



Access to Healthcare among Marginalised Kenyan Communities: A Case Study of the People of Turkana County, Republic of Kenya

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DECLARATION

I, MBURU IVY NYAMBURA, do hereby declare that this research is my original work and that to the best of my knowledge and belief, it has not been previously, in its entirety or in part, been submitted to any other university for a degree or diploma. Other works cited or referred to are accordingly acknowledged.

Signed:

Date:

This dissertation has been submitted for examination with my approval as University Supervisor.

Signed:

Professor David Sperling

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DEDICATION

To God Almighty for his grace and mercies; to my parents for their continued support and tireless effort in educating me; to my dear Brother for the encouragement; and to all my friends who contributed to the success of this work.

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Access to Healthcare among Marginalised Kenyan Communities: A Case Study of the People of Turkana County, Republic of Kenya.

1. CHAPTER ONE: INTRODUCTION

1.1. Background of the problem

Over time during the ensuing years of the late 20th century, Kenyans came to view the Kenya Constitution of 1963, under which Kenya gained independence from British rule in December 1963, as inadequate and in need of Reform. The Kenya Constitution 2010 is the result of this general dissatisfaction with the original 1963 Constitution. The new Kenya Constitution was promulgated on the 27th August 2010 after a long period of review, discussion and drafting that lasted close to 20 years. The new Constitution is said to be a great improvement towards development of a developing country in Kenya, since it was able to identify and address critical issues at the hearts of the people and provided practical ways of reforming governance at the subnational level of the country.

This 2010 Kenya Constitution provides for the principle of sovereignty of the people and creates 47 counties, each with their own subnational governments¹ as outlined in the First Schedule. The Country was divided into 47 counties,² each headed by a county government, thereby abolishing the provincial, district and local government administrations that had been in force since independence. Article 6 states that; *“The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation”*.³ These county governments are *“based on democratic principles and the separation of powers”* and *“shall have reliable sources of revenue to enable them to govern and deliver services effectively.”*⁴

The Kenya Constitution 2010 devolves fourteen (14) specific functions and powers to the County Governments, including Agriculture; County health services; control of air pollution and noise pollution; cultural activities, public entertainment and public amenities; County transport; Animal control and welfare; trade development and regulation; County planning

¹ Article 6 (1), Constitution of Kenya (2010)

² First Schedule, Constitution of Kenya (2010)

³ Article 6 (1) (2), Constitution of Kenya (2010)

⁴ Article 175 (a) (b), Constitution of Kenya (2010)

and development, among others.⁵ The function and responsibility for the provision of healthcare has been devolved to the 47 Counties of the country. It clearly outlines the provision in the Fourth Schedule:

*“2.County health services, including, in particular— (a) county health facilities and pharmacies; (b) ambulance services; (c) promotion of primary health care; (d) licensing and control of undertakings that sell food to the public; (e) veterinary services (excluding regulation of the profession); (f) cemeteries, funeral parlours and crematoria; and (g) refuse removal, refuse dumps and solid waste disposal.”*⁶

Legal Framework for the Devolution of Healthcare in Kenya

This Constitution of 2010 radically changed the provision of the Kenya Constitution 1963 which vested sovereignty in the President.⁷ Indeed, the Ministry of Health (MOH), which is the supreme department that handles matters of health in the Country, in recognition of the important role that citizens play towards development and in recognition of their right to participate enshrined in the devolved constitution, established the Community Health Strategy. The strategy is ‘a mechanism through which households and communities take an active role in health and health-related issues’ its objectives being: community empowerment, bringing healthcare closer to the people, establishment of community health units and the enhancement of community-health facility linkages.⁸

The Constitution of Kenya, 2010

In addition to devolving the function of healthcare to the Counties of Kenya, the Kenya Constitution (2010) provides for equality in access to primary healthcare in recognition of the fact that health is a right that cannot be limited. Article 27 (2) of the Constitution states: *“Equality includes the full and equal enjoyment of all rights and fundamental freedoms.”*⁹ Article 43 (1) (a) states: *“Every person has the right to the highest standard of health, which includes the right to healthcare services...”* And Article 56 (e) states: *“The State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups have reasonable access to water, health services and infrastructure.”*¹⁰

⁵ Fourth Schedule, Part 2 – County Governments, Constitution of Kenya (2010)

⁶ Fourth Schedule, Constitution of Kenya (2010)

⁷ Chapter II, Constitution of Kenya (1963)

⁸

⁹ Article 27, Constitution of Kenya (2010)

¹⁰ Article 56, Constitution of Kenya (2010)

Other constitutional clauses and provisions relating to healthcare include:

Article 26: “*Every person has the right to life.*”¹¹

Article 42: “*Every person has the right to a clean and healthy environment.*”¹²

Article 53 (1) (c): “*Every child has the right to basic nutrition, shelter and health care.*”¹³

In addition to the above constitutional provisions, and of more direct relevance to my study, is the fact that according to the Fourth Schedule, PART 2, Article 2 (c) of the Kenyan Constitution (2010), County health services, including in particular (a) county health facilities and pharmacies; (b) ambulance services; and (c) the “promotion of primary health care” is a “function and power” devolved to the sub-national County governments.¹⁴

The County Government Act, 2010¹⁵

The Act was promulgated ‘to give effect to Chapter Eleven of the Constitution; to provide for county governments’ powers, functions and responsibilities to deliver services and for connected purposes.’¹⁶ Part VII of the act¹⁷ elaborates on the management of the county public service employing constitutional values and principles of governance, and provides that “counties will employ their own.”

Further, Section 104 states that, “*a county government shall plan for the county and no public funds shall be appropriated outside a planning framework developed by the county executive committee and approved by the County Assembly.*” This section is the backbone for the formation of the five year county integrated development plan, which every county government is to formulate and includes decisions regarding budgets and performance indicators.

Finally, Section 115 emphasizes on public participation in all activities in the county placing emphasis on equity, efficiency, accessibility, non-discrimination, transparency, accountability, information sharing and subsidiarity, alongside a focus on basic needs, monitored through Citizen Service Centres at all levels of the county government. Of

¹¹ Article 26, Constitution of Kenya (2010)

¹² Article 42, Constitution of Kenya (2010)

¹³ Article 53, Constitution of Kenya (2010)

¹⁴ Schedule 4, Part 2, 2 (a), (b) and (c), Constitution of Kenya (2010)

¹⁵ County Government Act (2012) Laws of Kenya

¹⁶ Section 3, County Government Act (2012)

¹⁷ Section 55-86, County Governments Act (2012)

importance to note in this part is section 120 that calls for fairness in the setting of tariffs. It provides that access to basic services for poor households be ensured through tariffs covering only operating and maintenance costs. The section also mandates that needful county governments be identified and higher assistance given to them by the ministry in charge of intergovernmental relations to guarantee their service delivery.

The Marginalized Peoples of Kenya: the Case of Turkana County

Turkana County is one of the 47 counties in Kenya, and notably, the second largest county. It is located in the Rift Valley in the very north-western part of Kenya. During the colonial period the northern region of Kenya, including what is now Turkana County, was isolated and movement into and out of the region was restricted by the colonial government. As a result the area remained undeveloped and its people were marginalised with such fundamental rights as healthcare and basic formal education unavailable and inaccessible due to remoteness of the area¹⁸ and unfavourable living conditions which include: droughts, internal conflicts and generally harsh environmental conditions.¹⁹

The people of Turkana County, the object of this study, alongside other counties such as Wajir, Marsabit and Mandera suffer from tropical diseases commonly associated with underdevelopment such as diarrhoea, tuberculosis and malaria. Being nomads, they are more vulnerable to climatic conditions than sedentary people.²⁰ This is as a result of their proximity and dependence on animals, nomadic mobility and dispersion, and other factors related to the special lifestyle of nomadic people.²¹ Remote from small urban centres they face the consequent difficulties of getting and maintaining medical care and treatment.

Until recently people in Turkana County had less medical facilities and practitioners to attend to them. They had to walk for tens of kilometres to get to a health centre; road transport was not popular as a result of poor roads. As result, the infant mortality rate in the region, as at 2014, was 60 in every 1,000 with only 54% of Turkana's children having being fully immunized by the age of five years. Maternal mortality rate stood at 1,500 deaths per 100,000

¹⁸ Vigdis B, Schroeder R, *Producing Nature and Poverty in Africa*, Nordiska Afrikainstitutet, Stockholm, 2000, 58.

¹⁹ United Nations Population Fund (UNPF) Report, 'Counties with the highest burden of maternal mortality' Nairobi, 13 August 2014.

²⁰ Harragin S, 'Health And Healthcare Provision In North West Turkana, Kenya', Report of the Africa Medical Research Foundation (AMREF) Project in North-West Turkana, London: ODI, June 1994, 5.

²¹ Swift J, Toulmin C, Chatting S, 'Providing services to nomadic people: A review of the literature and annotated bibliography' United Nations International Children's Fund (UNICEF) Staff Working Papers, No.8., UNICEF New York, USA, 1990.

live births, which is three times the nation's average, while the doctor to population ratio was 1: 52,434, against the recommended 1: 1,000.²²

Devolving the function of healthcare to the county governments was aimed at bringing such care closer to the people and improving the circumstances of marginalised areas. As Aseka²³ indicates, the idea behind devolving healthcare was to ensure inclusivity and equitable sharing of resources so that all persons could access the public goods related to healthcare such as hospitals, drugs, ambulances and professional medical attention.²⁴

1.2. Statement of the problem

More than 50 years after Kenya's independence, the people in Turkana County still face a serious lack of primary healthcare and health facilities, though there are some signs that circumstances may have improved in the last few years and may still be improving. Many questions arise which this discussion seeks to address. Why has it taken so long for the Government of Kenya to attend to these problems? What are the present circumstances of marginalized communities such as the people of Turkana County? Has the devolution of "the promotion of primary healthcare" to the newly established counties of Kenya helped to alleviate the lack of healthcare and medical facilities among the marginalized peoples of Kenya? More specifically, has devolution improved access to healthcare for the people of Turkana County? If so, what exactly is it about devolution that has brought about this improvement and are there prospects that access to healthcare will continue to improve for them?

1.3. Statement of Objectives

The general objective of this study is to understand the role that devolution has played in healthcare and, more specifically, to assess whether and to what extent devolution may have improved the quality of healthcare among the marginalized people of Kenya, taking Turkana County and its people as a case study. This objective draws its legitimacy from the

²² Waweru M, 'Turkana Children in Kenya continue to suffer malnutrition amid poor Health services' in blog 'breastfeeding, children, food security, maternal health, newborn health, poverty' October 24 2014, available at <https://mombloggersforsocialgood.com/2014/10/24/turkana-children-in-kenya-continue-to-suffer-malnutrition-amid-poor-health-services/> on 20 December 2016

²³ Aseka C, 'The role of Kenya's Devolution Process in implementing SDGs' Institute of Development studies, 25th April 2016 available at <http://www.ids.ac.uk/opinion/the-role-of-kenya-s-devolution-process-in-implementing-the-sdgs> on 20th December 2016

²⁴ Aseka, 'The role of Kenya's Devolution Process in implementing SDGs,' 2016.

constitutional right of Kenyans to health and freedom from non-discrimination as contained respectively in Articles 43 and 27 of the Kenya Constitution 2010 and Article 56 which requires affirmative action in support of services for marginalized peoples.

The specific objective of the study was to investigate and understand the pre-devolution causes for the lack of adequate healthcare in Turkana County and how devolution may have directly contributed to overcoming some of these causes.²⁵

1.4. Research Questions

The research questions of this study relate to the impact and outcome of the devolution of the function of primary healthcare to the county governments with particular reference to the marginalized peoples of Turkana County, Kenya. The research therefore was guided by the following research questions.

- 1) Has devolution improved access to healthcare for the people of Turkana County and significantly increased and improved medical services and facilities in the county? If so, in what ways?
- 2) Does the public take part in discussions towards finding the causes of this problem and improving healthcare? If so, in what ways?
- 3) Are there indications that the level and quality of healthcare in Turkana County is sustainable and will continue to improve?

1.5. Justification of Study

Healthcare is a core component of well-being. Discovering, understanding and addressing the primary causes of poor healthcare among marginalised communities would be a major step forward towards understanding how to increase their well-being. The Kenya Constitution (2010) has devolved the function and responsibility for the provision of healthcare to the 47 Counties of the country. It clearly outlines the provision in the Fourth Schedule:

Research has shown that Health contributes greatly towards well-being. As Amartya Sen ²⁶puts it, “*Health is Wealth*”, health, among others, is a basic capability that gives value to

²⁵ Lemukol N, ‘Bureaucratic Turkana to blame for Poverty, Hunger and deaths’, May 7 2014 available at <<http://lemukolwords.blogspot.co.ke/2014/05/bureaucratic-turkana-to-blame-for.html>>

²⁶ Sen A. K, “Health: perception versus observation,” British Medical Journal, 2002.

human life and can be used to measure the well-being of a people. The World Bank further contributed towards ascertaining this notion by giving in its reports that, fifty percent of economic growth differentials between developed and developing nations are attributed to ill-health and low life expectancy.²⁷ Persons who are not in good health are not in a position to provide labour and or to earn income for their own personal development. Good health is a circumstance towards achieving other capabilities. For example, a sick child cannot attend school for education²⁸ and a sick farmer cannot cultivate his land to promote agriculture.

There has been, and continues to be, much discussion and difference of opinion in Kenya regarding the value and viability of devolution and its benefits and disadvantages. Supporters of devolution assert that subnational local governments can better know the issues affecting the people and find practical solutions to their problems. On the other hand, more specifically with reference to healthcare, it has been argued that at the local level in remote areas healthcare services are likely to fail because of lack of medical equipment and untrained and inadequate personnel.²⁹

This study contributes to this discussion and debate by carrying out detailed research on the impact of the devolution of the function of healthcare to County governments on the peoples of one of the more remote regions of Kenya.

1.6. Limitation of the Study

The study relied on primary information from people familiar with the county and resident in Nairobi and on secondary sources. Comprehensive work was done during the period of September 2016 and February 2017, when the country experienced the longest doctors' strike making it difficult to interview medical personnel based in Turkana County.

²⁷Bloom D, Canning D, 'Health and Economic growth: Reconciling the Micro and Macro Evidence' Center on Democracy, Development, and The Rule of Law, Stanford Institute on International Studies, working Paper No. 42, 2005, 2.

²⁸ Ogbobine R, 'The Role of Health in Economic Growth and Development,' University of Lagos, Nigeria, January 2012, 5.

²⁹ ²⁹ Wekesah F, 'Healthcare Devolution and Service Provision Debate- Where is the voice of the End User?' African Population and Health Research Center, July 6 2015, available at <http://aphrc.org/archives/5568> on 10th December 2016.

1.7. Definition of terms

1.7.1. Abbreviations

CoK – Constitution of Kenya

LAO - Local Administrative Organisation

AMREF – African Medical and Research Foundation

RMF - Real Medicine Foundation

RMI – Remote Medical International

MOH – Ministry of Health

KNBS - Kenya National Bureau of Statistics

FOLT - Friends of Lake Turkana

CJPC – Catholic Justice and Peace Commission

1.7.2. Terms

Devolution – The delegation of functions of government to a sub-national level, in this case from the National government to County governments.

Devolved function – Specific tasks and functions transferred to county governments

County government – The public administration of each of the 47 counties listed in the First Schedule of the Constitution of Kenya 2010

Healthcare – the maintenance and restoration of physical and mental health through the provision of medical services.

People of Turkana – Persons physically resident in Turkana County including those in the county for work, studies or other reasons.

1.8. Chapter summary

This Chapter gives an introduction of the research work, beginning with a background to the problem which saw the need to devolve healthcare through the Constitution of Kenya 2010. It also touches on the case of people living in Turkana County, and who have been marginalised in healthcare for a long time.

The statement of the problem takes a question approach seeking to find why healthcare is still a challenge to people in Turkana County, even after attainment of national independence 50 years ago. The general objective is to understand the role that devolution has played in healthcare and, more specifically, to assess whether and to what extent devolution may have improved the quality of healthcare in Turkana County.

The chapter outlines the research questions that serve as a guide towards achievement of the objective of the study. It also discusses the justification of this study as one guided by the fact that proper healthcare is an absolute right and guaranteed by the Constitution.

Finally, the limitation of the study is discussed and a list of terms and abbreviations outlined

2. CHAPTER TWO

2.1. Theoretical / Conceptual framework

The basic theoretical concept underlying my research is that, all other things being equal, *“the closer a government is to the people the more effective it will be in identifying and analysing the needs of its people, and in coming up with and implementing effective solutions to meet those needs.”*³⁰ Each group of people is unique compared to others based on factors such as geographical location, economic activities, population and history of the area. For this reason, every area should be handled differently; a central government cannot create rules and laws to govern everyone in general.³¹

Devolution acknowledges the concept of uniqueness of each area and the need to be handled differently to attain success in development. Devolution gives authority over own affairs and the people have an opportunity to propose efficient recommendations for their problems. It also gives a region a sense of identity, this means that, all regions are not considered in general but there is an identification of the nature and special needs of a region. As such, the problems are addressed differently.

Looking at the Kenyan situation, and with regards to healthcare, counties such as Nairobi, Kiambu, Kisumu and Mombasa have great health care facilities due to their centralisation while a county like Turkana has poor healthcare due to its marginalisation. Nairobi and Turkana Counties cannot be handled in the same way, each of these counties needs a decentralised government to specifically look into its' health sector. Bringing the government closer to the people will help in identification of the specific medical challenges, their causes and efficient solutions that work specifically for that county. Indeed, Murkomen³² has concluded that not only does devolution have the potential to promote efficiency in the delivery of healthcare but also to ensure that 'low potential areas' also receive healthcare services.³³

³⁰ Tiebout C, 'A pure Theory of Local Expenditures' The Journal of Political Economy, The University of Chicago Press, Vol. 64, No. 5, pp. 416-424, 1956, 420.

³¹ Carol E, 'Devolution: Definitions, Theories & Examples' lesson transcript, available at <http://study.com/academy/lesson/devolution-definition-theory-examples.html> on 6 December 2016

³² Murkomen K, Devolution and the Health System in Kenya: Devolution and Health Consultative Meeting, Nairobi Kenya, October 2012, 29.

³³ Murkomen, 'Devolution and the Health System in Kenya' 29.

Devolution also involves involvement of the people who are directly affected and who in most instances understand their region best. The greater the voice of the people in a government, the higher the success of the community; through public participation, people can voice opinions to improve their own livelihood and standard of living.³⁴ A local government for a specific region is more likely to discover practical ways of promoting development since it is more interactive with the people and more able to assess local situations on the ground.

2.2. Research Methodology

The methodology in the research of this project took a more practical and interactive approach, in light of the theoretical framework stated above and given that the main objective was to find out how practical devolution has been in improving the health sector in Turkana County as well as the role of the people through public participation.

The research was based on opinions of people who are resident and who have worked in the county of Turkana, as they were likely to give more accurate information due to the level of involvement. The questionnaire in appendix 2 was used to get basic information from the local people.

Although the research was more favoured by primary information, secondary data was important to supplement empirical data. Secondary data involved documentaries on the county, library research, and internet research; journals, news articles, blog writings and books.

³⁴ Kauzya JM, 'Political Decentralization In Africa: Experiences Of Uganda, Rwanda, And South Africa' Discussion Paper, New York, December 2007, 9 available at <
<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan028411.pdf>>

3. CHAPTER 3

3.1. Case Studies

In this research, case studies served as a great method towards understanding the whole idea of devolution and instances where it has proved to be successful and the leading factor towards development of the health sector as well as instances where it has failed and the causes thereof. The research focussed on the countries of Ghana and Thailand, which have devolved the functions of healthcare and health systems to sub-national levels. The case studies can be said to be lessons that Kenya can learn from as they create several building blocks towards success in the devolution of healthcare. In addition, the study looked at a Conference Report issued by KPMG in 2013 and titled '*Devolution of Healthcare Services in Kenya; Lessons learnt from other countries.*'³⁵

3.1.1. Ghana

Since the 1980s, Ghana's government has embarked on a devolution system, with healthcare being one of the devolved functions.³⁶ Like Kenya, Ghana is a developing country faced with challenges of political instability, opportunism and a lack of strong institutional and regulatory frameworks for health. In spite of the challenges, Ghana has made significant progress in devolution and managed to create building blocks efficient to support a devolved health system.³⁷

Couttolenc³⁸ applauds Ghana for putting efficient administrative structures in place in the form of decentralized district political and administrative units. These units are the District Assemblies (DAs) endorsed with activities in the public health, and the Ghana Health Service (GHS) which manages and operates the country's facilities and offices.³⁹ However, there is no body that harmonises the roles of the two structures. Information systems and management tools have been developed and implemented. They include planning and

³⁵ KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries' available at <https://www.medbox.org/countries/devolution-of-healthcare-services-in-kenya-lessons-learnt-from-other-countries/preview?> on 10 December 2016.

³⁶ Couttolenc B, Decentralization and Governance in the Ghana Health Sector, World Bank Studies, June 2012

³⁷ Couttolenc B, Decentralization and Governance in the Ghana Health Sector, 2012 on xii

³⁸ Couttolenc B, Decentralization and Governance in the Ghana Health Sector, 2012.

³⁹ Couttolenc B, Decentralization and Governance in the Ghana Health Sector, 2012 on xiii

budgeting systems, reporting and information systems and performance measurement systems.⁴⁰

According to Couttolenc (2012) Ghana's Health devolution policy is weak and the country is said to be making slow progress towards better health care for its citizens. The failure is attributed to the complex, confusing and contradictory laws and regulations, whose ambiguity has created disagreement regarding what devolution, ought to be and to whom functions are devolved. The result is unawareness of the public and the consequent failure of public participation mechanisms together with general weakness of the governance and accountability policy in the allocation of resources and management of health systems at the District level.⁴¹

3.1.2. Thailand

Thailand embarked on decentralisation in 1999 following the Decentralisation Act 1999. The objective was to transfer all public services, including health services, from the central government to local governments.⁴² Devolution of healthcare was centred on primary healthcare and called for the transfer of authority from the Ministry of Health to the Local Administrative Organisations (LAO).⁴³

Hawkins, Srisasalux, and Osornprasop⁴⁴ in their article assert that devolution of healthcare to local health centres can only be successful if certain conditions are met. First, the LAO must be competent and have received a good governance certification that demonstrates its ability to manage health centres. Second, at least half of the health centres' staffs has to been willing to transfer voluntarily to LAO employment and abide by their rules and principles; they must not be compelled.⁴⁵ In Thailand, primary healthcare is entirely the function of the LAO while

⁴⁰ Couttolenc B, Decentralization and Governance in the Ghana Health Sector, 2012 on xiii

⁴¹ Couttolenc B, Decentralization and Governance in the Ghana Health Sector, 2012 on xiv

⁴² Jongudomsuka P, and Srisasaluxa J, A decade of health-care decentralization in Thailand: what lessons can be drawn?, O South-East Asia Journal of Public Health 2012, vol 1(3) available at <http://www.searo.who.int/publications/journals/seajph/issues/seajphv1i3p347.pdf?ua=1> on 10 December 2016 at 348

⁴³ KPMG, Devolution of Healthcare services in Kenya: lessons learnt from other countries, available at <https://www.medbox.org/countries/devolution-of-healthcare-services-in-kenya-lessons-learnt-from-other-countries/preview?> on 10 December 2016 on 11

⁴⁴ Hawkins L, Srisasalux J, and Osornprasop S, 'Devolution of Health Centers and Hospital Autonomy in Thailand: A Rapid Assessment, Journal of Health Systems Research, Vol. 3 No. 2 Apr.-Jun. 2009 available at [http://wops.moph.go.th/ngo/oddh/data/svrs/11-p\[1\].%20214%20%20Lorraine.pdf](http://wops.moph.go.th/ngo/oddh/data/svrs/11-p[1].%20214%20%20Lorraine.pdf) on 11 December 2016

⁴⁵ Hawkins, Srisasalux and Osornprasop, 'Devolution of Health Centers and Hospital Autonomy in Thailand,' 2009.

the Ministry of Health is responsible for technical policy, supervision, training and regulation of health professionals.⁴⁶

3.2.KPMG Conference Report

A conference report by KPMG⁴⁷ states that, Kenya has to learn from other countries in the devolution of healthcare; we should look at the challenges that led to a downfall and at the same time the key aspects that made healthcare better for some countries through devolution. The report has identified and put down six aspects to be considered for an effective devolved healthcare, which are briefly discussed in this sub-section.

3.2.1. Governance

The report puts good governance, transparency and accountability as the first and most essential key to success in devolution. Governance entails splitting up of responsibilities between various bodies and having strong and consistent legal, institutional and policy framework to enforce the conduct and responsibility of each authority.⁴⁸ It also entails having the community involved, seeing that proximity of a government to its people promotes transparency. The devolved government should therefore establish channels for community participation and ensure they are in constant progress. Lastly, this aspect involves patronage and cubing corruption; the local government is to ensure that those in authority are kept on check for undesirable practices such as corruption.⁴⁹

3.2.2. Strategy

An effective strategy would be one that has the devolution of healthcare as part of a multi-sector devolution policy as opposed to one that places it as a single function. The local governments can learn from other sectors and at the end, all sectors are interrelated towards a self-sustaining community. For example, education would be necessary for people to understand their right to healthcare. The strategy that the government adopts should be unambiguous and available to all actors in the health sector. More importantly, there should

⁴⁶ KPMG, 'Devolution of Healthcare services in Kenya,' 11.

⁴⁷ KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries' 12

⁴⁸ KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries' 13

⁴⁹ KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries', 13

be adaptation of a strategy consistent with the social, political and economic structures of the country.⁵⁰

3.2.3. Finance

Finance, through budgeting is an effective way of ensuring adequate and sustainable cash flow for success in devolution of healthcare. The government, in its power is allowed to adopt external ways to raise capital but be careful not to oppress the public.⁵¹

3.2.4. Equity of Access

The main aim of devolution of a sector such as healthcare is to ensure all persons have access to primary healthcare regardless of their location, status or any other classification. People living in urban areas most often receive quality healthcare due to the proximity to developed health centres compared to those that live in rural area. The government is to ensure that the allocation of resources is done in a way that recognises the special needs of marginalised areas; they should be allocated more funds since they need more projects to get to the level of the standard healthcare system. Further, this aspect can be promoted through reaching out to the community, as applied by South Africa, where medical professionals and health officers are connected to health centres and residential areas, and they commit to camp in the area administering primary healthcare.⁵²

3.2.5. Performance and outcomes

Key performance indicators (KPIs) are important to measure the progress and success of devolution. There should be a mechanism to show the impact that devolution has had on the people and especially those from marginalised areas, in a given specific time.⁵³ This will help the country realise its strengths and weaknesses and work towards attaining the goal in a more realistic and effective manner.

⁵⁰ KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries', 14

⁵¹ KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries', 15

⁵² KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries', 15

⁵³ KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries', 15

3.2.6. Resourcing

Strong managerial capacity often leads to strong performance results. The government is to ensure that there is local capacity to handle matters of health before devolving the function. There should be proper expertise and training to eliminate dangers of collapse of career structures and conflicts of vertical programmes among others.⁵⁴

This Chapter has briefly looked at two countries which have devolved healthcare with varying degrees of success. It has also summarized the key findings of a KPMG Report regarding prerequisites for effective devolution of healthcare to sub-national governments. The study now proceeds to discuss its specific findings regarding the devolution of healthcare to Turkana County and possible reasons as to why it has taken so long for the county's healthcare to succeed.

⁵⁴ KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries', 16

4. CHAPTER 4

4.1. Findings

This study has sought to find out whether devolution has improved the general conditions of healthcare in Turkana County, for example, has the county government been able to increase the number of healthcare facilities and to identify and address medical problems that were not attended to or resolved by pre-devolution governments. What has been the role of the public in decision making with regards to healthcare and are there indications that with devolution the level of healthcare has improved, is sustainable and will continue to improve?

The Constitutional devolution of healthcare services to the county governments of Kenya⁵⁵ was intended to improve the standard and scope of healthcare throughout the country. The belief was that bringing a government closer to the people would aid in the identification of the challenge that has been there for decades and an assessment of the most efficient ways to solve the problem. Research into the circumstances of healthcare in Turkana County shows that indeed, these conditions have improved in the last five years with the introduction of devolution; it is accurate to note that there have been major improvements.

Before independence in 1963, Turkana District, as it was then designated, had only one health facility and the majority of the people relied on traditional methods of treatment. Over the years, the number of health facilities has increased tremendously, being at 85 by 2010⁵⁶ and more than 100 after 2011. Below is a structure that shows the statistics of the health facilities in the area, as reported and compiled by the Institute of Economic Affairs in 2011;⁵⁷

⁵⁵ Schedule 4, The Constitution of Kenya 2010

⁵⁶ Kenya National Assembly Official Record (Hansard), Thursday 19th Dec 2010, available at https://books.google.co.ke/books?id=TVDxXiBmtT8C&pg=PT18&lpg=PT18&dq=number+of+Hospitals+in+Turkana+county++before+2010&source=bl&ots=PzjznHmGS3&sig=yh8iTHWen6lceg4nNTEHAe9SaLA&hl=en&sa=X&redir_esc=y#v=onepage&q=number%20of%20Hospitals%20in%20Turkana%20county%20%20before%202010&f=false accessed 19 Dec 2016 on 19

⁵⁷ Nation Reporter, Turkana County at A Glance, The Daily Nation, Wednesday April 27 2011, available at <http://www.nation.co.ke/counties/turkana/Turkana-county-at-a-glance-/1183330-1151638-ndgvfe/index.html> accessed on 19 Dec. 16

Table 1: Statistics of Health Facilities in Turkana County

Health Facilities	Number of Health Facilities
District Hospitals	3
Sub-District Hospitals	2
Dispensaries	91
Health Centres	6
Medical Clinics	19
Health Programs	3
Other	3
TOTAL	127

The KShs 146 Million project that was enacted to secure good health for the residents of Turkana County has proven to be successful as it saw the introduction of machinery and other quality services and the construction of over 60 dispensaries across the county, which includes: the villages of Kibish, Lokichogio, Lokitang, Lorgum, Loyapt, and Kapedo.⁵⁸ It is also important to note that the number of medical personnel; doctors and nurses, has also increased in the health centres. Before devolution, the number stood at 330. This number has risen to above 750 with the devolution of healthcare.

With the increase in the number and distribution of health institutions, people no longer have to walk long distances or travel a 400 kilometre journey on bad roads, as was the case before, to access medical attention. Quick and more easily accessible medical attention has contributed towards reducing the mortality rate especially in emergency situations. The challenge of medical professional to population ration has however not completely been solved given that the county is large and densely populated will less professionals willing to work in the region due to other factors such as insecurity and geographical location of Turkana County.

⁵⁸ Wanzala J, Ksh146M Projects to secure good health for Turkana County Residents, Standard Digital, Sunday January 31 2016 available at <https://www.standardmedia.co.ke/health/article/2000189992/sh146m-projects-to-secure-good-health-for-turkana-county-residents> on 21st December 2016

4.1.1. The role of the County government in promotion of Healthcare

Devolution has been a turning point for the Turkana region. Though faced with immense challenges, the government of Turkana County has been able to successfully complete several projects towards the betterment of health in the county. First, it has been able to establish more healthcare facilities in all the districts of the county ensuring people do not have to travel over long distances to access medical attention. We also note that the government has worked with other organisations such as AMREF and RMF to fund and avail mobile medical outreach projects. For example, during the months of April, May, June, and July 2016, RMF held a health program that conducted thirty mobile outreaches in the remote villages of Turkana.⁵⁹ The program also supplied drugs for treatment of various diseases and offered training with the help of the Ministry of Health (MOH).

The County Government has been commended for setting aside some of the funds given to the county for the purchase of ambulances to help citizens who reside far from the medical facilities and need help during emergencies. In 2013, the county received 10 ambulances where the Governor, Mr. Joshat Nanok initially intended to have three of the vehicles at the Lodwar District hospital and the rest distributed in various parts of the county.⁶⁰ However, seeing the great number of patients at the Lodwar Hospital, the ambulances are stationed in this hospital and go out to bring people from all parts of the county during times of emergency and on request.

In 2014, the Remote Medical International (RMI) extended its services to Turkana Region, where it manages local clinics through provision of medical staffing and the 24/7 ambulance response system; RMI purchased 10 land cruisers to be converted into ambulances and stationed in various clinics, for transportation of persons in the most remote and underdeveloped areas.⁶¹ Most recently, on 3rd March 2017, during the National Jiggers

⁵⁹ Funo R, Boulard D, 'Q2: 2016; Preventive healthcare for At-risk populations' Lodwar Clinic and Turkana drought relief and mobile medical outreach project, Real Medicine Foundation(RMF), September 9 2016, available at <http://www.realmedicinefoundation.org/initiative-reports/kenya/archives/2016/09/09/q2-2016/> on 19 Dec. 16

⁶⁰ Daily Nation, 'Turkana County set for 10 ambulances,' Tuesday August 6 2013, available on <http://www.nation.co.ke/counties/turkana/Turkana-County-set-for-10-ambulances/1183330-1938920-srrl1oz/index.html> accessed 16th March 2017.

⁶¹ RMI Blog, 'RMI Established Unified Emergency Response in Kenya's Turkana Region,' August 27 2014, available at <https://www.remotemedical.com/rmi-establishes-unified-emergency-response-kenyas-turkana-region/> accessed on 16th March 2017.

awareness day in Turkana, the county received Ambulance Mashinani services, that provide services to people in remote areas who are not in a position to access healthcare due to factors such as geographical location, disability or extreme sickness.⁶²

In the Ksh146 Million project, the Director of Medical Services commended the County Government of Turkana for being the biggest winner in accountability in the purchase of vital healthcare equipment which included: 150 beds at the Lodwar County Referral Hospital, Ksh 15 Million to purchase 30 baby incubators, and 45 Million for the purchase of scanners.⁶³ Since the introduction of devolution, the county has seen a 21% increase in dispensaries, a 15% increase in fully functional health centres and an increase in the number of hospitals, some of which have been upgraded to level 5 hospitals.⁶⁴

At the Lodwar Referral Hospital, an oxygen plant has been purchased; which was a key project for the devolved government, and is able to produce about 2,240 litres per week hence patients and medical personnel do not have to outsource this service from Kitale as it was before.⁶⁵ Further, the county government has initiated projects towards retention of healthcare staff through compensation factors such as housing, hardship allowance, salary, transportation and recognition, among others.⁶⁶ This is in acceptance of the fact that the county faces a serious lack of personnel which in turn leads to a high level of unattended medical cases.

4.1.2. Information dissemination frameworks and Public Participation

Public participation has been given prominence in the Kenya Constitution 2010, to allow citizens at the County level to play a role and participate in the allocation of their resources and protection of their interests. Turkana County has put several measures in place to ensure

⁶² Ahadi Kenya Trust, <http://www.jigger-ahadi.org/index.html> on 16th March 2017.

⁶³ Wanzala, 'Ksh146M Projects to secure good health for Turkana County Residents', (2016).

⁶⁴ Turkana County, 'Turkana County has benefitted from Devolution,' Published October 20 2016, video available at https://www.youtube.com/watch?v=-_pYGD_fZuA on 17th March 2017.

⁶⁵ Turkana County, 'Turkana County has benefitted from Devolution,' 2016.

⁶⁶ AMREF Kenya Human Resource for Health Project, Factors Affecting Motivation and Retention of PrimaryLevel Health Care Workers in Three Disparate Regions In Kenya, August 2012, at 31-34, available at http://www.health.go.ke/wp-content/uploads/2015/09/HRH_Baseline_survey_-_final_report_5_18-10-12_SO.pdf on 22 Dec. 16 2016

that the public is involved in policy making and budgeting.⁶⁷ Measures taken so far are public meetings at Ward level held on a quarterly basis and the development of Information Communication Technology platforms to disseminate information about the county's progress through the local media. Two local magazines, the *Turkana Mirror* and *Turkana Times*, have been created with the key purpose of educating the public and relaying weekly information on the county's plans and the progress of activities been undertaken in various locations.⁶⁸

However, it is disconcerting to note that Turkana County has the highest illiteracy level in the country, standing at 82%, according to a Report by Kenya National Bureau of Statistics (KNBS) and Society of International Development.⁶⁹ This is due to its marginalisation and deprivation of basic education. The majority of citizens cannot read the content disseminated in local magazines and legislation such as the Constitution and Bills proposed. They rely on community based organisations; such as the *Friends of Lake Turkana (FoLT)* and *The Catholic Justice and Peace Commission (CJPC)*, and political representatives to advocate on their behalf and make unanimous decisions.⁷⁰ Such reliance and indirect involvement is likely to hinder transparency and accountability.

On 30th October 2014, the Public Participation Act⁷¹ for Turkana County was passed. The objective was to create a platform through which Chapter Eleven of the Constitution, titled Devolution, would be upheld as well as a platform for the exercise of sovereignty of the people as guaranteed in the Constitution. The Act establishes offices of the sub-County Administrator,⁷² Ward administrator⁷³ and Village Administrator.⁷⁴ In addition, the County government is yet to engage the public in the legislative process; the Public Participation Act

⁶⁷ Oduor C, Wanjiru R and Kisamwa F, 'Review of status of public participation, and county information dissemination Frameworks: A case study of Isiolo Kisumu Makueni and Turkana Counties' Institute of Economic Affairs, Nairobi, 2015.

⁶⁸ Oduor, Wanjiru and Kisamwa, *Review of status of public participation, and county information dissemination Frameworks*, 19.

⁶⁹ Kapchanga M, Turkana and Wajir Counties have highest number of illiteracy, Standard Digital, Tuesday, November 26th 2013 available at <https://www.standardmedia.co.ke/article/2000098680/turkana-and-wajir-counties-have-highest-levels-of-illiteracy> accessed on 20th December 2016

⁷⁰ Underwood C, Turkana County: A reality Check, Blog post on Makingallvoicescount.org, September 24 2014, available at <http://www.makingallvoicescount.org/blog/turkana-county-a-reality-check/> accessed 20th December 2016

⁷¹ Turkana County Public Participation Act, 2014

⁷² Section 8(1), Turkana County Public Participation Act (2014)

⁷³ Section 9(1), Turkana County Public Participation Act (2014)

⁷⁴ Section 10(1), Turkana County Public Participation Act (2014)

only provides for public engagement and matters of public interest in relation to policy formulation processes.⁷⁵

It would therefore be correct to say that the citizens of Turkana County are not adequately informed about legislation, their rights and matters affecting the county. The mechanisms adopted to facilitate public participation and communications are also not effective given the special nature of Turkana County. The geographical location also contributes to a lack of knowledge due to lack of exposure to what other counties are doing to improve livelihoods. A community that is not well informed cannot be called upon to discuss issues and analyse situations and make meaningful recommendations.

⁷⁵ Oduor, Wanjiru and Kismwa, *Review of status of public participation, and county information dissemination Frameworks*, 20.

5. CHAPTER 5

5.1. Discussion of findings

The discussion section of this research aims at ascertaining the consequences of making healthcare a devolved function and whether devolution of healthcare is sustainable as a way of improving the livelihood of persons in the marginalised counties of Kenya. The discussion begins by outlining how devolution is handled presently, looking at leadership and governance, then an assessment of the Kenyan situation based on factors to be considered for success of devolution of healthcare, the general challenges facing devolution and lastly, the sustainability of devolution of healthcare for marginalised counties.

5.1.1. Leadership and Governance in the Devolution of Health Services

In Kenya, the devolved health system is four tiered: community health services, primary care services, county referral services and national referral services. All but national referral services are managed at the county level. Basically, county governments are tasked with the management of service delivery while the central government has a role in the regulation through policy formulation and monitoring.⁷⁶ At the national level, health management is the duty of the Ministry of Health (MOH) while at the County level, the obligation lies with the county government in the health sector, in accordance with the Kenya Health Policy 2014-2030 issued by the Kenya Ministry of Health in July 2014. This policy paper recommends the formation of County Health Management Teams to provide professional and technical management structures.⁷⁷

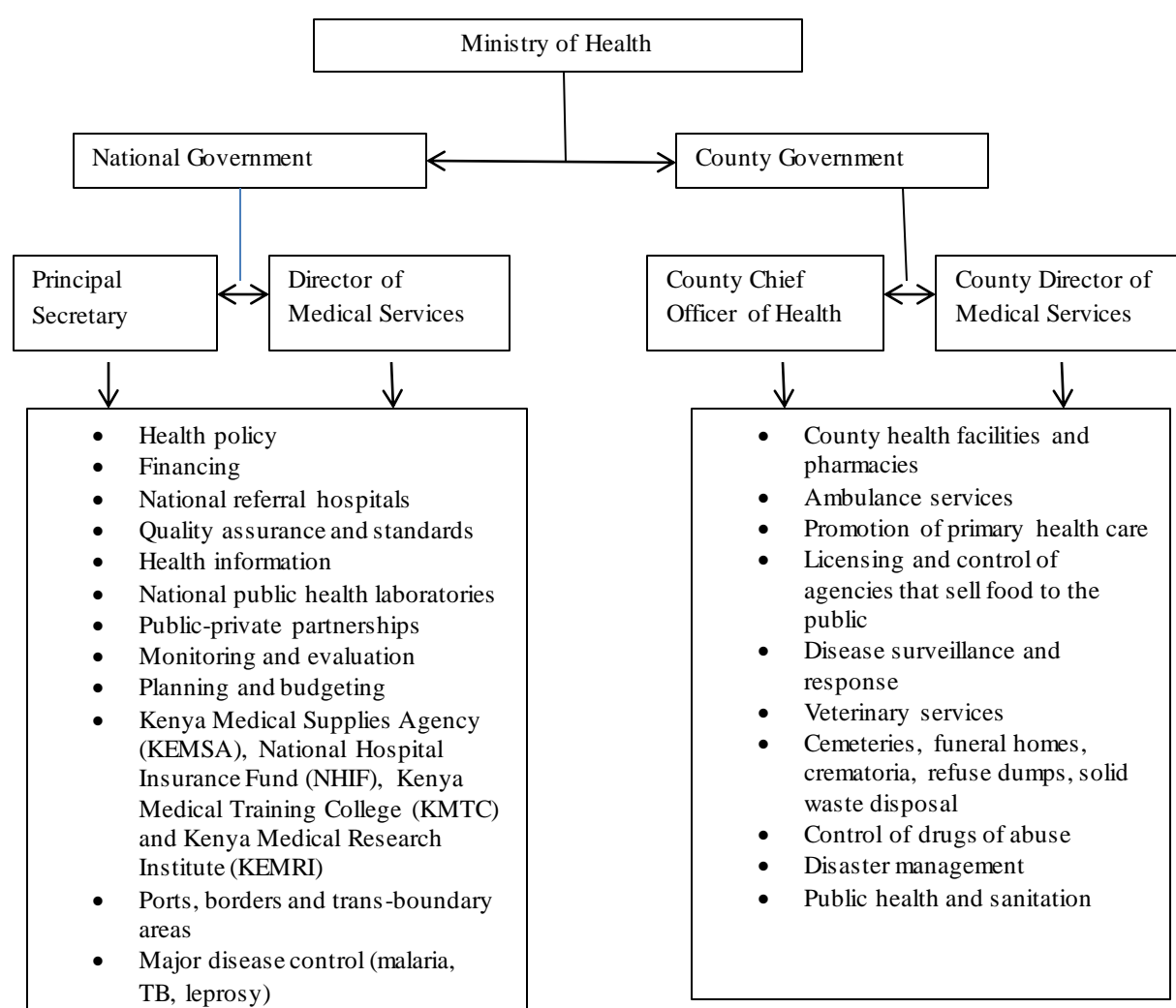
Though there has been separation of roles and responsibilities, the national government and county governments must cooperate with each other, as required by the constitution for purposes of exchanging information, coordination policies and dispute resolution among others.⁷⁸ The MOH is still the supreme governing body for all services and regulations regarding healthcare in Kenya. The structure below briefly shows the leadership and responsibilities of national governments and county governments.

⁷⁶ Machira W, 'Integrating Social Accountability in Healthcare Delivery: Lessons Drawn from Kenya', World Bank Group, Washington, DC, Working Paper No. 4, 2015.

⁷⁷ Ministry of Health, 'The Kenya Health Policy 2014-2030,' July 2014.

⁷⁸ Section 189, Constitution of Kenya (2010)

Table 2: Structure of Governance



5.1.2. Assessing the progress of healthcare devolution in Kenya; based on factors to be considered for success of devolution of healthcare.

Devolution has played a significant role in proving the healthcare of marginalised counties such as Turkana County. Notable changes have taken place, such as an increase in the number of health facilities, more availability of drugs, increased number of medical professionals, ambulances and other responses to emergency situations and the overall general quality of primary healthcare. However, indicators show that Turkana County and other counties with large populations of pastoral peoples are still relatively marginalised and lagging behind the rest of the country, as they still have serious challenges in the fields of quality of service delivery and community participation.

i. Governance

With regards to governance, new governance structures have been defined incorporating a distinct separation of roles between the National and the County governments, as outlined in the Fourth schedule, the national government being headed by the Ministry of Health (MOH) and tasked with stewardship and guidance. On the other hand, the county governments are headed by county departments of health which are responsible for coordinating and managing the delivery of health services.⁷⁹

The Turkana county government has in the last 5 years been able to improve the livelihood of the people through adaptation of an Integrated Development Plan that addresses issues of Health. In its power, it has constructed more dispensaries, health centres and hospitals.⁸⁰ These achievements would not have been realised were it not for the great role of the MOH, which ensured an allocation of 146 Million to the county for the sole purpose of securing good health. The project has seen the construction of these health centres, purchase of machinery and facilities such as X-ray machines and an oxygen plant, and hiring of more medical professionals.⁸¹

However, it is important to note that governance does not only entail putting up strong building blocks but a system that ensures delivery of services and accountability of leaders. Kenya still experiences scandals relating to corruption in the ministry of health and even at county level. In early 2015, members of the Turkana Parliamentary group petitioned the Ethics and anti-Corruption Commission (EACC) to investigate on matters of corruption regarding huge funds in control of county executives for developments in the county.⁸² The commission is yet to finalise the investigation. This is an indicator that there are not adequate mechanisms in place for transparency and accountability giving room to opportunism and misappropriation of funds allocated for weaker regions.

⁷⁹ KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries', 18

⁸⁰ Turkana County, 'Gains of Devolution,' published October 17 2016, available at <https://www.youtube.com/watch?v=FWIPsBWks-o>

⁸¹ Wanzala J, 'Shs 146m projects to secure good health for Turkana County residents,' Sunday January 31st 2016, available at <https://www.standardmedia.co.ke/health/article/2000189992/sh146m-projects-to-secure-good-health-for-turkana-county-residents> on 16th March 2017.

⁸² Ng'asike L, 'Turkana MPs want Ethics and Anti-Corruption Commission to probe County executives over corruption allegations,' Updated March 26 2015, available at <https://www.standardmedia.co.ke/article/2000156178/turkana-mps-want-ethics-and-anti-corruption-commission-to-probe-county-executives-over-corruption-allegations> on 16th March 2017

ii. The Role of Public Participation

One of the leading causes of lack of transparency and accountability is the weakness of public participation and community involvement structures. In Turkana, where marginalisation crosses across almost all sectors including education and modern Information and communication technology, the people remain uninformed; they are neither aware of their rights to Health as provided in the bill of rights, their right to be involved in decision making nor are they aware of the roles and functions of their county governments. The majority of people living in the remote interior of Turkana are illiterate and unfamiliar with legislation such as the Kenya Constitution and the Public Participation Act, and are unable to read information disseminated in local magazines. This group of people is the most affected by poor healthcare as the more urbanized groups of Turkana reside in small urban areas such as Lodwar where they have access to better healthcare.

One blog contributor, Chris Underwood, on his visit to the County and interaction with the locals, observed that there exists a gap between the community at large and the political government. The community does not feel like their decisions count and are hesitant to air their views. They therefore rely on community based organisations to advocate for them, in the hope that their ‘voice would be higher than theirs.’⁸³

iii. Strategy

For Kenya, the devolution of healthcare is part of a broader national policy. This is a great strategy to adopt, especially for a developing country as most functions are inter-related. For example, faster accessibility of healthcare facilities depends on the state of roads and infrastructure. In addition, the ministry has tried to ensure that the national health strategies are rolled out in parallel with devolution. The Kenya Health Policy 2012-2030 has seven policy orientations that are more similar to the objectives of devolution of healthcare. To add on the strategy, an implementation strategy has been outlined; the implementation shall be through a five year medium-term strategic plan and takes a multi-sectoral approach that involves all actors including the governments, consumers, state-actors and non-state actors.

Turkana County has an integrated development plan⁸⁴ that not only addresses issues of health but other inter-related functions. The strategy aims at developing areas of Water and sanitation, Urbanisation and Housing, infrastructure and access, and improving Education

⁸³ Underwood C, ‘Turkana County: A reality Check’,(2014)

⁸⁴ Turkana County Government, ‘County Integrated Development Plan,’ 2013 - 2017

and literacy levels among others.⁸⁵ For a population to know and access their right to healthcare, they must first be educated and living in an environment that allows them to access health facilities.

v. Financing

The national government is the major source of funds for county governments. Others funds arise from sources such as: generation of own revenues by the counties from property taxes, business licenses, and entertainment taxes among others. There is also an equitable share with other counties where there is an assurance of receiving no less than 15 percent of national revenue, an equalisation fund set aside for marginalised communities and which represents an additional 0.5 percent of national revenue, and finally, Conditional and unconditional grants from the national government.⁸⁶ The revenue allocation formula presented by the Commission on Revenue Allocation (CRA) indicates that the following are put into consideration to determine the funding of a county: county population, poverty level, land area, basic equal share and fiscal responsibility.

It is evident that Kenya recognises the presence of marginalised counties such as Turkana County and their special needs and proceeds to fund them with a higher degree of preference than other developed counties. This policy is not only equitable but also necessary because, under development in a county makes that county a liability to the entire nation, thus hindering development.

vi. The question of Equity vs Equality

In light of Article 43(1) (a), *‘Every Person has the right – to the highest attainable standard of Health, which includes the right to health care services, including reproductive healthcare,’*⁸⁷ Equity and equality are two principles to be looked at entirely when financing counties in a devolution strategy such as that of Kenya, where each of these counties has special characteristics, special challenges it faces and different needs from the other. Equality is sameness; it requires giving the same amount of funds to every county, while equity means fairness; it requires that we ensure each person has access to the same opportunities and involves special consideration for those counties who are limited in the access of these

⁸⁵ Turkana County, ‘Gains of Devolution,’ 2016

⁸⁶ KPMG, ‘Devolution of Healthcare services in Kenya: lessons learnt from other countries’, 19

⁸⁷ Article 43 (1)(a), Constitution of Kenya (2010)

opportunities by factors such as marginalization, drought calamities and high levels of poverty.

An upholding of the theory of equity hence assumes that in the allocation of funds for development of healthcare, a county like Turkana will more likely receive greater funds given that it has greater projects in the development of healthcare, compared to a county like Nairobi that already has well established health institutions and medical practitioners, hence has lesser healthcare projects. There has been much debate and disagree in Kenya regarding the question of equitability as any allocation criterion chosen is like to favour some counties over others. The current allocation formula dictates that counties will receive a greater share of revenue based on: the larger the population, followed by poverty rate, the land area, basic equal share and the least criterion shall be fiscal responsibility.⁸⁸

vii. Resourcing

Human resource management is a very vital role when it comes to matters of healthcare and especially in a marginalised county that faces a serious lack of medical professionals. Various human resource initiatives have been put in place to increase efficiency. Counties are responsible for their recruitment and funding of their own staff. Pursuant to Article 235, each county has a public service which is tasked with appointing its public servants within a “framework of uniform national standards prescribed by an Act of Parliament.”⁸⁹ Nonetheless, the retention of primary Healthcare workers is a great challenge especially in marginalised counties.

Turkana is known for internal conflicts due to constant livestock raids with neighbouring communities, which sometimes extends to third parties. The county is also located in the farthest western part of Kenya, far away from all major cities and is at times referred to as ‘forgotten’. For these reasons, a good number of persons from other counties are hesitant to work in Turkana County. The county government of Turkana in its power has created room for heavy benefits to medical practitioners who work in Turkana creating an incentive for them to work in the region. Research conducted by AMREF shows that healthcare workers preferred to work for the public or government in Turkana County, compared to Nairobi and

⁸⁸ Kimenyi M, ‘Devolution and Resource sharing in Kenya’, Brookings, Tuesday October 22, 2013, available at <https://www.brookings.edu/opinions/devolution-and-resource-sharing-in-kenya/> on 23rd December 2016

⁸⁹ Article 235, Constitution of Kenya (2010)

Machakos Counties.⁹⁰ This could be as a result of the rates of compensation, allowances and other favourable factors.

5.1.3. General challenges facing the devolution of Healthcare in marginalised counties

The devolution of healthcare has not been an easy road for Kenya. It faces numerous challenges that hinder development, stability and success in accessibility of primary healthcare especially for marginalised counties like Turkana. These challenges include:

First, the challenge of inadequate allocation of funds; though given special consideration, marginalised counties still have a long way to walk.

Second is the retention and recruitment of primary healthcare workers. County governments of marginalised areas are faced with the challenge of few or lack of medical personnel; some marginalised counties, such as Turkana, are also larger in size and have a widely dispersed population; hence the ratio of doctors to patients is lower than the recommended minimum.

Third, is the challenge and persistence to traditional medicinal care. A good number of the indigenous people of Turkana prefer their traditional methods of curing diseases and are ignorant or less receptive to Western and modern modes of treatment. A great number are conservative and hold on to cultures such as not having male nurses and doctors attend to women in delivery.⁹¹ With the rise of new diseases, there is need for modern medical attention, but where western medicine is incompatible with indigenous health-seeking modes, it compromises effectiveness as the people are less welcoming to change.

The fourth challenge relates to the mechanisms put in place for information dissemination and public participation. The mechanisms currently in place for information dissemination are mainly publications which do not favour persons in the interior most parts as the majority are illiterate.

⁹⁰ AMREF, 'Factors Affecting Motivation and Retention of PrimaryLevel Health Care Workers in Three Disparate Regions In Kenya', 27

⁹¹ Radio Maisha, 'Cradle of Hope,' Published May 25 2016, available at https://www.youtube.com/watch?v=2-ZFwwX_uOM

CHAPTER 6

6.1. Conclusion and Recommendations

Devolution can be said to be the most drastic, and effective, attempt since Kenya's independence to address the issue of healthcare in marginalised counties. It has played a very significant role in transforming the lives of those in Turkana County and other marginalised counties. Mortality rates have declined, the number of doctors and nurses has risen, more drugs are available at a cheaper cost, ambulances have been introduced for emergency situations and the general conditions of healthcare facilities have improved.

However, looking at how effective devolution has been in other countries at short spans of time, one would expect that after 5 years, the problem of access to healthcare should have been solved already, which is not the case in Turkana County. Failure to achieve better results may be attributed to the fact that the challenges were enormous and devolution was a totally new phenomenon which required the County to set up new procedures and systems, including transport and communication channels before it was able to begin to have an impact.

Recommendations towards a full success of healthcare in marginalised areas through devolution to county governments include:

1. Improving the channels for community involvement
2. Educating the public on their rights and the progress of projects in their county alongside the importance of specialised medical treatment
3. Proper training of medical personnel and recruitment based on need and population size of an area
4. Creation of stronger channels to facilitate transparency and accountability of those in leadership
5. Allocation of adequate funds, with the consideration of poverty levels, marginalisation and population sizes
6. Embracing the idea of public-private partnerships; public institutions should work with private institutions towards solving health issues.

7. BIBLIOGRAPHY

7.1. Books

1. Couttolenc BF, *Decentralization and Governance in the Ghana Health Sector*, A World Bank Study, International Bank for Reconstruction and Development, Washington, DC, June 2012.
2. Oduor C, Wanjiru R and Kisamwa F, '*Review of status of public participation, and county information dissemination Frameworks: A case study of Isiolo Kisumu Makueni and Turkana Counties*' Institute of Economic Affairs, Nairobi, 2015
3. Ohenjo N, '*Participation of minorities and indigenous people in political decision making in Kenya*' in Majamba H(ed), '*Towards a Rights Sensitive East African Community: the Case of Ethnic and Racial Minorities*', Fountain Publishers, Kampala, 2011.
4. Vigdis B, Schroeder R, *Producing Nature and Poverty in Africa*, Nordiska Afrikainstitutet, Stockholm, 2000.

7.2. Journal Articles

5. Hawkins L, Srisasalux J, Osornprasop S, 'Devolution of Health Centres and Hospital Autonomy in Thailand: A Rapid Assessment' *Journal of Health Systems Research*, Vol. 3 No. 2, (2009).
6. Jongudomsuka P, Srisasaluxa J, 'A decade of health-care decentralization in Thailand: what lessons can be drawn?' *WHO South-East Asia Journal of Public Health*, vol 1(3), (2012).
7. Tiebout C, 'A pure Theory of Local Expenditures' *The Journal of Political Economy*, The University of Chicago Press, Vol. 64, No. 5 (1956), 416-424.

7.3. Working Papers, Conference Papers, Reports, Discussion Papers and Thesis

8. AMREF, 'Factors Affecting Motivation and Retention of Primary Level Health Care Workers in Three Disparate Regions In Kenya' Kenya Human Resource for Health Project; Operations Research Report – Conducted in Machakos, Kibera and Turkana, (2012).

9. Bloom D, Canning D, 'Health and Economic growth: Reconciling the Micro and Macro Evidence' Center on Democracy, Development, and The Rule of Law, Stanford Institute on International Studies, working Paper No. 42, 2005.
10. Harragin S, 'Health And Healthcare Provision In North West Turkana, Kenya', Report of the Africa Medical Research Foundation (AMREF) Project in North-West Turkana, London: ODI, June 1994.
11. Kauzya JM, 'Political Decentralization In Africa: Experiences Of Uganda, Rwanda, And South Africa' Discussion Paper, New York, December 2007.
12. Machira W, 'Integrating Social Accountability in Healthcare Delivery: Lessons Drawn from Kenya', World Bank Group, Washington, DC, Working Paper No. 4, 2015.
13. Murkomen K, 'Devolution and the Health System in Kenya' Devolution and Health Consultative Meeting, Health Policy Project, Nairobi Kenya, October 2012.
14. Ogbobine R, 'The Role of Health in Economic Growth and Development,' University of Lagos, Nigeria, January 2012.
15. Swift J, Toulmin C, Chatting S, 'Providing services to nomadic people: A review of the literature and annotated bibliography' United Nations International Children's Fund (UNICEF) Staff Working Papers, No.8. UNICEF New York, USA, 1990.
16. United Nations Population Fund (UNPF) Report, 'Counties with the highest burden of maternal mortality' Nairobi, 13 August 2014.
17. United Nations, Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque; report of the Special Rapporteur on the human right to safe drinking water and sanitation, 2014.
18. Wekesa S, 'County government and rights of marginalised ethnic minorities in Kenya: Evaluating the potential benefits and challenges of Devolution,' Published dissertation, University of Pretoria press, South Africa, 2012.

7.4. Legislation, Rules and Regulation

19. Constitution of Kenya (2010).
20. Constitution of Kenya (1963).
21. County Government Act (2012).

22. Kenya Health Policy 2012-2013, Ministry of Medical Services and Ministry of Public Health and Sanitation.
23. Kenya National Assembly Official Record (Hansard) (2010).
24. Turkana County Public Participation Act (2014).

7.5. Internet Sources

25. Aseka C, 'The role of Kenya's Devolution Process in implementing SDGs' Institute of Development studies, 25th April 2016 available at <http://www.ids.ac.uk/opinion/the-role-of-kenya-s-devolution-process-in-implementing-the-sdgs>
26. Carroll E, 'Devolution: Definitions, Theories & Examples' lesson transcript, available at <http://study.com/academy/lesson/devolution-definition-theory-examples.html>
27. Funo R, Boulard D, 'Q2: 2016; Preventive healthcare for At-risk populations' Lodwar Clinic and Turkana drought relief and mobile medical outreach project, Real Medicine Foundation(RMF), September 9 2016, available at <http://www.realmedicinefoundation.org/initiative-reports/kenya/archives/2016/09/09/q2-2016/>
28. Kapchanga M, 'Turkana and Wajir Counties have highest number of illiteracy' Standard Digital, Tuesday, November 26th 2013 available at <https://www.standardmedia.co.ke/article/2000098680/turkana-and-wajir-counties-have-highest-levels-of-illiteracy>
29. Kimenyi M, 'Devolution and Resource sharing in Kenya', Brookings, Tuesday October 22, 2013, available at <https://www.brookings.edu/opinions/devolution-and-resource-sharing-in-kenya/>
30. KPMG, 'Devolution of Healthcare services in Kenya: lessons learnt from other countries' available at <https://www.medbox.org/countries/devolution-of-healthcare-services-in-kenya-lessons-learnt-from-other-countries/preview>
31. Lemukol N, 'Bureaucratic Turkana to blame for Poverty, Hunger and deaths', May 7 2014, available at <http://lemukolwords.blogspot.co.ke/2014/05/bureaucratic-turkana-to-blame-for.html>

32. Nation Reporter, 'Turkana County at A Glance' The Daily Nation, Wednesday April 27 2011, available at <http://www.nation.co.ke/counties/turkana/Turkana-county-at-a-glance-/1183330-1151638-ndgvfe/index.html>
33. Njagi J, 'Improving the Quality of Citizen Engagement in Kenya: Promise, reality and prospects' Kenya Dialogues Project of the Society for International Development, KDP Policy Brief 1, May 2015, available at <http://dialogues.sidint.net/downloads/SIDPublicParticipationBrief.pdf>
34. Underwood C, 'Turkana County: A reality Check' Blog post on Makingallvoicescount.org, September 24 2014, available at <http://www.makingallvoicescount.org/blog/turkana-county-a-reality-check/>
35. Wanzala J, 'Ksh. 146M Projects to secure good health for Turkana County Residents' Standard Digital, Sunday January 31 2016 available at <https://www.standardmedia.co.ke/health/article/2000189992/sh146m-projects-to-secure-good-health-for-turkana-county-residents>
36. Waweru M, 'Turkana Children in Kenya continue to suffer malnutrition amid poor Health services' in blog 'breastfeeding, children, food security, maternal health,newborn health, poverty' October 24 2014, available at <https://mombloggersforsocialgood.com/2014/10/24/turkana-children-in-kenya-continue-to-suffer-malnutrition-amid-poor-health-services/>
37. Wekesah F, 'Healthcare Devolution and Service Provision Debate- Where is the voice of the End User?' African Population and Health Research Center, July 6 2015, available at <http://aphrc.org/archives/5568>

7.5. Videos and Documentaries

38. https://www.youtube.com/watch?v=2-ZFwwX_uOM
39. <https://www.youtube.com/watch?v=FWIPsBWks-o>
40. https://www.youtube.com/watch?v=-_pYGD_fZuA

8. LIST OF TABLES

- 8.1.Table 1: Statistics of Health Facilities in Turkana County
- 8.2.Table 2: Structure of Governance

9. APPENDICIES

9.1. Appendix 1

Letter of Introduction

Strathmore University
P.O. Box 59857 – 00200
Nairobi Kenya

Dear Sir/Madam,

RE: Request to fill Dissertation Questionnaire

I am a final year Law student at Strathmore University, Law school. Currently, I am writing a dissertation, titled, “Access to Healthcare among Marginalised Kenyan Communities: A Case Study of the People of Turkana County, Republic of Kenya.” as a requirement of my Bachelors of Law degree course. Basically, I seek to find out the role that devolution has played in improving the health sector of Turkana County.

I humbly ask for your assistance in filling this questionnaire, seeing that you are a resident of Turkana County. All information provided by yourself shall be treated with utmost confidentiality and you shall not be quoted against your will. Find attached the questionnaire.

I look forward to your assistance. Thank you

Yours faithfully,

Ivy Mburu

9.2. Appendix 2

Questionnaire

1. Which sub-county and Division of Turkana County do you come from?

.....

2. What is the main economic activity of the people of Turkana County?(Tick all that apply)

- ☐ Agriculture Others.....
- ☐ Pastoralism
- ☐ Mining
- ☐ Fishing

3. Which Hospital or medical attention did your Parent/guardian give you when you were a child?

.....

4. What are some of the common diseases in the Area? (Tick all that apply)

- ☐ Malaria ☐ Others.....
- ☐ Typhoid
- ☐ Diarrhoea
- ☐ Common Cold
- ☐ Cholera
- ☐ Pneumonia

5. Which group of people would say is greatly affected by the diseases above and inaccessibility of primary healthcare?(Tick all that apply)

- ☐ Infants Others.....
- ☐ Children
- ☐ Youth
- ☐ Pregnant women
- ☐ Woman and Men
- ☐ Pastoralists

6. What would you say is/was the leading cause of poor healthcare in the area?

- ☐ Neglect of the region by the government (Marginalization)
- ☐ Ignorance of the people (i.e. want to rely on traditional methods)
- ☐ Location of the health centres (are they too far from the residential areas)
- ☐ Poor medical services (inadequate personnel, lack of drugs)
- ☐ Others (Specify)

.....

7. Are you and the people in your area aware of the 2010 constitutional provision on devolution of Healthcare services to County governments?

.....

8. How do you and your people access information relating to Laws, and projects in Turkana?(Tick all that apply)

- ☐ Radio and Television
- ☐ Newspaper and Local magazines
- ☐ Civic Education
- ☐ Others.....

9. Are the people made aware of their rights and fundamental freedoms in other ways? If Yes, What ways are these?

- i.
- ii.

10. Are the people involved in decision making for issues affecting them (Public Participation)? And are their opinions sought before commencement of a project?

☐

Yes

☐

No

11. If they are involved, (Question 10) in what ways? (Tick all that apply)

☐ Consultation

☐ Citizen Representatives

☐ Community Barraza

☐ Others.....

☐ Focus Group Research

12. How long do you take to get to the nearest health centre today?

.....

13. What do you use in cases of emergency situations?

i.

ii.

iii.

14. What in your opinion, what has improved in the medical centres and Hospitals?(tick all that apply)

☐ Number of Doctors and Nurses

☐ Availability of Drugs

☐ Affordability of drugs

☐ Number of Hospital beds

☐ General Conditions

☐ Others.....

15. How would you describe the change in the Health sector with the introduction of devolution?

☐

Drastic

☐

Gradual

☐

Slow

**16. In your opinion, has devolution helped in improving the health sector in Turkana County?
And do you think the quality of Healthcare will continue to improve?**

☐

Yes

☐

No

17. What would you recommend to improve the Health sector of your County

.....
.....