Spotlight on Equity: ISSUE 5

How fair is the Elgeyo Marakwet County Equitable Development Act?

Background

Elgeyo Marakwet was one of the first counties to recognize the need for a rational and equitable approach to sharing resources within counties. This realization led to the passage of the Equitable Development Act in 2015, which attempts to share the county’s entire development budget according to a formula.

The act recognizes the distinction between equality and equity by creating an equal and an equitable share for wards. According to the law, 60 percent of the development budget should be shared equally, while the remaining 40 percent should be shared equitably. The equitable share is distributed according to a set of factors that mirror the approach used by the Commission on Revenue Allocation at the national level to share funds among the 47 counties.

Once the county decides how much to give each sector (like water, health, etc.), the distribution of the sector’s funds is set by formula. The formula for the equitable share takes into account population, poverty, land area, aridity, and fiscal responsibility. The formula also has a set aside for county flagship projects and emergencies. The weight given to these variables is set out in Table 1 below.

Table 1

<table>
<thead>
<tr>
<th>Parameters</th>
<th>Weights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>38%</td>
</tr>
<tr>
<td>County flagship projects</td>
<td>23%</td>
</tr>
<tr>
<td>Poverty index</td>
<td>22%</td>
</tr>
<tr>
<td>Land area</td>
<td>8%</td>
</tr>
<tr>
<td>Emergencies</td>
<td>5%</td>
</tr>
<tr>
<td>Fiscal responsibility</td>
<td>2%</td>
</tr>
<tr>
<td>Arid and semi-arid areas</td>
<td>2%</td>
</tr>
</tbody>
</table>

Looking at the approach taken by Elgeyo Marakwet, we can see that it attempts to take into account three of our key principles: need, effort, and minimum shares. Arguably, the decision to legislate a fairly complex formula for addressing equity in the county is also evidence of our final principle of a fair and transparent process. How well does the formula actually perform against our principles?

But how equitable is it?

The decision to allocate 60 percent of the formula based on equal shares has the effect of ensuring that all wards receive a fairly high and standard allocation. This is not necessarily equitable, given the inequalities in the county. For example, while both Endo and Emsoo wards are each receiving 5% of the water allocation, Endo has 4 times as many people without access to improved water. The formula therefore sets a minimum share that is likely too high, putting too much emphasis on equality over equity, given the inequalities at ward level.

The equitable share uses good proxies for need, such as population and land area, but not all parameters are as precise as they could be. For example, while poverty is important, income poverty is not necessarily a good measure of access to infrastructure. The focus of the county’s approach is the development budget only, and this suggests it should be distributed based on the need for capital, not income poverty alone.

The fiscal responsibility parameter is difficult to measure at ward level. In the national CRA formula, this variable currently measures the revenue generated locally by each county. As wards do not generate their own revenue, it is not clear how to measure this. There are ways to measure the effort principle at local level, such as through in-kind contributions to projects from the community, but this is hard to do in a general revenue sharing formula. The inability to measure fiscal responsibility means that this is likely to be shared equally, as it was in the national formula until recently, which will put even more weight on equality than equity.

The decision to put the entire development budget through the wards raises a number of challenges, as not all development projects can be divided into small pieces and distributed to wards. The EDA approach sets aside funds for countywide projects, but does so within the equitable share, which is not sensible. The countywide projects should be removed at the start, or from the equal share.

In actual fact, the county has found that it needs to allocate more to countywide projects and has done so by reducing the equal share, rather than the equitable share. But it has done this in a way that is very difficult to understand, undermining the transparency and fair process promised by the formula.

Summary

While Elgeyo Marakwet County is to be lauded for its efforts to develop a rational and fair approach to revenue sharing, the Equitable Development Act falls short of our principles of equity in several ways that require attention. To its credit, the county has realized this and is embarking on a process of amending the law.
What does equity mean?

Sharing resources fairly means basing our decisions on widely accepted principles. This series of pamphlets looks at those principles and then applies them to practices of resource sharing in Kenya. How fair are our current approaches to sharing resources? You decide.

Most people share the idea that creating a more equal society may require us to treat people differently depending on their differing circumstances. This idea is the basis for the concept of equity. From this notion, we can develop some additional principles of fairness.

The need principle

The need principle states that people should be treated according to their needs. If we are distributing resources for health care, a person who is sick should receive more than a person who is healthy. This examples relate to the population’s need for services and the immediate costs of providing them. For example, if it costs Ksh 100 to provide health care to one individual for a year, and we have 10 sick individuals in one area and five in another, we will want to give more to the area with 10 people. However, we may also need to take into account the starting position of the two areas. If the area with ten people has a well-equipped hospital, and the area with five people lacks a facility, then need would suggest we may need to give some additional funding to the area with fewer sick people to “catch up” to the area with more.

The capacity principle

Capacity is the idea that we should not do for people what they can do for themselves. A rich person can afford to pay for more of their own services than a poor person. Assuming that both a rich and a poor person are sick (they have the same need for health care), we would be likely to give more to the poor person because they have lower capacity to meet their needs.

The effort principle

Effort is the idea that we should reward, or at least not punish, people who do more for themselves with what they have. Consider two poor people who are both sick. They have the same needs and the same capacity. One of the poor people decides to sell his second cow to pay for his health care, while the other keeps both of his cows and requests help from the government. We would feel that the first person was making more of an effort to cater for his own needs given his capacity, while the second was not. We would be uncomfortable giving money to the second person while giving nothing to the first, because this would reward people who do less for themselves.

The efficiency principle

Capacity and effort both relate to how much people have and how much they can generate for their needs. Efficiency is about how people use the resources they have. Returning to our poor, sick farmers: one farmer may use the funds they have to purchase highly effective medicines at a low price, while another may choose to spend funds on ineffective procedures at a clinic known for over-charging patients. We would likely feel that we should not give as much money to someone who chooses to spend it on ineffective or over-priced services as we should to someone who uses money prudently.

The basic minimum principle

The principle of a basic minimum is that when we distribute funds, we may look at need, effort, capacity, efficiency, and even other principles not discussed here. After doing so, we might end up deciding that all of the funds should go to one person, or one community or one region. The basic minimum principle would tell us that we should first ensure that everyone gets some small share of the total before we distribute the rest according to other principles. Many people would feel that everyone should get at least a token from the resources available, so that everyone feels that they are part of the system and receive something from it.

The fair process principle

The fair process principle emerges from the realization that the principles above may conflict with one another, and that balancing them is a difficult task. There is no one right way to do this. For example, we might find that the person with the greatest needs makes the least effort. What should we do in this case? We will want to give them more due to their needs, but we will want to give them less due to their lack of effort. As there is no one correct solution to this problem, the only way to address it is to ensure that we make the decision through a fair and transparent process in which people give their reasons, these are thoroughly debated, and a decision that people may disagree with, but can agree is well-reasoned, is reached.