

DEVOLUTION AND COVID-19 CRISIS: A KENYAN PERSPECTIVE



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The Covid-19 Pandemic and measures the government is taking to cope

The 2010 Constitution of Kenya turns ten this year. Its promulgation represented a turning point in the country's history, as it reconfigured the balance of power by devolving power and responsibilities from the national government to 47 elected county governments - creating a two-tier governance system. The main focus of devolution in Kenya is to provide proximate services to the citizenry and expand the democratic space. Since 2010 Kenya has witnessed progressive democratization and expansion of political spaces, especially for the historically marginalized communities in the country.

Kenya is currently undergoing what has come to be called the "Trilemma" of: locust invasion; floods; & COVID-19. The invasion of massive swarms of locusts, the worst seen in Kenya for 70 years, is wreaking ongoing havoc on the agricultural sector and threatening food security. Heavy rains with accompanying flooding and mudslides have displaced thousands from their homes and damaged infrastructure, further complicating the already fragile food security situation.

The first positive case of COVID-19 in Kenya was confirmed on 12 March 2020. The government mobilized in response, putting in place interventions to prevent and control infections.

Confirmed cases	Recovered	Related Deaths
830	301	50

Source: MoH 15th May 2020

Ongoing/Current interventions:

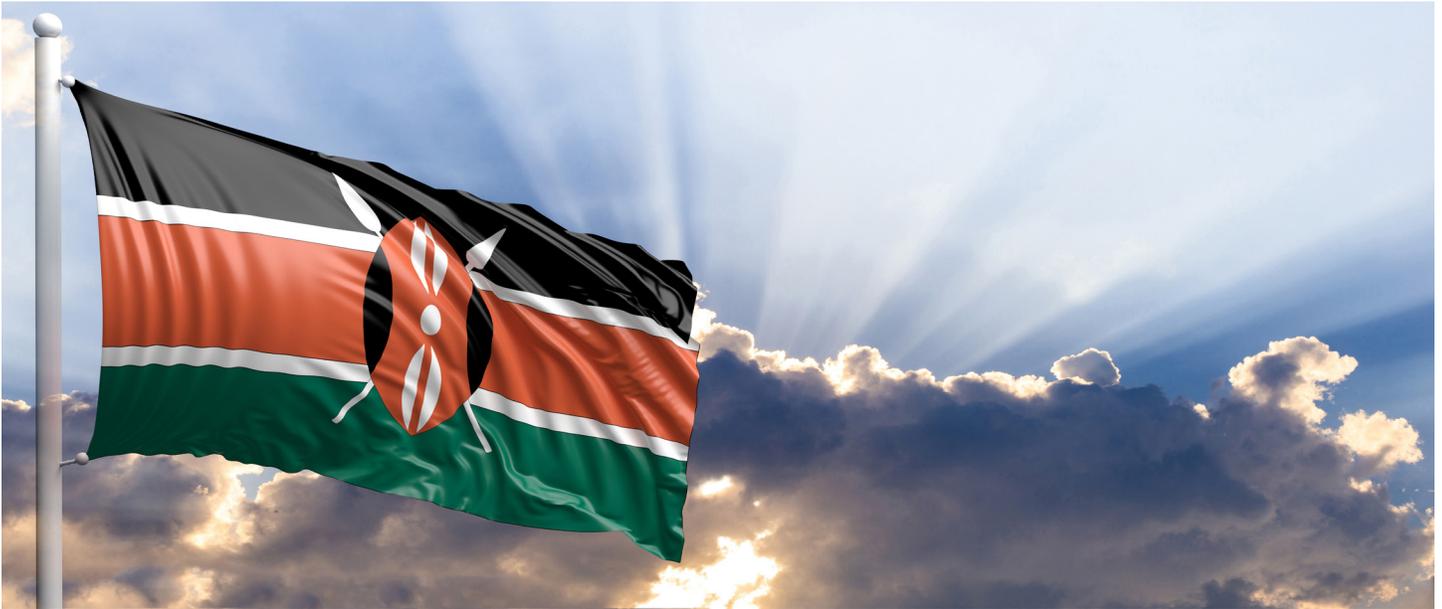
- Expanded testing of those with high risk of exposure: truck drivers; people in identified hotspots; restaurants; and health workers
- Establishment of additional labs to enhance testing capacity
- Scaled up training for health care workers
- Extension of school holidays
- Continued production of PPE
- Ongoing travel restrictions with the exception of goods
- Enhanced public education and awareness raising on social distancing

Kenya's Devolved COVID-19 Response Challenge

Health is a fully devolved function in Kenya. County governments have the constitutional delimitation of health functions, while health policy and standard setting is in the hands of the national government. Indeed, this approach has been beneficial as it can be noted that some counties have demonstrable unique strengths and resources which have been especially evident in the measures taken to tackle COVID.

However, the national government has strictly centralized the overall response process, leaving county governments to implement directives as issued. Daily briefings on COVID-19 are given by the President and Cabinet Secretary in charge of Health. All issues related to dealing with COVID-19 are handled at the central government level.

The national government has high level representatives in every part of the county, remnants of the dreaded provincial administration of pre-2010, elements of which were brought back with the National Government Coordination Act of 2013. This parallel national government structure subsumes COVID-19



issues in the counties. It develops measures concerning social distancing, contact tracing, PPE, and coordinating national government relief supplies. This approach has already shown signs of conflict with the structures of county governments. Urgent discussions are required on how to synergize the two structures. According to a Ministry of Health update, there are COVID-19 clusters in over half of the country's 47 counties, with those sharing international borders with Somalia and Tanzania having heightened exposure.

Economic levers implemented by the national government to mitigate the financial consequences of COVID:

1. Tax relief for corporations, small- and medium-sized enterprises, and individuals
2. Reduction on Value Added Tax (VAT) from 16% to 14%
3. Central bank of Kenya advice to banks to provide relief to clients whose loan repayments were due. Banks have restructured loan products for their customers to accommodate those clients that have not been able to repay loans as a result of COVID-19
4. Mobile money transaction costs have been reduced in an effort to ease the financial burden on the vulnerable.

Historically, since the implementation of the devolved system of governance, there has been a prolonged fight between the national and county governments for control of the health care system. A critical area of conflict has arisen around human resources and procurement of health supplies. At the outset

of devolution, health workers were transferred to county governments by the national government. In turn, the unions representing health workers, and the national government executive supported by the National Assembly, have supported plans to have county healthcare run by national government. County governments, supported by the Senate, still affirm that centralization would harm improved delivery in the sector. In response to the COVID-19 crisis, health workers from various county governments have intimated a readiness to strike, primarily because of a lack of PPE and poor training and working conditions. In response, the national government has set aside resources to train and provide incentives to health workers to mitigate their higher levels of continued exposure. Identifying the appropriate modalities for applying the resources without the involvement of the county governments may prove challenging.

Public health facilities that offer services to the majority of the population are not equipped to handle the pandemic within their borders. Most of the facilities, though improved when compared to pre- devolution days, are still a far cry from those required to operate an effective health system. Health supplies are mainly procured from a national government entity. County governments have indicated difficulties in obtaining much needed medical supplies and equipment and blame this on the monopoly of the procuring entity. Efforts by county governments to turn the entity into an intergovernmental organization have not to date been successful.

Before the COVID crisis, there were only two public testing centers in Kenya, both located in Nairobi. With the pandemic, others centers have been opened. However, even the increase in capacity provided by these new centers is still not adequate to perform the mass testing that is envisaged. Some county governments have, with the help of development partners, been able to upgrade their county laboratory facilities to enable them to start testing for COVID-19.

Unintended Developments

Funding related to dealing with the COVID-19 pandemic has been centralized through the appointment of a taskforce to marshal funds for coronavirus response, chaired by the private sector. The role of the county governments has not been defined in the taskforce. The taskforce continues to mobilize resources even though there are concerns about a lack of transparency and accountability in the use of funds.

Alongside the COVID-19 crisis, two other concurrent developments are likely to shape intergovernmental relations in Kenya in the near future. The first is the transfer of functions of Nairobi County to the national government. The second is the successful impeachment of another governor - the first time such an incident has occurred in the new devolved system. These two events are likely to define the relationship between the national government and the counties, and are a positive development for the accountability of officials.

One of the measures taken by the national government is lockdown and cessation of movement in the capital city Nairobi and the second largest city Mombasa. This has demonstrated that despite the cities' role as the country's economic and political nerve centers, they rely almost on an equal footing on other neighboring counties for everything from food to labor. This recognition of interdependence may herald strengthening of regional blocks by counties that have been moribund.

Governors, in protecting their populations, are coordinating with national government representatives to implement other COVID-19 response measures. Champions have emerged out of the crisis, with some governors making international headlines. One county has been applauded for actioning a rapid re-tooling of a textile factory to make desperately needed face masks, especially in the context of a shrunken international supply chain. Another governor has been celebrated for their swiftness



in responding to the crisis despite the county being regarded as a hotspot of the virus. His government has: distributed thousands of masks (even to the police who are part of the national government); launched a nutrition support system; acquired 18 ventilators; and built auto-sprayers for use at a ferry which handles traffic of up to 300,000 passengers and 6,000 motorists every day. The same county has made ready a 150 bed field hospital in preparation for a likely surge in infections.

It is evident that the pandemic will make or break Kenya's devolution system. To effectively deal with the COVID-19, the national and county governments need each other now more than ever. As the national government is considering reopening the economy while simultaneously controlling community infection and flattening the curve, there is need for concerted and deliberate intergovernmental approaches to tackle the quandary of devolved cooperation between the national government and the counties.

