



KENYA

SUMMARY

Kenya is a democratic republic with two spheres of government: national and county. There is constitutional provision for county governments who may appoint urban boards, and the respective principal laws are the County Governments Act 2012 and the Urban Areas and Cities Act 2011. The latest County Assembly elections took place in 2017 where 35.0% (787/2,130) of members were women, of which 3.7% (84) were directly elected and 703 appointed from party lists to ensure the minimum 1/3 quota. The 47 county governments are responsible for collecting taxes, user fees and charges and, in addition, Article 203(2) of the constitution stipulates that not less than 15% of revenue raised nationally must be allocated to county governments. County governments also receive revenue from central government block grants through the Local Authorities Transfer Fund (LATF). The county governments have been assigned 14 functions under the fourth schedule of the constitution, including agriculture, county health and transport services, trade and tourism development and county planning.

1. NATIONAL GOVERNMENT

Kenya is a democratic republic with a bicameral parliament comprising two houses: a national assembly (known as the Bunge) and a senate.^{19.1a} The head of state is the president, who is directly elected by universal adult suffrage for a maximum of two five-year terms. The winning candidate must secure a majority of 50% of the vote plus one, and at least 25% of the vote in at least 24 out of the 47 counties, and may not be a member of parliament. Of the 350 members of the national assembly, 290 are directly elected from single-member constituencies to serve a five-year term. The remaining members include: 47 women (one elected from each of the 47 counties); 12 members nominated according to the strength of political parties to represent special interests (youth, disabilities and workers); and the speaker. The senate is composed of 68 members: one elected member from each of the 47 counties; 16 women nominated by political parties; two members (one man and one woman) representing the youth and people with disabilities respectively; and the speaker. Following the 2017 election, 21.8% (76/349) of MPs and 30.9% (21/68) of senators were women.^{3.1b}

2. LEGAL BASIS FOR LOCAL GOVERNMENT

2.1 Constitutional provisions

Article 6 of the Constitution of Kenya^{19.2a} adopted in 2010 divides the country into 47 county governments, with Chapter 11 Articles 174-200 providing for devolved government, including Article 184 which provides for appointed urban area and city board units of decentralisation under the counties. Whilst there is no constitutional protection for sub-county local government, the constitution does state that 'Every county government shall decentralise its functions and the provision of its services to the extent that it is efficient and practicable to do so' [176.2]

2.2 Main legislative texts

Principal legislation for local government:

- County Governments Act 2012^{19.2b}
- Urban Areas and Cities Act 2011^{19.2c}

Other relevant legislation^{19.2d} includes:

- Coordination of National Government Act (2013)
- Finance Act (No. 4 of 2012)
- Intergovernmental Relations Act (2012)
- Land Act (2012)
- Land Registration Act (2012)
- Leadership and Integrity Act (2012)
- National Land Commission Act (2012)
- Public Finance Management Act (2012)
- Public Service Commission Act (2012)
- Transition to Devolved Government Act (2012).

A policy on the Devolved System of Government was adopted by the Government of Kenya in January 2017^{19.2e}. The policy launches a new phase of consolidating devolution, clarifying and strengthening roles and responsibilities of both the national and county governments to strengthen the implementation of devolution as it is envisaged in the constitution.

2.3 Proposed legislative changes

Model laws and a legislation have been developed to strengthen the capacity of county governments to legislate. A review of the County Government Act and the Intergovernmental Relations Act is underway to address emerging devolution concerns.

2.4 National urban policy

A national urban policy was adopted in 2015 following consultation with the county governments. Additionally, each county has been tasked with drafting its own urban policy in order to provide direction on issues of urbanisation including the provision of transport, water, electricity, schools and health services. The policy also defines standards to be applied in urban management.



KEY FACTS

POPULATION (2015 estimate):
44,156,577

AREA (UN 2006):
580,367 sq km

CAPITAL:
Nairobi

CURRENCY:
Kenyan shilling (KES)

HEAD OF STATE AND GOVERNMENT:
President Uhuru Kenyatta

FORM OF GOVERNMENT:
democratic republic

PARLIAMENTARY SYSTEM:
bicameral

STATE STRUCTURE:
unitary

LANGUAGES:
Kiswahili and English (official)

NATIONAL ELECTIONS:
last: 2017, turnout: na%; next: 2021

WOMEN IN PARLIAMENT:
MPs 21.8%, Senators 30.9 (2017)

COUNTY ELECTIONS:
last: August 2017, turnout: na, 2021

WOMEN COUNTY ASSEMBLY MEMBERS:
35.0% (2017)

LOCAL (COUNTY) GOVERNMENT EXPENDITURE as a percentage of total government expenditure 2016/17:
13.5%

Table 19.1a Distribution of councils and population

County government	City	Town	Population 2009 Census	Population 2015 estimate	% rural 2009
Mombasa	0	0	938,500	na	0.0
Kwale	0	3	649,588	na	81.9
Kilifi	0	2	1,108,770	na	74.3
Tana River	0	0	240,008	na	85.0
Lamu	0	0	101,483	na	80.1
Taita -Taveta	0	2	284,516	na	77.4
Garissa	0	1	375,968	na	76.5
Wajir	0	4	399,432	na	85.4
Mandera	0	1	618,966	na	81.9
Marsabit	0	0	291,075	na	78.0
Isiolo	0	0	143,211	na	56.5
Meru	0	2	1,355,359	na	88.0
Tharaka-Nithi	0	2	365,142	na	93.4
Embu	0	2	515,959	na	83.9
Kitui	0	2	1,012,236	na	86.2
Machakos	0	4	1,097,816	na	48.0
Makueni	0	2	884,258	na	88.2
Nyandarua	0	1	596,053	na	81.5
Nyeri	0	3	693,354	na	75.5
Kirinyaga	0	2	527,880	na	84.2
Murang'a	0	5	942,101	na	83.7
Kiambu	0	6	1,622,363	na	39.2
Turkana	0	1	854,991	na	85.8
West pokot	0	2	512,572	na	91.7
Samburu	0	1	223,897	na	82.7
Trans Nzoia	0	1	818,539	na	79.6
Uasin Gishu	0	2	893,609	na	61.4
Elgeyo-Marakwet	0	1	369,902	na	85.6
Nandi	0	2	752,665	na	86.4
Baringo	0	2	555,441	na	89.0
Laikipia	0	3	398,992	na	75.2
Nakuru	0	3	1,602,636	na	54.2
Narok	0	1	850,292	na	93.1
Kajiado	0	1	686,992	na	58.6
Kericho	0	3	590,371	na	71.7
Bomet	0	3	891,390	na	81.7
Kakamega	0	3	1,698,576	na	84.8
Vihiga	0	2	567,387	na	68.6
Bungoma	0	5	1,374,477	na	78.3
Busia	0	5	743,592	na	83.6
Siaya	0	6	841,746	na	89.2
Kisumu	1	0	968,451	na	47.6
Homa Bay	0	1	963,441	na	85.7
Migori	0	6	916,665	na	66.0
Kisii	0	4	1,151,898	na	78.5
Nyamira	0	2	598,029	na	86.0
Nairobi	0	0	3,134,261	na	0.0
TOTAL	47	103	37,724,850	44,156,577	67.8

 Source: 2009 Census^{19.3a} and population projections^{19.3b}

3. STRUCTURE OF LOCAL GOVERNMENT

3.1 Local government within the state

County government consists of a county assembly and a county executive. The county assembly is composed of: a member elected by voters from each ward; a number of special seats nominated by political parties to ensure that no more than two-thirds of the assembly comprises one gender; members of marginalised groups including people with disabilities and youth, nominated by political parties; and a speaker. The county executive comprises the county governor, deputy county governor and members appointed by the county governor with the approval of the assembly sub-counties. The decentralisation of county government functions and service provision to urban and non-urban sub-counties are provided for in the constitution and two principal Acts - the County Governments Act 2012 and the Urban Areas and Cities Act 2011. Under these powers there are currently one city (Kisumu), two municipalities (Nakuru and Eldoret) and 103 towns.

3.2 Ministerial oversight

The State Department of Devolution in the Ministry of Devolution and Planning^{19.3c} (MDP) oversees devolution in Kenya. The main mission of MDP is to 'provide leadership, coordination, an enabling environment for planning, transformed public service delivery and management of the devolved system of government'. Whilst a high degree of autonomy has been granted to the counties in the constitution, the MDP assists with the coordination of intergovernmental relations and the implementation of the County Governments Act 2012. The Department of Devolution coordinates implementation of all devolved programmes and projects. The department is guided by a devolution sector plan which is anchored by the medium-term plan: Kenya Vision 2030.

3.3 Council types

3.3.1 County governments: There are 47 each comprising an assembly and an executive. The members of the county assemblies (MCA) are directly elected from single member constituencies and there are a number of special seat members to ensure that no more than two-thirds of the membership of the assembly are the same gender. There can also be provision for special seats for marginalised groups including persons with disabilities and youth. Each assembly appoints a speaker from among persons who are not members of the assembly and is ex-officio of the assembly.


Table 19.1b Number of women county assembly members and governors

Election	2013		2017	
	#	%	#	%
County assembly members				
Female assembly members	762	35.8	787	35.0
of which elected	82	3.8	84	3.7
of which appointed	680	31.9	703	31.3
Male assembly members	1,368	64.2	1,460	65.0
Total	2,130	100.0	2,247	100.0
Governors	#	%	#	%
Female governors	0	0.0	3	6.4
Male governors	47	100.0	44	93.6
Total governors	47	100.0	47	100.0

Source: County assembly forum^{19,4b}

Each county has an executive committee consisting of the county governor and the deputy county governor and members appointed by the county governor, with the approval of the assembly, from among persons who are not members of the assembly. The executive should have no more than 10 or 1/3 of the number of county assembly members, whichever is lower. The county governor and the deputy county governor are the chief executive and deputy chief executive of the county, respectively and when the county governor is absent, the deputy county governor shall act as the county governor. Members of a county executive committee are accountable to the county governor for the performance of their functions and exercise of their powers.

3.3.2 Urban areas and cities: The one city, two municipalities and 103 towns established under the Urban Areas and Cities Act 2011 are to be managed by boards appointed by the county government. They can have not more than eleven members, six of whom shall be appointed through a competitive process by the county executive committee, with the approval of the county assembly. The remaining five are to be nominated by various representative groups including, professional associations, the private sector, the informal sector, neighbourhood associations and an association of urban areas and cities. Tenure on the board is for five years and in the appointments, the county executive should ensure gender equity, as well as representation of persons with disability, youth and marginalised groups.

4. ELECTIONS

4.1 Recent local elections

The last county elections were held on 8 August 2017. The turnout was not available and the next elections are scheduled to be held in 2021.^{18,4a}

4.2 Voting system

County government elections are held at the same time as those for the president and the national assembly, as county governments are dissolved after the dissolution of parliament.

4.3 Elected representatives

City and municipal councils are to be led by a chairperson appointed by the county governor and approved by the county assembly.

4.4 Women's representation

Following the 2017 County Assemblies election, 35.0% (787/2,247) of members were women. Of these 84 were directly elected while 703 were nominated from party lists, down from 35.8% following the 2013 election (table 19.1b). Article 175(c) of the constitution states that 'no more than two-thirds of the members of representative bodies in each county government shall be of the same gender'. Provision has therefore been made to increase the number of women's seats on the county assemblies to a third through nominated seats.

5. SYSTEMS FOR COMMUNITY INVOLVEMENT

5.1 Legal requirement

The constitution and various other legislative instruments provide opportunities for citizen participation in the county government and sub-county (cities and municipalities) governance system. The County Governments Act 2012 provides for citizen participation. This includes: the principle of citizen participation in counties; citizens' right to petition and challenge; the duty to respond to citizens' petitions or challenges; and the establishment of mechanisms and platforms for citizen participation. Schedule 4 of the constitution mandates county

government to 'ensure and coordinate the participation of communities in governance at the local level, not least by assisting communities and locations to develop the administrative capacity for the effective exercise of their functions and powers, and ability to participate in governance at the local level'. The County Governments Act 2012 requires that county governments: recognise and promote the reciprocal roles of non-state actors and government in ensuring participation, facilitation and oversight; facilitate the establishment of structures for citizen participation, including ICT-based platforms, town hall meetings, budget preparation and validation fora, and noticeboards; publicise jobs, appointments, procurement, awards and other important announcements of public interest; consult on development sites; and establish citizen fora at county and decentralised locations. The county governor is also mandated to submit an annual report to the county assembly on citizen participation in the affairs of the county government.

5.2 Implementation

Since the return of multi-party democracy in 1992 there has been rapid growth in civil society networks and groups, with women's organisations being strongly represented. In 2016 public participation guidelines^{19,5a} were developed by the MDP. These include an overview of the constitutional and legal foundation for public participation in county governments, mechanisms and enablers for public participation, petitions, compliment/complaint, grievance and redress mechanisms, and monitoring, evaluation, reporting and learning from common challenges of public participation. Gender-based budgeting has been in existence for many years in Kenya and is being applied at county level. Public participation is a legal requirement for all activities and as such citizens participate as expected.

5.3 ICT use in citizen engagement

The Independent Electoral and Boundaries Commission (IEBC) has a system for managing electronic voting across all constituencies in the country, which covers both national and county elections.

6. ORGANISED LOCAL GOVERNMENT

6.1 National local government association

Both the Council of Governors^{19,6a} and the County Assemblies Forum^{19,6b} represent the counties at the national level.

6.2 Other local government associations

The Kenyan Association of County Government Officials is the professional body representing senior county administrators.

Table 19.2a Income and expenditure for county government 2016/17

Income	KSh m	Expenditure	KSh
Centre-local transfers		Administration	
Equitable share	na	Staff	na
Conditional grants	na	Property	na
		Other	na
Locally raised revenue		Services	
Property taxes	na	Water	na
Licences and fees	na	Road maintenance	na
Other	na	Other	na
TOTAL	na	TOTAL	284,708

7. INTERGOVERNMENTAL RELATIONS

There are formal relationships between counties and national government guided by the Intergovernmental Relations Act 2012. The Act provides for a National and County Government Coordinating Summit, an Intergovernmental Relations Technical Committee and a Council of County Governors. The summit is chaired by the president, with the chairperson of the Council of County Governors as vice-chairperson, and its other members are the governors of the 47 counties. The functions of the summit include, among other things, to facilitate consultation and cooperation between the national and county governments. The Intergovernmental Relations Technical Committee (IGRTC) provides a secretariat to the summit, among other key responsibilities.

8. MONITORING SYSTEMS

Oversight of the functions of the county executive is provided by the county assembly, whose remit includes overseeing both the county executive committee and any other county executive organs. The oversight of county government as a whole is mandated to the senate, whose responsibilities include determining the allocation of national revenue between counties, and exercising oversight over national revenue allocated to county governments. Financial statements must be submitted at the end of each financial year for audit by the controller and auditor general.

The State Department for Devolution has spearheaded development of a monitoring and evaluation framework for tracking implementation of the devolved system of government. This will be used to identify and demonstrate results from the implementation of devolution policy, programmes and projects. The county governments have embraced a county performance framework and each has a county Integrated monitoring and evaluation system (CIMES), which is a platform for tracking implementation of programmes and projects at county level. Performance reports are mandated to be prepared from the CIMES and widely shared with key stakeholders including the Council of County Governors and the national government.

9. FINANCE, STAFFING AND RESOURCES

9.2 Locally raised revenue

County governments are responsible for collecting taxes, and user fees and charges. These include property and entertainment taxes, which they collect in collaboration with the Kenya Revenue Authority^{19,9b} (KRA). There is currently no policy in place to support an increase in locally raised revenue.

9.3 Transfers

County governments receive revenue from the state and, according to the constitution's Article 203(2) this will amount to at least 15% of the revenue raised by national government.

Marginalised communities within the counties also receive money from the government's Equalisation Fund, which benefits from 1.5% of the national revenue based on the most recent audited accounts. Equalisation Fund money is available for the improvement of services such as water, roads, health and electricity to bring them up to the level of those in non-marginalised communities. The money is disbursed through conditional grants.

9.4 Borrowing

County governments can take loans from within Kenya, as long as they comply with existing legislation. However, to borrow from outside the country they need to secure a guarantee from the national government.

9.5 Local authority staff

The remuneration of public service staff at county level is determined by the national Salaries and Remuneration Commission (SRC). The costs are met from county revenues. All staff are employees of the county government and are recruited by the county public service board. They are employed by the governor with the approval of the county assembly. Each county public service board must follow national principles and norms as set out in the National Public Service Commission.

9.6 Public Private Partnerships

There is a Public Private Partnership law which allows government to engage private sector for delivery of public services. This also applies to county governments.

10. DISTRIBUTION OF SERVICE DELIVERY RESPONSIBILITY

10.1 Overview of local government service delivery responsibility

The functions and responsibilities of the county governments are set out in the fourth schedule of the constitution. At county level, functions and powers include: agriculture (including plant and animal disease control and fisheries); county health services (including primary, secondary and tertiary health facilities and pharmacies, solid waste disposal and

Table 19.2b Local government expenditure as a percentage of total government expenditure 2014-2017

	2014/15 actual KSh m	2015/16 actual KSh m	2016/17 actual KSh m
Total government expenditure	na	1,781,945	2,109,976
Total local government expenditure	260,343	264,039	284,708
Local government expenditure as a percentage of total government expenditure	na	14.8%	13.5%

Source: 2017 budget review and outlook paper^{19,9a}.



cemeteries); control of air and noise pollution; cultural and public amenities (including libraries, museums, sports and cultural activities and facilities and entertainment licensing); county transport (including roads, street lighting, traffic control, public road transport, ferries and harbours); animal control and welfare; trade development and regulation (including markets, tourism, trade licensing); county planning and development (including statistics, housing, electricity and gas); education (including pre-primary, village polytechnics, homecraft centres and childcare facilities); county public works and services (including water and sanitation services and storm water management systems); firefighting services and disaster management; control of drugs and pornography; and coordinating the participation of communities in governance at the local level. There is a public-private partnership law which allows government to engage the private sector for delivery of public services. This law also applies to county governments.

10.2 ICT use in service delivery

County governments adopted the integrated financial management information system (IFMIS) for use in financial management. Before IFMIS they were using an electronic system to manage financial resources. The two systems are being synchronised for better results.

10.3 Coordination on the Sustainable development Goals

The UN's Sustainable Development Goals (SDGs) are being implemented in Kenya by the central government, private sector, NGOs and non-state actors under the coordination of the MDP. A total of 112 targets have been identified for implementation within the country at all levels of government. A national SDG unit has been established within the MDP to spearhead all technical matters relating to SDGs. County officials have been trained on how to implement SDGs and, like the national government, will mainstream them in their development agendas. Local SDG units are being formed in every county to coordinate implementation of the relevant targets.

REFERENCES AND USEFUL WEBSITES

- 19.1a Kenya national government <http://presidency.go.ke>
- 19.1b Women in national parliaments. Inter-Parliamentary Union www.ipu.org/wmn-e/classif.htm
- 19.2a Constitution of Kenya www.klrc.go.ke/index.php/constitution-of-kenya
- 19.2b County Governments Act 2012 <http://vihiga.go.ke/documents/County%20Governments%20Act.pdf>
- 19.2c Urban Areas and Cities Act 2011 <http://landcommission.go.ke/media/erp/upload/urbanareasandcitiesact13of2011.pdf>
- 19.2d Laws on Devolution <http://kenyalaw.org/kl/index.php?id=3979>
- 19.2e Devolution policy 2017 www.ke.undp.org/content/kenya/en/home/library/democratic_governance/devolution-policy.html
- 19.3a 2009 Census www.knbs.or.ke/index.php?option=com_phocadownload&view=category&id=100&Itemid=1176
- 19.3b Analytical Report On Population Projections www.knbs.or.ke/download/analytical-report-on-population-projections-volume-xiv-pdf-2/
- 19.3c Ministry of Devolution and Planning www.devolutionplanning.go.ke
- 19.4a Independent Election and Boundary Commission www.iebc.or.ke
- 19.4b A Gender Audit of Kenya's 2013 Election Process www.ndi.org/sites/default/files/Kenya-Gender-Audit-2013-Electoral-Process.pdf
- 19.4c The County Assemblies Forum - women legislators www.countyassembliesforum.org/index.php?option=com_content&view=article&id=124&Itemid=606
- 19.5 County Public Participation Guidelines www.devolutionplanning.go.ke/wp-content/uploads/2016/04/County-Public-Participation.pdf
- 19.6a Council of Governors <https://cog.go.ke>
- 19.6b County Assemblies Forum www.countyassembliesforum.org
- 19.7 No reference for this section
- 19.8 No reference for this section
- 19.9a 2017 budget review and outlook paper www.treasury.go.ke/2017-budget-review-and-outlook-paper/
- 19.9b Kenyan Revenue Authority www.kra.go.ke
- 19.10 No reference for this section
- 19.11a UN statistics surface area <http://unstats.un.org/unsd/demographic/products/dyb/dyb2006/Table03.pdf>
- 19.11b Commonwealth Local Government knowledge hub www.clgf.org.uk/resource-centre/knowledge-hub
- 19.11c UNDP HDR Kenya country profile <http://hdr.undp.org/en/countries/profiles/KEN>



Annex 19a Summary of service provision in different spheres of government in Kenya

Services	Delivering authority				Remarks
	Central government	County	Urban councils	Rural councils	
GENERAL ADMINISTRATION					
Police	■				
Fire protection		■			
Civil protection	■				
Criminal justice	■				
Civil status register	■				
Statistical office	■	■			
Electoral register	■				
EDUCATION					
Pre-school (kindergarten and nursery)		■			
Primary	■				
Secondary	■				
Vocational and technical	■				
Higher education	■				
Adult education		■			
SOCIAL WELFARE					
Family welfare services		■			
Welfare homes		■			
Social security	■	■			
PUBLIC HEALTH					
Primary care		■			
Hospitals		■			
Health protection		■			
HOUSING AND TOWN PLANNING					
Housing		■			
Town planning		■			
Regional planning		■			
TRANSPORT					
Roads		■			
Transport		■			
Urban roads		■			
Urban rail	■				
Ports		■			
Airports	■				
ENVIRONMENT AND PUBLIC SANITATION					
Water and sanitation		■			
Refuse collection and disposal		■			
Cemeteries and crematoria		■			
Slaughterhouses		■			
Environmental protection		■			
Consumer protection		■			
CULTURE, LEISURE AND SPORTS					
Theatres and concerts					
Museums and libraries		■			
Parks and open spaces		■			
Sports and leisure facilities		■			
Religious facilities					
UTILITIES					
Gas services		■			
District heating					
Water supply		■			
Electricity		■			
ECONOMIC					
Agriculture, forests and fisheries		■			
Local economic development/promotion		■			
Trade and industry		■			
Tourism		■			

■ sole responsibility service ■ joint responsibility service ■ discretionary service