NEPAD / APRM KENYA SECRETARIAT

THE NATIONAL TREASURY AND ECONOMIC PLANNING
STATE DEPARTMENT FOR ECONOMIC PLANNING
NEPAD/APRM KENYA SECRETARIAT

KENYA NATIONAL GOVERNANCE REPORT

JANUARY 2023

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ACRONYMS/ABBREVIATIONS

AGR	Africa Governance Report
APRM	Africa Peer Review Mechanism
ASAL	Arid and semi-Arid Lands
AU	African Union
CIMES	County Integrated Monitoring and Evaluation System
ERS	Economic Recovery Strategy
FGD	Focus Group Discussion
FY	Financial Year
GDP	Gross Domestic Product
IEBC	Independent electoral and Boundaries Commission
KIHBS	Kenya Integrated Household Budget Survey
KII	Key Informant Interview
KNBS	Kenya National Bureau of Statistics
MDG	millennium Development Goal
MED	Monitoring and Evaluation Department
MTP	Medium Term Plan
NEPAD	New Partnership for Africa Development
NGO	Non-Governmental Organization
NGR	National Governance Report
NHIF	National Hospital Insurance Fund
NIMES	National Monitoring and Evaluation Secretariat
NSSF	National Social Security Fund
PEV	Post-Election Violence
PWD	Persons with Disability
SDG	Sustainable Development Goal
UN	United Nations
MDAs	Ministries, Departments, and Agencies
OGP	Open Government Partnership
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
SIDA	Swedish International Development Cooperation Agency
BMZ	Federal Ministry for Economic Cooperation and Development (Germany)
TB	Tuberculosis
SMART	Specific, Measurable, Achievable, Relevant, and Time-bound
HIV/AIDS	Human Immunodeficiency Virus/ acquired immunodeficiency syndrome

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The NEPAD/APRM Kenya Secretariat acknowledges, with much gratitude, the tremendous collaboration and partnership with various stakeholders that made invaluable contributions to the research and eventual production of this inaugural National Governance Report (NGR) of the Republic of Kenya.

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To our numerous stakeholders including colleagues from the various Ministries, Departments, State Agencies (MDAs) from both the National and County Governments as well as the multiplicity of non-state actors such as the OGP colleagues, Civil Society Organisations - we are most grateful for your immense contributions in providing information and rigorously participating in the discussions on each of the indicators.

Finally, I commend my team at the Secretariat led by Mr. Peter Kimemia, Director, APRM & Governance, the APRM Directorate and the entire staff compliment at the NEPAD/APRM Kenya Secretariat for their diligence and hard work that greatly contributed to the success of this project.

It is important to acknowledge that this project was undertaken under very difficult conditions due to the COVID-19 global pandemic which not only directly affected some members of our Research Team but also adversely affected timelines due to the lockdowns and other health-related restrictions. The pandemic also affected Kenya's Government's support for the initiative since most resources were redirected to the unprecedented health emergencies.

We are grateful that in spite of the enormous challenges, all the partners remained steadfast. This is the kind of resilience and determination that will continue strengthening democracy and good governance not only in Kenya but also across Africa.

Amb. Dr. Samori Okwiya
<u>Chief Executive Officer</u>

PART 1

INTRODUCTION

1. INTRODUCTION

In 2017, the African Union (AU) decided to expand the mandate of the Africa Peer Review Mechanism (APRM) to include monitoring and reporting on all key aspects of governance, including tracking the implementation of the African Union Agenda 2063, and of the UN Sustainable Development Goals (SDGs). Consequently, APRM developed the inaugural continental governance report, *Africa Governance Report 2019* – hereafter, AGR 2019, launched in February 2019. APRM then encouraged individual member states to produce their own national governance reports (NGR), whose findings would be aggregated into a continental report. This Kenyan NGR is among the first of such individual country reports.

The AGR 2019 is distinguished for being developed by Africans for Africans.

Its objectives were to:

a. Assess the status of African governance
b. Track governance developments and trends
c. Inform the African public on governance trends, and (d)Determine recommendations for further improvements to governance.

The Report focuses on:

a. Transformative leadership,
b. Constitutionalism and the rule of law,
c. Peace, security and governance;
d. d)The nexus of development and governance, and
e. Role of Regional Economic Communities in African governance. Key recommendations include aligning National Strategies/Visions to the AU Agenda 2063, the SDGs, and the APRM National Plan of Actions.

In turn, the NGRs should:

a. Provide credible, up-to-date, and reliable data on governance issues for both national, regional, continental, and international stakeholders.
b. Promote citizen-centered governance as strategy (for) strengthening democracy, accountability, and inclusiveness.
c. Assist in identifying new trends in governance both at the national and continental level.
d. Provide the basis for measuring progress or regress in governance.
e. Enable the formulation of realistic and actionable recommendations for the improvement of governance.
f. Enable the identification of best practices that could be shared among AU Member States, among many others; and
g. Engage all government stakeholders in generating data and conducting self-assessment.

Box 1.1: Africa Peer Review Mechanism

APRM is a tool for sharing experiences, reinforcing best practices, identifying deficiencies, and assessing capacity-building needs to foster policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration.

See https://au.int/en/organs/aprm

Consequently, the APRM recommended the following broad indicators which individual countries could domesticate for their NGRs as appropriate:

I. Rule of Law.
II. Transparency and Accountability.
III. Participation and Human Rights.
IV. Democracy, Elections and Freedoms.
V. Peace and Security; and
VI. Socio-economic Governance.

Section 2 of this report focuses on the policy context of the NGRs in relation to the AGR 2019. **Section 3** provides the methodology for the development of Kenya's NGR. **Section 4** employs the Kenya government's own sectoral and national data to assess its governance performance; and **Section 5** uses citizen voices to assess the National and County governments' respective service delivery performance at the county level. **Section Six** briefly discusses the issues arising, and presents some recommendations on the way forward.

PART 2

THE CONTEXT OF KENYA'S GOVERNANCE DATA

2. THE CONTEXT OF KENYA'S GOVERNANCE DATA

In 2000, Kenya joined other members of the United Nations (UN) in adopting the Millennium Development Goals (MDGs), a set of anti-poverty measures to be implemented by 2015. In 2004, Kenya launched the National Integrated Monitoring and Evaluation System (NIMES), a framework through which to track MDG implementation. NIMES also monitored the implementation of Kenya's Economic Recovery Strategy for Wealth and Employment Creation 2003-2007 (ERS), which closed with the 2007/08 post-election violence (PEV) that cost over 1,200 lives, displaced over 400,000 people, and dropped economic growth from 7% in 2007 to 1.5% in 2008. The ERS was succeeded by the Kenya Vision 2030, a long-term strategy towards a 'newly industrializing, middle-income country…', to be implemented through successive five-year Medium-Term Plans (MTP). Since the resolution of the PEV, economic growth has fluctuated around 5%.

The Constitution (2010) prescribed an extensive governance reform agenda. Article 2 declared it supreme over all pre-existing governance frameworks, while Article 10 specifies the National Values and Principles of Governance, echoed in Article 232's Public Service Values and Principles. Article 6 created a devolved system of government, with service delivery and national revenues shared between the National Government and 47 County Governments. These and myriad other provisions were to be integrated into pertinent governance frameworks – policies, laws, and strategies, by 2015.

The NIMES work led to the Planning Ministry's *MTP Indicators Handbook* of the Monitoring and Evaluation Directorate (MED), which lists all government sectors' implementation targets, assigns reporting indicators and responsibilities, and reports attainments.

Meanwhile, countries across the world failed to deliver the MDGs by 2015, and consequently agreed on the successor SDGs from 2016 to 2030. In Kenya, the SDGs have been integrated into Vision 2030, starting with MTP III of 2018-2022. Vision 2030 is being implemented through five Annual Work Plans and accompanying annual budgets, and its MTP III incorporated Kenya's 'Big Four Agenda', a set of priority development areas to 2022, including Affordable Housing, Enhancing Manufacturing, Food Security and Nutrition, and Universal Health Care. In 2019, NIMES work was devolved to the county and sub-county levels as the County Integrated Monitoring and Evaluation System (CIMES). The NIMES and CIMES (when fully operational) should provide substantive Kenyan governance data with which to effectively track Vision 2030's MTPs, incorporating the country's interpretation of the SDGs.

Box 2.1: Article 10 on National Values and Principles of Governance

Article (1) The national values and principles of governance… bind… all persons whenever any of them—

(a) applies or interprets this Constitution.
(b) enacts, applies or interprets any law; or
(c) makes or implements public policy decisions.

(2) The national values and principles of governance include—

(a) patriotism, national unity, sharing and devolution of power, **the rule of law, democracy and participation of the people**.
(b) human dignity, equity, social justice, inclusiveness, equality, **human rights**, non-discrimination, and protection of the marginalized.
(c) good governance, integrity, **transparency, and accountability**; and
(d) sustainable development

PART 3

METHODOLOGY OF THE STUDY

3. METHODOLOGY OF THE STUDY

The APRM 2019 framework details the methodological basis of country National Governance Reports (NGR), such as this pioneering Kenyan NGR. To recap, the underlying NGR imperatives include:

(i) Up-to-date data;
(ii) Capture of governance trends; and
(iii) Citizen centered governance.

A *qualitative* evaluation of governance performance is both useful and imperative in describing what is perceived to be happening. However, *quantitative* evaluations enable objective measures of performance – targets, costs, attainments, and gaps. Quantitative analyses enable more effective targeting of scarce intervention resources than does qualitative analysis. Quantitative indices for example, allow a country to decide on the relative distribution of its scarce resources across competing interventions, as well as over time. Quantitative indices will allow APRM to aggregate NGR scores across the continent, at country and sector levels, in a way that qualitative analysis cannot facilitate. Such quantitative analyses are the basis this report's national performance reported in Chapter 4. In the absence of objective/quantitative data, substitute performance scores can be generated based on structured perception scores, such as this report does in Chapter 5 with members of focus group discussion (FGD). Thus, this Kenyan NGR employs four data sources, including: a review of the governance literature; secondary data based on the NIMES-based National Reporting Indicator Handbooks – hereafter, the Indicator Handbook; key informant interviews (KIIs); and FGDs.

The overall Kenyan NGR index is based on the six APRM-recommended Pillars,

(i) Rule of Law
(ii) Transparency and Accountability
(iii) Participation and Human Rights
(iv) Democracy, Elections, and freedoms
(v) Peace and Security, and
(vi) Socio-economic Governance.

The NGR index out of 100% assumes that each of the six pillars has the same significance or weight as each of the others, therefore 100%/6=16.7%. As seen in Figure 3.1, each pillar's score is determined by several indicators. Regardless of how many indicators there are under a pillar, the indicators each contribute an equal fraction to the pillar's 100% value. Thus, each of Rule of Law's four indicators contributes 25%, but/while each one of Socio-economic Governance's six key indicators contributes a 16.7% share. In turn, each indicator is composed of several sub-indicators, each of which contributes an equal share to the indicator's 100% value.

This report employs NIMES framework sector-based data reported in the Indicator Handbook for the national level NGR index. All national sectoral activities have service delivery targets, and this report gives a 100% score when the exact target is met. Exceeding a target earns a score proportionally above 100%, while failing a target earns a score proportionally less than 100%. The indicator attainments are aggregated upwards to get the pillar scores, which are aggregated for the NGR index. To capture change over time, the study focuses on 2018 and 2019 data, or any two most recent consecutive years.

CIMES data was not yet available at the time of writing this report. Meanwhile, the APRM-based NGR framework requires the 'engagement of stakeholders in generating data and conducting self-assessment.' Consequently, this NGR's county level governance data was generated through citizen perceptions gathered through KIIs and FGDs. The Constitution's Fourth Schedule distinguishes

National Government services in the counties, from County Government services in their respective counties. Thus, the focus is on citizens' perceptions on the respective service delivery performances of the National and County Governments. Each FGD had 15 and 20 participants representing diverse county-level interests, drawn from individuals and organizations previously engaged on governance by NEPAD/APRM. Each activity was scored on a scale of 1 to 10, and aggregation to respective indicators done as already explained above.

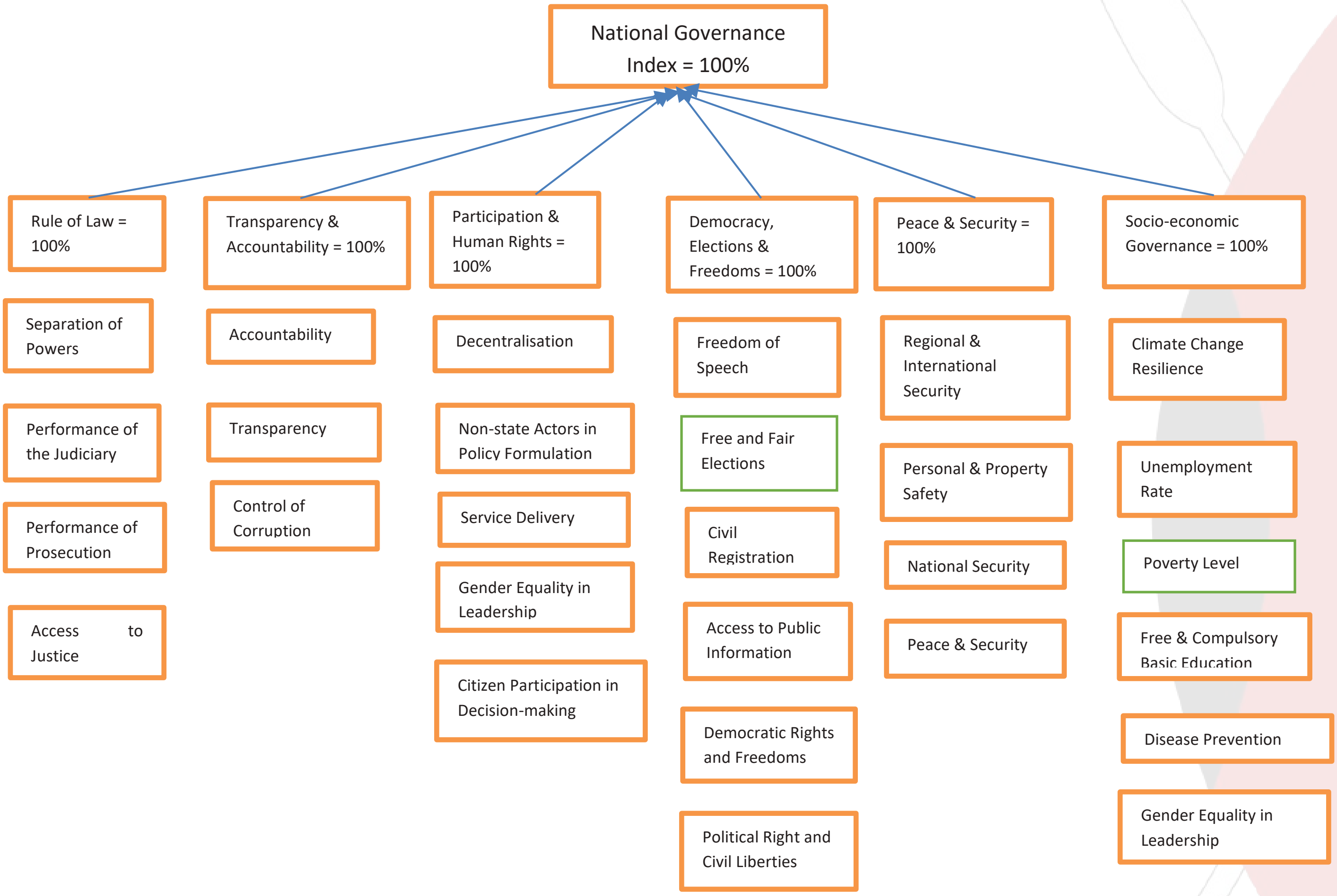


Figure 3.1: The Kenya NGR framework

PART 4

NATIONAL GOVERNMENT'S PERFORMANCE AGAINST ITS NATIONAL TARGETS

4. NATIONAL GOVERNMENT'S PERFORMANCE AGAINST ITS NATIONAL TARGETS

This section opens with a review of Kenya's macroeconomic performance (Section 4.1), then it presents the overall governance index based on the six pillars (Section 4.2), and closes with some detail on the performance of each of the pillars (Sections 4.3 to 4.8).

4.1 Macroeconomic Performance

Macroeconomic performance is critical for the capacity to sustainably implement development interventions. Table 4.1 compares Kenya's targets and attainments on various 2017-2019 macroeconomic indicators. Vision 2030's ambitious average of 10% per annum GDP growth is never attained partly due to the country's high 30% GDP dependence on rain-fed agriculture in a context of erratic weather. However, inflation and revenues are contained within projected levels, the latter being a key determinant of the capacity to deliver sectoral targets. Savings and investment fell short of targets, leading to Kenya's aggressive borrowing beyond prudent levels, which has raised indebtedness above various regional and global prudence benchmarks.

Table 4.1: Kenyan Macroeconomic Indicators, 2017/18 to 2019/20

Macroeconomic Indicators	2017/2018		2018/2019		2019/20	
	Target	Actual	Target	Actual	Target	Actual
National Accounts and Prices (% change)						
Real GDP Growth	10.6	5.4	5.9	6.0	6.3	2.5
Overall Inflation	5.0	5.3	5.0	5.2	5.0	5.5
Gross National Savings (% of GDP)	13.6	13.5	16.5	13.6.	17.1	7.6
Investment (% of GDP)	30.9	18.6	21.9	17.7	22.6	13.1
Central Government Budget Indicators (% of GDP)						
Total Revenue	19.0	17.9	18.9	18.3	18.3	17.0
Total Expenditureand Net Lending	26.8	25.2	25.5	26.2	23.8	25.2
Overall Balance(including grants)	-7.2	-7.0	-6.0	-7.8	-4.3	-8.0
Total Debt	53.0	52.6	52.8	57.0	51	60.7
External Sector						
Current Accounts incl. OfficialTransfers (% of GDP)	-6.1	-5.1	-5.4	-4.1	-5.5	-5.5
Reserves (monthsof this year'simport cover)	6.7	6.9	6.8	6.4	6.9	6.3

Figure 4.1 reflects mismatches between aggregate and sector GDP targets and their respective growth attainments, sometimes by more than 100%. This suggests either poor baseline data for targeting, or poor Treasury and sector forecasting capacities, or poor implementation of planned interventions, or unanticipated exogenous shocks. GDP growth fell sharply after the 2017 general election year, when one would have expected a recovery from Kenya's traditional election-induced economic slump. However, the actual growth figures rose marginally into 2018 before dropping marginally into 2019.

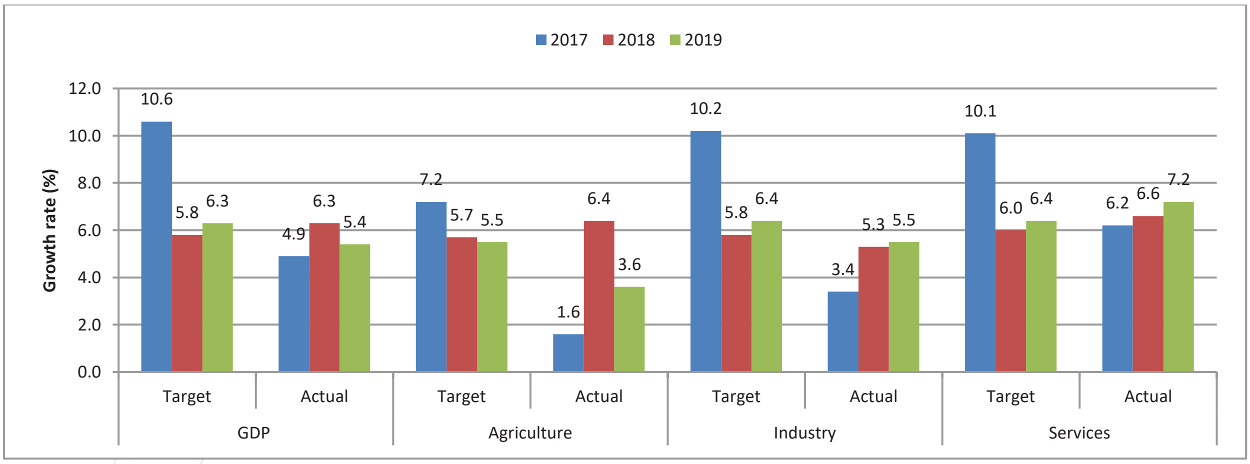


Figure 4.1: Aggregate and sector GDP growth targets and attainments, 2017 to 2019

The government continues to invest in improved data. Thus, for example, the 10-yearly National Population and Housing Census conducted in August 2019 will produce four analytical volumes covering national, county and sub-county socio-economic characteristics, while also investing in county capacities to collect their own data through CIMES.

4.2 Overall National Government Reporting on its Performance

Figure 4.2 summarizes the government's national level performance in Figure 3.1's six NGR pillars, based on the MTP/MED data. Performance was better overall during the second review year compared to the first. The Participation and Human Rights pillar was exceptional, rising from a commendable 138.4% score against targets in Year 1, to a 411.1% score against targets in Year 2. Conversely, Rule of Law reflected not only weak delivery of targets in general, but a decline in attainment from 76.8% in Year 1 to 59.6% in Year 2.

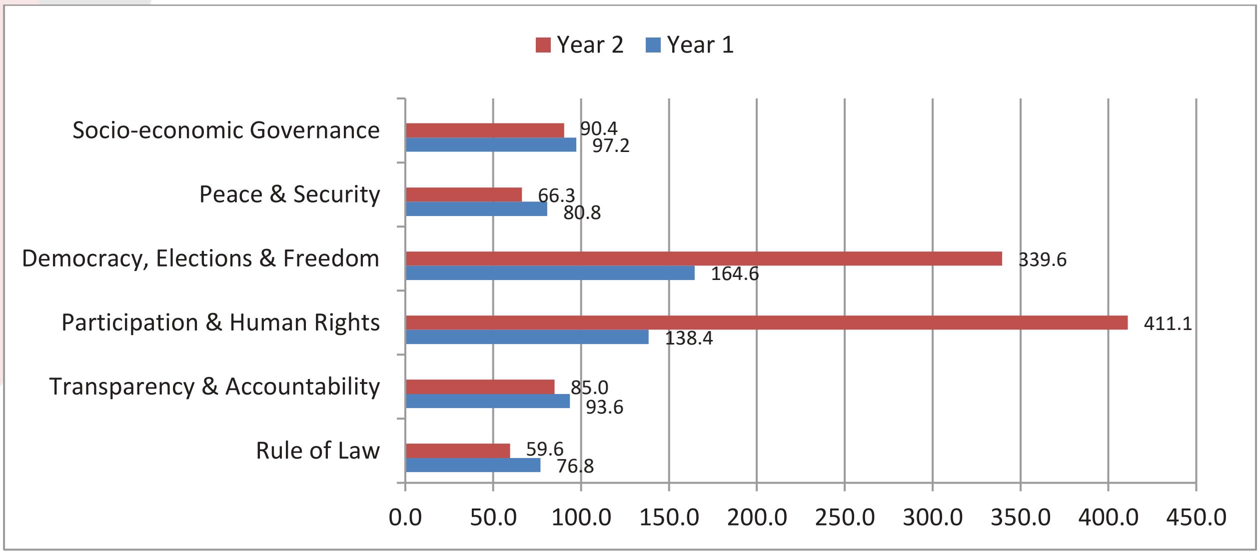


Figure 4.2: Overall Governance Attainment Scores for NGR Pillars

Figure 4.3 presents the actual overall Kenyan NGR index, with Year 1 scoring 108.6% while Year 2 scores 175.3%. These scores above 100% arise from the fact that while each pillar's score is theoretically capped at 16.7%, the actual pillar contributions to the NGR index may exceed that average share, as in the cases of Participation and Human Rights (Year 1=23.1%; Year 2=68.7%) and Democracy, Elections and Freedoms (Year 1=27.5%; Year 2=56.7%). The index shows that for four pillars – Transparency and Accountability, Rule of Law, Socio-economic Governance and Peace and Security, performance not only remained low, but declined between the two years.

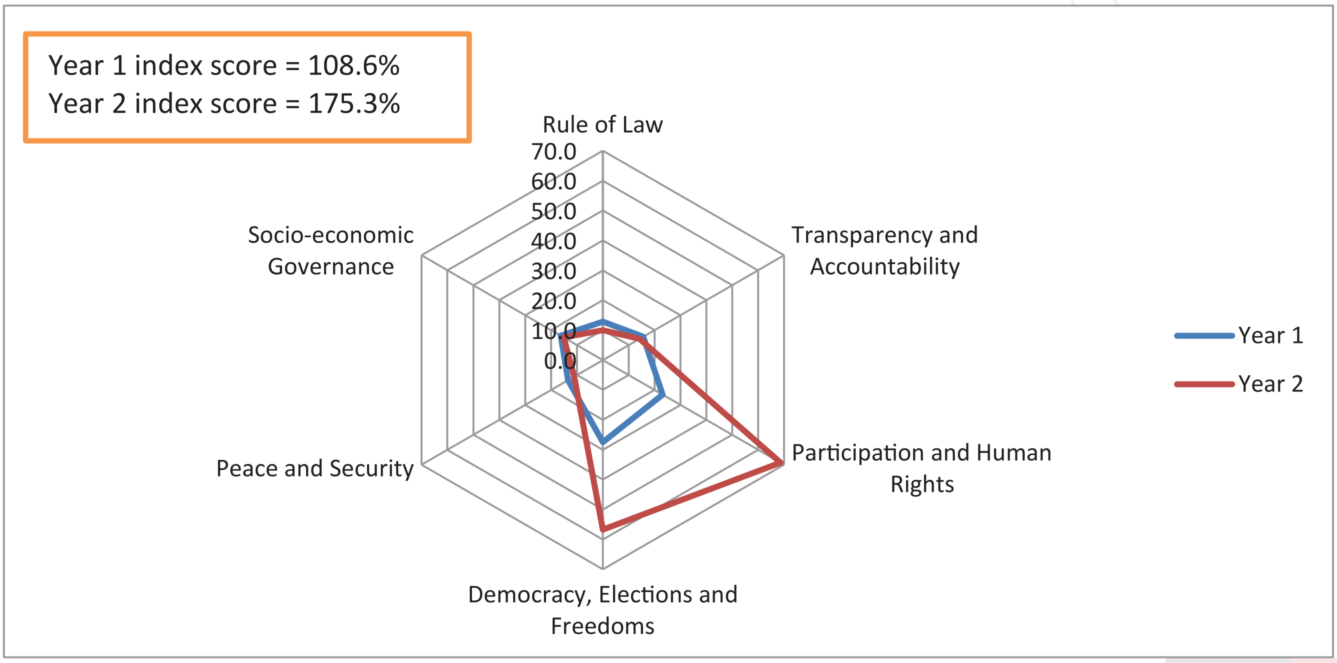


Figure 4.3: The Kenyan NGR Index

4.3 NGR index components: Rule of Law

The importance of the Rule of Law in Kenya is reflected in its invocation at various points in the Constitution (2010), starting with Article 2 (5)'s affirmation that "the general rules of international law shall form part of law of Kenya." The issue is revisited in the National Values and Principles of Governance (Article 10), the President's authority (Article 131 (2)), the Attorney General's duties (Article 156 (6)), the principles of national security (Article 238 (2)), and Article 259's emphasis on the Constitution "(being) interpreted in a manner that… advances the rule of law…" However, the Universal Periodic Review of 2019 saw the International Commission of Jurists highlight Kenya's "struggles with adherence to the rule of law," and its arbitrary measures to undermine the independence of the Judiciary through budget manipulation.

The NGR framework evaluates the Rule of Law based on:

(i) Separation of Power,
(ii) Performance of the Judiciary,
(iii) Performance of the Prosecution,
(iv) Performance of the Legislature, and
(v) Access to Justice.

The performances are reflected in Figure 4.4.

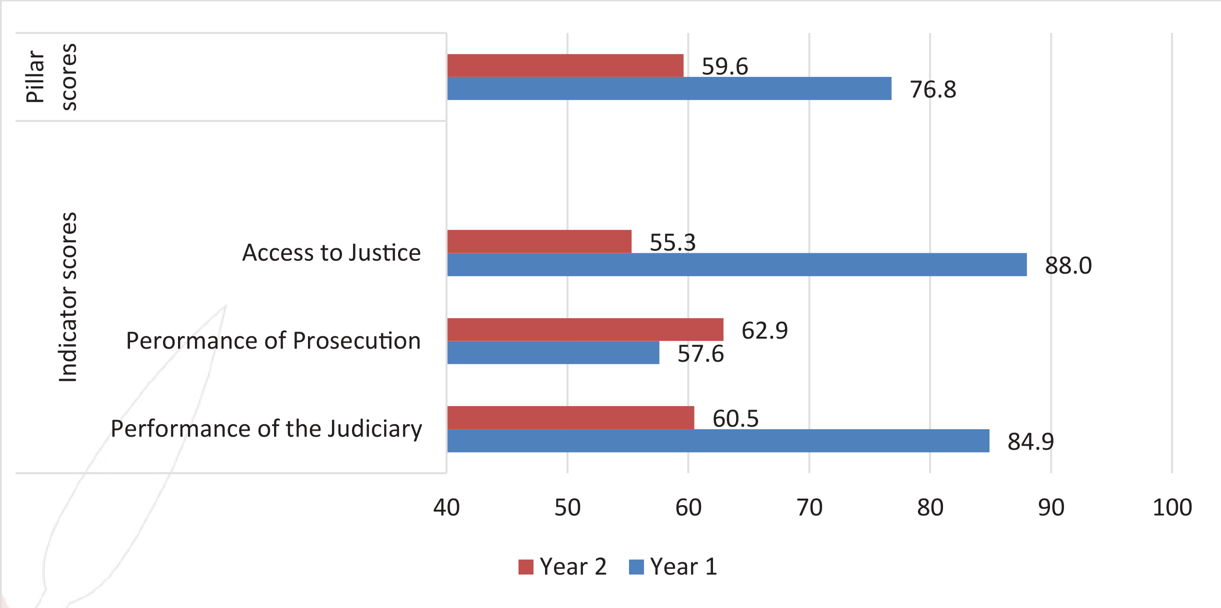


Figure 4.4: Rule of Law Pillar and Indicator scores

Separation of Power: The Constitution (2010) provides for this between the Legislature, Executive and Judiciary. It guarantees the authority and independence of Parliament, which has however, witnessed persisting tensions between its National Assembly and Senate, resulting in High Court intervention. Under devolution too, conflicts have arisen between the county executives and county assemblies, and Governors being impeached successfully.

The Judiciary also derives its authority from Articles 159, 160, 166 and 168/171; but in 2017, the Supreme Court angered the Executive when it cancelled the presidential elections for being conducted unconstitutionally, resulting in a re-run.

Performance of the Judiciary: The Judiciary agenda has been the Sustaining Judiciary Transformation 2017-2021, which built on the Judiciary Transformation Framework 2012-016. It has faced several constraints, notably financing, receiving only 0.69% of the national budgets for 2017/18 and 2018/19, instead of the anticipated 2.5% share. Its performances were 84.9% and 60.5% for succeeding review years.

Performance of the Prosecution: Article 157 of Constitution (2010) established an independent Office of Director of Public Prosecutions (ODPP), with absolute authority over any prosecution before the judgment is made. Through its second Strategic Plan 2016-2021, it has aspired to 'Re-cast', 'Re-tool', and 'Re-Learn'. It attained scores of 57.6% and 62.9% in the succeeding reporting years. Some performance sub-indicators are presented in Figure 4.5.

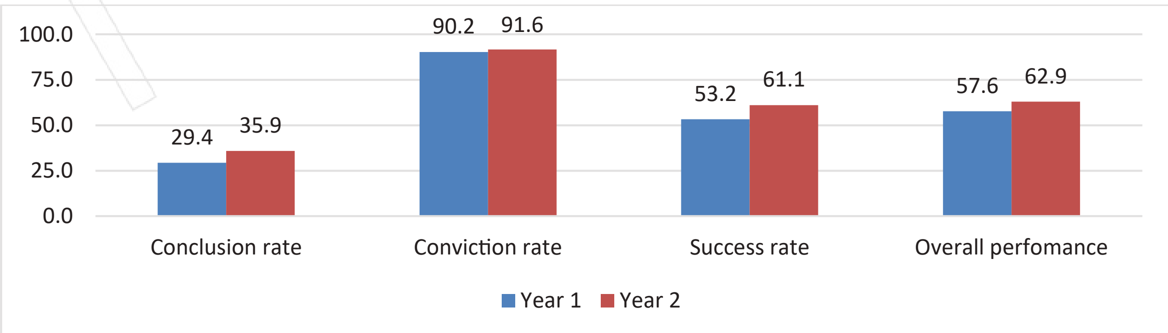


Figure 4.5: Prosecution performance sub-indicators

Performance of the Legislature: Article 93(1) of the Constitution (2010) reintroduced the bi-cameral Parliament incorporating Senate and National Assembly. Parliament's role includes legislative authority on behalf of the people's sovereignty. Managed by the Parliamentary Service Commission, Parliament invested in (i) ICT systems for its accounting and library facilities, (ii) the Parliamentary Budget Office research unit, (iii) the capacity-building Centre for Parliamentary Studies and Training, and (iv) the Parliament Broadcasting Unit.

Access to Justice: The Judiciary defines 'access to justice' to encompass "all channels that members of the public use to remedy wrongs and access justice," including Alternative Justice Systems. A 2017 judiciary satisfaction study found that 68% of respondents felt that "Courts… protect the interests of the rich and powerful above those of others." The study recommended focusing justice delivery around people's particular needs, and strengthening links between the formal and informal justice systems, raising the profiles of non-judicial government agencies, such as the Provincial Administration, National Cohesion and Integration Commission, National Steering Committee on Peace Building and Conflict Management, and non-government bodies, such as community- and faith-based organizations, sometimes presided over by court accredited moderators. Court user complaints have declined over time, despite a growth in perceived 'Poor services'. Nonetheless, performance declined steeply from a commendable 88% in review Year 1 to a modest 55.3% in Year 2.

4.4 Transparency and Accountability

This pillar's index score for the first year was 93.6% while that for the second year was 85%, as seen in Figure 4.6. Performance worsened into Year 2 for all the three indicators, but the decline was especially strong for Transparency (from 90% to 70%).

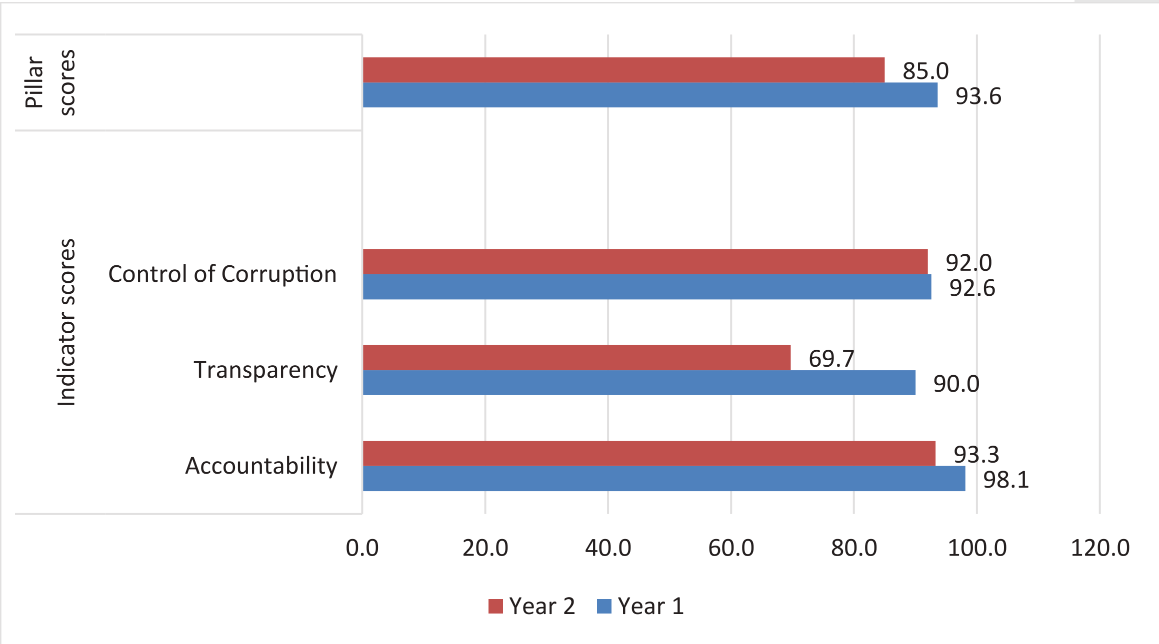


Figure 4.6: Transparency and Accountability key indicator and sub-indicator scores

Control of Corruption: From a governance perspective, corruption has received great attention with the Constitution providing for various focused policies, laws, and institutions. The Ethics and Anti-Corruption Commission, for example, educates on corruption, which it prevents, investigates, mediates, reconciles, and negotiates solutions on. The indicator's performance fell marginally from 92.6% to 92.0%.

Transparency and Accountability

The pertinent interventions on Control of Corruption permeate public *and private* service delivery, as underscored by Article 10's governance values and principles, extended to Article 232's public service values. Such transparency and accountability focus on citizen ownership of policy, strategy and interventions, achieved primarily through public participation under the Public Finance Management Act of 2011, MTP, and County Integrated Development Plan. Accountability's score fell from 98.1% to 93.3% in the first and second years. For Transparency, however, the decline was greater – from 90.0% to 69.7%.

4.5 Participation and Human Rights

Citizen participation is an omnibus imperative for all public sector planning, budgeting, and development implementation. Meanwhile, the Constitution's human rights provisions listed primarily in its Chapter Four's Bill of Rights "apply to all law and bind all state organs and all persons." While awaiting the delayed Kenya Draft Policy on Public Participation 2018 and The Public Participation (No. 2) Bill (2018), National and county level institutions have individually espoused participation, despite the obvious risk of them giving it divergent interpretations. However, the pillar's performance index rose from 138.4% to 411.1% between the first and second review years, as reflected in Figure 4.7.

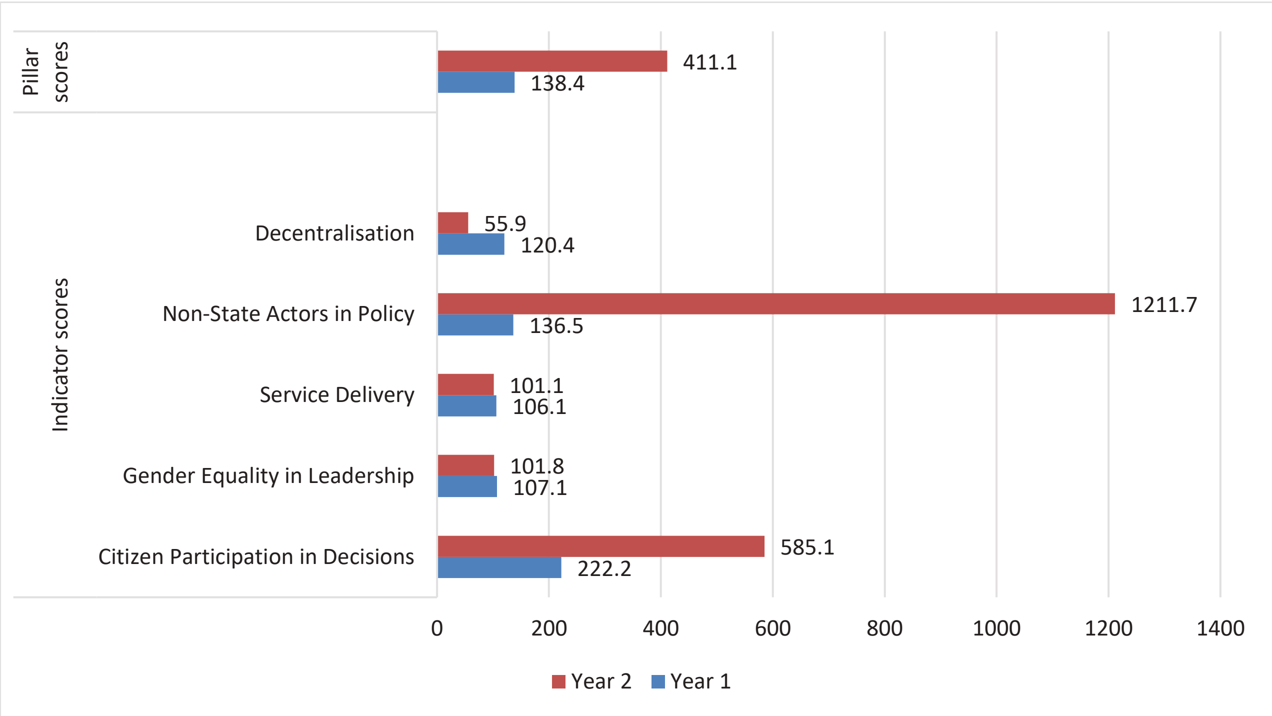


Figure 4.7: Participation and Human Rights Pillar and Indicator scores

Citizen Participation in Decision Making: Parliament's delayed passage of the public participation frameworks mirrors the government's weak attitude to the full implementation of the Access to Information Act, a critical foundation for effective participation, which is a cornerstone of Kenyan democracy. However, the indicator score rose from a strong 222.2% to an even stronger 585.1%.

Gender Equality in Leadership: Kenya early recognized women's potential in development, and championed gender equality by hosting the 1975

than two-third of elective and appointive bodies shall be of one gender. The overall performance of the indicator dropped from 107.1% to 101.8%.

Service Delivery: Much service delivery has been discussed above, and under this Framework and inaugural NGR sub-heading, the outstanding attainment is the sharp increase in support for organizations hosting persons with disabilities (PWD). However, the overall indicator score dropped from 106.1% to 101.1%.

Non-State Actors in Policy Formulation (CSO; Media; Academia): Article 2 (6) of the Constitution provides that all ratified international governance frameworks become part of Kenyan law, which is an implicit invitation to the international non-State actor (NSA) to be part of the country's policy making and consequent legislation and budgeting. At the sub-national level, NSA participation is reflected in grassroot organizations' participation in planning and implementation; and registration of self-help groups and civil society organizations rose sharply between the first and second review years, exceeded targets nearly 45-fold in the second year, as seen in Figure 4.7.

Citizen awareness of the foregoing issues is largely due to the **role of the media**, especially its electronic component; but the Media Council Act's list of 'threats' to national security and public order somewhat restrict media freedom. Nonetheless, the Media Council of Kenya's Strategic Plan 2018-2023 has links to diverse national, regional, and global development issues.

women's conference and inaugurating the Kenya National Policy on Gender and Development (2000). Kenya's MDG 2 on improving girls' primary school enrolment was a standout achievement, but MDG 3's Women in Leadership was erratic, despite the constitutional provision that not more

Overall, this indicator's score rose sharply from 136.5% to 1,211.7% between the review years.

Decentralization: Besides *devolution* to 47 county governments, Kenya also decentralizes administratively and operationally to ministries, departments, and agencies to ensure widespread service delivery. Individual County Governments rely for their funding on:

(i) An equitable share of at least 15% of national revenues,

(ii) Conditional or unconditional grants,

(iii) Borrowing approved by the National Treasury, and

(iv) Constitutionally specified, locally collected, 'own source revenues.

The County Governments' service delivery has often been impeded by the National Treasury's erratic budget resource disbursement; yet some County Governments have yet to institute requisite service delivery laws. The overall indicator score fell from 120.4% to 55.9%.

4.6 Democracy, Elections and Freedoms

Kenya's 1999 to 2010, people-driven constitutional review underscored the people's centrality to sovereignty enjoyed directly or indirectly through democratically elected representatives, and the consequent significance of the Bill of Rights, in the context of the International Covenant on Civil and Political Rights. The pillar index rose from 164.6% to 339.6%, as seen in Figure 4.8.

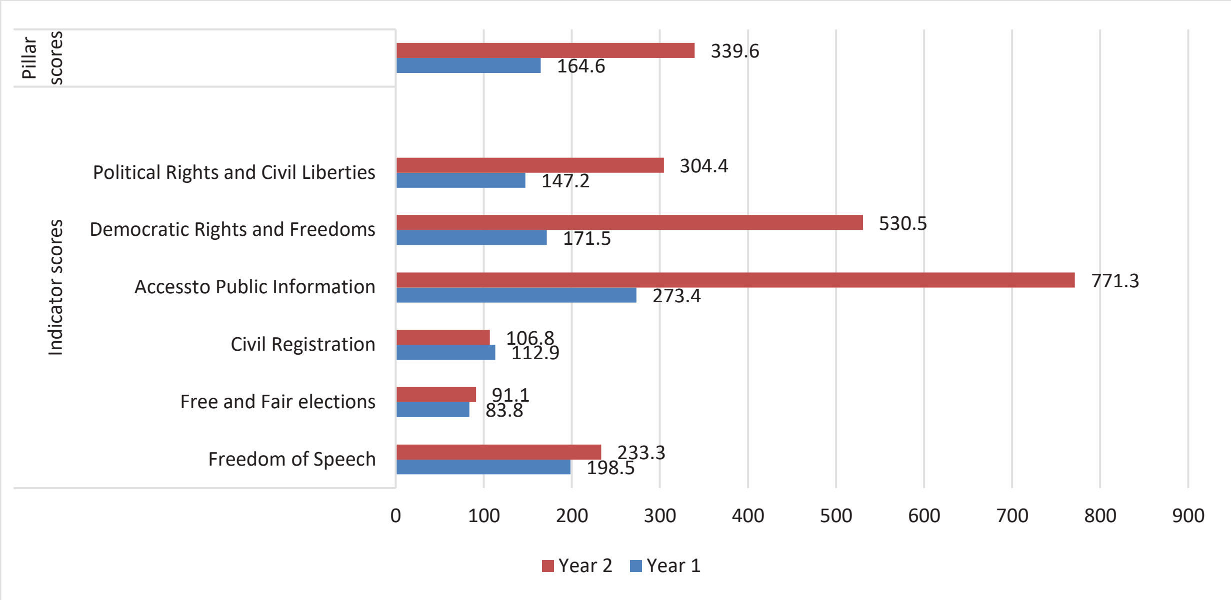


Figure 4.8: Democracy, Elections and Freedoms Pillar and Indicator scores

Political Rights and Civil Liberties: This indicator's performance rose from 147.2% to 304.4%. Civil liberties – *personal* and *contextual* rights – are covered in Part 2 of Kenya's Bill of Rights, including Right to life, Equality and freedom from discrimination, Human dignity, Freedom and security of person, Right to privacy, Freedom of conscience, religion, belief and opinion, Freedom of expression, Freedom of the media, Access to information, Freedom of association, Freedom of assembly, demonstration, picketing and petition, and Protection of right to property.

It also addresses Fair administrative action, Access to justice, Rights of arrested persons, Fair hearing, Detention, custody or imprisonment, affirmative action/positive discrimination provisions. Part 3 distinguishes Children, Persons with disabilities, Youth, Minorities and marginalized groups, Older members of society, and Women. Chapter Three defines citizenship, and the rights of diaspora Kenyans in domestic democracy, and this allowed Kenyans in five African countries to vote during the 2017 general elections.

Democratic Rights and Freedoms: The indicator improved from 171.5% to 550.5%. The Constitution's Chapter Seven on Representation of the People provides for the electoral system and processes, and for Parliament and political parties. Citizens enjoy the freedom to exercise political rights, universal suffrage, equality of vote, and free and fair elections. The elected president and the deputy (Articles 136, 138, 140 and 148) must uphold the Constitution and protect the sovereignty of the country. Article 177 provides for County Assembly elections, while Article 180 concerns the election of Governors and their deputies. The public may participate in parliamentary and County Assembly affairs, and may recall parliamentarians and county representatives.

Meanwhile, the media is critical for democracy, rights, and freedoms, and must therefore be protected by Kenyan laws. The Media Act 2007's Code of Conduct for the Practice of Journalism emphasizes accuracy, fairness, integrity, and accountability, among other factors. Media ownership – or control – around the controversial 2007 general elections was partisan and arguably therefore confrontational. Into the 2013 and 2017 general elections, tensions had diminished as key media players had united politically. However, the government in February 2018 illustrated its limits of media freedom when it ignored High Court orders and switched off the broadcast signals of three major media houses for the live airing of an opposition swearing-in of a 'People's President'. A 2020 Media Council of Kenya review of 20-odd media-focused legislation found persisting impediments to full media freedoms, notably the persisting failure to operationalize the Access to Information Act.

Access to Public Information: This indicator experienced a great jump in performance from 273.4% to 771.3%. The Constitution's Article 35 provides that everyone has the right of access to information held by the State, which is especially important for participation in governance. The Access to Information Act empowers the Ombudsman to oversee public agency disclosures, but the invocation of 'national security' is often an impediment with the Official Secrets Act threatening prosecution for officers who release of information, even if whistleblowing. The Ombudsman has mainstreamed the Act across ministries, departments, agencies and County Governments, and information requests have risen sharply. It has developed the *Model Law on Access to Information for County Governments* and was party to the 2019 International Day of Universal Access to Information which vowed to *Leave No One Behind* on information access.

Civil Registration: The indicator's performance score dropped marginally from 112.9% to 106.8%. Article 12 of the Constitution guarantees every citizen the right to a state document of registration or identification, including registration of births and deaths, national identification card, passports, and marriage (under any of five systems). The Integrated Population Registration System resulted in the *Huduma* Kenya network, and the Huduma Bill, 2019 will harmonize the context of registration of persons, and provide efficient and accessible Government services through various integrated delivery platforms.

--Births and Deaths- The total numbers registered, and the coverage rate of registration rose remarkably between 2017 and 2019, during the department's 2017-2022 strategic plan; yet a wide 25% gap remains in birth registration coverage. On death registration, the rate dropped continuously to 2018, then picked up into 2019, the likely effect of the strategic plan's digitization of 2mn records in a single month in 2019, and the aspiration to train 2,000 staff in 125 offices. Work continues on the Integrated Population Registration System, which was originally piloted in six counties, and should have attained full coverage by 2018. However, challenges have included budgetary constraints, distances to registration centers, staff capacities and skills (especially in relation to digitization), the lack of monitoring and evaluation, and weak dissemination of activities.

--Registration of National ID- The Registration of Persons Act applies to all citizens who have attained the age of 18, or are apparently 18 or over. Birth certificates, primary school enrolment and passports enable the acquisition of a national ID, a significant document given Kenya's porous borders. The card is important for voter registration, and lack of it can deny access to some public services. Registration has averaged 1.2mn first time annual applicants between 2015 and 2018, but only 89% of applications are delivered, of which only 90% are collected.

Free and Fair Elections: This is the worst performing indicator of the Democracy Elections and Freedoms pillar, even if the score rose across the two years from 83.8% to 91.1%, as seen in Figure 4.8. The Constitution's direct or indirect attention to free and fair elections starts at Article 1 (2)'s sovereignty belonging to the people, to be enjoyed 'directly or indirectly through *democratically* elected representatives. The values and principles of Articles10 and 232 also underscore democracy through free and fair elections. Article 81 provides the general principles for the electoral system, including the citizens' rights to Article 38's universal suffrage through secret balloting free of violence and coercion, and transparent and independently managed electoral processes. Chapter 6 on Leadership and Integrity, emphasizes the need for probity, ethics, and integrity among aspiring and actual leaders.

Article 81 is foundational for Chapter Seven on Representation of the People. Part 3 presents the basic requirements of a political party and the concept of the related laws. Meanwhile, Part 2 mandates legislation of the Independent Electoral and Boundaries Commission (IEBC) and its operation, delimitation of electoral units, and allocation of proportional parliamentary seats.

--Office of Registrar of Political Parties - The Political Parties Act of 211 provides for the registration, regulation, and funding of political parties, and for related issues, such as registration and de-registration, membership, general records, government funding, dispute management, and general discipline. The Registrar administers the Political Parties Fund, which is financed through at least 0.3% of national revenue, with 95% of the Fund shared proportionate to party parliamentary presence and party structure conformity with the two-thirds gender rule.

Among the Office's major achievements during the 2016/17 to 2018/19 period, were strengthening legal and regulatory frameworks, including dispute framework, producing policy and draft legislation on political party primaries, launching a national party membership database to curb defections, upgrade of the Integrated Political Party Management System, and building political party capacity for its use. The challenges included erratic budget flows, inadequate quality staff, controversies on sharing the Party Fund, and internal and inter-party conflicts.

--Independent Electoral and Boundaries Commission – Created by Article 88 of the Constitution, IEBC conducts or supervises referenda and elections to any constitutional elective body or office, or elections mandated by Parliament. It oversees a party and candidate code of conduct, educates, and registers voters and updates the voters' roll, delimits electoral boundaries, regulates party nominations, and resolves disputes arising (other than petitions), registers candidates, and oversees elections, in future including election spending.

IEBC's Election Operational Plan 2015-2017 had three goals: Conduct efficient, effective, and credible elections; Reposition IEBC for efficient and effective electoral services; and Foster trust and participation of Kenyans in the electoral process. Specific activities included resource mobilization, voter education, outreach, registration and update of the voters' register, nominations, electoral dispute resolution, and electoral campaigns. Further, IEBC employed ICT-based systems to conduct the elections, managed litigation, and coordinated security and observer missions.

Kenyan elections are very competitive, as seen in Table 4.2: e.g., a large average 10 candidates contested a single 2017 County Assembly seat while eight sought the single presidential seat. A petition was filed in one in every six seats contested, with a success rate of a mere 8%.

NGR Team Led by Amb. Dr. Samori Okwiya, The Chief Executive Officer, NEPAD/APRM Kenya Secretariat, in Kwale County

Table 4.2: Petitions and their outcomes in the 2017 General Elections

Seat	Seats	IEBC cleared candidates	Independent Candidates	Petitions filed	Petition success rate (%)
President	1	8	3	1	100
Governor	47	210	44	35	8.5
Senator	47	256	48	15	0
County Women Member of the National Assembly	47	299	55	12	8.3
Member of the National Assembly	289	1,893	513	98	7.1
Member of the County Assembly	1,448	11,857	3,339	139	8.6
Totals	1,879	14,523	4,002	300	7.7

For improved electoral management, IEBC recommends: the timely appointment of commissioners, but staggered for continuity; investment in credible voter education grounded on public participation; the timely disbursement of adequate budgets for effective Operational Plan implementation; and the timely implementation of policy and legal reforms, including a "more realistic" presidential election petition timetable. Other issues include operationalizing the Election Campaign Financing Act of 2013, to regulate election spending; integrating voter registration into the national citizen database, including special population groups, such as PWDs, minorities and marginalized groups, and diaspora voters; timely audit of election technology ahead of an impending electoral cycle; and consider staggering the general elections over a number of days instead of the current single day.

Freedom of speech: Various articles of the Constitution touch directly or indirectly on freedom of speech, the most proximate ones arguably being Articles 32 (Freedom of conscience, religion, belief, and opinion), 33 (Freedom of Expression), 34 (Freedom of Media), 35 (Access to Information), 36 (Freedom of Association), 37 (Assembly, demonstration, picketing and petition) and 38 (Political Rights). Since the 2010 promulgation of the Constitution, these articles have spawned new or revised implementation policies and legislation. For the review period, Figure 4.8 shows that the indicator score rose from 198.5% to 233.3%.

However, re-alignments have not been comprehensive: the Penal Code contains persisting threats leading to several arrests especially of Internet users – bloggers have been accused of publishing alarming information, and artists of undermining morality. But free speech may not be used to spread war propaganda or incite to violence, ethnic animosity, and hate speech, among other related activities that threaten peace and security. On 'hate speech', the National Cohesion and Integration Act does provide a definition which the National Cohesion and Integration Commission has cited in arresting and prosecuting offenders in its five regional hate speech courts.

--Freedom of Religion - The State shall not distinguish based on religion, and indeed, all persons have the freedom of conscience, religion, thought, belief, and opinion. Nonetheless, the Muslim faith is allowed the Kadhi Court framework among adherents concerning marriage, divorce, or inheritance.

Faith-based organizations have played significant – even monopoly roles – in the provision of basic social services, such as education and health care. However, there have been several controversies: 2018 saw Methodists' object to the *hijab* in schools, and *Akorino* dress choice, including the wearing of turbans; and a Christian sect opposed its faithful's access to formal education and modern medicine. Meanwhile, the High Court overturned a previous ban on the registration of the Atheists in Kenya

Society; and a 2017 court ordered the return to work of reportedly gay Anglican Church of Kenya priests.

Terror group Al Shabaab's destabilization of Somalia has perpetuated refugee and migrant flows into Kenya. Al Shabaab's terrorist incursions into Kenya prompted the 2011/12 entry of Kenya Defense Forces into southern Somalia, occasioning further 'punitive' terror attacks across Kenya, including the January 2019 DusitD2 complex attack which killed 21 (plus the 5 attackers) and injured 27. The predominantly Somalian Al Shabaab infiltrate Kenya as refugees, complicating the issuance of national IDs in northern Kenya where the group has violated places of worship, terrorized Christians, and overran a police station, and targeted quarry workers and public servants, including non-local medical and school staff.

4.7 Peace and Security

Chapter Fourteen of the Constitution defines national security as "the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity, and other national interests." Kenya's main security organs include the Kenya Defense Forces, National Intelligence Service, and National Police Service. Historically, Kenya has been peaceful, despite the arguably low-keyed perennial socio-cultural conflicts around livestock, water and pasture, terrorist attacks since 1998, and election-related skirmishes. Indeed, Kenya has had the luxury of its forces participating in peace keeping operations across the world since 1979, and under the auspices of the UN since 1988. However, Kenyan peace and security concerns also include general crime, corruption, the cyber sector, and money laundering.

The security organs have shed their historical opaqueness and invested in far-reaching transparency and accountability reforms, including launching customer service desks, information websites, and even a live chat facility for the Defense department whose strategic plan this review did not access.

MTP III's had no indicators monitoring the Kenya Defence Forces engagement in Somalia during the review period, or monitoring terrorist activities in the country. Instead, the MTP concentrated on operational preparedness of the security forces. On the balance on Peace and Security, Kenya performed marginally better in Year 1 compared to Year 2, as seen in Figure 4.9, partially relating to procurement and deployment activities. Nonetheless, Kenya has proactively engaged in good neighbourliness across multiple fora, the relatively high scores under Regional and International Security being driven by the numerous conferences, trade missions, business forums, and related activities hosted or attended.

NEPAD/APRM Kenya Secretariat staff undertaking Focus Group Discussions in Mombasa County

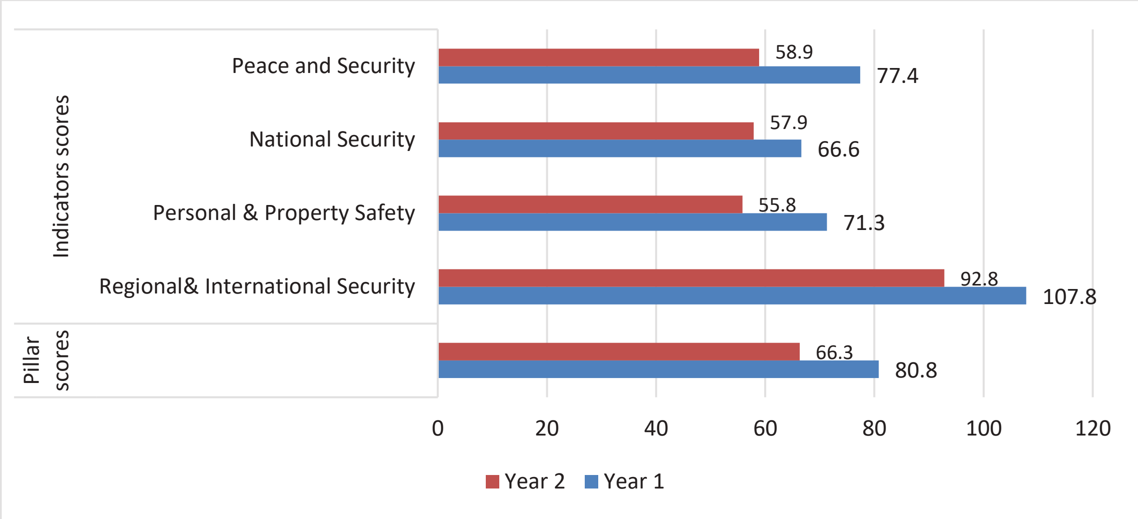


Figure 4.9: Peace and Security Pillar and Indicators scores

Article 241 establishes the ***Kenya Defense Forces*** – the Kenya Army, Kenya Navy, and Kenya Air Force, which shall defend and protect the country's sovereignty and territorial integrity, cooperate over emergencies and disasters, and *may*, with National Assembly's authority, be deployed to quell internal unrest and instability and restore peace. The Defense Council oversees defense policies and controls and supervises the Forces. The Department of Defense's functions include National Defense and management of related policy; Protection of National Boundaries; Support for Civil Authority; and Defense Intelligence.

The Defense department operates Centers of Excellence, including the National Defense College, Defense Staff College, Kenya Military Academy, Defense Forces Technical College, Recruits Training School, School of Infantry, and International Peace Support Training Centre, the "internationalized" Peace Support Training Centre is evidence of Kenya's global credibility in defense issues.

The Chief of Defense Force's strategic vision for the forces, includes capacity development for personnel and equipment, personnel welfare (health and housing), military industrialization and response to humanitarian challenges, and national development (Figure 4.10). These aspirations echo some among the government's flagship MTP 2018-22 projects, including the Force's modernization, with the Kenya Ordinance Factories Corporation venturing into food processing, alongside various internal amenity expasion.

Amb. Dr. Samori Okwiya, CEO, NEPAD/APRM Kenya Secretariat and Mr Peter Kimemia, Director APRM & Governance, engaging with former County Commissioner, Kwale, Mr. Karuku Ngumo

Figure 4.10: Strategic Vision of the Defense Chief

Article 242 establishes the civilian **National Intelligence Service,** operationalized by an Act of the same name, responsible for security intelligence and counter-intelligence for national security. It currently has the Internal, External and Counter-Intelligence divisions, its more human rights conscious approach recruitment widely among professionals, including engineers, lawyers, economists, scientists, communication experts, among others. On its own initiative or at the request of government departments, it investigates, gathers, evaluates, correlates, interprets, disseminates, and stores information, whether domestic or international, on potential and actual threats to Kenyan security.

The **National Police Service** comprises the Kenya Police Service and the Administration Police Service, operationalized by the National Police Service Act of 2012. The two Services have some common functions, but the Kenya Police Service focuses on crime prevention, detection and investigation, while the Administration Police Service focuses on government administrative services.

--The **Directorate of Criminal Investigation** collects and provides criminal intelligence, and investigates serious crimes, including homicide, narcotic crimes, human trafficking, money laundering, terrorism, economic crimes, piracy, organized crime, and cyber-crime, among other functions. It executes the directions of the Inspector-General and the Director of Public Prosecutions, co-ordinates country Interpol Affairs, investigate matters raised by the Independent Police Oversight Authority.

--The County Policing Authorities chaired by the Governor, and with a membership that is widely representative of the composition of communities augments other police work, as does ***Community Policing*** and the ***Nyumba Kumi*** initiative, as well as the ***National Police Reserve*** comprising civilians volunteering to assist the police force.

The Service's **Internal Affairs Unit** is mandated to receive and investigate complaints against police officers, promote uniform discipline standards in the force, and maintain records of complaints made and investigated. The Unit is mandated to investigate for and regularly reports to the ***Independent Police Oversight Authority***, a civilian body that oversees the force, especially from a rights perspective, and to undertake investigations at the request of the Authority.

The Oversight Authority holds the Police accountable to the public in the performance of policing functions with respect to professionalism, discipline, transparency, and accountability, and ensures independent oversight of the handling of complaints against the Service. It investigates complaints from the Public and from the Police Service, and monitors and investigates policing operations affecting the public, reviews and audits investigations and actions taken by the Internal Affairs Unit, and inspects the infrastructure and conditions of police premises, including detention facilities, among other functions. Its 0 (FY) 2018/19 inspection scored below 50% for 18 of the 26 indicators monitored, with improvements in lighting, ventilation, drinking water, and medical care.

The globalising IT village has attracted cyber crime and money laundering, alongside human smuggling and trafficking, and drug trafficking, with 136,000kg of heroin detained in Mombasa in 2018. Capacity and integrity shortfalls among the uniformed cadre also forster insecurity: officers have been accusedof turning a blind eye in return for material favours, whether over the issuane of IDs, visas or work permits, or passage through security check points, and police officers have allegedly hired out their firearms and ammunition.

In response to Al Sahbaab efforts to radicalise Kenyan youth, 2019 saw the launch of the Kenya National Strategy to Counter Violent Extremism. The National Counter-Terrorism Centre has also recently launched its Child Safety and Safety Against Extremism strategy, and the County Action Plans to Prevent and Counter Violent Extremism. A 'soft power' strategy sees Kenya invest in integrating previously marginalized communities, such as through infrastructure development. Additionally, the Government has instituted County Peace Committees under the National Steering Committee on Peacebuilding and Conflict Management of the Office of the President. This oversees a conflict early warning and early response mechanism that also recogninses the roles of communities from neighbouring countries in fomenting conflict, especially among the pastoralist communities of northern Kenya. The UWIANO Platform also monitors peace, alongside National Cohesion and Integration Commission, which undertakes continuious civic education. Other initiatives focusing on peace and security include the *Nyumba Kumi* initiative and community policing.

Regional and International security: Kenya is part of the Africa Defence and Security Mechanism, and the African Standby Force, as part of the African Peace and Security Architecture. The related Protocols encompass conflict prevention, early warning and preventive diplomacy, peacebuilding, intervention and humanitarian action, disaster management, and a peace fund. Kenya's UN peacekeeping activities benefit from the country's military training that incorporates international humanitarian law. Additionally, Kenya Defense Forces' concept of peace covers issues in economics, diplomacy, environment, culture, and the diaspora. The country subscribes to the AU Agenda 2063's peace aspirations, and activities of the East African Community, and the Inter-Governmental Development Agency and hosts the Nairobi-based International Peace Support Training Centre.

4.8 Socio-economic Governance

This pillar has a broad coverage whose performances relate extensively to the pillars already discussed covered above. The pillar's score dropped from 97.2% to 90.4% across the review years, as shown in Figure 4.11. Across the indicators, Climate Change Resilience and Poverty Level improved across the review period while all the others did worse in the second year.

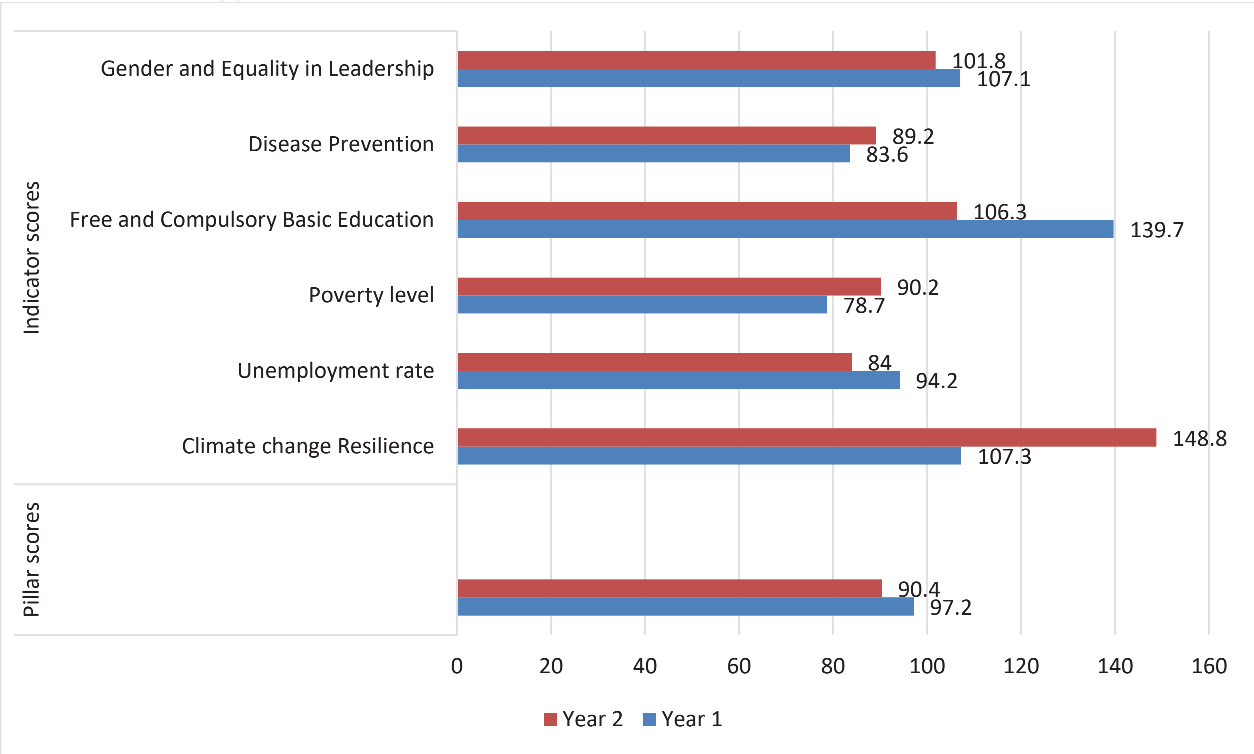


Figure 4.11: Socio-Economic Governance Pillar and Indicator scores

4.8.1 Gender Equality in Leadership

The gender indicator marginally exceeded targets for both years, even if there was a marginal decline from 107.1% in Year 1 to 101.8% in the second year.

While women's particpation in grassroots leadership is the stepping stone to their participation in national leadership, women-in-leadership studies often focus only on their national level public and private sector leadership. Thus, the January 2021, Inter-Parliamentary Union, and UN Women data focus on women in decision-making for the six East African Community countries show that Kenya's 30.4% share of cabinet positions only outperformed Tanzania (18.2%), compared to Rwanda's 54.8% share. For Parliament, bottom of table Kenya's 21.6% share compared badly with Rwanda's leading 61.3% share. Overall, Kenya's lowest regional average of 26% compared badly to Rwanda's leading average of 58.5%.

Internally, the State Department for Gender Affairs' 2018 data show that Kenyan women's share of decision-making positions improved from 23.1% just before the 2017 general elections, to 32.8% just after the elections, as reflected in Table 4.3. Thus, for regional and national data, Kenya fails the constitutional one-thirds threshold for appointive and elective positions. Indeed, compliance applies to only five of 22 key Executive, Legislature and Judiciary institutions reviewed. The women's share of direct ‘Presidential Appointees’ rose from 18.8% before the 2017 general elections, to 20.7%, compared to the performance of ‘Mediated/Advertised Appointments’ (31.7% to 33.9%), and ‘Directly Elected’ (16.4% to 21.6%). These data suggest that presidential discretion in appointments has not overcome the male bias, which also affects election choices, even if fewer women contest the elections. These numbers suggest that women perform better in open interview jobs requiring technical qualifications, rather than those requiring (political) patronage.

Table 4.3: Distributon of women in leadership in Kenya

	Before 2017 general election		Since 2017 general election	
	Numbers	*Female share (%)*	Numbers	*Female share (%)*
I – Presidential Appointees		***18.8***		***20.7***
▪ Cabinet Secretaries	18	***33.3***	22	***27.3***
▪ Principal Secretaries	26	***26.9***	43	***23.3***
▪ Chief Administrative Secretaries	N/A	*N/A*	21	***14.3***
▪ Diplomatic Corps	63	***23.8***	58	***27.6***
▪ County Commissioners	47	***38.3***	47	***36.2***
▪ ***Public Service Commission Appointees***				
▪ Sub-County Commissioners	295	***13.6***	295	***14.9***
▪ Magistrates	438	***49.3***	421	***49.2***
▪ Kadhi Courts	45	***0.0***	55	***0.0***
▪ Chiefs	2,590	***4.9***	2,590	***5.3***
▪ Assistant Chiefs	5,886	***8.3***	5,886	***8.6***
II – Mediated Appointments		***31.7***		***33.9***
▪ Supreme Court Judges	7	***28.6***	7	***28.6***
▪ Court of Appeal Judges	25	***28.0***	22	***31.8***
▪ High Court Judges	96	***38.5***	131	***41.2***
III – Indirectly Elected/Guided Democracy				
▪ Speaker - Senate	1	***0.0***	1	***0.0***
▪ Speaker - National Assembly	1	***0.0***	1	***0.0***
IV – Directly Elected		***16.4***		***21.6***
▪ Governors	47	***0.0***	47	***6.4***
▪ Deputy Governors	47	***0.0***	47	***14.9***
▪ Senators	67	***26.9***	67	***31.3***
▪ National Assembly	349	***19.8***	349	***21.8***
▪ Members of County Assembly	2,224	***34.2***	2,224	***33.5***
Total	19,046 **100.0%**	***4,392*** ***23.1%***	21,334 **100.0%**	***7,000*** ***32.8%***

But women’s grassrots participation`is important for eventually accessing leadership, their impediments often including (financial) over-dependence on spouses and family. The government has invested in women empowerment through, for example, the Women Enterprise Fund, Uwezo Fund, Youth Enterprise Devepment Fund, and Access to Government Procurement Opportunities, as reflected in Table 4.4.The State Department for Gender and UN Women adjudged the funds successful over credit access, launching new businesses, generating self-employment, and improving socio-economic well being. Among the challenges were low lending amounts, weak fund oversight of lenders (resulting in) low repayments, and political interference. Under the Procurement Opportunities pogramme, aggregate tenders averaged 30,000 over four years to 2019/20. Overall, women have benefited marginally more financially than the youth and persons with disabilities.

Table 4.4: Status of Various Affirmative Action Funds

	Uwezo Fund			Women Enterprise Fund			Youth Enterprise Fund		
	No. of groups	Women members (%)	Amount disbursed (Kshs mn)	No. of groups	Women members (%)	Amount disbursed (Kshs mn)	No. of groups	Women members (%)	Amount disbursed (Kshs mn)
2016/17	4,957	85.0	500	11,323	85.0	2,212.40	59,166	40.0	352.7
2017/18	5,357	85.0	445	9,502	85.0	2,187.30	87,183	40.0	549.2
2018/19	1,603	79.9	267	13,490	85.0	3,085.00	49,652	40.0	323.2
2019/20	1,915	85.0	250	13,870	85.0	3,503.00	88,374	40.0	600.0

4.8.2 Disease Prevention

The Disease Prevention indicator's attainments fell below targets with 83.6% and 89.2% scores for respective review years.

The Kenyan constitution declares the right of every person "to the highest attainable standard of health, which includes the right to health care services, including reproductive health care." The overriding delivery framework is the Kenya Health Policy 2014-2030, while the Kenya eHealth Policy 2016-2030 offers a digitized approach. Kenya's Universal Health Coverage approach aspires to deliver a single unified essential health package without the risk of financial catastrophe arising from medical bills. Six policy objectives consistent with the AU NGR Framework include: Eliminating communicable conditions; Halting and reversing the rising burden of non-communicable conditions; Reducing the burden of violence and injuries; Providing essential healthcare; Minimising exposure to health risk factors; and Strengthening collaboration with private and other health-related sectors.

Part (a) of Figure 4.12 shows that to 2030, HIV/AIDS will remain the main cause of Kenyan deaths despite more than halving its ravages to under 40,000 by 2030, primarily managed through the free distribution of anti-retrovirals. While malaria deaths more than halve during the period, cancer and cardiovascular deaths will grow three-fold even as TB stops at 20,000 annual deaths.

Part (b) of the figure underscores the trend in HIV/AIDS deaths, driving a similar substantial decline in communicable disease deaths. However, non-communicable disease deaths will grow in concert with the growth in the total Kenyan population.

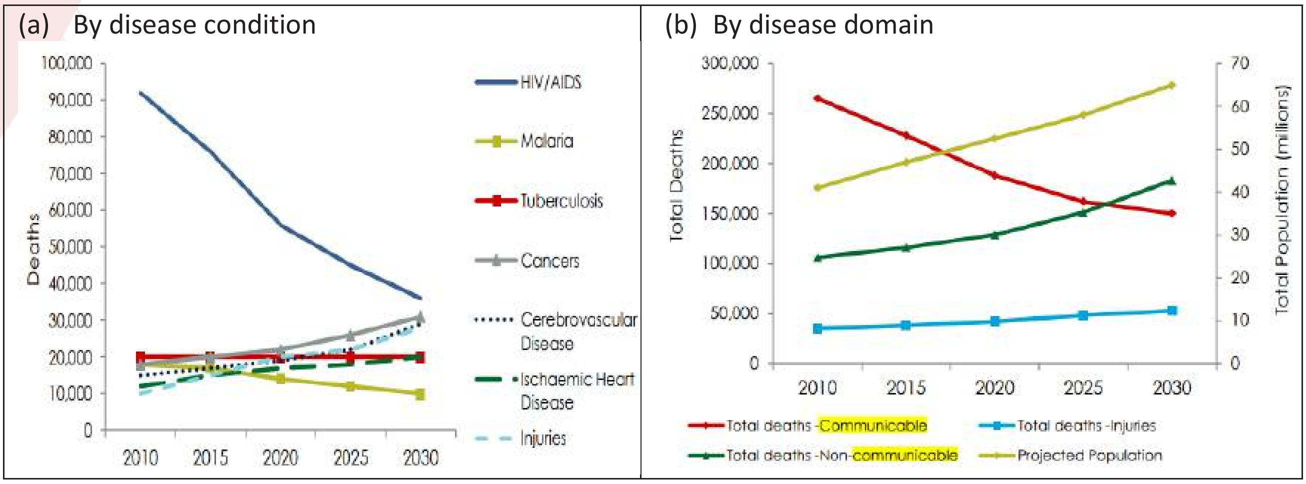


Figure 4.12: Projections of deaths by diseases to 2030

4.8.3 Free Compulsory Basic Education

The Constitution's Article 43 (1)(f) declares that every child has the right to free basic education which the Basic Education Act makes free and compulsory, attracting no admission or tuition fees. Children must not be subjected to mental or physical harassment or torture, or to holiday tuition, and must also not be employed. They must be incentivized to learn instead of being subjected to threats of expulsion and suspension. The Basic Education indicator performed above targets for both review years – 139.7% and 106.3%, but performance deteriorated into the second year.

Sessional Paper No. 1 of 2005 on Education, Training and Research introduced education-for-all reforms that were carried into Sessional Paper No. 1 of 2019 on A Policy Framework for Reforming Education and Training for Sustainable Development in Kenya. Despite the cost sharing conditionalities of the structural adjustment programmes of that era, Kenya decreed free primary education in 2003, and free day secondary education in 2008. Primary school enrolment became Kenya's sole MDG success story. But the increased enrolment aggravated the mismatch between the types of graduates arising and employment market demands, fueling unemployment and underemployment. The search for an improved curriculum eventually led to the 2014 Competency Based Curriculum idea of the National Curriculum Policy, rolled out progressively since 2017, structured as reflected in Figure 4.13. Secondary students choose one of three areas of Senior School specialization, carried into university education or into the world of work.

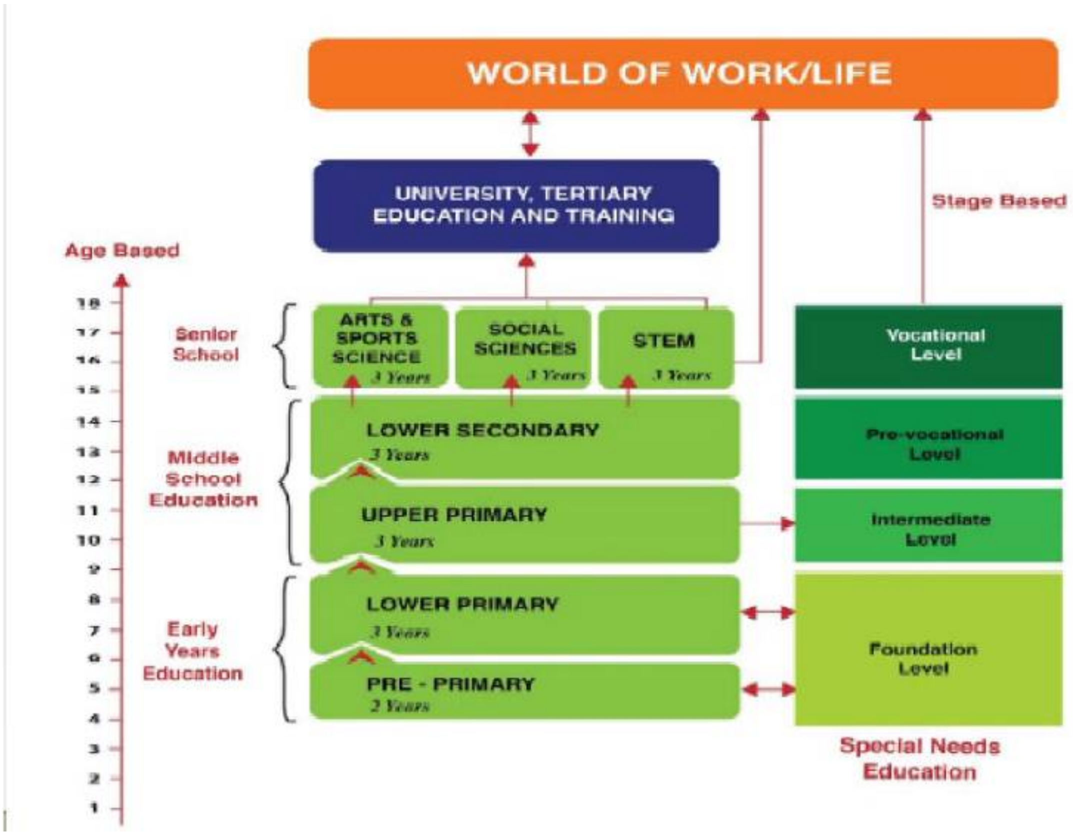


Figure 4.13: Organisation of Competency-Based Curriculum Basic Education

Table 4.5 summarises various Basic Education outcomes and indicators under MTP III. The numbers show that various enrolment and quality targets were below the desirable 100% mark, while others surpassed targets. On quality, there was a notable difference between the public and private schools.

Table 4.5: Various Basic Education MTP III Outcomes and Indicators (%)

2018/19		2019/20		Remarks
Target	Achieved	Target	Achieved	
Universal access to basic education				
ECDE Gross Enrolment Rate (%)				2018/19 success due to stakeholder collaboration. For 2019/20, funding increased, but the over 100% enrol could be data mismanagement
77.5	78.4	80	109.4	
Net Enrolment Rate (%)				2018/19 success built on the free primary scheme
75.5	77.2			
Primary level Gross Enrolment Rate (%)				The high GER is due high retention rates from grades 1 to 6 and reduced number of underage and overage pupils at primary level
104.5	104.0	104.8	99.63	
Primary Net Enrolment (%)				The 2018/19 shortfall due to some dropouts
92.5	92.4			
Primary to Secondary Transition Rates (%)				Improved transition from primary to secondary schools. However, some learners repeated standard while others joined vocational training centres.
96.0	95.3	98.0	95.0	
Secondary Gross Enrolment Rate (%)				The Free Day Secondary scheme lifting enrolment, but there are significant regional disparities
70.0	70.3	75.0	71.6	
Secondary Net Enrolment Rate (%)				High dropout rates
58.0	53.2	n.d.	n.d.	
Enhanced Quality				
Pupil: Teacher Ratio at Basic Education				On average, these ratios were attained which is part evidence of quality
40:1	36:1	40:1	Public – 39:1; Private – 24:1	
Teacher: Student Ratio Secondary				Ratio attained
1:40	1:40	1:40	Public - 1:29; Private -1:19	
Textbook: Pupil Ratio (Primary and Secondary)				Direct distribution of materials by ministry improves situation. Target achieved in Mathematics, English and Kiswahili for Grades 1, 2 and 3 and for core subjects in secondary school
1:1	1:1	1:1	1:1 [Grades 1-3 - 1: 0.96; Grades 7&8 - 1:1.2; Forms 1-4- 1:1.38]	
Improve gender equity in education				
Gender Parity Index (Primary)				The achievement is due to several affirmative action strategies and campaigns against early marriages
0.8	0.97	n.d.	n.d.	

Notwithstanding government efforts towards improved access, including the ban on school fees, completion, transition and retention remain challenges despite steady progress. The primary completion rate average 84.5% between 2017 and 2019, while transition to secondary averaged 83.9%. The Form 4 to Form 1 ratio averaged 79.1%, while the average female share of secondary enrolment stood at 49.1%.

A critical determinant of education performance is budgetary resources for the capitation grants for free education, as well as for the administration of education. Data show that while the entire Ministry of Education budget was 58.5% higher in 2019/20 than in 2015/16, the Basic Education budget was 1.3% *lower* despite retaining a period average share of 20.5%. Additionally, the Recurrent budget was dominant, with the Development share only once ever rising above 10%, despite a statutorily mandated 30% share of spending.

4.8.4 Poverty Levels

In its 2005/06 Kenya Integrated Household Budget Survey KIHBS), the country replaced the traditional cross-sectional data collection method with a longitudinal integrated year-long data collection one in which households diarized all their relevant expenditures – not income, and other activities. The approach for example, captures the seasonality of household welfare experiences. The second KIHBS of 2015/16 is useful as it tapped into household experiences under devolution since 2013, and it is the basis of the poverty discussion here.

Table 4.6 present the national and county level poverty status. The poverty and welfare estimations adjudge a household 'food poor' if expenditure per person falls below Kshs 1,954 and Kshs 2,551 in rural and urban areas respectively, and 'overall poor' if below Kshs 3,252 and Kshs 5,995 respectively. Where total expenditure could not afford their basic food requirements, then such were considered 'hardcore poor', living in 'extreme poverty'. The foregoing framework enables the estimation of a 'poverty headcount index', measuring the numbers in overall poverty, and their proportion of a population. The 'poverty gap index' considers the depth of poverty, i.e. how far the poor are below the poverty line. Finally, the 'severity of poverty' captures how poor the poor are relative to other poor people.

Table 4.6: Headcount Poverty, Poverty Gap and Severity of Poverty across Kenyan counties

	[1] Headcount Rate (%)	[2] Distribution of the Poor (%)	[3] Poverty Gap (%)	[4] Severity ofPoverty (%)	[5] Population ('000)	[6] Numberof Poor ('000)
National	36.1	100.0	10.4	4.5	45,371	**16,401**
Rural	40.1	71.3	11.5	5.0	29,127	**11,687**
Peri-Urban	27.5	5.6	6.9	2.6	3,340	**920**
Core-Urban	29.4	23.1	8.9	3.9	12,905	**3,795**
Counties						
Nairobi City	16.7	4.5	3.4	1.1	4,463	**745**
Nyeri	19.3	0.9	2.4	0.5	798	**154**
Meru	19.4	1.7	4.9	1.8	1,471	**285**
Kirinyaga	20.0	0.7	3.5	1.0	608	**122**
Narok	22.6	1.5	6.0	2.4	1,078	**243**
Machakos	23.3	1.7	5.7	2.2	1,191	**278**
Kiambu	23.3	2.7	6.6	2.5	1,868	**435**
Tharaka-Nithi	23.6	0.6	3.8	1.0	396	**94**
Murang'a	25.3	1.7	6.0	2.1	1,085	**274**
Mombasa	27.1	2.0	7.5	3.3	1,185	**321**
Embu	28.2	1.0	6.4	2.3	560	**158**
Lamu	28.5	0.2	5.5	1.8	128	**36**
Nakuru	29.1	3.6	7.8	2.8	2,031	**592**
Kericho	30.3	1.7	8.1	3.2	945	**286**
Taita/Taveta	32.3	0.7	7.7	2.7	358	**116**
Nyamira	32.7	1.4	9.1	3.5	699	**229**
Homa Bay	33.5	2.2	8.4	3.4	1,072	**360**
Siaya	33.8	2.0	8.7	3.5	985	**333**
Kisumu	33.9	2.3	8.7	3.4	1,132	**384**
Trans Nzoia	34.0	2.2	10.4	4.4	1,038	**353**
Makueni	34.8	2.0	8.8	3.2	959	**334**
Nyandarua	34.8	1.5	7.2	2.3	686	**239**
Bungoma	35.7	3.4	9.5	3.6	1,553	**555**
Kakamega	35.8	4.1	9.5	3.8	1,876	**672**
Nandi	36.0	2.1	9.4	3.4	954	**343**
Baringo	39.6	1.7	9.7	4.2	704	**278**
Kajiado	40.7	2.2	13.1	5.8	871	**355**
Uasin Gishu	41.0	2.8	12.9	5.8	1,133	**465**
Migori	41.2	2.8	8.0	2.5	1,126	**464**
Kisii	41.7	3.4	10.8	4.0	1,347	**562**
Vihiga	43.2	1.7	11.5	4.6	627	**271**
Elgeyo /Marakwet	43.4	1.2	13.4	5.6	469	**204**
Laikipia	45.9	1.4	14.9	6.8	507	**233**
Kilifi	46.4	4.0	12.3	4.8	1,400	**650**

Kwale	47.4	2.4	11.1	3.6	820	**389**
Kitui	47.5	3.2	13.4	5.3	1,098	**522**
Bomet	48.8	2.7	9.3	2.8	916	**447**
Isiolo	51.9	0.5	15.5	6.7	156	**81**
West Pokot	57.4	2.3	20.1	9.5	649	**373**
Tana River	62.2	1.2	20.0	9.3	304	**189**
Wajir	62.6	1.8	16.3	6.7	459	**287**
Marsabit	63.7	1.2	23.4	11.0	316	**201**
Garissa	65.5	1.7	24.1	11.3	432	**283**
Busia	69.3	3.6	22.3	9.3	840	**583**
Samburu	75.8	1.3	32.1	16.8	284	**215**
Mandera	77.6	3.4	32.8	17.0	711	**552**
Turkana	**79.4**	**5.2**	**46.0**	**30.8**	**1,084**	**860**

Source: Republic of Kenya (2018: 49)

Table 4.5 shows a 36.1% national headcount poverty rate [Column 1], with the Poverty Gap and Severity of Poverty respectively standing at 10.4% [3] and 4.5% [4]. The rural head count poverty rate was 40.1% [1], but because of its large share of the national population, rural poverty accounted for 71.3% [2] of all poverty. The rural poverty gap was greatest, as was the severity of its poverty. The counties have been arranged in order of rising headcount poverty shares, with Nairobi's 16.7% rate contrasting starkly with arid and semi-arid land (ASAL) county Turkana's top 79.4% rate. Despite Nairobi's lowest headcount poverty rate, its poor numbers, 745,000 [6], are only eclipsed by Turkana's 860,000. Nairobi's poverty gap is a mere 3.4% compared to ASAL Turkana's 46%, reflecting great equality among Nairobi's poor, in contrast to the great inequality among Turkana's poor.

Thus, Turkana has 115,000 more poor people than Nairobi, but requires 15 times more resources to bring its people out of poverty. Finally, Turkana's poverty is more severe at 30% than Nairobi's at 1.1%. The KIHBS data allow similar within-county analysis, enabling County Governments to isolate pockets of poverty for special attention. The need for such analysis is important because a few extremely rich individuals and households can raise county averages deceptively, as is likely with tourism destination counties, like Lamu and Narok, thereby hiding the poor majority within.

Since all African countries are implementing the poverty-focused SDGs to 2030, and previously, the equally poverty-focused MDGs 2000-2015, continental comparisons have some use even if differences in estimation methods and coverage periods advise caution in interpretation. However, data for a random group of countries over diverse periods show that Kenya's 10.7% reduction between 2005/06 and 2015-16 is only comparable to the 9.3% and 7.7% declines respectively for Ethiopia (2004 and2010) and Ghana (2005 and 2012), with many other countries doing less well.

Inequality

Reducing inequality may reduce poverty: progressive taxes take proportionately more from the better off, which is then used to finance welfare-improving services for the less well off, e.g., through subsidized education and health care. Figure 4.14 uses the household expenditure data already referred to above to create county spending *quintiles*, with the population arranged from the lowest to highest spender and broken into five groups of equal numbers. Quintile 1 represents the lowest spending 20% while Quintile 5 is made up of the highest 20% spenders. Thus, at the national level, Q1, the lowest 20% accounts for a mere 4% of spending while Q5 account for 59% of total spending. In the urban survey sample, Q 1 accounted for 4% of spending, while Q 5 accounted for 46%.

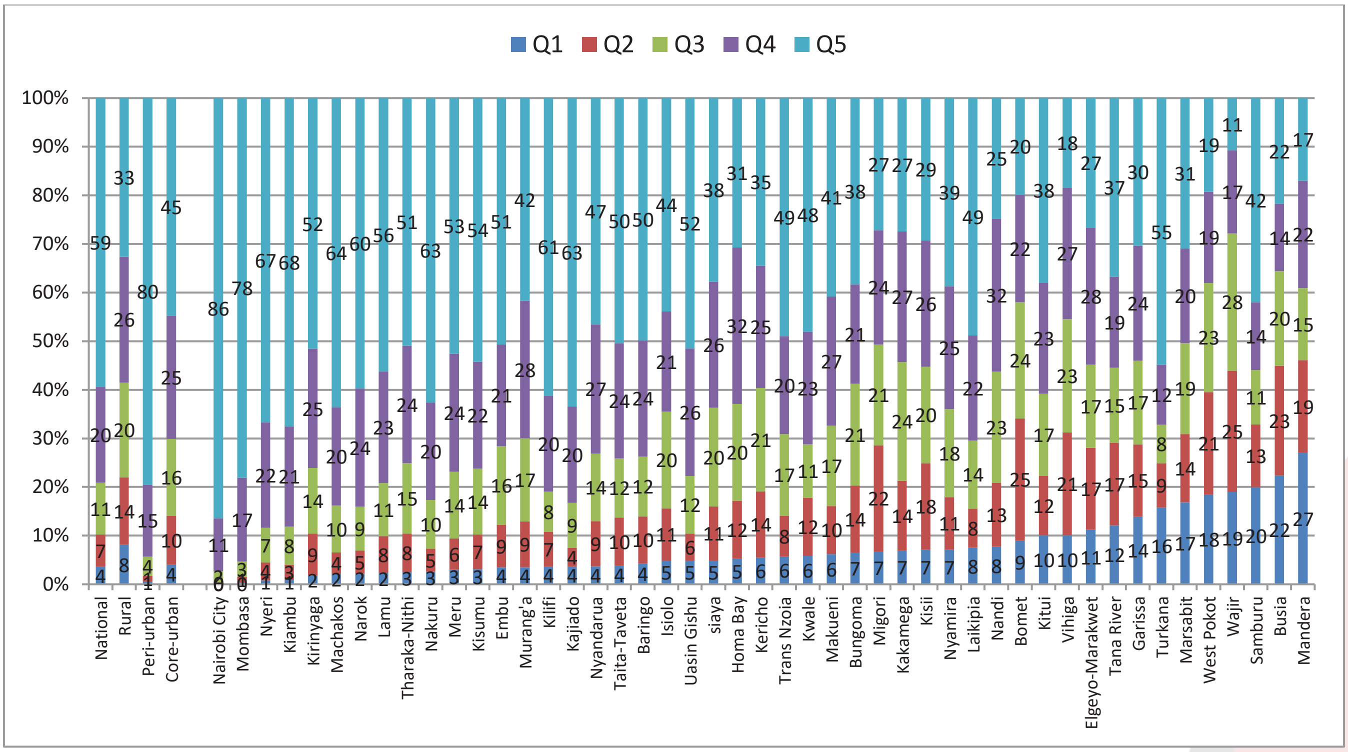


Figure 4.14: Quintile distribution of consumption expenditure at national and county levels.

Notes: Q1: <Kshs 3,156; Q2: Kshs 3,159-Kshs 4801; Q3: Kshs4802-Kshs7037; Q4:Kshs7038-Kshs 10859; Q5: >Kshs10,859

Across the counties, the contrast between Nairobi and ASAL county Mandera is interesting. In Nairobi, Q 5 accounts for 86% of all spending, with the remaining 80% of population sharing 14% of spending. Conversely, ASAL county Mandera has less inequality: the poorest 20% of the population accounts for 27% of spending, while the richest 20% accounts for 17%. There seems to be more spending equality amidst the poverty of ASAL counties, Mandera being joined by the nine counties on the extreme right of the chart, except Busia.

4.8.5 Unemployment Rates

The National Employment Authority Act established an Authority mandated to develop, implement, and oversee effective, gender-conscious, full-employment creating policies and strategies for the domestic and foreign labor markets, with attention to the standards of both the Labor Institutions Act, 2007, and Employment Act, 2007.

Constitutionally, Kenyan children aged under 18 must be in education; but in practice, the labor force includes individuals from age 15, given that some community livelihoods push children into the labor market. The upper limit of 64 also ignores some occupational realities of community livelihoods. However, of the 25.6mn aged 15 to 64, the labor force is 17.7mn giving a participation rate of 66.7%. The inactive labor force share is 33.3%, including students, infirms and retirees who are neither seeking nor holding a job. Participation peaks in the 40-44 age bracket.

Unemployment considers labor force members without a job, but who are actively looking for one over the last four weeks. Thus, total unemployment stood at 1.1mn, amounting to 6.2% of the total labor force, down from 7.4% in 2015/16. However, there is a group of inactive youth who are neither in education, employment, or training. Long term unemployment covering at least 52 weeks, stands at 3.3% and is highest in the lower age groups. However, a further problem is time-related underemployment in which available and willing labor gets less than a specified work hours threshold. Such underutilization dropped from 18.7% in 2015/16 to an average 11.9%, ranging from 6.8% for the 45-49 age group to 21.3% for the 20-24 age group.

Following the failed 500,000 new jobs per year of the 2000s, Table 4.7 shows that the governemnt again failed in its projected average 1 mn new jobs between 2017 and 2019. Given the limits to formal sector employment growth, the early 1970s saw the government open up to informal sector economic activities, which became the employment growth frontier: instead of the projected 0.65/0.35 informal/formal sector ratios in new jobs, the actual new jobs ratio became 0.87/0.13.

Table 4.7: Employment Growth Targets and Actuals 2017-2019 ('000)

	2017		2018		2019	
	Target	Actual	Target	Actual	Target	Actual
Formal Sector	530	116.3	304	80.8	476	**78.4**
Informal Sector	902	789.3	763	744.1	766	**767.9**
Total	1432	905.6	1067	824.9	1,242	**846.3**
Formal/total %	37.0	12.8	28.5	9.8	38.3	**9.3**
Formal Actual/Target %	21.9		26.2		**16.5**	
Informal Actual/Target %	**87.5**		**97.5**		**100.2**	

But even more important are the relative shortfalls between the formal and informal actuals and targets. The data show that while formal sector performance has increasingly fallen far below targets, informal sector performances have grown to close the gap to targets. However, this employment growth pattern undermines Kenya's commitment to delivering SDG 8's 'decent work': for, informal sector work is characterised by abberations such as child labour and underemployment, and does not incorporate social protection.

4.8.6 Climate Change Resilience

Kenya's commitments to the global climate change frameworks are quite diverse. It *signed* up to the United Nations Framework Convention on Climate Change on 12th June 1992 and *ratified* the same on 30th August 1994. On 25th February 2005, it *acceded* to the Kyoto Protocol to the Framework of 11th December 1997. It then *accepted* the Doha Amendment to the Protocol on 7th April 2014, *signed* up to the Paris Agreement on 22nd April 2016, and subsequently *ratified* the same on 28th December 2016. Additionally, Kenya is committed to SDG 13 on Climate Action, whose objectives resonate with the African Union's Agenda 2063.

Kenya early translated these global commitments into home-grown policies and strategies, starting with the National Climate Change Response Strategy of 2010, which was soon followed by the inaugural National Climate Change Action Plan of 2013-2017. The country also developed its long-term Kenya National Adaptation Plan 2015-2030, linking climate change initiatives to Vision 2030's successful outcomes. The Vision's implementation is currently summarized in the MTP III (2018 to 2022), which coincides time wise with the second National Climate Change Action Plan 2018-2022. That Action Plan underlies Kenya's Intended Nationally Determined Contribution submitted to the United Nations Framework Convention on Climate Change Secretariat.

Kenya's climate change home is the Ministry of Environment's Climate Change Directorate, created by the Climate Change Act of 2016, and the objectives include: integrating adaptation and resilience building actions into national and county level development planning and budgeting, and into public and private sector Vision 2030 investments; and striving for a low carbon climate resilient economy, especially among vulnerable populations through adaptation and disaster risk reduction.

The 2018/2019 and 2019/2020 reviews of implementation of climate change initiatives cited Kenya's Third National Green House Gas Inventory as attributing 80% of all emissions to Agriculture and Land Use and Land Use Change and Forestry – dubbed the LULUC – sectors. The Inventory subsequently recommended "tree planting, reforestation and afforestation to increase sinks and reduce sources (of emissions)." The stated emission sources underscore the County Governments' importance in climate change management. Additional to various county specific initiatives, such as the GIS mapping integrated into county spatial planning, climate change was the theme of the 7th Annual Devolution Conference (see Box 4.1).

Table 4.8 summarises the climate change thematic area's flagship commitments for FYs 2018/19 and 2019/20, listing sub-sectors, targets, and attainments. The successful growth in 'green employment' during the second review period was attributed to the Green Growth and Employment Project, promotion of Green Innovations, and implementation of the National Green Economy Strategy. The failure of the national emissions to meet the 2018 and 2019 $MtCO_2e$ targets has been attributed to the necessary procedural changes in methodology.

Box 4.1: 7th Annual Devolution Conference

Main Objective. Strengthen sub-national governments to act on climate change and develop stronger mitigation capacities.

Specific Objectives:

1. Enable County Governments to demonstrate bold climate leadership;
2. Deliberate on the impact of climate change mitigation measures;
3. Deliberate on how to strengthen Kenya's capacity to develop a greenhouse gas inventory;
4. Provide a platform for government and private sector to commit on climate action strategies to be undertaken for the next year; and
5. Mobilize two million trees to be planted in the host county before and during the conference

[Cite your source here.]

Table 4.8: Climate Change Thematic Area Achievements, FYs 2018/2019 and 2019/2020

MTP III Outcome and Indicator/s	2018/2019		2019/2020	
	Targets	Achievements	Targets	Achievements
No. of green jobs created	200,000	90,000	200,000	**204,012**
	Remark: While 2018/19 target was not met, it was exceeded the next FY due to the exemplary performance of Green Growth and Employment Project			
No. of counties with GIS-based spatial plans integrating Climate Change and Disaster Risk Reduction	6	0	6	**4**
	Remark: One county completed its regional rather than spatial plan, which was however not GIS based. GIS integration also delayed 2019/20 targets for Kilifi, Kwale, Kajiado, Turkana and Makueni.			
GHG Emission per year (MtCO2e)	85	96	90	**97**
	Remark: During the first FY, the target was not met because Kenya was yet to develop its Third National Greenhouse Gas Inventory. The failure during the second FY was due to the recalculations based on updated activity for the GHG Inventory.			

The inventory and other data above show that climate change interventions are best located at the county and sub-county rather than national levels. So for one, Kenya has been on board the County Climate Change Fund initiative since 2010, which emphasizes community-driven bottom-up planning. Additionally, Kenya has adopted the county-focused Climate-Smart Agriculture. A major finding of the implementation reviews of 2018/19 and 2019/20 was that inadequate political will for, and awareness of, climate change denied it deserved planning and budgeting space and resources. These experiences underlie the 7th Annual Devolution Conference's focus on climate change adaptation, which was hopefully also addressed the challenges of inadequate staffing, and weak Action Plan implementation.

PART 5

CITIZEN PERCEPTIONS ON NATIONAL AND COUNTY GOVERNMENTS' SERVICE DELIVERY

5. CITIZEN PERCEPTIONS ON NATIONAL AND COUNTY GOVERNMENTS' SERVICE DELIVERY

This county-focused section uses the same six APRM/NEPAD NGR pillars to review county-level *perceptions* on the service delivery performances of the National Government and County Governments. To recap, qualitative data was collected through key informant interviews (KIIs) and focus group discussions (FGDs). Subsequently, FGD members scored on a scale of 1 (poor) to 10 (good), the performances of the National Government in respective counties, and their own County Governments' performances. The assessments assume respondents were adequately aware of the division of functions within counties between the National and County Governments. Data was collected in 43 of Kenya's 47 counties, the omitted counties being ASAL counties Garissa and Mandera of north-eastern Kenya bordering Somalia, and Machakos and Muranga counties. Each of the reviewed counties has a potential total score of 20 marks, a maximum 10 each for the perceived performances of the National Government and County Government in that county. Given 43 counties reviewed, each pillar has a maximum score of 860, 430 each for the perceptions on the National Government, and County Governments.

5.1 Overall Perceptions of National and County Governments' Service Delivery

Figure 5.1 shows that the best aggregate National Government plus County Government performance was in the Democracy, Election and Freedoms pillar with a score of 569 points out of a potential 860 points, which is a 66.2% score. The weakest pillar was the Transparency and Accountability with 318 points (36.9%). The National Government outperformed the aggregated County Governments over all the six pillars. The County Governments' aggregated best pillar was also Democracy, Election and Freedoms with 273 points, while the weakest pillar was Transparency and Accountability with 134 points, 50 points lower than the National Government score. Consequently, the overall county service delivery index was 52.2%, with a National Government index of 56.4%, and a combined County Governments' index of 48.0%.

Kenya's NGR Consultant Dr. Othieno Nyanjom during the validation of National Governance Report

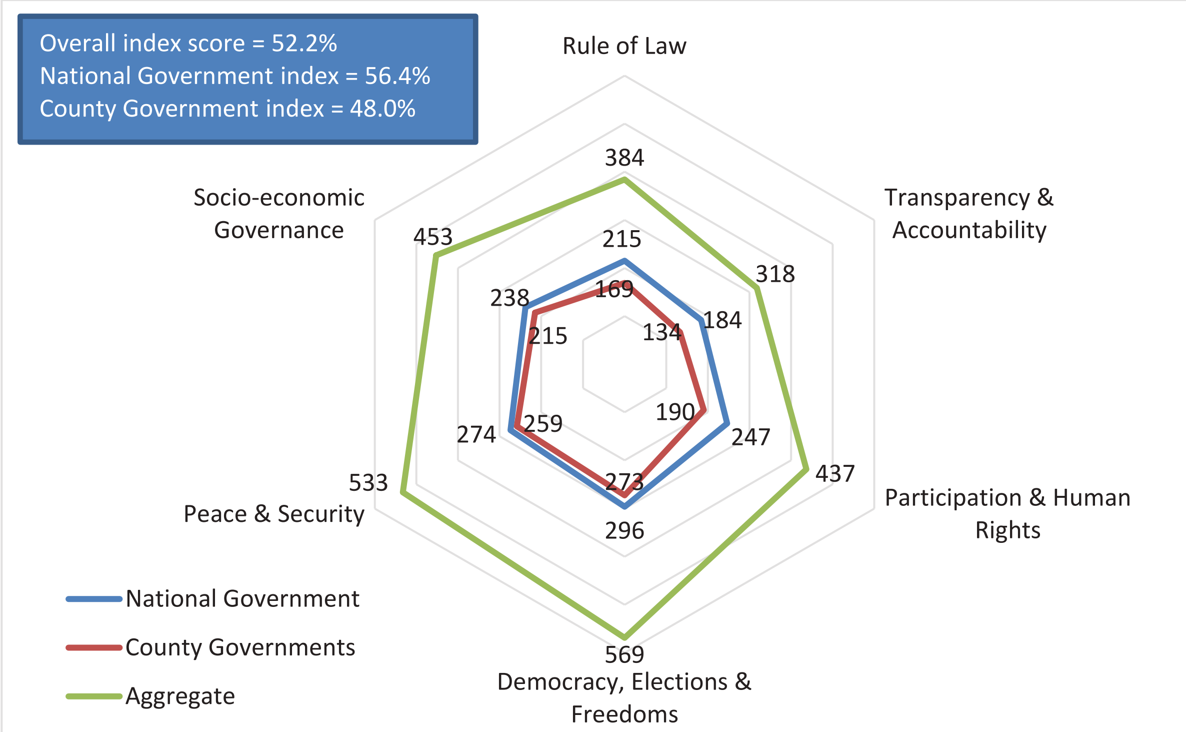


Figure 5.1: The County Governance Indices

5.2 Rule of Law

Devolution has rightly experienced teething problems: for instance, some governance areas have substantive county level offices, while others do not, forcing ad hoc county and sub-county arrangements.

Separation of Powers

County Governments have constitutionally dedicated Executives and Legislatures but continue to rely on the national level for judicial affairs. While the County Executive has technically competent officers, the legislature is hampered by poorly enlightened Members of the County Assembly, who are (therefore) often in conflict with their Executive.

The National Government's work in the counties, assigned by the Fourth Schedule of the Constitution, is coordinated through the National Government Coordination Act; but efficiency is hampered by reliance on Nairobi for resources. The National Government retains the core revenue generation functions nationwide and consequently finances all state agencies; but it is seen to use this arrangement to maintain political control especially over County Governments which have modest own revenue generation opportunities through service fees and rates. Additionally, coordination between the National and County Governments in the counties is undermined by tensions between a Governor with money but no power, and a County Commissioner with power but must rely on Nairobi for budgetary resources.

Performance of the Judiciary/Access to Justice

Despite numerous judicial efficiency-targeting reforms, such as the launch of Court Users Associations, heavy case backlogs continue to nurture corrupting practices. The hopeful Alternative Dispute Resolution reform with chiefs handling limited issues, could spawn *kangaroo* courts, and corruption; and it does not help women in those communities where they 'should be seen not heard'. The Judiciary is thin on the ground: a single court in expansive Turkana, and 35km distances to court in Wajir. Despite user friendly reforms, court language and procedures remain 'alien'. Little has been done for persons with disabilities – physical, audio, visual and other types.

National and County Governments' Performances

The individual county FGD teams' awards for Rule of Law ranged between 2.0 (Bungoma) and 6.6 (Baringo) for the National Government, and 1.0 (Trans Nzoia) to 8.0 (Kitui) for the County Governments, as seen in Figure 5.2. The highest aggregate National and County Governments' award was Kitui's 14.2 points, with another seven counties aggregating scores of at least 11 points. Only five FGDs gave their respective County Governments scores of at least 6.0 points, compared to seven scoring at least 6.0 points for their National Government. The weakest performances overall were the 1.0 point each for the County Governments of Narok and Trans Nzoia.

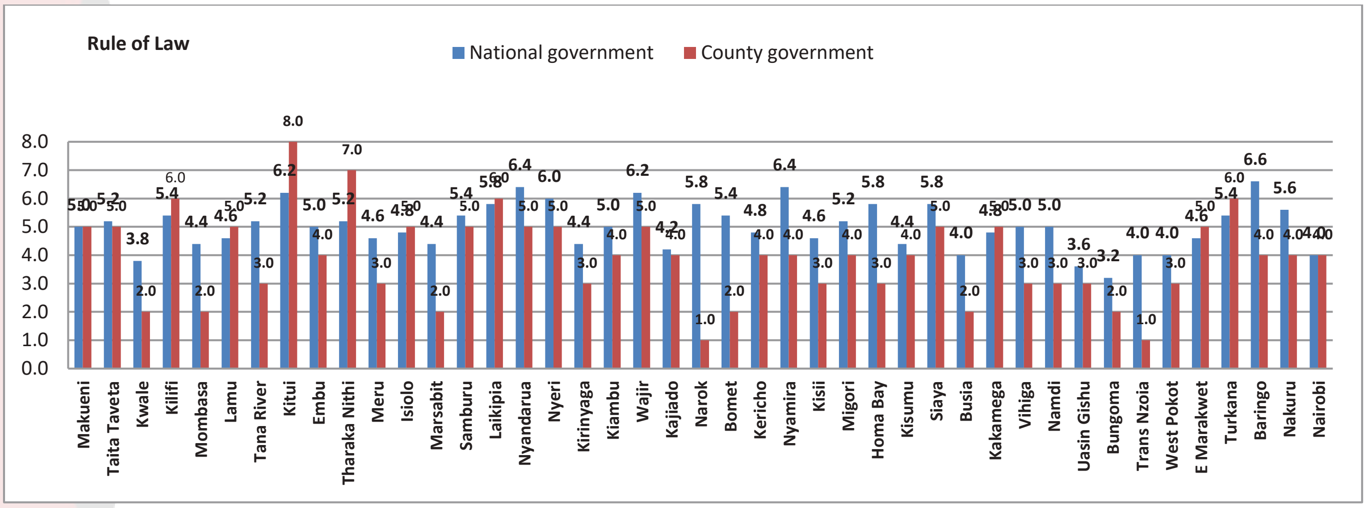


Figure 5.2: National and County Governments' Rule of Law scores

Overall on Separation of Powers, the National Government outperformed the County Governments by 46 points, the greatest single county difference being Narok's 4.8 points. But, County Governments performed better in Kitui and Tharaka Nithi, with respective 1.8-point differences.

5.3 Transparency and Accountability

Corruption

Devolution has decentralized corruption to the counties where it is more rampant in the County Government than among the National Government representatives, likely because the latter's procurement is handled from respective ministry head offices. The weak coordination of anti-corruption agencies, with the Ethics and Anti-Corruption Commission remaining unseen, has allowed nepotism and cronyism to be primary determinants of service delivery.

Transparency

The weak anti-corruption agencies, and the weak espousal of public participation in development management among agencies and the National and County Governments, undermine transparency. Attendance at planning and budgeting meetings involves selective invitations; and the poor investment in civic education means that the citizens who do attend such meetings have little or no understanding of the substance under discussion.

Accountability

Weak transparency leads to weak accountability: flawed planning and budgeting processes mean that decisions hardly belong to the *wananchi*. When the public do suggest priorities, these are never reflected in the final activity plans, undermining incentive to attend future meetings. Efforts to bring corrupt officers to book are quickly shifted from the individual to the community, meaning that "corruption pays!"

National and County Governments' Performances

Under the Transparency and Accountability pillar too, the National Government outperformed the County Governments – by 50 points, with the former dominating in 36 counties compared to only two for the latter, as reflected in Figure 5.3. The individual National Government scores ranged from 1.3 points (Mombasa) to 8.0 points (Narok), compared to the County Governments' range of 0.7 points (Trans Nzoia) to 5.3 points (Nyeri). The National Government's dominance is further reflected in Trans Nzoia's near 500% greater score, and rates above 200% in another four instances. Nonetheless, performances were weak all round with only 10 aggregate scores above 10.0 points. The highest aggregate county score was Narok's 13.0 points while Mombasa trailed with 2.6 points.

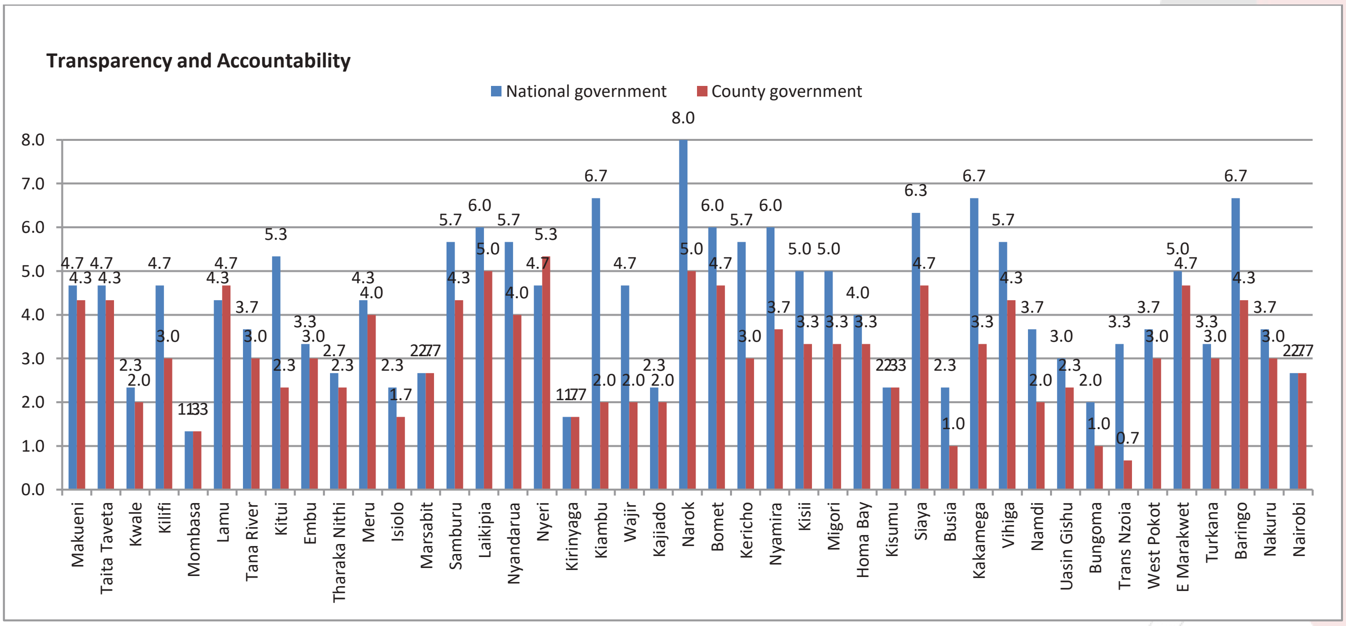


Figure 5.3: National and County Governments' Transparency and Accountability scores

5.4 Participation and Human Rights

Citizen or public participation is a constitutional right operationalized through various legislation, such as the County Governments Act and the Public Finance Management Act. The link between participation and human rights presumes that the citizenry is aware of the development context and its effect on its human rights and will participate to secure such rights. Yet, such awareness has not always been evident.

Citizen Participation

Citizen participation is implied in Article 2 of the Constitution which declares that sovereignty belongs to the people directly, or through democratically elected national and sub-national leaders who alongside technocrats and bureaucrats, must elicit the people's priorities. Indeed, people participation "bind(s) all State organs, State officers, public officers, and all persons whenever any of them interacts the Constitution's provisions.

Across the FGDs, some felt compliance was greatest in the National Government (Garissa), others in their own County Government (Turkana), and others declared it missing (Samburu). The continuing absence of a statutory *national* participation framework has allowed Governors to personalize county resources, which any consultations merely legitimize. The National Government was seen to better foster participation because of its more inclusive events incorporating women and persons with disabilities. Among county events, Turkana alone reported that females dominated events, likely because the men are pursuing conflict issues. The events are often poorly prepared, and focus more on disbursement of resources rather than on priority identification, and the necessary planning and budgeting. Disinterest arose because of language barriers and weak feedback on previously proposed plans, causing citizens to demand facilitation/payment for attendance.

Gender

Kiambu alone noted the over-representation of women in key roles, such as the county cabinet; otherwise, women's underrepresentation persisted: e.g., no Nakuru woman held an authority to incur expenditure. Women's upward mobility was hampered by culture and politics. They were considered more emotional at work, but made better, more humane managers and service providers. The constitutional provisions notwithstanding, affirmative action remained inconclusive.

Service Delivery

Despite the constitutional distinction of respective roles, the National Government encroaches on County Government roles, resulting in wasteful duplication of services, undermining quality. Such encroachment may be due to persisting weak county capacities; but more often, it is due to politicking, corruption, and erratic National Treasury financing flows. The decentralized *Huduma* Centres are well appreciated; but there were suggestions of the re-centralization of various services, including agriculture, environment, health care, and pre-primary education.

Non-State Actors

The Public Benefits Organizations Act of 2013 was instigated by the need for greater scrutiny of the non-government organizations' activities, such as radical Islamist organizations reportedly bank-rolling locally-based NGOs. Nonetheless, the county consultations acknowledged the presence of the NGOs, noting the varied nature and extents of their engagements in the county development processes. While some merely rubber-stamp proceedings, others engage critically, such as the dynamic *Bunge la Mashinani* – 'grassroots parliament' – in Kajiado.

Decentralization

The county consultations did prefer the grassroots location of service providers, notwithstanding erratic funding flows. While participatory planning and budgeting was faulted since it cannot guarantee implementation of mutually accepted priorities, which is partly also blamed on erratic resource flows, leading to the unilateral decisions of service providers.

On confusion in service delivery, the National Government's encroachment in health care delivery stood out, leading several county consultations to recommend the return of the docket to the National Government. In the northern ASAL counties too, the County Governments' greater county level financial resources allows them to encroach on the National

Government's security docket. Nonetheless, devolution is a welcome mode of service delivery.

National and County Governments' Performances

Under Participation and Human Rights, the National Government outperformed the County Governments, by an aggregate 56.2 points. In the six instances which County Governments dominated, the highest margin was Makueni's 0.8-point difference, as seen in Figure 5.4. Conversely, the National Government's domination was often large, peaking at 246 % for Tharaka Nithi; and it was at least 150% in another 14 counties. The National Government's scores ranged between 3.6 points (Narok) and 7.4 points (Meru; Narok), with an average of 5.4 points, compared to the County Governments' range of 2.6 points (Bungoma; Busia; Tharaka Nithi) to 7.8 points (Elgeyo Marakwet), giving an average of 4.4 points.

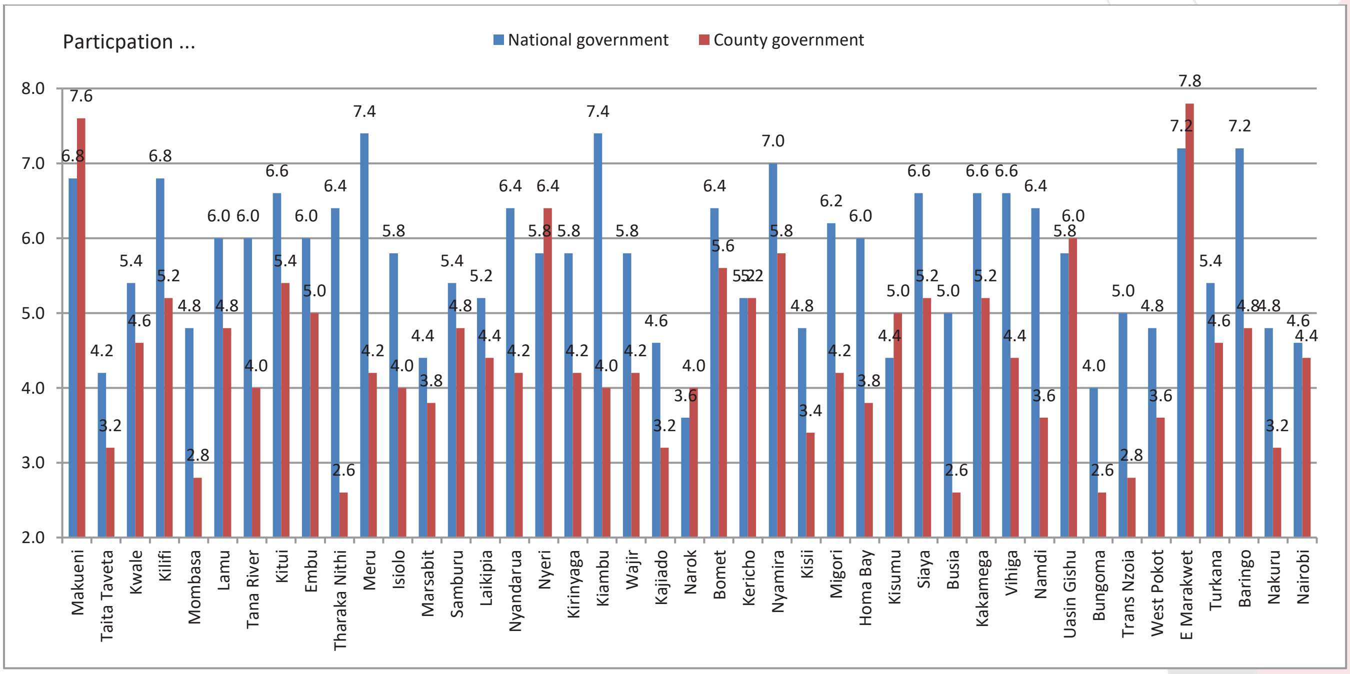


Figure 5.4: National and County Governments' Participation and Human Rights scores

5.5 Democracy, Elections and Freedoms

Kenya's five-yearly general elections mean that some members of the county FGD teams might have never participated in such elections, making their responses speculative. Secondly, election management is largely an IEBC preserve, with the National and County Governments playing peripheral but very important roles, such as providing security.

Media Freedom

Most county consultations lauded media liberalization and its resulting proliferation, especially of FM radio stations, improving accessibility, localisation of news and programming content, and provision of information platforms, such as for civic education. However, these freedoms have attracted cautionary responses: Bomet complained of 'too much' freedom; and others asked for improved media 'monitoring' against too much 'politics' at the expense of 'development', and compromised journalism.

Access to Information

Kenya's historical *baraza* communication platform continues into the 2010 constitution era; but without the previous mandatory attendance except under special circumstances, such as an emergency. This freedom to ignore information is ironic when the Constitution and other frameworks now champion freedom of information and public participation. However, the National and County bureaucrats continue to determine what information to disseminate, and to whom. Indeed, County Governments typically share information only on a need-to-know basis. Additionally, the underlying illiteracy and ignorance in communities, especially among the pastoralists of northern Kenya, undermine the usefulness of whatever information is disseminated.

Nonetheless, information access has improved, possibly due to strategic planning approach to development management, with related delivery charters and action deadlines. Also, the Public Service Commission advertises vacancies on its website enabling applicants and other interested parties to track the recruitment process, even if such transparency-imposing measures are more prevalent at the national than county levels. The business community outside the national capital is also advantaged by the centralised mandatory placement of government procurement adverts in My.GOV, a bumper pull-out issued periodically through the main daily newspapers.

Freedom of Speech

Most respondents lauded expanded freedom of speech even if some of its use verges on hate speech, also perpetrated by politicians. The watchdog National Cohesion and Integration Commission seems toothless to act against the scourge despite such hate speech precipitating violence. But free speech has also been under threat: political allegiance determines where across the country one is free – or not free, to speak, and which media outlets one may access. Thus, free speech is not really guaranteed.

At the cultural level too, free speech encountered threats: in Kilifi and Kisii, the youths reportedly shut up elders on public forums, a serious reality in regions where the youth have set older people on fire for 'using witchcraft to live too long'. At least one county reported women not being allowed to address *barazas*; and a few others reported curtailed speech for women, minorities and persons living with disability. Finally, service provider threats of curtailing services for criticism represents a further denial of free speech.

Political rights and civil liberties

The Mombasa consultation declared that repression meant that political rights did not exist; and several counties explained that the politics of exclusive party zones left little room for opposition activities. Ethnic mobilisation – and attendant ignorance, and discrimination were inimical to the enjoyment of political rights and civil liberties. Cultural gender biases also reportedly undermine political rights: denial of women's property rights (Narok), husband custody of wives' IDs (Kajiado), and expectation that women automatically support the husband's preferred political party (Kisii). Minorities and persons living with disabilities also suffered exclusion.

Democratic rights and freedoms

The county consultations seemingly ignored key upstream factors in democracy and participation, such as the issuance of national IDs and the management of political parties, concentrating largely on the downstream IEBC activities. IEBC's civic education activities vary greatly across counties; yet local parties' priorities seem determined by wealth, power, and parochial concerns, such as ethnicity, gender and disability. Kenyan politicians seem reluctant to retire honourably, continuing on the ballot despite having bleak electoral outlooks. The party context is pervaded by corruption, bribery, nepotism, and intolerance for alternative views, raising the cost of politics, and of transparency. In any case, nomination outcomes are often pre-determined, boardroom decisions, where Kenyan politics over the last two decades has been dominated at every point by two large, regionally hegemonic parties.

In turn, through successive general election since 2007, perceived low integrity among electoral managers despite extensive reforms has lost them credibility. Some election losers see IEBC as an irreparably compromised institution, especially due to recurrent technology failures over voter identification, tallying and release of results, suggesting that IEBC might also indulge in boardrooms decisions.

Registration of Births and Deaths

The county consultations lauded the National Government endeavors to provide more efficient civil registration facilities, adjudging the issuance of birth certificates to be more efficient than that of the national ID and death certificates. They also praised digitalization – such as Laikipia's online registration – for greater efficiency despite persisting corruption. But ineffective decentralization away from the county headquarters, bred overcrowding, even if Kakamega's sub-county centers were doing well. The widespread centralization of registration raises the direct costs (official and corrupt fees), and indirect costs (travel over repeat visits), which were too high for Tharaka Nithi. Some counties, especially among the ASALs, have tried to mitigate these problems using mobile clinics, while others cross into neighboring counties (Bungoma into Kakamega).

Vetting further slowed down the registration processes, especially in border counties which might cater for people from neighboring countries. Indeed, migrants, Muslims, persons living with disability, and illiterates, faced greater registration challenges. The elderly too suffered, being denied IDs in Turkana.

The birth certificate is a pre-condition for education registration, the lack of it barring registration in the National Education Management Information System, which eventually delays the issuance of primary school certificates and other such documents downstream.

Freedom of belief and religion

Kenya is diversity tolerant in conscience and values. Thus, religion has become an 'enterprise' with 'churches' for example, mushrooming everywhere. The government has allowed these developments, despite evidence of religious charlatanism and the blatant exploitation of believers. Indeed, the government only seems to respond where public good is threatened, such as in religious adherents being blocked from health care and education. However, there have been sporadic reactions to extraordinary misconduct, such as hooligans attacking women for wearing 'improper' attire, or the mistreatment of individuals on the grounds of their sexuality.

Ironically, the failure of the KIIs and FGDs to cover the northern Kenya counties – Garissa, Mandera and Wajir – is because of the threat posed by Somalia-based Islamic fundamentalists crossing into Kenya, and in instances, radicalizing Kenyan youth through mosques and Internet websites.

National and County governments' performances

The data in Figure 5.5 illustrates the dominant points the National Government in the counties, ranging from 3.9 points (West Pokot) to 8.6 points (Makueni), with an average score of 6.9 points. Meanwhile, the County Governments averaged 6.3 points, with a range from 3.9 points (West Pokot) to 8.3 points (Tharaka Nithi). The National Government scored an aggregate 23.6 points more than the County Governments, enabling it to dominate 33 counties, with a 146% peak in Taita Taveta. In only six instances were the County Governments dominant.

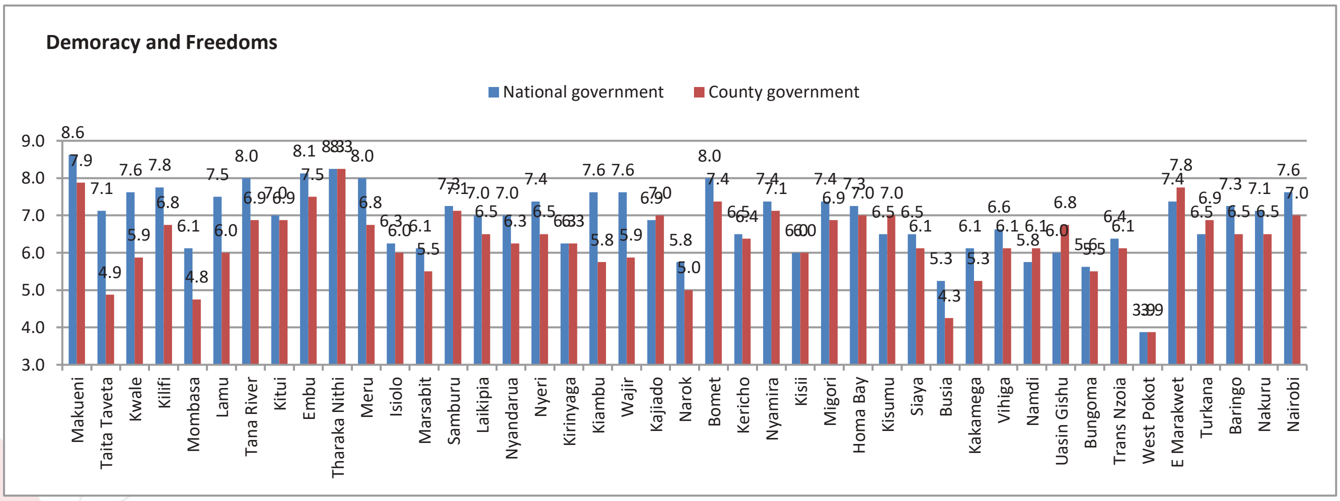


Figure 5.5: National and County Governments' Democracy, Elections and Freedoms

5.6 Peace and Security

Security is a National Government docket: placing it in the hands of political elected County Government leaders could breed populism-driven conflicts, especially since several Kenya counties are ethnically exclusive. For now, in the conflict prone ASAL, the authority of the National Government in the county is often complemented by the more readily available financial resources of County Governments, for rapid responses to security challenges, such as the prompt fueling of functional vehicles for security operations.

Peace and Security

Insecurity is driven by politics, poverty, and corruption; but improved infrastructure enhances security by deterring attacks, for example. These perceptions are especially significant for the marginalized ASAL counties: infrastructure diversifies livelihoods away from socio-economic desperation; but it also enhances governance – the means of policing, and of seeking justice. Poor telecommunications undermine quick distress reporting; and the security officers in northern Kenya are often too demoralized by local hardships to effectively respond to crises. Poverty – failed expectations – among a bulging, unemployed youth population also fuels insecurity in the non-ASAL parts of Kenya, driving youth delinquency, vigilanteism, militias, and election related violence.

Personal and Property Safety

Threats to personal safety are driven by the divergent socio-economic *status* of individuals and households and *contexts* in which people live. Some such contexts are typically underserved by government administration – the police, judiciary, etc., simultaneously undermining access to such services and enhancing vulnerability to injustices and crimes against persons and property. Initiatives such as the community-based *Nyumba Kumi*, ten-household cell framework for security monitoring suffer under-resourcing and politicization.

Child exploitation persists despite the government's efforts against child labor and gender-based violence. Girls are subjected to early marriages, teenage pregnancies, child motherhood, and FGM. Sex crimes are covered up to uphold 'family honour' (Bungoma; Homa Bay; Kisii; northern Kenya). The Youth department is also monitoring working abroad, especially in the Gulf States, to counter trafficking and modern-day slavery.

Meanwhile, the government's emphasis on wildlife conservation should pay more attention to animal attacks on humans and their livelihoods, by crocodiles, elephants, and hippos; otherwise, self-preservation inclines the *wananchi* to act against the animals (Kajiado; Kwale; Tana River; Taita Taveta, western Kenya).

National Security

Al Shabaab has operated in the north-eastern border counties, killing non-combatant civilians, and ambushing public transport vehicles (Garissa; Lamu; Mandera; Wajir). The government consequently instituted various mitigating responses, launching the *Nyumba Kumi* community security initiative, improving border security, improving the secure issuance of national IDs, and rehabilitating radicalized youth. The Kenya Defense Forces also continues its pre-emptive, deterrent role in Kismayu against terror organization, Al Shabaab.

Kenyan insecurity also revolves around politically inspired militias, vigilante groups who selectively deter broad participation, or eliminate opponents. Land ownership and pastoralist disputes also cause unrest at the community level, while delinquency is widespread surrounding *disco matangas*, especially in western Kenya.

National and County Governments' Performances

Some 17 counties reported the National Government to be a superior Peace and Security performer than their respective County Governments – unsurprising given that security is a National Government role, with Mombasa alone reporting superior county performance of 6.0 points compared to 5.7 points. But 25 FGDs adjudged performance parity between respective National and County Governments. The scores overall and for the tied performances ranged from Busia's 2.7 points each to Embu's 8.3 points each. While disparity in neighboring County Governments' scores is unsurprising since counties set their own priorities, disparity in National Government performance in such counties is surprising since their policy and actions are determined from Nairobi. For example, Busia, Bungoma, Kakamega and Vihiga counties are geographically concentric, and politically and socio-economically similar – including livelihoods, ethnicity, and political allegiance; yet their respective Peace and Justice scores were 2.7, 6.0, 5.7 and 5.7

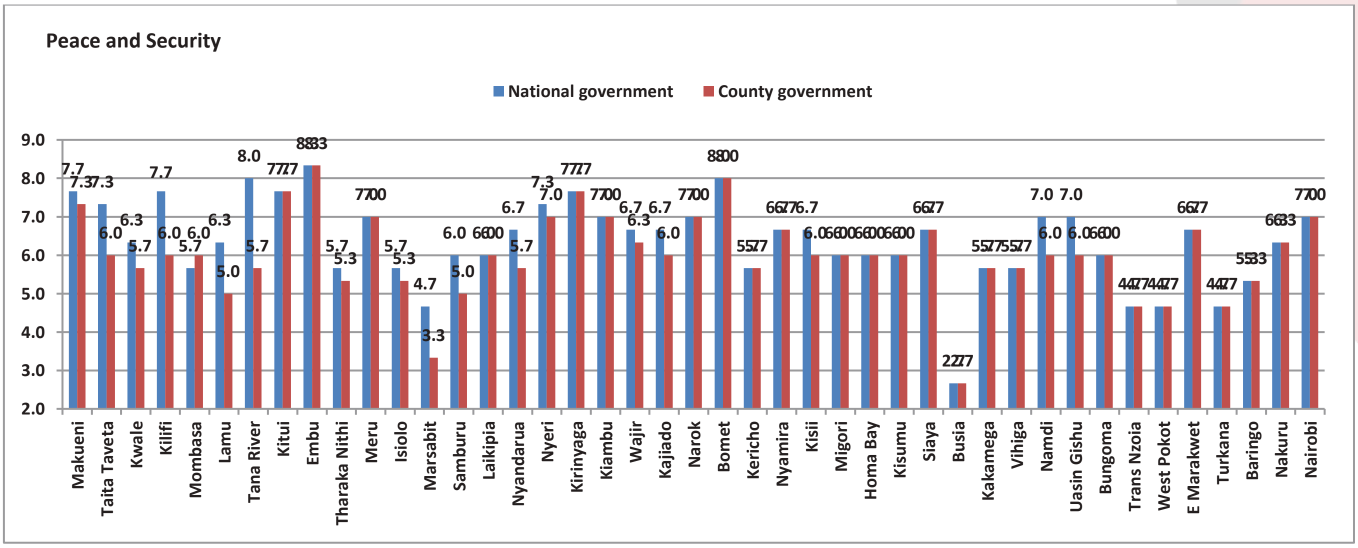


Figure 5.6: National and County Governments' Peace and Security scores

5.7 Socio-economic Governance

This is a wide multi-sectoral pillar covering the bulk of Constitution's Fourth Schedule services delivered by both levels of government. Indeed, the **Service Delivery** indicator, in effect summarises quite a number of the other 10 indicators.

The county consultations – the FGDs, repeatedly lamented the poor delivery of agriculture and veterinary extension services, the latter leading to the poor status of animals (Kericho; West Pokot). Private extension service providers have never quite filled the gap, especially because they are too expensive for many, given the very high ASAL poverty levels. But even when such extension services are available – whether public or private, the lack of water in the ASALs undermines the potential gains. The lack of value-addition opportunities stifles returns, thereby undermining investment in private extension services.

Among Kenya's agriculture-dominated livelihoods, agriculture value-addition is foundational for **Private Sector Development** (PSD). The county consultations commended their respective governments' infrastructure investments to attract and sustain PSD. However, PSD infrastructure lacked space (Vihiga), or spatial planning capacity (Elgeyo Marakwet). Business registration processes have become more efficient in some counties, but more bureaucratic in others. Some counties also decried the 'high' taxation rates – including double taxation (Kajiado; Nakuru; Nandi), and revenue mismanagement. Wages in some of the counties were too low to enable savings and investments; and in instances, the interest on capital was prohibitive. Insecurity undermined investor confidence, including access to business loans (Lamu). But general elections also trigger insecurity, with youth wingers attacking 'outsider' businesses.

Under the NGR framework, **Disease Prevention** focuses only on human health for which the Kenyan national level oversees policy while counties deliver care services. Yet the National Government has persistently encroached on County Government turf (Meru; Tharaka Nithi), such as with respect to the Managed Medical Equipment Scheme and mobile ambulance services. Such confusion is to blame for the suspected mismanagement of an estimated US$ 2 billion of COVID-19 resources. The devolution of public health care delivery to County Governments has raised resources to the sector from consistently below 10% of national public spending to a National and County Government aggregate of over 20% of total public spending. This is good for the country's Universal Health Coverage agenda, a corner post of the Big Four Agenda. However, a persisting focus on hospital-based curative care instead of preventive and promotive care undermines the outreach of the new resources, such as in ensuring availability of drugs, notably Anti-retroviral, and tuberculosis and cancer therapy.

Drug unavailability deters households from seeking treatment, or pushes them into impoverishing 'catastrophic spending'. While some presumably National Hospital Insurance Fund (NHIF)-accredited treatment facilities reject the card (Lamu), demanding cash payments, the card is of no help in private pharmacies and diagnostic facilities. Services are also compromised by staffing shortages and attitudes and staffing and facility capacities. Besides low recruitment levels, other problems have included perennial health personnel strikes that have demanded better pay (Nakuru), and more recently, better equipping during the COVID-19 pandemic (Kajiado; Laikipia).

Kenya's **National Social Protection Policy** is implemented through NHIF, National Social Security Fund (NSSF), and Social Assistance, all of which have remained little known at the county level. NHIF and NSSF have moved from their original exclusive focus on formal sector employees with membership dues deducted through a salary check-off system, to target the 80% of Kenyan households in the informal sector and/or in rural self-provisioning agriculture and pastoralism. Thus, they have developed and aggressively marketed appropriate 'pocket-friendly' policy packages to enhance membership coverage of the national population.

However, the county consultations largely focused on the higher profile Social Assistance which incorporates the Cash Transfer-Orphans and Vulnerable Children (launched 2004), Cash Transfer Programme to Persons with Severe Disabilities (2011), Hunger Safety Net Programme and the Older Persons Cash Transfer (2006). Additionally, *wananchi* await the change to be brought through the ruling party's 2017 campaign promise of the *Inua Jamii* programme covering all aged 70 and above, in contrast to the original cash transfer for selected over 65-year-olds.

The Social Assistance programme had been suspended for reforms in 2018, including the launch of exclusive electronic transfers; yet some beneficiaries argue that the distances to disbursement points sometimes outweigh the resulting benefits (Nyamira; Tana River; and West Pokot). Beneficiary lists are outdated, existing disability categories too narrow, and disability cards given due recognition in general transactions (Isiolo). Street children and families are currently unfairly excluded from the benefits (Nakuru).

The age of eligibility for the social funds is currently too high, and assumes all persons work towards retirement and into a pension, when this is not the case with self-employed persons. Current disbursements are overcentralized, leading to delayed and erratic payments; and the programmes ignore the impacts of inflation and the recent pandemic. Surprisingly, the County Governments who should best know their citizens in difficulty do not augment these national level resources. Finally, there seems to be little investment in improved monitoring and evaluation systems to gauge the impacts of the outlays.

Climate Change

The National Government has invested in containing the adverse county level climate change effects with varied expectations given Kenya's 80% ASAL agro-ecological coverage. Among the projects mentioned included community-led tree planting focused on 'safety belts', and 'smart agriculture' projects. However, the perception was that policies were not adequately clear for effective implementation individually as County Governments, or in conjunction with the National Government and with non-government organizations. The outlook was bleak: for example, tree cutting for fuel and other uses has persisted. Amidst County Government weaknesses, the shortfalls need attention (Makueni). An interesting consequence of climate change is the emergence of new diseases (Nyamira); yet, deforestation deprives scientists and traditional communities of the very herbs that might cure such new diseases.

Off-farm opportunities

Agriculture and related activities account for 54% of the Kenyan labor force, and nearly 70% of the rural population. Farmers produce for the market or for own-consumption, and augment these with off-farm activities. The government has launched enterprise supporting schemes, such as the Youth Enterprise Fund, and the Women Enterprise Fund, with varied outcomes. For one, erratic rural income flows undermine timely repayment; but national level fund mismanagement has also been an adverse factor.

The list of off-farm activities is long, with *boda boda* and generic *jua kali* activities mentioned repeatedly, operating under registered umbrella bodies (Lamu; Kilifi), or independently. There were value adding activities; internships (Marsabit; Nyeri); online activities and tourism (Bungoma; Baringo; Kakamega). Migori listed crafts, brickmaking and cottage industries (Migori); soapstone industry (Kisii); fishing (Turkana); firewood and collection of plastics (Marsabit; Wajir); and industrialization – manufacturing growth (Mt Kenya). But the County

Governments' preoccupation with revenue generation imposes taxes and levies that deter investment initiatives (several counties, including Embu and Isiolo).

National and County Governments' Performances

As Figure 5.7 shows, the county FGDs adjudged the National Government to outperform the County Governments on Socio-economic Governance, the aggregate score difference being 22.5 points, while the largest in-county difference in scores was Kiambu's 146% rate. Overall, the National Government performed better in 39 counties, with the performance scores averaging 5.5 points across the 43 counties, and individual scores ranging from 4.0 points (Trans Nzoia) to 6.9 points (Makueni). The County Government scores ranged between 3.7 points (Busia; Trans Nzoia) and 6.5 points (Makueni).

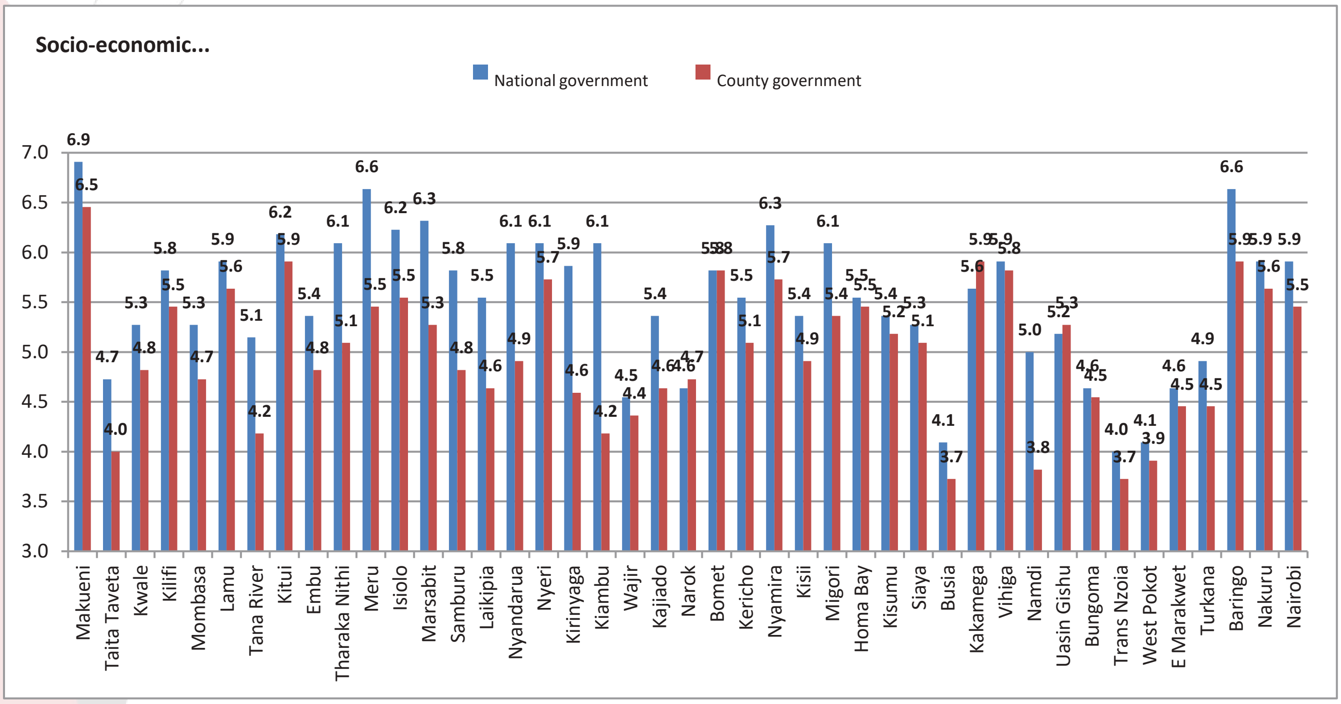
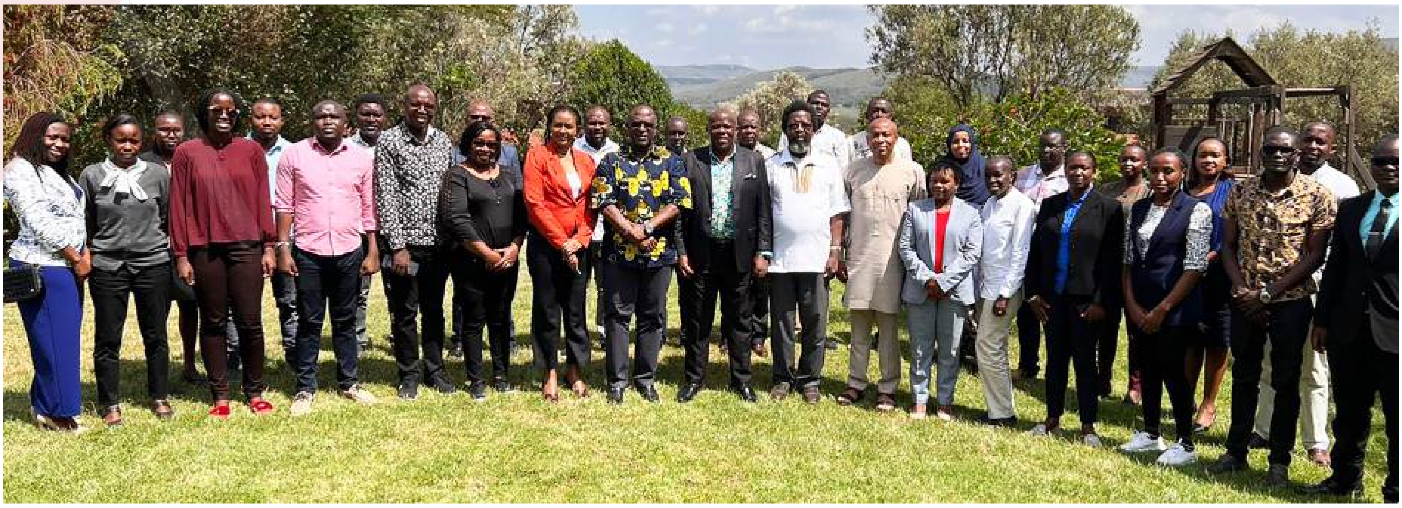


Figure 5.7: National and County Governments' Socio-economic Governance scores



Validation of NGR in Naivasha, Kenya

PART 6

SUMMARY AND RECOMMENDATIONS

6. SUMMARY AND RECOMMENDATIONS

The current report is not about what the National and County Governments and individual sectors should do to improve service delivery, but rather about what should be done within government overall, to create the right environment in which sector professionals do what they know they ought to. The report is a pioneering effort at producing a national governance report (NGR) rationalised in Section 1 above, leading to an NGR index.

The Africa Peer Review Mechanism (APRM) published a six pillar NGR framework covering:
- (i) Rule of Law;
- (ii) Transparency and Accountability;
- (iii) Participation and Human Rights;
- (iv) Democracy, Elections and Freedoms;
- (v) Peace and Security; and
- (vi) Socio-economic Governance.

The data feeding into these pillars have to be credible, reliable, and up-to-date, and collected periodically to enable trend analysis, pointing to the use of the government's own data. The focus on trend analysis emphasizes employment of quantitative data with which to measure variance from set development targets, allowing appropriate policy and strategy reviews and the formulation of realistic, actionable, and institution-specific – essentially Specific, Measurable, Achievable, Relevant, and Time-bound (SMART) – recommendations for improved governance.

Meanwhile, 2010 had seen Kenya promulgate an arguably over-ambitious, transformative constitution: Article 43 for instance, guarantees Economic and Social Rights – quality health care, adequate housing, freedom from hunger, adequate clean, safe water and sanitation, social security, and education. Yet, the Constitution must be seen to be an aspirational contract alongside its attention to contemporary issues, focusing simultaneously on the global Sustainable Development Goals (SDG), and Kenya's own Vision 2030. Beyond the mere inputs for outputs of NIMES, attention should be paid to the outcomes and impacts of interventions, which emphasizes a need for the monitoring and evaluation, as attempted by this report. Indeed, the Planning ministry's Monitoring and Evaluation Department (MED) routinely collects the government data that form the basis of delivering the APRM NGR aspiration.

Based on the considerations above, the overall NGR index score for the National Government's self-assessment for Year 1 was 108.6% while that for Year 2 was 175.3%, as presented in Section 4 of this report. The assessment across two data points enabled an insight into how government entities had performed between a first year and a succeeding one, based on data from the MTP sector reviews. Kenya's overall scores for the six Framework pillars at the national level, which includes scores for all ministries, departments and agencies as applicable, are summarized in Figure 4.1. The pillar scores of more than 100% reflect the concern with the SMART objectives.

On the county residents' perceptions of the combined National and County governments' performances at the county level, the overall performance index was 52.5%. On disaggregation, the National Government in the county scored 56.4%, outperforming the County Government which scored 48.6%. (See Section 5). That the National Government in the county is better is remarkable: while the County Governments deliver an exclusive county agenda using dedicated county resources, the National Government in the county delivers a nationwide agenda dependent on resource flows from Nairobi.

This NGR makes the following recommendations:

1. The above erratic pillar scores suggest the need for sustained political will that survives beyond specific political, bureaucratic and technocratic regimes, to drive towards those longer-term aspirations. Article 1 of the Constitution vests sovereignty in the people who may delegate it to democratically elected leaders. An indispensable part of this strategy that is mandated by the Constitution's Articles 10 and 232, inter alia, is public or citizen participation, which should instill ownership, meaning interventions can continue in the absence of outsider impetus. Yet, despite regular elections, Kenyan democracy is of questionable quality, partially reflected in the perennial petitions. Additionally, Kenyan politicians right up to the very top of the ladder, substitute the electors' agenda with their private one, whether they are in the government or the opposition. This undermines the sustainability of the political will necessary to deliver good governance around the aspirations of Vision 2030 and the SDGs.

2. Sound civic education is a pre-requisite for effective citizen participation. This realization is reflected in the Constitution and in sectoral policies, laws and strategies arising. Indeed, the Public Finance Management Act emphasizes citizen participation in developing National and County Government initiatives, and the County Governments Act dedicates the whole of its Part X to Civic Education. Without effective civic education, citizen participation merely rubber stamps top-down development strategies. Citizens must understand governance before they can participate effectively in it, as provided by Part VIII of the devolution law.

3. Governance should benefit greatly from the launch of the Medium-Term Plan (MTP) Indicator Handbook of the Monitoring and Evaluation Directorate (MED). The sectoral targets in the Indicator Handbook must be the product of consulted, technically competent and honest target setting, which generates ownership among stakeholders in the National and County Governments, and in the non-State sector, including private citizens, non-government organizations and the corporate sector.

4. The MTP Indicator Handbook targets must fulfil the SMART project or programme management criteria. That many of the MTP targets were either not met or were overshot points to the weak integration of the SMART criteria into planning, budgeting, and implementation. The Constitution's pertinent principles of governance are foundational in the respect – patriotism, rule of law, participation of the people, good governance, integrity, transparency, accountability, and sustainable development. Article 201 also echoes these national values and principles in its own public finance principles: openness and accountability, public participation, equitable taxation, and prudent finance management. The Public Finance Management Act is widely instrumental; distinguishing roles for Parliament (Part II), and the National and County Governments (Parts III and IV, respectively).

5. The development agenda must not be politicised as this allows impunity to drive alternative project and/or programme prioritization and implementation, which is reflected in the gross Indicator Handbook target shortfalls and over-shoots. While sector planning and budgeting initiatives likely attain technical sound proposals, politics realigns content sequencing and resource allocation. With strong political will from the very top of the government, the SMART approach could restrict interventions to only those activities with substantive procurement plans and budgets, as required by the Public Procurement and Asset Disposal Act, 2015. While some policies and legislation provide deterrents for the mismanagement of public finances, it is critical that the frameworks also punish the highly placed miscreants to deter malfeasances across the whole public sector.

6. The design of the periodic Sector Review Reports should be reconsidered so that they generate timely, easily understood information on implementation bottlenecks as well as good practices. Among the APRM guidelines for the development of the country NGRs is that there should be ownership of the data employed – effectively restricting the data used in the NGRs to those generated by respective governments. However, such data were not always readily and/or consistently available, leading to resort to incomparable databases. A useful means of motivating data generation, recording and submission would be periodic workshops at which sector stakeholders see the state of each other's data.

7. Consistently across the sector MTP reports, the general lament was over resource flows being either erratic, inadequate or unavailable. Other issues highlighted include political interference, shortages of personnel, and cumbersome procurement regulations. 'Roadside decrees' for instance take attention away from planned and budgeted activities. Such delays and inadequacies led fund-holders to incur illegal debts, creditors often inflating their demands. In instances, resources were released too late in the FY, resulting in imprudent practices to simply finish the money before the end of the FY. These contexts have encouraged corruption in a context in which the multiple anti-corruption agencies have been unable to deal with, primarily due to the lack of a political will to curb the scourge. For instance, Auditor General and Controller of the Budget reports end up with the parliamentary Public Accounts Committee and Public Investment Committee, which have no statutory prosecutorial responsibilities. The persisting power struggle between the Directorate of Criminal Investigation and Office of the Director of Public Prosecution also undermines progression to trial and conviction.

8. The one-off cross-sectional KII and FGD perceptions on National and County Governments' performances should be replaced with multiple cycles of information from *wananchi*, the rights holders. As with the longitudinal data of KIHBS, Section 5's data should reflect performance over time to capture the dynamics of seasonality. CIMES will capture the County Government service providers' self-reported performances; yet, being politically-elected, such assessments are unlikely to be objective; hence the importance of augmenting status with service beneficiaries' opinions. Rather than using 'suggestion boxes', CIMES must undertake a random survey reflecting the breadth of the issues in the Framework.

9. Since County Governments must implement *national* policy, it is important that their work commitments in the CIDPs, Annual Work Plans and budgets do reflect national policy. County Governors are quite idiosyncratic, and the evidence is that the CIDP is an imperative nuisance they can well do without. Consequently, alongside the Budget office and the Auditor General, CIMES can provide an additional layer for monitoring fidelity to the national governance principles and values of citizen participation, transparency and accountability.

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