



Budget Brief No.16

First Do No Harm: Is Government Minding Our Health As it Devolves?

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Executive Summary

Kenya's devolution is now upon us. From March, 2013 counties will come into existence, and begin to run some of their own affairs. Over the next three years, they should be given the money and power to run all of the responsibilities outlined in Kenya's 2010 Constitution.

Although the first big step in the transition to a two-tier system of government is imminent, little is known about exactly what counties will be doing and how much money they will have to provide specific services. This is a matter of serious concern, because counties have core responsibilities in health, housing, energy, agricultural and a number of other areas. In many of these sectors, they share obligations with the national government.

Devolution in other countries has proved challenging when there is a lack of clarity about which level of government is responsible for which services. This is often linked to inadequate funds at different levels of government to deliver services. In light of this, it is imperative that the process of assigning responsibilities to each level of government be transparent, clear and detailed, and that it be easy for citizens to see that each level of government is receiving adequate funding.

In Kenya, the Transition Authority has been given the ultimate responsibility for determining exactly which functions will fall under each level of government. Kenyans are still waiting for the TA to complete its analysis and provide the results of its work to the public for debate. Our analysis is intended to provide an assessment of all available sources of information on Kenya's functional assignment at this time in order to help the public understand and debate these issues while we wait for the Authority to finish its work. In addition, we hope our analysis can help orient public debate about the Authority's outputs when they are finalized.

This Brief focuses on the health sector. We chose health because it is the most important and expensive social sector to be devolved, and it is one where the consequences of failures in service delivery can have a big impact on people's lives. Uncertainty about who is responsible for what in the health sector could potentially result in drug stock-outs, breakdown of morgues and cemeteries, and rubbish accumulating in public spaces and spreading disease.

¹ This brief was produced by the International Budget Partnership in association with Twaweza. Dr. Lakin is a Senior Program Officer with IBP. John Kinuthia is an Associate Analyst with Twaweza. Photo courtesy of AMREF.

Our Brief finds that available sources of information are inadequate and contradictory. There is lack of clarity both about the functions that will be carried out by each level of government, and about the process for determining these. There is also insufficient information available about the costs of delivering key services and how funds will be shared between levels of government.

The information that is available is difficult to understand and the proposed division of functions and funding does not follow any obvious logic. We highlight a few areas of particular concern:

- It is not clear who is going to run provincial hospitals.
- Responsibility for recurrent and development expenditure for the same activities is divided between national and county governments. This is inconsistent with the recommendations of the Taskforce on Devolved Government and may lead to serious coordination problems.
- Some services that clearly require national government to play a role, such as management of the health information system, appear to have been fully devolved in terms of financing in ways that threaten their sustainability.
- Various services, such as nutrition and the National Aids Council Programme, seem to be arbitrarily divided between national and county government in ways that lack adequate explanation and may undermine accountability.

Our broader concern is that the process of transitioning to a new structure of government, and the sharing of responsibilities across the two levels of government, has not been sufficiently transparent or participatory. This is inconsistent with the spirit of the Constitution.

Going forward, we call on Treasury, the Transition Authority and all service ministries to:

1. Release any existing documents explaining their views on the correct division of responsibilities between the two levels of government
2. Release all information related to the cost of delivering services.
3. Provide a narrative explanation of why certain functions and finances have been assigned to certain levels of government, and explain how this is consistent with the Fourth Schedule and the principles proposed by the Taskforce on Devolved Government.
4. Highlight the implications of this proposed division of functions for all major programs that provide services to the public so that citizens know who will be accountable for running these.
5. Organize a series of open public consultations by sector (e.g., health, education, agriculture, etc.) on the sharing of responsibilities between levels of government at which the public is properly informed about the key issues and given an opportunity to provide feedback.
6. Revise the overall distribution of functions and financial flows in accord with substantive feedback received from the public on the appropriate distribution.
7. Provide a detailed timeline for the implementation of Steps 1-6.

We hope that the analysis in this Brief, which looks at budget and policy and planning documents from one sector, provides a guide for how citizens can conduct their own review of the information they receive from government in the sectors they care most about.