



Integrated National  
Financing Frameworks

# The Devolution Project in Kenya

EXPERIENCES AND LESSONS ON  
KENYA'S FISCAL  
DECENTRALIZATION

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# Kenya Country Profile



Location: Eastern Africa region

Population: approx. 54 million people according to the latest UN estimates.

7<sup>th</sup> largest economy in Africa (2022 Estimates)

47 Administrative Units (County Govts.)

Capital city: Nairobi

Currency: Kenya Shilling

Financial Year: July to June

GDP: 110.35 billion US Dollars

GDP per Capita: 1643.57 US Dollars

Member of the regional blocs such as the East African Community and COMESA with a combined market of over 500 million people.

Kenya is also a member of the 79 member countries of Africa, Caribbean, and Pacific ACP

# The context

## Political, Administrative, and Economic Restructuring

- Kenya enacted a new constitution in the year 2010 (Constitution of Kenya, 2010).
- Under the new Constitution, Kenya embarked on a decentralized (devolved) system of government that among other things sought to make fundamental changes to the relationship between government and its citizens.
- The new Constitution sought to shift governance and financial management from a purely centralized system, inherited at independence to a participatory decentralized system

## Fiscal Decentralization

- The Constitution and other legal frameworks enacted in 2010 placed a strong emphasis on strengthening public participation.
- In particular, Article 1 (1), (2), (3), and (4) provide that “All sovereign power belongs to the people of Kenya and sovereignty of the people shall be exercised only in accordance with the Constitution”; “The people may exercise their sovereign power either directly or through their democratically elected representatives
- Public participation in financial matters is provided under Article 201 of the Kenyan Constitution

## Public Participation

- Strengthening public participation and governance in financial matters has been a key element in Kenya’s development strategy to address the goals and aspirations of Vision 2030, including inequalities in economic opportunities, public investments, and service delivery in different regions of the country.

# The context (Cont.)

## What informed the design of our Public Finance Management (PFM) legal framework?

- To operationalize fiscal decentralization, the Public Finance Management Act, 2012 was enacted
- Public Finance Management Act, 2012 gives effect to the provisions of Chapter 12 of the Constitution
- Kenya's PFM framework was developed with the recognition that a good system of financial management is key to the success or failure of a decentralized system of government.

## In developing the PFM Act, the following considerations were taken into account:

- 1) Need for consistency with the new Constitution
- 2) Need to modernize and consolidate the many existing PFM laws
- 3) Need to follow international best practice

## Basic issues that had to be addressed in the reforms

- Objectives of Government policy and the strategies needed to achieve them
- Placing responsibilities - Who should be doing what under the devolved system, either National or County Governments or alternative service delivery mechanisms
- How public programmes would be carried out to ensure efficiency, effectiveness and value for money

# Actions

## National and Devolved Responsibilities Delineated

- Three arms of government – The Executive, Parliament, and the Judiciary
- The Constitution created a decentralized system of government in which two of the above three arms of government; namely the Legislature (County Assemblies) and the Executive (County Governments) are devolved to the 47 Political and Administrative Counties

## Powers and Functions of County Governments

- This is provided for under Article 6 of the Constitution and specified in the First Schedule..
- Agriculture, county health services; county transport; county public works and services; trade and regulation; natural resources, and environmental conservation; and early childhood education are among some of the devolved functions.

## Citizens' participation in the governance of counties

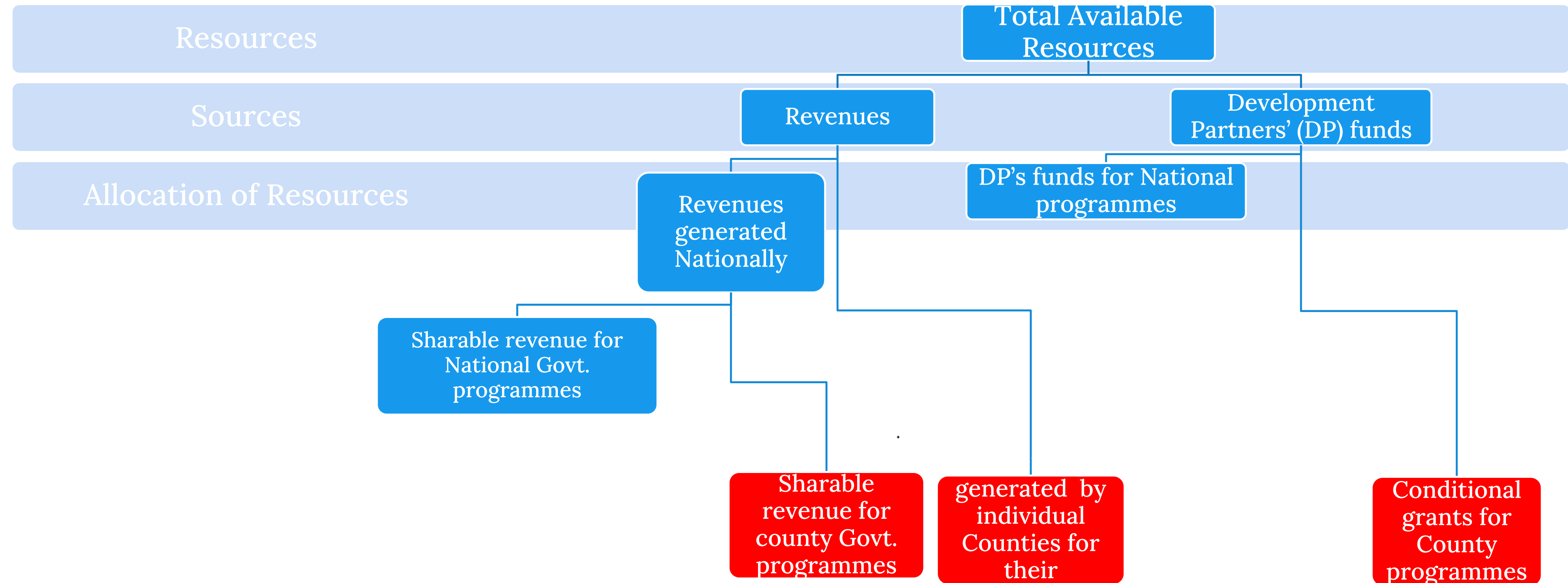
- Citizens can participate as registered voters in electing county leadership or as candidates themselves; making laws through petitions, or in the budgetary and planning processes through public participation

# Enactment of the necessary legal framework

laws passed by the National Assembly to guide the implementation of the devolved system

- The County Governments Act, 2012
- The Public Finance Management Act, 2012
- Public Procurement and Asset Disposal Act, 2015
- The Public Audit Act, 2015
- The Intergovernmental Relations Act, 2012
- Controller of Budget Act, 2016
- The Transition to Devolved Government Act, 2012
- The Urban Areas and Cities Act, 2011
- The National Government Loans Guarantee Act, 2011
- The Elections Act, 2012;
- The Leadership and Integrity Act, 2012;

# *Frameworks for financing Devolved Governments*



# Impacts of Devolution

## Ten years gone, good progress with mixed results

- Constitution of Kenya, 2010 provides that at least 15% of revenues collected nationally have to be shared with counties for the financing of devolved functions
- Ten years down the line, devolution of the funds and functions has been undertaken in accordance with the law and this has laid a good foundation to strengthen public participation
- During this period, we have witnessed the decentralization of administrative, political, and fiscal functions previously performed by the central government to county governments in line with the Constitution

## Devolution has affected governance in several ways

- By distributing power over public spending and revenue, devolution may be seen as having **“brought power closer to the people”** in terms of development programmes.
- County governments are closer to the people than the national government - implying better knowledge of local preferences. This may be seen from the perspective of prioritization of programmes and projects at the local level through public participation

## Public awareness minimizes corruption and unethical practices

- Public awareness improves transparency in decision-making and this makes it difficult for official actors to collude and engage in corrupt practices.
- Decentralization motivates social cohesion, which in turn fosters cooperation that is critical in sustaining pressure against corruption



# Key challenges

## Quality of governance in devolved systems matters

- Corruption, lack of transparency, and accountability in some cases may be attributed to economic stagnation, inequalities, and poverty
- The Auditor General has regularly noted the loss of public funds and qualified opinion of county accounts
- For instance, at least two governors in the previous county administration were impeached on corruption grounds, several others had corruption and abuse of office cases pending in courts

## Fiscal decentralization (devolution) isn't a stand-alone reform

- Fiscal decentralization needs to go hand in hand with governance reforms if efficiency and effectiveness of public spending are to be achieved

## Transition issues

- Poor commitment control leads to the accumulation of pending bills and stalling of projects if an incoming administration chooses not to prioritize ongoing programmes:
- Capacity constraints if new administrations in the counties decide to bring on board inexperienced officials

# Conclusion

## Fiscal decentralization (devolution) isn't a stand-alone reform

- Fiscal decentralization needs to go hand in hand with governance reforms and other reforms if efficiency and effectiveness of public spending are to be achieved
- Legal reforms are necessary but they require to be accompanied by structural, financial, and public sector reforms for them to succeed.
- Each country is unique and there isn't a one-fit-all solution for all countries.
- However, reforms need to be aligned to international best practices where possible

# Thank you for your attention!

