



## Exploring policy perceptions and responsibility of devolved decision-making for water service delivery in Kenya's 47 county governments

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### ARTICLE INFO

**Keywords:**  
Devolution  
Water services  
Right to water  
Risk  
Responsibility  
Kenya

### ABSTRACT

Improving water services is a well-rehearsed political instrument to win public support against a backdrop of a wide range of hydro-political realities in Africa. This paper examines whether devolution to Kenya's 47 counties advances the constitutional mandate for the human right to water. Specifically, it examines which factors influence decision-makers' perception of their responsibility for water service delivery in their counties. Drawing on interviews from all county water ministries, a sociopolitical risk model leveraging public choice theory is developed and tested. Information on election margin, climate risk, urbanisation, poverty levels, water budget and citizen satisfaction is modelled to explain variations in the policymakers' perceptions of their responsibilities. Results reveal that county water ministries recognise increased political responsibility for the poor outside current provision areas across water quantity, quality, accessibility and non-discrimination criteria. Affordability is the most contested criterion, with only a limited number of counties accepting responsibility. High socioclimatic risks and narrow election margins are likely to boost devolved duty-bearers' perception of responsibility for improved water service delivery. These variable factors demonstrate the interdependence of spatial and political dimensions during Kenya's devolution process and promote the conclusion that independent and strong regulation is critical to realising the human right to water for the great majority of Kenyans living in rural areas and facing unpredictable climate risks.

### 1. Introduction

Perceptions by decision-makers in national and subnational governments are an important part of achieving sector goals. Without the support of frontline bureaucrats, political momentum may be limited (Hood, 2011). The goal scrutinised in this study is the right to safe water for all in adequate quantities (Government of Kenya, 2010; UN, 2015; UNGA, 2010). Improving water service delivery begins with the perception of responsibility by those in charge of implementing legal mandates. Change requires a strategic approach to align the constraints on achieving universal and safely managed drinking water services for all and incentives for public administrations mandated with delivering water services (North, 1990). Constraints and incentives are the focus of this study, which presents and applies a sociopolitical risk model leveraging public choice theory (Buchanan and Tullock, 1999; Ostrom and Ostrom, 1971).

The article is timely for three reasons. First, in the year of data collection, the goal of ensuring the availability and sustainable management of water and sanitation for all was endorsed by the United Nations General Assembly as part of the Sustainable Development Goals

(SDGs) agenda 2015–2030 (UN, 2015). While not legally binding, this global agenda places the primary responsibility for sustainable development policies on governments. What is legally binding is national legislation; for example Kenya's 2010 Constitution mandated a new subnational level of government (counties) to guarantee the right to water and to deliver services such as water and health (Government of Kenya, 2010). The challenge facing the decision-makers is great. Three quarters of Kenya's population are not provided with drinking water services (WASREB, 2015), and global-level calculations indicate that only a third of the USD 114 billion of capital expenditure needed for SDG 6.1 and 6.2 is currently being spent (Hutton and Varughese, 2016). Availability of financial resources is likely to be one constraining factor on the degree of responsibility decision-makers are prepared to take. While previous studies have focused on valuation and measurement (Costanza et al., 2016; Garrick et al., 2017; Thomson and Koehler, 2016), this research examines a prerequisite to the attainment of the policy goals: perception and recognition of responsibility for delivering the various aspects of the right to water. This includes an investigation into the officeholders' willingness to introduce institutional change, and potential resistance to it.

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Second, this is the first study to evaluate data capturing the perceptions of the decision-makers in all 47 counties mandated to deliver water services in the initial term of Kenya's devolution reform (2013–17). These data are used to compile an index on water service responsibility for the human right to water. The type of decentralisation introduced in Kenya is devolution. While decentralisation in general is defined as "a process of state reform composed by a set of public policies that transfer responsibilities, resources, or authority from higher to lower levels of government" (Falletti, 2005, p. 328), the most extensive form of decentralisation is devolution (Agrawal and Ostrom, 1999), which implies increased empowerment of subnational organisations (with county governments established as a new tier of government in Kenya in 2013). All members of the County Executive Committees (CECs)<sup>1</sup> – appointed by the elected governors – were required to interpret their constitutional mandate and develop sector strategies and institutions during their first term of office.

Third, Kenya had its second round of gubernatorial elections in August 2017 under the shadow of recurrent droughts, which have tended to be used as a political tool to win international as well as public support for emergency and long-term interventions such as relief supplies or infrastructure investments (Wainaina, 2017). Using water in this way relies on the biopolitical significance of water governance and the capacity of water to transform human life and perspectives, from health to economic development (Hellberg, 2014). As 2.7 million people were facing starvation, President Uhuru Kenyatta declared drought a national disaster on 10 February 2017 (BBC, 2017), which brought water service delivery centre stage at national and subnational levels. This research contributes to establishing a baseline for the implementation phase at the start of the second of Kenya's electoral cycles under devolution. Just under half of the governors were re-elected (Independent Electoral and Boundaries Commission, 2017), which places great pressure on incumbents to deliver on their agendas and on newly elected candidates to surpass the achievements of their predecessors. Examining the factors that have influenced the degree of responsibility by the first duty-bearers in a devolved government may reveal stumbling blocks and highlight pathways for delivering water services for the next set of duty-bearers.

Drawing on unique data from interviewing decision-makers in all 47 county water ministries in Kenya, the variation in the perception of water service responsibility is examined across the criteria of the human right to water; the factors influencing these perceptions, including the role of tight gubernatorial election margins; and urban–rural dimensions across the four risk zones derived from the socio-political risk model. The implications are discussed along three themes: first, the balancing of risks facing county populations and decision-makers with opportunities for improving water service provision while consolidating public support, in light of public choice theory; second, the linkage between resource and responsibility; and third, harnessing the devolution process for progress towards the SDG of increasing reliable water services. The analysis shows that high sociopolitical risks are, to a large extent, acknowledged by the CEC members, but as political "entrepreneurs" (North, 1990) these devolved duty-bearers are also driven by gubernatorial election results and budget allocations. Recognising the various components of the water service mandate in light of socioclimatic and political risks is an important step in the process of translating them into implementation strategies, as variations in people's attentional focus, perceptions and constructions of reality clearly impact on their actions (Carver and Scheier, 1981; Wood and Bandura, 1989). Providing insights into mandated decision-makers' current perceptions and how the varying pressures they are exposed to affect them may therefore be an important contribution towards the global effort to streamline pathways to the effective implementation

and monitoring of SDG 6.1 (Hutton and Varughese, 2016; WHO/UNICEF, 2017, 2015). To prevent increased regional disparities through varying recognition and implementation of the devolved mandate, national-level regulation is critical to ensure equity and consistency in the implementation of the water service mandate across varying geographies.

## 2. Background

### 2.1. Does devolution drive service delivery?

Decentralisation reforms are commonly introduced with the aim of moderating power concentration in the capital, enhancing the development of rural regions in particular (Crawford and Hartmann, 2008), and improving accountability and responsiveness within the system by altering governance structures (Faguet, 2014). The agents of change, political or economic "entrepreneurs", are expected to respond to the incentives embodied in the institutional framework (North, 1990).

A significant amount of literature examines institutional transitions that aim at building pathways out of poverty in Africa and demonstrate varying impacts on service delivery (Conyers, 2007; Crawford and Hartmann, 2008; Lein and Tagseth, 2009; Nsibambi, 1998; Palotti, 2008; Robinson, 2007; Uhlendahl et al., 2011; Wekwete, 2007) and poverty reduction (Bossuyt and Gould, 2000; Crook and Sverrisson, 2001; Francis and James, 2003; Grindle, 2007; Vedeld, 2003; Von Braun and Grote, 2002). Both background conditions (such as the political power structure) and process conditions (such as information flows) determine the impact of decentralisation. As outlined above, one important, but not sufficient, condition for effective implementation of decentralisation reforms is the perception of the devolved decision-makers of what their mandate entails. This has been identified as a gap in the literature.

Kenya has devolved certain functions and powers to the counties as a corrective to its underlying political shortcomings such as state overcentralisation, which allowed certain ethnic groups to dominate politics, and eventually led to election violence (Cheeseman et al., 2016; D'Arcy and Cornell, 2016). The election violence of 2007/08 is often cited as one of the reasons for introducing devolution, in order to promote a sense of inclusion among the multitude of ethnic groups (Cheeseman, 2011; Horowitz, 2015). In the run-up to Kenya's second general election under its devolved system, the centre of public attention was as much on the race over the hotly contested 47 governors' seats as it was on the presidential campaign (Waddilove, 2017). In line with Falletti's (2005) theory of sequential decentralisation, the 2010 Constitution gave the political process of devolution momentum from the outset, which placed political pressure on county stakeholders throughout their term and at the same time facilitated coordination among them. Some go as far as to describe devolution in Kenya as the "governance of governors" (Cheeseman et al., 2016) – a political elite at the county level capable of acting in concert as a counterweight to the national government by building their own constituency while demonstrating their ability to protect local interests by fulfilling the constitutionally assigned functions. A danger highlighted by Crook and Sverrisson (2001) is the misdistribution<sup>2</sup> of funds for ambiguously defined functions between the levels of government, which stable institutional arrangements may offset. Devolution in Kenya has also fostered the localisation of ethnic politics and led to the creation of new majorities and minorities in counties not overwhelmingly dominated by one ethnic group (Carrier and Kochore, 2014; Nyabira and Ayele, 2016), which may have implications for the delivery of public goods and services to all citizens, as certain areas may be unevenly targeted

<sup>1</sup> "County Executive Committee Members" is the official term for "County Water Ministers"; however, the latter is more commonly used.

<sup>2</sup> In the sense that funds are allocated to national and county levels without precisely adapting them to the functions that the respective level has to fulfil under varying circumstances.

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