Effectiveness of Current Legal and Institutional Frameworks Enabling Citizen Participation in the Management of Devolved Health Care Funds in Kenya

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Abstract   Kenya, driven by the need to bring health care services closer to people has put in place laws and institutional frameworks to enable citizen participation in management of healthcare funds in the devolved units. The objective of this study was to investigate effectiveness of current legal and institutional frameworks enabling citizen participation in the management of devolved Health Care funds in Kenya. This study was carried out in Embu County where cross sectional descriptive design and mixed research design were used. The sample comprised of 20 Members of County Assemblies, 39 chiefs, 109 sub chiefs and 1,537 voters drawn from a population of 309,468 community members aged 18 years and above. Data analysis was done using descriptive statistics, correlation and regression analysis. The study drew a response rate of 91.3%. The average age of the respondents was 41.44 (SD ± 15.83) and having lived in Embu county an average of 40.22 years. The study investigated 15 legal and institutional frameworks where effectiveness of all the aspects looked at was rated below 20% while Community's level of awareness was less than 30%. On their effectiveness, these frameworks were only found to be statistically significant in Monitoring and evaluation (p<0.01; OR=0.384). The study concluded that current legal and institutional frameworks were barely effective, and awareness thereof was low. Therefore, the study recommended that both County and national governments should organize civic education to create awareness on, and enforce current existing legal and institutional frameworks that govern management of county healthcare funds to make them effective.

Keywords   Devolved, Legal and institutional frameworks, Citizen participation, Effectiveness

1. Introduction

Devolution of health care, being itself a type of decentralization, is meant to change from central governance of the health system by allowing smaller administrative units design innovative models and interventions that suits their unique health care needs. This would in turn improve performance of the health systems (Okech 2017). This is because smaller organizations, if properly structured and led, are more agile and accountable than are larger organizations (Omondi 2019) Devolution is defined as a process of transfer of political, administrative and fiscal management powers between central government and lower levels of government, whereby in Kenyan context the former are 47 elected county governments Devolution of health care falls in Governance and leadership, which is a key pillar of health systems management (Okungu, 2019).

Chapter eleven of the constitution of Kenya (2010) on devolution stipulates   the requirement for the transfer and distribution of some state functions to smaller, semi-autonomous units of government – the counties. The constitution of Kenya also characterizes a strong and enforceable bill of rights that has encouraged citizens to hold the government accountable though participation.

Financing of devolved health care is currently through budgetary allocation, through grants or donation from development partners/ charitable entities, through money raised by counties through taxes and licenses, and through loans. The counties have power to approach donors for funding. Due to the proximity of local governments to their communities, they are likely to be more transparent than national governments. The Kenya Health Policy 2012 – 2030 has outlined governance objectives under the new devolved outfit with emphasis on citizen participation and accountability in health service delivery, administration and management.

2. Objective of the Study

The objective was to ascertain the effectiveness of current legal and institutional frameworks enabling citizen participation in the management of devolved Health Care funds in Embu County, Kenya.

The frameworks namely Constitution of Kenya, articles 1(2); 10(2); 29; 33; 35; 174; 184; 232(1) (d); Fourth Schedule part 2(14); The Public Finance Management Act section 91; County Governments Act sections 91; 94; 95; 96, 100; 101; Public Procurement and Disposal Act 2015 section 68 (3); 126(5); 138; 179 were tested for their effectiveness in enhancing Equality; Freedom of expression; right to access information; Enhancing; participation; M&E organization; increase accountability and transparency.

3. Materials and Methods

This study employed cross sectional descriptive research design approach. In addition, the study adopted a mixed research design. It was conducted in Embu County where study population was the community members and leaders. All constituencies (4) within the Embu County were sampled. The population of this study was 20 MCAs, 39 chiefs, 109 sub chiefs and **305,596** community members aged 18 years and above.

Table 3.1. Study Population

Constituency	MCAs	Chiefs	Sub chiefs	Population (18 yrs and above)
Manyatta	6	7	33	**98,703**
Runyenjes	6	13	34	**88,254**
Mbeere N	3	8	17	**47,174**
Mbeere S	5	11	42	**71,465**
Total	20	39	109	**305,596**

Source: Literature (2021)

For quantitative data, Systematic random sampling was used to select respondents, where in every Kth household (147,292 households) one respondent was interviewed. In cases where there are more than one eligible respondests in a household, only the head of the household was interviwed. The study used stratified random sampling technique to select community members from the study population. The study was voters based targeting all persons aged over 18 years and above and who must at the time of the study be registered voters who met the set inclusion criteria in all the four constituencies. Proportionate stratification was used to select the sample size per constituency. The sample size in each of the strata was determined by use of the following formula;

$$n_h = (N_h/ N) * n$$

where;

n_h is the sample size for stratum *h*,

N_h is the stratum *h* population size,

N is total population size, and n is total sample size.

Purposive sampling was used to select staff working the Ministry of Health in the county, chiefs, MCAs and sub chiefs for qualitative data. Purposive sampling was also used to select County Health Committees for FGDs. Since the population of the MCAs (20), chiefs (39) and sub chiefs (109)

is small a census approach was used. For community members, the following formula by Fisher *et al.,* (1998) was used to calculate the sample size:

$$n = \frac{Z^2 pqD}{d^2}$$

Where:

n = Desired sample size (when population is more than 10,000)

Z = The standard normal deviate, usually set at 1.96, which corresponds to the 95% confidence level (normal curve)

p = Sample proportion in the target population assumed to be participating in management of healthcare funds in Embu is 50% (0.5).

q = 1-p

D = Design effect = 4 (four constituencies (within one clusters) participating in the study)

d = Degree of accuracy

The sample size is calculated as follows:

Z = 1.96; P = 0.5; q=1-P; D = 4; d = 0.05

$$n = \frac{1.96^2 \times 0.5 \times 0.5 \times 4}{0.05^2}$$

n = 1537 (voters)

Table 3.2. Registered voters Embu county year 2017

Constituency	No. of Wards	Registered Voters
Manyatta Constituency		**99,339**
Ruguru - Ngandori		17,404
Kithimu		10,826
Nginda	6	17,519
Mbeti		16,617
Kirmari		27,605
Gaturi South		9,368
Runyenjes Constituency		**86,977**
Gaturi North		13,944
Kagaari South		12,097
Central	6	15,193
Kagaari North		15,940
Kyeni North		13,579
Kyeni South		16,224
Mbeere North Constituency		**51,009**
Nthawa		17,110
Muminji	3	9,077
Evurore		24,822
Mbeere South Constituency		**72,143**
Mwea		16,826
Makima		10,623
Mbeti South	5	17,775
Mavuria		19,025
Kiambere		7,894
Total	20	**309,468**

(Source: IEBC)

Simple Random Sampling (SRS) procedure proportionate to size was used as it had assigned an equal probability of selection for each of the 309,468 voters in determining a sample size of 1,537 voters. Random sampling procedure proportionate to size was adopted as shown in table 3.3:

Table 3.3. Proportionate Sampling

Constituency	Registered Voters	Sample determination	Kth household
Manyatta	99,339	$\frac{99,339}{309,468} \times 1,537$ = 494	38
Runyenjes	86,977	$\frac{86,977}{309,468} \times 1,537$ = 432	11
Mbeere North	51,009	$\frac{51,009}{309,468} \times 1,537$ = 358	18
Mbeere South	72,143	$\frac{72,143}{309,468} \times 1,537$ = 253	26
Total	309,468	1537	36,075

Source: primary data, 2018

This study used primary and secondary data. The secondary data included County government's annual reports and IEBC. Primary data was collected by use of semi structured questionnaires, focus group discussions and interview guide.

This study used a 95% confidence interval and hence a p-value of 0.05 was used as the standard for statistical significance.

4. Results

Socio- Demographic Economic Characteristics of Respondents

A total of 1403 respondents took part in the study. Most of the respondents sampled were within the youth bracket. Males were also slightly more than females. All elected MCAs were male, so consequently 100% of the interviewed MCAs were male. At constituency level, Manyatta constituency had the most respondents while Mbeere South contiguency had the least. Majority of the respondents were married (54.7%). The widowed were 16.85%, single 15.1%, separated 7.5% and divorced 5.8%. In terms of occupation the respondents were almost evenly distributed among casual laborers, self-employed/business and farming (24.9%, 24.1%, 23.3%). Those who considered themselves employed full time were 14.9% while the unemployed were 12.8%. Only 5.1% lacked formal education. Over 70% had attained secondary education and above.

Community's level of awareness on legal, policy and institutional frameworks
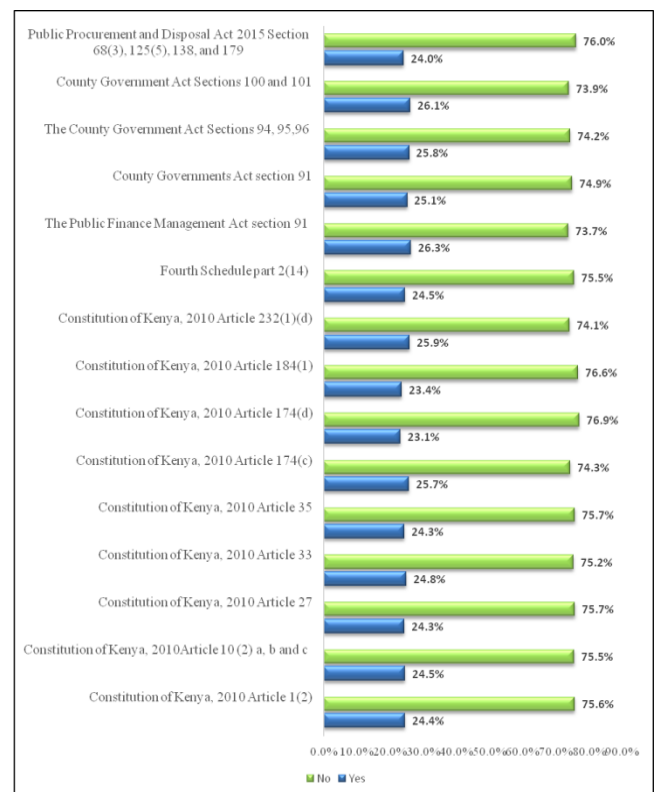
Level of awareness on legal, policy and institutional frameworks among respondents was wanting as all the frameworks investigated had over 70% of the respondents

not being aware. County Government Act Sections 100 and 101 had a slight higher level of awareness 26.1% and he least Constitution of Kenya 2010 Article 174(d). Those interviewed at county offices had some awareness. A FDG discussant said

"civic education has not been sufficient. At times we don't think it concerns us".

Another discussant said

*"hii katiba hata ukisoma hauwezi elewa, na hawataki tuelewe sana (*the constituition (jargon) is hard to understand; they (government) doesn't want us to understand it*)*

Figure 4.1. Community's level of awareness on legal, policy and institutional frameworks (***Source: Primary Data***)

Effectiveness of current legal and institutional frameworks

The level of effectiveness of current legal and institutional frameworks in as far as management of devolved funds in Embu county was wanting as all the aspects looked at were rated below 20% the highest rating in terms of effectiveness was on right to access information 192(14%). The least rated was increase accountability 125(9.5%). Rating effectiveness of current legal and institutional frameworks is summarized in table 4.1 below.

Test of association on effectiveness of legal, policy and institutional frameworks' seven aspects were examined and all were statistically significant with p<0.01 an indication they are all important as far as participation in management of devolved health care funds is concerned as shown in table 4.2).

Legal, policy and institutional frameworks effectiveness

was examined M&E was on the only aspect which was statistically significant with participation in management of devolved health care funds with $p<0.01$ and an Odds Ratio of 0.384 the lowest amongst the aspects examined.

Table 4.1. Rating effectiveness of current legal and institutional frameworks

Transparency	Increased accountability	M&E organization	Enhancing participation	Right to access information	Freedom of expression	Equality		
730	721	742	393	527	485	485	n	Not effective
54.7	54.7	56.1	29.7	38.5	36.1	36.0	%	
304	289	261	604	498	515	516	n	Rarely effective
22.8	21.9	19.7	45.6	36.4	38.3	38.3	%	
152	183	180	258	151	193	170	n	Somewhat effective
11.4	13.9	13.6	19.5	11.0	14.4	12.6	%	
142	112	118	51	159	138	163	n	Effective
10.6	8.5	8.9	3.8	11.6	10.3	12.1	%	
6	13	22	19	33	13	13	n	Highly effective
0.4	1.0	1.7	1.4	2.4	1.0	1.0	%	
1334	1318	1323	1325	1368	1344	1347	N	Total
100.0	100.0	100.0	100.0	100.0	100.0	100.0	%	

Source: Primary Data (2018)

Table 4.2. Test of association for effectiveness of legal, policy and institutional frameworks against participation in management of devolved health care funds

Aspect	Response	Participation in management of devolved health care funds				Statistics
		Yes		No		
		n	%	n	%	
Equality	Not effective	61	12.6	424	87.4	X = 107.246, df = 4, p = 0.000**
	Rarely effective	133	25.8	383	74.2	
	Somewhat effective	66	38.8	104	61.2	
	Effective	58	35.6	105	64.4	
	Highly effective	13	100.0	0	0.0	
	Total	331	24.6	1016	75.4	
Freedom of expression	Not effective	76	15.7	409	84.3	X = 116.564, df = 4, p = 0.000**
	Rarely effective	110	21.4	405	78.6	
	Somewhat effective	90	46.6	103	53.4	
	Effective	42	30.4	96	69.6	
	Highly effective	13	100.0	0	0.0	
	Total	331	24.6	1013	75.4	
Right to access information	Not effective	86	16.3	441	83.7	X = 89.233, df = 4, p = 0.000**
	Rarely effective	114	22.9	384	77.1	
	Somewhat effective	76	50.3	75	49.7	
	Effective	61	38.4	98	61.6	
	Highly effective	11	33.3	22	66.7	
	Total	348	25.4	1020	74.6	
Enhancing participation	Not effective	74	18.8	319	81.2	X = 99.743, df = 4, p = 0.000**
	Rarely effective	113	18.7	491	81.3	
	Somewhat effective	109	42.2	149	57.8	
	Effective	22	43.1	29	56.9	
	Highly effective	15	78.9	4	21.1	
	Total	333	25.1	992	74.9	

Aspect	Response	Participation in management of devolved health care funds				Statistics
		Yes		No		
		n	%	n	%	
M&E organization	Not effective	79	10.6	663	89.4	X = 252.715, df = 4, p = 0.000**
	Rarely effective	106	40.6	155	59.4	
	Somewhat effective	104	57.8	76	42.2	
	Effective	31	26.3	87	73.7	
	Highly effective	18	81.8	4	18.2	
	Total	338	25.5	985	74.5	
Increase accountability	Not effective	74	10.3	647	89.7	X = 221.417, df = 4, p = 0.000**
	Rarely effective	118	40.8	171	59.2	
	Somewhat effective	90	49.2	93	50.8	
	Effective	27	24.1	85	75.9	
	Highly effective	13	100.0	0	0.0	
	Total	322	24.4	996	75.6	
Transparency	Not effective	70	9.6	660	90.4	X = 224.53, df = 4, p = 0.000**
	Rarely effective	138	45.4	166	54.6	
	Somewhat effective	73	48.0	79	52.0	
	Effective	43	30.3	99	69.7	
	Highly effective	6	100.0	0	0.0	
	Total	330	24.7	1004	75.3	

Source: Primary Data   **Note: ** p<0.01**

Table 4.3. Test of influence for effectiveness of legal, policy and institutional frameworks against participation in management of devolved health care funds

	B	S.E.	Wald	df	Sig.	Exp(B)	95% C.I.for EXP(B)	
							Lower	Upper
Equality	0.221	0.166	1.765	1	0.184	1.247	0.900	1.728
Freedom of expression	0.246	0.164	2.243	1	0.134	1.279	0.927	1.764
Right to access information	0.018	0.144	0.016	1	0.898	1.019	0.768	1.352
Enhancing participation	0.093	0.156	0.352	1	0.553	1.097	0.808	1.489
M&E organization	-0.957	0.178	29.047	1	0.000**	0.384	0.271	0.544
Increase accountability	-0.061	0.226	0.073	1	0.787	0.941	0.604	1.466
Transparency	-0.139	0.222	0.389	1	0.533	0.871	0.563	1.345
Constant	2.237	0.187	143.448	1	0.000	9.365		

Source: Primary Data   **Note: ** p<0.01**

Factor Analysis

Seven (7) items which influence effectiveness of legal, policy and institutional frameworks regarding participation in management of devolved health care funds in Embu County were examined. The result showed KMO value of 0.926. For Bartlett's Test of Sphericity, the test result was significant p>0.01, which revealed that the strength of relationships among variables was strong.

After one iteration, two factors among the 15 were dropped and after a second iteration, the remaining 13 factors were found to greatly legal, policy and institutional frameworks regarding participation in management of devolved health care funds in Embu County.

Table 4.4. Loading of Effectiveness of legal, policy and institutional frameworks

Aspect	Loading
Equality	0.912
Freedom of expression	0.908
Right to access information	0.899
Enhancing participation	0.878
M&E organization	0.941
Increase accountability	0.942
Transparency	0.943

Source: Primary Data

Table 4.4 above indicates the seven factors that greatly influenced effectiveness of legal, policy and institutional frameworks regarding participation in management of devolved health care funds in Embu County with a factor loading of over 0.8. The factor that greatly influenced effectiveness of legal, policy and institutional frameworks regarding participation in management of devolved health care funds in Embu County was transparency with a factor loading of 0.943.

5. Conclusions

The study concluded that there was low awareness of current legal and institutional frameworks. Therefore, they were barely effective in as far as management of devolved funds in Embu County was concerned. The legal and institution frameworks were least rated on their effectiveness in increasing accountability.

6. Recommendations

The study recommended that, in as much as legal and institutional frameworks governing management of devolved healthcare funds exist, the national and county governments should do more to enforce them.

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