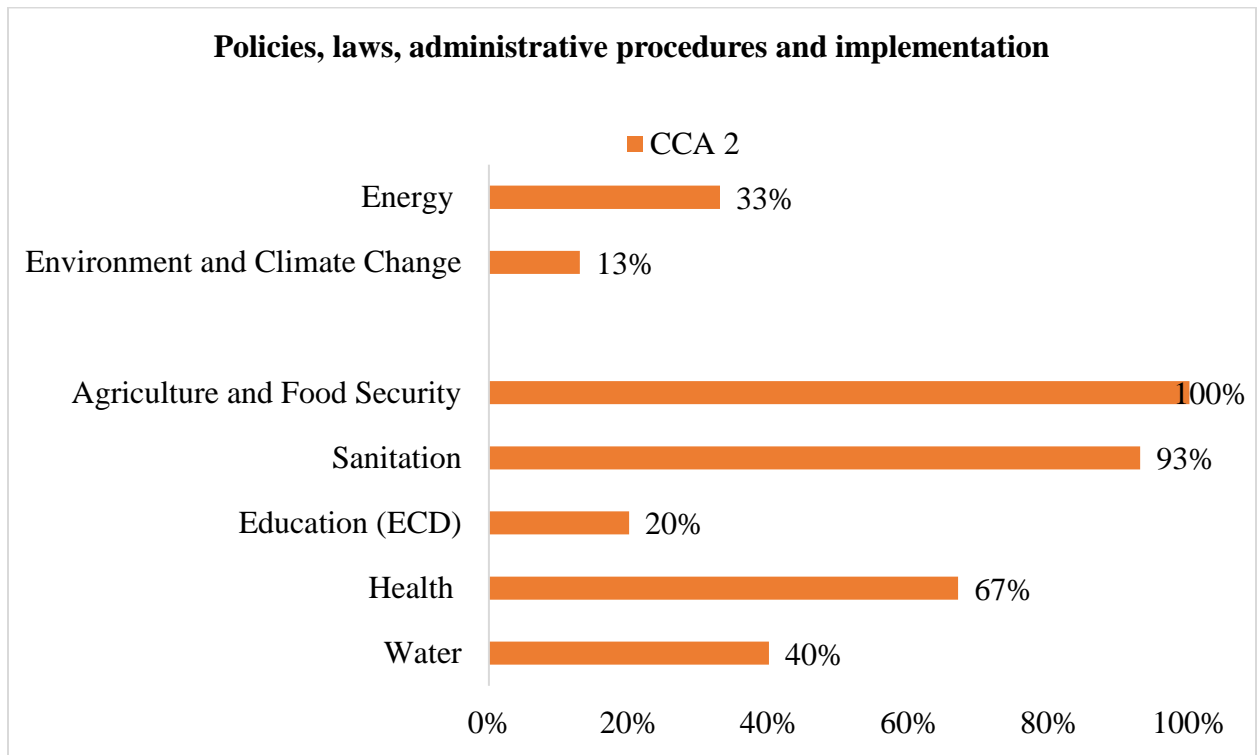
The Kakamega County Childhood Development and Education Act, 2014. No. 3 of 2014 makes provision for comprehensive pre-primary (ECDE) schooling. This would help the county achieve basic education for all residents thus addressing SGD 4 “Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all”. The Act stipulates for the establishment of pre-primary education centres within an accessible distance with the county. The right to education (ECDE) is free and compulsory.

4.3.3 Bomet County Assembly

In Bomet County, the AHADI 2017 study presents the following results by sector. The agriculture sector got a score of 15, translating to 100%. Sanitation got a score of 14, translating to 93%. Only a policy was lacking. Health sector got a score of 10, translating to 67%. The 75% implementation of targets in line with CIDP had not been achieved. Water sector got a score of 6, translating to 40%. The 50% and 75% implementation in line with the CIDP targets was yet to be achieved. Energy sector got a score of 5, translating to 33%. It had no policy but work plans were in place and had only achieved 25% success implementation rate in line with the CIDP. The ECD sector got a score of 3 translating to 20%. It had not achieved any success in implementation in line with the CIDP targets. The Environment sector got a score of 2, translating to 13% for having guidelines in place.

The study finds out that Bomet County had a policy and regulations on water and sanitation, regulations on health, policies, laws and regulations on agriculture, regulations on ECD. There were no laws on health, water and sanitation, ECD, gender equality and environment and climate change. There were no regulations on gender equality and environment and climate change.

Figure 4: Policies, laws and administrative procedures score for Bomet County



Source: AHADI data set (2017)

At the onset of devolution in 2013, Bomet County identified challenges that plagued the county. The first CIDP (2013-2017) highlighted these challenges. This paper will focus on those challenges relevant to the devolved functions covered in this paper. Bomet County was cognizant of the fact that good health played a key role in stimulating economic growth, reduction of poverty levels and achievement of socio-economic and political goals. There were challenges including inadequate of health facilities, paltry maternity services, and shortage of health personnel as well as high infant mortality rates. It was noted that as at 2012, infant mortality rates in Bomet stood at 51 deaths per 1000 live births²⁸. The water sector was also faced with its own challenges. The water sources were exposed to pollution from farm chemicals and sewage. Access to water was a challenge in some areas especially during the dry seasons due to the long distances to water fetching points. Agriculture which was and still is the backbone of the county faced challenges

²⁸<http://repository.kippra.or.ke/bitstream/handle/123456789/1098/2013-2017%20Bomet%20County-CIDP.pdf?sequence=1&isAllowed=y> Accessed on July 17th, 2021.

ranging from low productivity, lack of credit facilities to farmers, overreliance on rain fed agriculture and exploitation of farmers by middlemen.

The environment in Bomet County was under threat. There was massive deforestation. Waste disposal was not coordinated and the quarrying activities in Koiwa and Kyagong posed a threat to the environment. The forests which had been gazetted have been encroached by people for grazing of livestock and illegal logging of timber. In the urban areas of Bomet and Sotik, there was lack of sewerage system coupled with poor discharge of non-degradable waste such as polythene bags which often block drainage systems. The blocked drainage systems acted as breeding grounds for mosquitoes. Under energy, there was increased use of wood fuel as the main source of energy. This has effect on the environment. There was lack of a policy and legal framework to promote and stimulate private investments in power production and generation. To issues of gender, there were rising cases of GBV coupled with child labour. There were no policies or frameworks for the operationalization and support of orphanages and children centres.

Bomet County emphasized on the need to come up with laws and policies to strengthen the devolved functions right from the first ADP. Under water, there was need to develop legislations to protect water catchment areas as well as enforcing the existing laws fully. Under agriculture, there was emphasis on the need to formulate policies to encourage productivity. Under environment, there was emphasis on adoption and execution of laws and policies to protect the gazetted forests. Under energy, there was the mention of the need to come up with policy and legal framework to motivate private investment in power production. Under gender, there was the emphasis on the need to contrive policies and framework for operationalization and backing of orphanages and children centres. There was emphasis on the need to advance regulations and guidelines for pursuance of existing laws against instances of child labour. Finally, there was the emphasis on the need to enforce laws to curb cases of GBV.

The study looked at the CIDP 2013-2017 as well as the ADPs 2014/2015, 2016/2017 and 2017/2018 to find linkage between legislation and the projects or programmes prioritized and how they feed into local development. The projects and programmes are often aligned to the Kenya Vision 2030 and the SDGs.

In the 2014/2015 Financial Year as highlighted in the 2015-2016 Bomet County Annual Development Plan, the devolved sectors which were relatively new and gaining ground showed progress in meeting targets. Under water and sanitation, technical and financial support was

offered to more than 37 community-based water projects. Under agriculture, a pyrethrum and tea nursery were established, hardening nursery for banana tissue culture was constructed, 19 cooling plants for milk were constructed and a fish hatchery established in Bomet town. Under ECD 926, ECD assistants were recruited, trained and deployed and 154 new ECD classes constructed. Under health, 43 new health facilities were opened and 133 health facilities gazetted.

In 2016/2017, ADP Bomet County targeted to develop a water policy hence a water bill was drafted. There was also target to come up with public health and environment policies. In the 2017/2018 ADP Bomet County government had elaborate plans addressing the devolved sectors. The water and irrigation sector which plays a key role in ensuring residents have access to clean, safe and reliable water had the focus to complete all the on-going projects, develop, rehabilitate and protect water points and do community sensitization. Two springs were protected per ward. Agriculture which is critical for economic growth and food security was targeted through crop development and management.

In the 2017/2018 Financial Year as highlighted in the 2018-2019 Bomet County Annual Development Plan, the devolved sectors under study here showed that certain targets had been met. Under agriculture farmers were supplied with 460 drip kits for small scale irrigation, 10 slaughter houses were renovated and 54 cattle dips supported in repair and purchase of acaricide. Under water and sanitation, 160 plastic water tanks were installed across the county, 17 springs were protected across the county, 9 existing supply schemes were rehabilitated, sewerage treatment plant constructed in Bomet town and over 80,000 trees planted along major highways, within water catchment and gazetted forests. Under health, there were reduced incidences of communicable diseases like HIV and AIDS prevalence from 5.8% to 2.25%, 10 villages were certified as open defecation free and there was provision of diagnostic and therapeutic medical equipment to hospitals. Under ECD, there was complete construction of 14 ECD classrooms, expansion of another 37 new ECDs, recruitment and management of 926 ECD assistants, supervision and capacity building of 2199 ECD assistants, increased enrolment from 43,123 to 51,144 children to public ECD centres and enhancement of health and nutrition component in ECD through deworming and provision of Vitamin A supplement.

4.4 Administrative and Structural Gaps on Legislation

This section speaks to objective three: to establish the challenges faced by the County Assemblies in their legislative mandate and how to address these challenges. Several challenges constrained

the capacity of the MCAs to deliver on their legislative roles. The section utilizes the AHADI 2017 data set to interrogate the administrative structures of the county assemblies in the three counties so as to identify gaps. In 2019, the AHADI data (CCA 4) documented capacity gaps for the county assemblies. These capacity gaps, also give additional pointers to the challenges facing the county assemblies.

4.4.1 Administrative Structures of the County Assembly and its Functionality.

The functionality of the county assemblies to discharge their legislative mandate is very important to this study. Across the three counties, it was established that there are physical structures for the offices of the speaker and the clerk although the structures in Bomet were in a dilapidated state as of 2017. In the three counties, Bill Trackers were in place same to the Hansards. The county assemblies were thus involved in their legislative role amidst the existing challenges. The study does not show individual capabilities of the MCAs to engage in the legislative process. This was beyond the scope of the study as data on individual MCA legislative capabilities across the three counties was not available.

Legislation takes place in the County Assembly. The Speaker of the County Assembly and the Clerk are cogs in the wheels of legislation. The offices of the Speaker and that of the Clerk of the County Assembly are thus important. The AHADI 2017 data set focused on the capacity of the Office of the Speaker, House Committees, Clerk and Systems of improving MCAs capacity on legislation, oversight and representation. Each was given a cumulative score of 15. The study shows that the Assemblies across the three counties faced challenges ranging from lack of resources like the library or office space (Bomet) to lack of implementation by the executive after assembly passes bills (Bomet) to MCAs not understanding their roles effectively.

4.4.2 Office of the Speaker

For the ‘Office of the Speaker, County Assembly physically established (operational and physically established), the AHADI 2017 study assessed the following sub-indicators: is there a permanent physical structure in place that houses the Office of the Speaker? What is the staffing level of the Office of the Speaker: is it at 50% or 75%? Has the Office of the Speaker put in place the various operational structures e.g. Standing Orders to regulate the legislative process? Are there Speakers rules as well as a Speakers panel? The maximum score for this sub-indicator was 15 (100%). Table 7 provides details of the ranking criteria that were used in the AHADI data set.

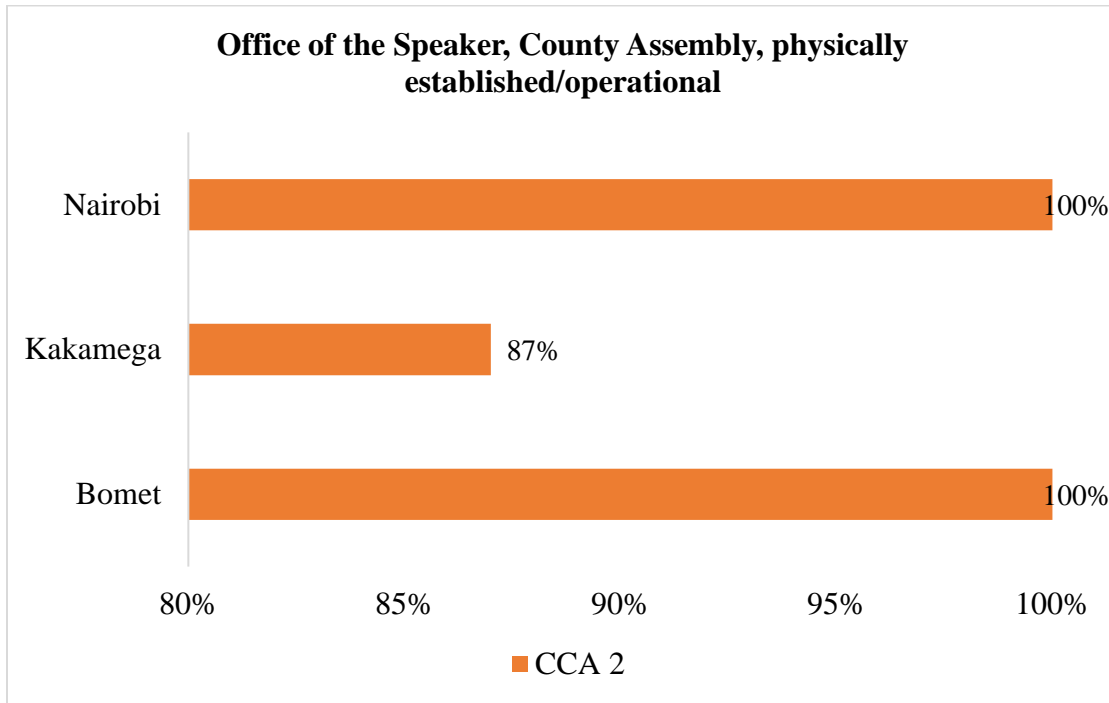
Table 7: Ranking Criteria for the Office of the Speaker

Source: AHADI Data Set (2017).

Indicators	Expected Score
Permanent structure for speaker in place	1
At least 50% staff in speakers office filled	2
At least 75% staff in speakers office filled	3
Standing orders in place to regulate legislative process	4
Speakers rules in place	2.5
Speaker's panel in place	2.5
Total	15

Figure 5 further shows the scores for this sub-indicator for the three counties. The estimates in Figure are not meant for comparative purposes, but only relate to specific county context. Thus no comparison is implied here. The findings show the three Counties (Nairobi and Bomet) scored a maximum of 15 in this aspect while Kakamega scores 13 translating to 87%. The office of the Speaker had not been staffed completely. In percentage terms they are at 100%. There were permanent structures for the office of the Speaker in the three counties. However, in Bomet County, the Speaker's office was in a dilapidated state as of 2017. The office of the speaker was staffed, speaker's rules and standing orders in place as well as the speaker's panel was in place.

Figure 5: Office of the Speaker, County Assembly physically established and operational



Source: AHADI Data Set (2017).

4.4.3 Office of the Clerk

For the Office of the Clerk being enabled to support the functions of the MCAs, the AHADI (2017) study, assessed the following sub-indicators: permanent office structure in place, at least 50% of staff in the Clerk’s Office filled, at least 75% of staff in the Clerk’s Office filled, Bill Tracker and Hansard in place, capacity of staff built for planning and budgeting, and Clerk’s Office has a system or individual in place who checks the quality of the bills. The maximum score for this sub-indicator was 15 (100%). Table 8 provides details of the ranking criteria that were used in the AHADI data set.

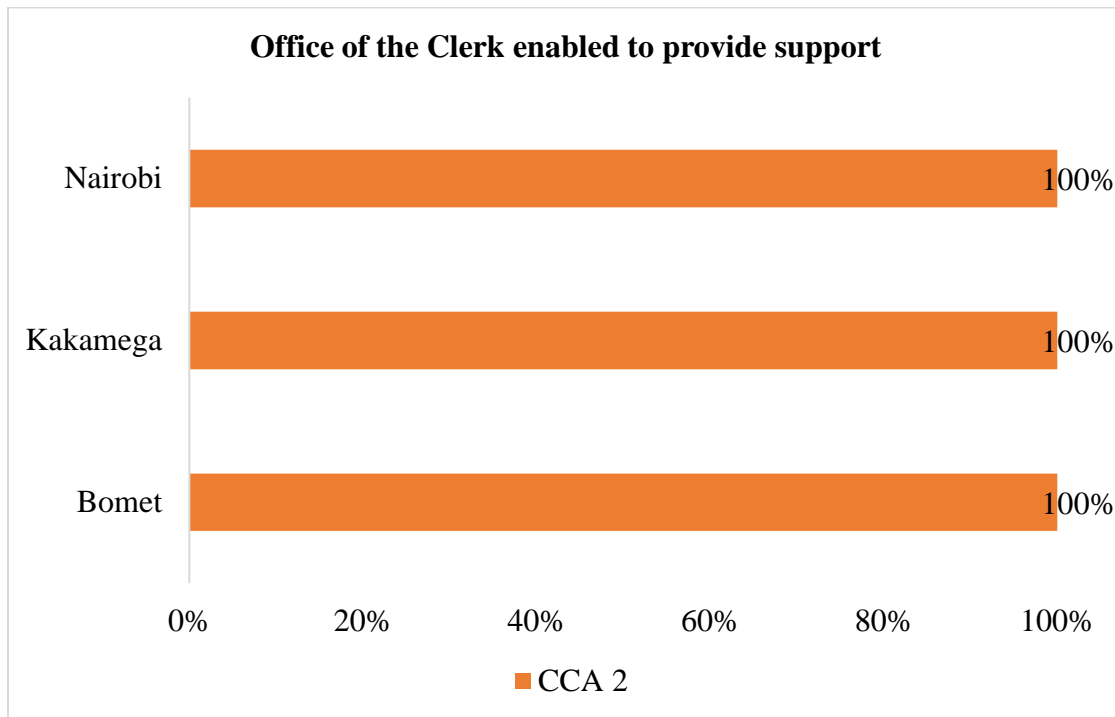
Table 8: Ranking Criteria for the Office of the Clerk

Indicators	Expected Score
Permanent structure for clerk in place	1
At least 50% staff in clerk's office filled	2
At least 75% staff in clerk's office filled	3
Bill tracker in place	1.3
Hansard in place	1.3
Capacity of staff built for planning and budgeting	1.3
Clerk's office has a system / individual(s) who check the quality of bills	5
Total	15

Source: AHADI Data Set (2017).

Figure 6 shows the scores for this sub-indicator for the three counties. The findings show that all the three counties scored 15 translating to 100%. However, in Bomet, the office of the clerk was in a dilapidated state. In Nairobi City County, there was a system in place for staff appraisal. To improve on the effectiveness and efficiency of the office of the clerk, the County Attorney who assists in drafting of legislations should be added manpower so that the counties have enough legal minds to come up with the laws.

Figure 6: Office of the Clerk enabled to provide support



Source: AHADI Data Set (2017).

4.4.4 House Committees

The study found out that as stipulated in Section 14 (1) (b) of the County Government Act 2012, the three County Assemblies have established committees subject to the standing orders. The Committees often provide the opportunity for the public to give their inputs in the legislative process and equip legislators with information on issues before the assembly. The committees prepare legislative proposals and guide debate especially during the Second Reading and Committee of the Whole House²⁹. There are sectoral and select committees³⁰. The sectoral committees cover devolved functions such as Education (ECD), Water and Sanitation, Energy, Environment and Natural Resources, Agriculture and Health³¹. Each committee has a chair, vice chair and members drawn from the MCAs in the Assembly.

The powers and mandate of the committee are given by the assembly through the standing orders or a resolution of the Assembly. Decisions of the committees are not binding unless the quorum is properly constituted. Committees make recommendations in the form of resolutions,

²⁹ <https://nairobiassembly.go.ke/committees/functions-of-committees/#> Accessed on November 18, 2020

³⁰ <https://www.bometassembly.go.ke/index.php/committees> Accessed on November 23, 2020

³¹ <https://nairobiassembly.go.ke/committees/> Accessed on November 18, 2020

decisions which can either be adopted or rejected. Legislation is thus guided by the committees established by the county assemblies.

For the House Committees being constituted and being in a position to execute their mandates, the AHADI 2017 study, assessed the following sub-indicators: committees’ offices in place, clerks and secretaries to committees in place, number of meetings held, number of committee reports produced and if the produced reports are acted upon or implemented. The maximum score for this sub-indicator was 15 (100%). Table 9 provides details of how this sub-indicator was assessed.

Table 9: Ranking Criteria for Legislative Committees

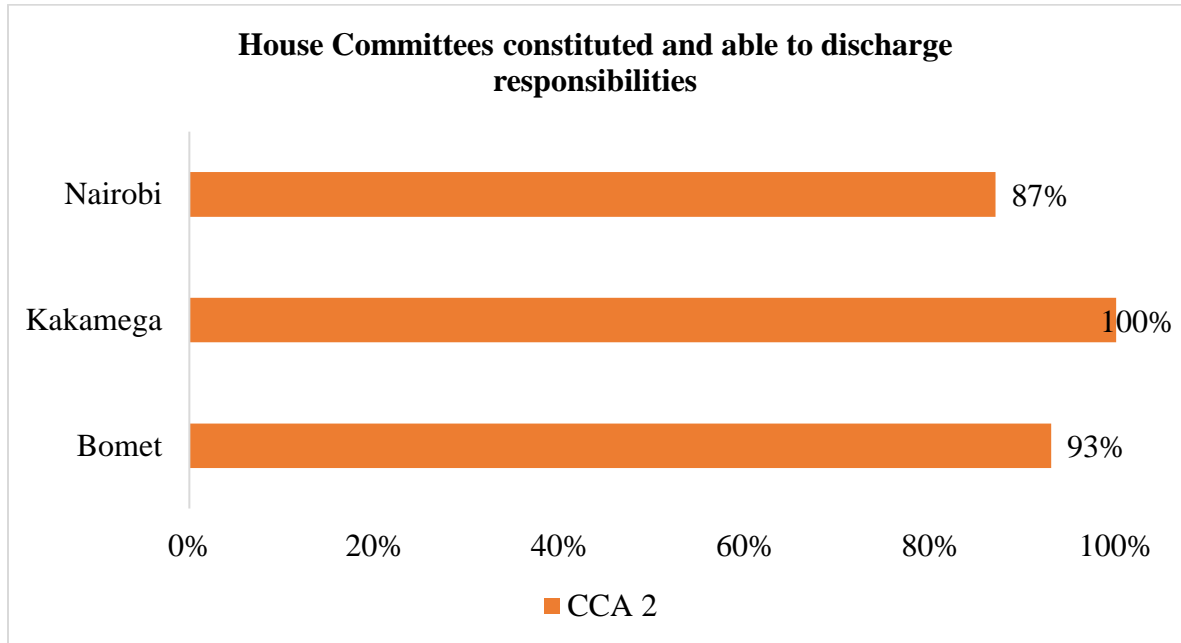
Indicators	Expected Score
Committee offices in place	1
Clerks and Secretaries to Committee in place	2
Number of meetings taken place	3
Number of committee reports produced	4
Produced committee reports acted upon/implemented	5
Total	15

Source: AHADI Data Set (2017).

Figure 7 shows the scores for this sub-indicator for the three counties. Under this parameter, the findings show that Nairobi City County scores 13 translating to 87%. There are no permanent committee rooms in Nairobi City County. In most cases, these committees operate from makeshift partitions within the assembly precincts because Charter Hall is a multipurpose facility for and non-county functions. These partitions are not conducive for committee. Clerks and secretaries to the committees exist but not adequate. The House Committees operate from makeshift partitions within the Assembly. Bomet scored 14 translating to 93%. Committee offices were not in place. Kakamega scored 15 translating to 100%. It meets the parameters under investigation. So as to ensure efficacy, the committee system should be improved. Members appointed to respective committees should have the knowledge and expertise or experience on issues being presented to the committees. The degree requirement for MCAs should be implement and more training be conducted to various committees on their expected roles and responsibilities.

The committees should also be allocated permanent offices where they can meet and deliberate on issues as opposed to meeting in temporary offices.

Figure 7: House Committees constituted and enabled to discharge responsibilities



Source: AHADI Data Set (2017).

4.4.5 System for Improving MCAs Capacity

For the system of improving MCAs capacity on legislation, oversight and representation, the AHADI 2017 study, assessed the following sub-indicators: no systems of improving MCAs capacity on oversight, legislation and representation, MCAs allocated offices, at least 25% of MCAs have Personal Assistants, at least 75% of Ward staff recruited and trained and number of bills passed excluding money bills and other constitutionally time-related bills. The maximum score for this sub-indicator was 15 (100%). Table 10 provides details of how this sub-indicator was assessed.

Table 10: Ranking criteria for system of improving MCAs capacity on legislation, oversight and representation

Indicators	Expected Score
MCAs allocated offices	1
At least 25% of MCAs have personal assistants	2
At least 75% of ward staff recruited and trained	3
Number of motions debated	4
Number of bills passed (<i>excluding financial and other constitutionally time-related bills</i>)	5
Total	15

Source: AHADI Data Set (2017).

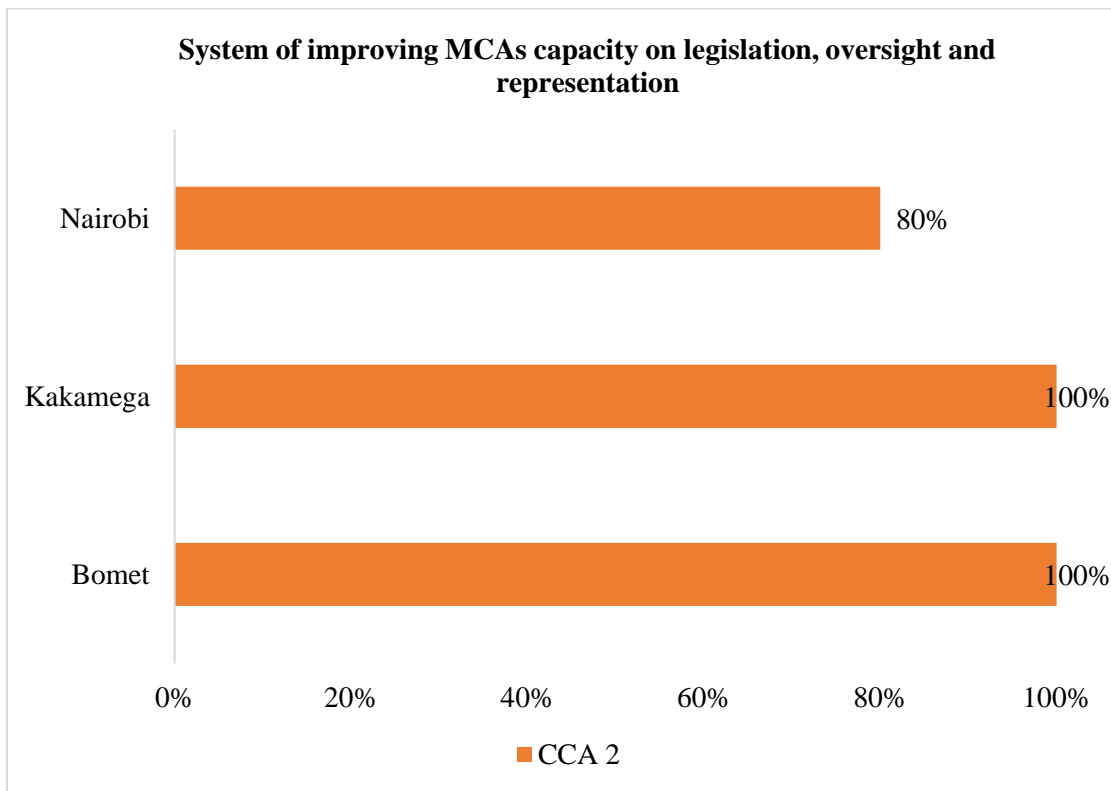
Figure 8 shows the scores for this sub-indicator for the three counties. The findings show that Kakamega and Bomet scored 15 translating to 100%. Nairobi scored 12 translating to 80%. MCAs in Nairobi City County did not have offices. The ward staff were not professionally recruited and trained as stipulated by the County Public Service Board. Most of the staff was recruited arbitrarily. In Bomet County, MCAs had offices at their respective wards but not at the Assembly. Challenges however persist. Data shows that some of the MCAs had not understood their roles and the new framework, while the executive had also not generated requisite policies to precede bills brought before the assembly. Bomet County Assembly reported lack of resources. The resources in question were a Parliamentary Library for MCAs and the Assembly staff to conduct research on bills before the house and adequate office space. This reflects findings by AFIDEP which had earlier pointed out that the county assemblies lacked information centres to aid use of evidence in legislation³². The County Assembly also accused the executive of being slow to implement resolutions passed by the County Assembly. There has been bad blood between the county executive (especially the governors) and county assemblies. This has affected local development. AFIDEP further observed that across many counties, county assemblies were making laws to ‘fight the governors’ and not laws meant to propel local development³³. This has seen most of these laws not assented to or if assented to they are not implemented.

³² <https://www.afidep.org/challenges-evidence-use-kenyas-legislative-spaces/> Accessed on September 27th, 2021.

³³ <https://www.afidep.org/challenges-evidence-use-kenyas-legislative-spaces/> Accessed on September 27th, 2021

There were lapses in response and feedback from the county executive. In Nairobi City County for instance, the assembly did not receive timely feedback/ reports from the executive as anticipated. In most cases, the executive took about 60 days or more to respond to reports, some of which did not provide adequate information. There was also lack of CIDP ownership by some sectors. Some sectors never operationalized the CIDP targets. The county had not fully implemented the Public Participation Act since 2015.

Figure 8: System of improving MCAs capacity on legislation, oversight and representation



Source: AHADI Data Set (2017).

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

Under the preceding chapter, this study explained the findings from the data analysed. The current section which is segmented into four parts will present the summary, conclusion and provide timely recommendations which can inform policy considerations and research going forward.

5.2 Summary

The study's primary objective was to show the linkage between legislations in County Assemblies and local development. The study focused on three County Assemblies; Nairobi City County Assembly, Kakamega County Assembly and Bomet County Assembly. The three Counties had relatively detailed Bill Trackers on their respective websites. Nairobi is largely urban while Kakamega and Bomet are rural thus the diversity in terms of bills and development needs. The study relied on data from AHADI 2017, the Bill Tracker on the County Assembly websites as well as the CIDPs and ADPs of the three counties. The study did a thematic analysis across the various functions delegated as outlined in the Fourth Schedule of the Constitution of Kenya 2010 so as to address the objectives purposed by the study.

The analysis of the legislative activity and output shows that the three counties perform different at levels given their contextual realities. Between 2013 and 2020 Nairobi City County Assembly has had sixty-one bills presented before the floor of the house. At its inception in 2013, most of the bills presented were procedural and money bills. Over time, the bills address devolved functions such as health, environment, water, sanitation, agriculture and energy. One bill brought before the assembly was rejected. This was the *Punguza Mzigo* Constitutional Amendment Bill, 2019 sponsored by the Thirdway Alliance. In Kakamega County Assembly fifteen bills were looked at out of which 14 were sponsored and four addresses the devolved functions under study as illustrated in the Bill Tracker. Bomet County had a total of eighteen bills over the same period. The Finance Bill and the County Appropriation Bill feature annually.

The implementation across various devolved sectors in the three counties shows that some sectors have achieved more than others in line with implementation of the CIDP targets. Health and ECD sectors score well across the three counties while agriculture scores well especially in

Bomet showing the importance of the three sectors in local development. Implementation in line with the CIDP targets still remains a challenge across the three counties. Environment, sanitation and energy sectors do not score well across the three counties. Policies are lacking and implementation of set targets remain a challenge.

The administrative structures and functionality of the County Assembly shows the situation across the three counties. Across the three counties, there are offices for the speaker and the clerk. There are committees in place, both sectoral and select, to aid in legislation. The office of the clerk is enabled to support the legislative role and the Hansard is in place same to a Bill Tracker. The MCAs have offices in their respective wards and have recruited and trained staff to assist them performs their legislative, oversight and representative roles.

From the findings, devolution has taken off in the three counties. The various devolved sectors as outlined in the Fourth Schedule and those that were under consideration in this paper are being implemented. The Energy sector is lagging behind in the three counties while health, Early Childhood Education and agriculture sectors are doing relatively well as regards legislation.

The relationship between the County Assemblies and the County Executive is not very cordial in most cases. There have been leadership wrangles especially in Nairobi City County in 2016 when the MCAs refused to pass the Budget as a protest over the executive. Such antagonistic behaviour slows down service delivery in the counties as the much-needed resources to support and implement the devolved functions delay.

In the next section, we discuss the conclusion based on the research questions and the results presented.

5.3 Conclusion

The study sought to analyse the role legislations in the County Assemblies play in local development focusing on three counties; Nairobi, Kakamega and Bomet. From the analysis, there has been an increase in legislative productivity in the three counties from 2013 to 2020. As at 2013, only procedural and money bills were being presented for debate on the floor of the county assemblies. Over the years, bills touching on the devolved functions outlined in the Fourth Schedule are gaining prominence on the floor of the assemblies. The analysis further shows that most of the bills presented before the County Assemblies are sponsored by the County Executive. This has seen the County Assemblies generate limited house business to further devolution. Across the three counties, private member bills are at best limited, yet the core business of the Assemblies

is legislation. How to generate house business remains a challenge for the County Assemblies. Capacity thus needs to be enhanced in this regard. Most of the bills sponsored by the County Executive are procedural bills and money bills which are constitutional requirements hence have to be passed each financial year. Over the years, the number of bills is increasing as the Assemblies and devolution get more entrenched in the governance architecture. Some of the bills collapse after the first reading, others withdrawn pursuant to specific standing orders leading to their collapse while others go the whole cycle and get assented and become Acts of the respective county assemblies. Other bills particularly the *Punguza Mzigo* Constitutional Amendment Bill 2019 was rejected by the three County Assemblies.

The study also sought to link legislation by the three county assemblies to local development. Based on analysis of the data, the health sector is doing relatively well across the three counties; 100% in Nairobi, 67% in Kakamega and Bomet. The sector has legislations passed by the county assemblies and also uses existing legal frameworks by the national government so as to ensure service delivery. The ECD sector on its part scores 87% in Nairobi, 100% in Kakamega and 20% in Bomet. The agriculture sector which should help in supporting food security is doing well especially in Bomet at 100%, Kakamega and Nairobi 67%. The gender sector is doing poorly. The counties have not mainstreamed gender issues.

On to the functionality of the county assemblies, results show that the assemblies in the three counties have the requisite administrative capacity to perform their functions effectively. There are office structures for the respective speakers and clerks in place. The committee system which is a cog in the legislative process is in place even though the respective committees have no offices. The committees thus appear weak which is consistent with literature on committees from UNECA (2005) that posits that the legislative committees in many countries are relatively weak. There is a Bill Tracker in place same to a Hansard. This study shows that even though the administrative structure in the Assembly is in place, more needs to be done to empower the MCAs to perform their legislative role effectively and especially in generating house business.

The upcoming section outlines recommendations for policy, practice and further research.

5.4 Recommendations

The study makes recommendations, quite a number, for practice, policy and further research predicated on the findings and conclusions derived from the study.

Based on the challenges faced by the three County Assemblies discussed in this paper, the study recommends capacity building for the MCAs so to improve their knowledge and cognitive abilities to legislate on the devolved functions. There is need to train the MCAs on generating house business with specific focus to private members' bills. This should involve training on how to identify and review legislations, policies and regulations that already exist so as to come up with better pieces of legislations to speed up the implementation of devolution. There is also need to raise the capacity of the MCAs either by rethinking the academic requirement, training or a combination of both. The law on MCA's requirement to hold University is supposed to take effect from 2022 elections but is already being opposed by leaders across the divide³⁴. The County Government Act, 2012 Article 9 (1) (e) states that the role of a MCA is to expedite factual knowledge, experience or specialized knowledge to any subject up for discussion in the county assembly. However, evidence has shown that the current crop of MCAs due to their scanty education cannot extend professional knowledge neither do they possess the requisite specialized knowledge on matters legislation. This has derailed the legislative agenda in the County Assemblies watering down the quality of debates.

The study found out that the committee system remains relatively weak across the three counties. The study thus recommends the need to strengthen the Committee System in the County Assemblies. The Committees should be allocated permanent office spaces and technical personnel assigned to respective committees so as to improve the legislative output in the respective County Assemblies. Since legislation is highly technical especially when addressing the Devolved Functions, the Committees need capacity building so that they come with better laws that address the development challenges in the Counties and thus feeding into local development.

So as to entrench the linkage between legislation and local development in the counties, the study recommends that the County Assemblies, especially the office of the clerk, be strengthened so as to invest more in generating sector specific bills as opposed to the procedural motions and bills. From the findings across the three counties under investigation in this study, procedural bills tend to be prominent. The office of the clerk should thus engage the MCAs so that they draft, sponsor and move motions that address the devolved functions as outlined in the Fourth Schedule of the Constitution of Kenya 2010. This will aid in the realisation of the full

³⁴ <https://nation.africa/kenya/news/governors-mcas-review-degree-requirement-3018146?view=htmlamp> Accessed on January 11th, 2021.

implementation of the Constitution of Kenya 2010 especially the Chapters on Devolved Government and Public Finance (Chapters 11 and 12) so that development can reach the grassroots levels and communities get empowered. When adequately implemented, the laws passed by the County Assemblies will touch and reflect on the development challenges thus feeding on local development.

Onto recommendations for further research, the study recommends that research is conducted to establish why the Counties are at different levels of implementation of the delegated functions outlined in the Fourth Schedule of the Constitution of Kenya 2010. Why are some counties doing better in improving the development indicators while others are lagging behind? This should be done focusing on the three major roles of the County Assemblies of oversight, representation and legislation.

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