Political Economy Analyses of Countries in Eastern and Southern Africa

Case Study – Kenya Political Economy Analysis

May 2017
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### Abbreviations

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<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>BAC</td>
<td>Budget and Appropriation Committee</td>
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<td>BPS</td>
<td>Budget Policy Statement</td>
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<td>BROPP</td>
<td>Budget Review and Outlook Paper</td>
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<td>CA</td>
<td>County Assembly</td>
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<td>CBEF</td>
<td>County Budget and Economic Forum</td>
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<td>CFSP</td>
<td>County Fiscal Strategy Paper</td>
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<td>CORD</td>
<td>Coalition for Reforms and Democracy</td>
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<td>CRA</td>
<td>Commission on Revenue Allocation</td>
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<td>CSO</td>
<td>Civil society organisation</td>
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<td>DP</td>
<td>Development Partner</td>
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<td>EAC</td>
<td>East African Community</td>
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<td>ECDE</td>
<td>Early Childhood Development Education</td>
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<td>ESARO</td>
<td>Eastern and Southern Africa Regional Office</td>
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<td>FSA</td>
<td>Fiscal space analysis</td>
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<td>FY</td>
<td>Financial year</td>
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<td>GDP</td>
<td>Gross domestic product</td>
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<td>IBP</td>
<td>International Budget Partnership</td>
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<td>ICT</td>
<td>Information and Communication Technology</td>
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<td>IEA</td>
<td>Institute of Economic Affairs</td>
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<td>IEBC</td>
<td>Independent Electoral and Boundaries Commission</td>
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<td>KADU</td>
<td>Kenya African Democratic Union</td>
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<td>KANU</td>
<td>Kenya African National Union</td>
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<tr>
<td>KEPSA</td>
<td>Kenya Private Sector Alliance</td>
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<td>KIPPRA</td>
<td>Kenya Institute for Public Policy Research and Analysis</td>
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<td>Ksh</td>
<td>Kenyan Shilling</td>
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<td>MCA</td>
<td>Member of County Assembly</td>
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<td>MOEST</td>
<td>Ministry Of Education, Science and Technology</td>
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<td>MP</td>
<td>Member of Parliament</td>
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<td>MTP</td>
<td>Medium Term Plan</td>
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<td>MoH</td>
<td>Ministry of Health</td>
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<td>NARC</td>
<td>National Alliance Rainbow Coalition</td>
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<td>NGO</td>
<td>Non-governmental organisation</td>
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<td>OAG</td>
<td>Office of the Auditor-General</td>
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<td>OCOB</td>
<td>Office of the Controller of Budget</td>
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<td>ODA</td>
<td>Official development assistance</td>
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<td>ODM</td>
<td>Orange Democratic Movement</td>
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<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<td>PBO</td>
<td>Parliamentary Budget Office</td>
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<td>PEA</td>
<td>Political economy analysis</td>
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<td>PER</td>
<td>Public Expenditure Review</td>
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<td>PFM</td>
<td>Public finance management</td>
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<td>SAP</td>
<td>Structural Adjustment Programme</td>
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<td>SDGs</td>
<td>Sustainable Development Goals</td>
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<td>SWG</td>
<td>Sector working group</td>
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<td>TNA</td>
<td>The National Alliance</td>
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<td>TSC</td>
<td>Teacher Service Commission</td>
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<td>Acronym</td>
<td>Full Form</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UNICEF</td>
<td>United Nations Children's Fund</td>
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<td>URP</td>
<td>United Republican Party</td>
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<td>US</td>
<td>United States</td>
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<tr>
<td>USD</td>
<td>US Dollar</td>
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<tr>
<td>USAID</td>
<td>United States Agency for International Development</td>
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<td>WASH</td>
<td>Water, Sanitation and Hygiene</td>
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Preface

This report is part of a series of country studies carried out by Ecorys and associates for UNICEF in Eastern and Southern Africa. The project aims to strengthen UNICEF’s advocacy efforts through a better understanding of the role of political economy factors in processes and decisions around the creation and use of fiscal space for investments in children.

This report was written by Andrea Dijkstra, Paul Beckerman, Dafina Dimitrova, Gabriele Pinto and Ivo Gijsberts.

The writers of this report wish to thank the staff from UNICEF Kenya for their support and guidance. They also express gratitude to the various government officials and other stakeholders who provided inputs.

The findings, interpretations and conclusions expressed in this report are those of the authors and do not necessarily reflect the policies or views of UNICEF or of the United Nations. The text has not been edited to official publication standards, and UNICEF accepts no responsibility for errors. The designations in this publication do not imply an opinion on legal status of any country or territory, or of its authorities, or the delimitation of frontiers.
Executive Summary

Kenya’s political economy can be characterized as a centralized political system with a strong executive power alongside political parties with weak ideologies. Due to historical relations between ethnic groups, the ethnic background of the current government also affects political dynamics and voters’ preferences. The 2010 Constitution was a landmark achievement to overcome ethnic differences as it introduced a devolved governance system and institutional reforms to promote equity and accountability in the political system. Impunity, however, remains a challenge.

The government is a powerful actor in policymaking and remains focused on transforming Kenya into a middle income country. To generate sustained economic growth, the government plans to implement reforms via five-year medium term plans. Among its social sector priorities, education remains at the top due to the economic returns brought about by investments in education. In contrast, health and social protection are provided on the basis of ‘rights’ arguments and feature less prominently in the national budget. In terms of healthcare services, counties are in charge of service delivery, and this results in varying quality of services. Similarly, for social protection, despite recent increases in spending, there is still a need for additional funding and more efficient spending strategies. The lack of strong ideologies among political parties results in manifestos that outline similar objectives for social sectors, but none have a clear focus on child-friendly spending. Nevertheless, the ruling party’s manifesto can still be used as an avenue to hold the government to account.

Other players active in policymaking processes include development partners, think-tanks, civil society groups and the media. However, their influence is diminishing, mainly due to an influx of Chinese investments and changing political dynamics. Nevertheless, one group whose policy influence remains relatively untapped is youth – 80% of Kenyans is below 35 years old, and there should be more activities to stimulate grassroots demand among this population group for better social services.

Turning to the budget process, the two principal players are the national government, which transfers money to the counties, and county governments, which decide on resource allocation. At the national level, the Presidency and National Treasury are key players in budget planning. The Kenya Institute for Public Policy Research and Analysis (KIPPRA), an independent government institute, also plays an influential role as it participates in high-level group discussions. Other important institutions are the Office of the Controller of Budget and Office of the Auditor General, which provide crucial information about the budget, such as identifying spending inefficiencies. At the county level, the County Assembly is typically the main driver in resource allocation. Moreover, when looking at the relationship between both levels of government, tensions abound as a result of the ongoing devolution process, especially in the health sector.

To advocate for greater spending on sectors that matter for children, there are four key entry points that should be considered. These mainly cover the preparation and execution phases of the budget cycle and are summarized below.

- **Safeguard resource allocation to priority sectors:** At the national level, the crucial period is mid-January when the government publishes a draft Budget Policy Statement to set budget ceilings for the next three years. This document can be used to keep track of resource allocation to child-friendly sectors and to further advocate for budget readjustments. The main
partners are the Sector Working Groups and KIPPRA. Key documents which can be used as advocacy resources are the 2010 Constitution, ‘Vision 2030’ economic development strategy and manifestos from political parties. At the county level, one recommendation is to focus on a few counties with weak service delivery where UNICEF also has local offices or strong on-the-ground partnerships since counties have different budget planning processes.

- **Seek more resources for priority sectors:** The period between March and June is a window for advocacy at the national level as sector committees decide sectoral budgets. There can be closer engagement with the Parliamentary Budget Office to seek more budget for the social sector, while another key partner is the National Treasury which finalizes the budget for each sector. At the county level, the window for advocacy is between March and April when the County Executive submits budget estimates to the County Assembly for discussion and approval. The advocacy strategies will differ according to the county, mainly based on whether there is greater potential to influence the executive branch or members of the County Assembly.

- **Improve spending efficiency in priority sectors:** Evidence that substantiates the gains of more efficient spending can be used to advocate for improvements in spending mechanisms. The ‘rights’ argument can also be used by referring to international agreements and national policy goals made on children’s welfare, which seems to resonate with some audiences; this can be bolstered by leveraging other United Nations partners and the fact that the Kenya government hosts the United Nations headquarters. UNICEF can further tap onto well-established non-governmental organizations and work with the media – particularly at the county level – to tackle spending inefficiencies.

- **Improve efficiency of tax collection systems:** Fiscal space analysis (a complementary exercise to this study) identified the need to improve tax collection efficiency. The key advocacy partners are the National Treasury, international financial institutions and other donors active in the public finance arena. Findings from fiscal space analysis can be shared publicly and corroborated with the World Bank’s tax gap analysis to raise awareness on this issue. Specific counties could also be targeted to work on improving their tax administration systems.

Kenya’s centralized political system coupled by its devolved governance system present various challenges to advocating for greater investments in children, but also offer unique entry points. As budget allocation and execution take place separately at national and county levels, there could be collaboration with different political and technical counterparts at specific time periods, especially to safeguard and/or expand resource allocation to priority sectors as well as to improve the efficiency of spending. Leveraging existing government and non-government partnerships and mobilizing youth grassroots movements can also create platforms to advocate for more spending on priority sectors. Lastly, an area of growing interest to government, partners and UNICEF is strengthening tax collection capacity, which opens additional entry points at national and local levels that should be more deeply explored.
Introduction

The political economy analysis (PEA) of Kenya’s budget process complements the fiscal space analysis (FSA) by providing context to the process of resource allocation to priority sectors. It does so by identifying the key decision-makers to approach when advocating for various options to increase the fiscal space. The PEA focuses on uncovering key drivers in the policy and decision-making steps in the budget cycle. Because of the nature of the analysis, this part of the report is meant for internal purposes. It aims to serve as an informative document for UNICEF staff involved in advocating for enhanced and/or better child-friendly spending.

The report is written on the basis of literature study and a seven-day field mission. A diverse group of respondents has been interviewed, including government officials, Development Partners (DPs), civil society organisations (CSOs), and think-tanks. A detailed list of respondents is presented in Appendix 2. As for every country, political economy is dynamic and complex. It is influenced by dozens of factors and actors, many of which difficult to unveil. This analysis is not exhaustive but rather seeks to give a generalised overview of the budgeting process and identify key issues for UNICEF to explore further.

Chapter 1 of the PEA presents a brief historical context of politics and economics in Kenya. Chapter 2 identifies key stakeholders in formulating policy related to child-issues, notably to the three appointed sectors of “priority expenditure” used in the FSA and this PEA: education, health and social protection. It gives an overview of priority setting in the current government’s policy and identifies other actors which play a role in advocating for resource allocation to child-friendly sectors. Chapter 3 describes the budget process and identifies the key actors in this process. Chapter 4 attempts to merge the findings of the sectors, and the conclusions of the FSA, into more specific advocacy entry points for UNICEF.
1 Politico-economic historical context

This chapter highlights some of the key events in Kenya’s political and economic history since independence, which are relevant for its political economy of the budgeting process. It is attempted to give the reader a background to the remainder of the report. For a full analysis of Kenya’s historical developments we refer to the recently completed Political Economy Analysis (PEA) done by the Rift Valley Institute for UNICEF ESARO.1

Key findings
Kenya’s political economy has a couple of characteristics, which can be traced back to its political and economic history. A centralized political system has led to a political system in which political parties do not have strong roots. Presence of various large ethnic groups, and an historic relation between these groups and the background of the leading government, affects political dynamics and voters’ preference. The Constitution of 2010 has been a landmark achievement, making steps towards countering many of these dynamics, by introducing a devolved system of government and institutional reforms to promote equity and accountability, although impunity remains a challenge.

1960s – 1970s: The years after independence
Kenya gained independence from the United Kingdom in 1963. It inherited a colonial model with a strongly centralised state and a dominant executive.2 The two major political parties, the Kenya African National Union (KANU) – largely representing Kikuyu and Luo communities, and the Kenya African Democratic Union (KADU) – representing smaller ethnic groups, contested in the first elections of the independent state in 1964. KANU won the elections and formed the first government, under the leadership of Jomo Kenyatta. After a short-lived devolved system of government, the Constitution was amended and Kenya was transformed to a central-government controlled provincial administration and local government system.3

The process of decolonization and expansion of public service delivery was guided by Sessional Paper No. 10 of 1965 on African Socialism and Application to Planning in Kenya (Republic of Kenya, 1965), which was the first post-colonial blueprint for development, addressing issues such as poverty, disease and ignorance.4 The strategy was also meant to attain rapid economic growth, which led to the investment of resources in high potential areas in priority over low potential areas.5

In the first 15 years of independence, both government spending and private investments went up and Kenya experienced high levels of growth in the 1960s-1970s. International commentators cited the country as a successful development model of growth.6 However, increased income inequalities and regional disparities were downside effects of this growth.7 In politics, the government took measures to further centralise power. Opposition parties were banned in 1969, and the bicameral

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legislature was abolished. Vice-President Moi succeeded Kenyatta as President in 1978. In 1982, the Parliament changed the Constitution to make Kenya a one party state.

1980s-1990s: Economic and political challenges
In the 1980s-1990s, Kenya’s economic performance worsened. Kenya had already been affected by the international turmoil of the two oil shocks (1973 and 1979) and the collapse of the East African Community (EAC) in 1977, and experienced other distortions in the 1980s: an attempted coup in 1982 and a severe drought in 1984. This created balance of payment issues as government expenditure expanded significantly after the mid-1980s, causing large macroeconomic imbalances. This led to the introduction of the Structural Adjustment Programmes (SAPs), which became an important part of the country’s economic management with the Sessional Paper No. 1 of 1986. These SAPs have had numerous effects on the economy, such as inflationary pressures, marginalization of the poor in the distribution of educational and health benefits and a reduction in employment. It also caused friction between the International Financial Institutions and Kenya, as the former was critical of the "lethargic" implementation of the reforms with a "lack of transparency", and the latter suffered from flawed designs of the SAPs, not fitting the local context.

In 1991, Kenya was cut off from aid when Development Partners (DPs) started to focus more on governance as a pre-condition for aid. This was followed by a major economic and political crisis and the outbreak of ethnic conflicts. President Moi was under pressure to reinstate multi-party democracy. In 1992, he was re-elected in a multi-party election. This election took place in a context of political violence at the hands of militia organised by the ruling party. Moi and his KANU party won the 1997 elections in a similar fashion.

In 2002, President Moi respected his legal term of office, and stepped down. This time the opposition succeeded in creating an alliance, the National Alliance Rainbow Coalition (NARC), to compete against KANU. With a message which called for reforms and democratization, they won the elections and President Kibaki was declared President in 2003. The new Government kept its promises by expanding the space for participatory democracy and enhancing the rule of law. The constitution-making process was re-started and institutions were created to tackle mismanagement of resources. The Economic Recovery Strategy for Wealth and Employment Creation restored the Kenyan economy to a level of economic growth of 7% by 2007.

However, the NARC fell apart as a result of power struggles based on ethnicity. The polarisation and deep ethnic divisions stood at the basis of the violence that broke out after the contested elections of 2007, although the violence is also said to have been an outlet for general frustration of...
the Kenyan people with the government regardless of ethnicity. This has been a traumatic event in the political history of Kenya, with widespread violence between different ethnic groups in which 1,100 lives were taken, 660,000 were displaced and thousands suffered from long term injuries. The African Union intermediated, and identified during this process key weaknesses in the Kenya’s democratic system: lack of political inclusion, perceptions of marginalisation and a culture of impunity. Key reforms were deemed necessary to address these underlying elements of democracy. As a result, the National Dialogue and Reconciliation Agreement includes a number of reforms. Kibaki’s new party, the Party of National Unity, engaged in a power sharing agreement with the main opposition party, the Orange Democratic Movement (ODM) of Raila Odinga.

2010: The new Constitution
The most notable outcome of the enacted National Accord and Reconciliation Act 2008 was the promulgation of a new Constitution in 2010. The Constitution seeks to address the long-standing challenge of inequality in development by introducing a devolved system of government and an equalisation fund. What is probably the most important aspect of the Constitution is that it is rights-based: the rights of individuals and communities are laid down and should be respected. The Constitution resulted in several institutional reforms, including a new system of devolved government (see box below). It led also to the establishment of new institutions: new checks on executive powers were introduced, such as a bi-cameral Parliament and Office of the Controller of Budget (OCOB).

Devolution
Devolution is regarded as the highest form of decentralisation. Decision-making is completely transferred to the local level for the selected functions. This gives extra unique dimension to the political economy in Kenya: the Constitution 2010 has introduced two levels of government: national government and devolved governments in 47 new counties, which have their own actors and decision-making cycle.

A number of key government functions, notably in public sector delivery in key sectors such as agriculture, health and water, have been transferred to county governments. The largest devolution effort took place in the health sector: about 40% of the total devolved funds in 2012/13 were related to health. To deliver these services, the counties are entitled to at least 15% of the national government revenues. In addition to the transfer from government, counties can raise own revenues. Devolved revenue functions include property taxes, entertainment taxes and parking fees. The counties can also borrow from private lenders but this has to be guaranteed by the national government.

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Christine O Oduor, Handbook on County Planning, County Budgeting and Social Accountability, Institute of Economic Affairs (IEA), 2014.
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The Kenyatta administration: 2013 – now

The first elections under the new Constitution in 2013 were won by the Jubilee coalition, made up of two major political parties: The National Alliance (TNA) party and the United Republican Party (URP). This is also a coalition of two large ethno-political groups, as TNA President Uhuru Kenyatta is a Kikuyu and URP vice-President Ruto is a Kalenjin.

As had been described in the Fiscal Space Analysis (FSA) report, under the Jubilee coalition’s rule, Kenya’s economy has recorded a steady growth percentage of 5-6% in Gross Domestic Product (GDP). After a World Bank-endorsed revision of its GDP, Kenya transitioned to a lower middle income country in 2014. However, inequality remains a structural problem as the economic transition was primarily driven by growth in the Northern Corridor and Rift Valley between Mombasa and Nairobi, rather than in the Arid and Semi-Arid Lands. This inequality – per capita consumption in Nairobi is three times higher than in the rest of Kenya – remains a key political and economic challenge with accordant risks to national unity and stability.

Another political challenge that has occurred over the past years is the growing threat of terrorism. Security challenges include Al-Shabaab retaliations to Kenya’s involvement in Somalia, which culminated in the Westgate Shopping Mall attacks in 2013 and the Garissa University College attacks in 2015.

Key features of Kenya’s political economy

As has been witnessed in several historical events, ethnicity is important to the pattern of politics. The presence of five relatively large groupings, with no single group exercising dominance, lead to a situation where a government coalition cannot possibly include all groups and as a consequence, certain ethnicities feel underrepresented. In addition, various researches have pointed out that ethnic voting is a characteristic of Kenya’s politics.

Another central feature of Kenya’s political economy is the connection between political and economic interests through involvement of politicians in business affairs. This is related to ethnicity, as there has been a tendency to favour the district and ethnic tribe of those in power. This practice intensified under President Moi in the 1980s, when he brought people from his Kalenjin community to the centre of political and economic power.

The current Jubilee coalition illustrates another notable characteristic of Kenyan politics, which is that political parties are not institutionalised. Parties are formed to participate in elections: few parties last more than one election period. As noted before, parties usually follow ethnic lines. Government parties TNA and URP attract Kikuyu and Kalenjin votes, while the ODM and OMD-K, who together form the main opposition alliance Coalition for Reforms and Democracy (CORD) are supported by respectively Luo and Kamba voters.

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30 Ibidem.

31 https://openaccess.leidenuniv.nl/bitstream/handle/1887/4672/ASC-1241504-040.pdf?sequence=1


33 Ibidem.

The new Constitution is a landmark achievement in Kenya, providing people with a Bill of Rights. It led to various important institutional reforms, such as the set up of the above mentioned institutions. It called for an Equalisation fund to provide resources to marginalised areas, which has been set up by 2016 after delays in operationalizing this fund. Funds have been allocated to support access to basic services in 14 counties. The Constitution also promotes leaders’ accountability, declaring integrity and leadership as key pillars of governance. However, the struggle against impunity has made less progress in the past few years, and remains a challenging factor in Kenya’s political economy.

All these elements are captured by Professor Karuti Kanyinga, who describes Kenya’s political state as follows: “Kenya’s transition is characterised by a lot of back-and-forth. Democratic gains are yet to be consolidated. Citizens’ efforts to promote change are visible and well rooted in all spheres. Also, the political sphere is highly pluralised. There are many registered political parties and many people participate in periodic elections. There is a relatively free media and general respect for freedom of expression. In spite of this pluralised space, there is a weak culture of political accountability in that leaders rarely account for their actions. The political system is one in which ethnicity comingles with the electoral system to form a strong obstacle to democratic transition.”

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2 Key actors in advocacy for children

This chapter gives an overview of key actors in advocating for more spending on child-friendly policies. Section 2.1 gives an overview of the current national government narrative and its priority setting. This section also takes a closer look to priority setting within the three “priority” sectors education, health and social protection. The subsequent sections identify other actors which play a role in advocating for resource allocation to child-friendly sectors.

2.1 Government narrative

Key findings

The government's medium to long-term narrative is focused on transition to a middle-income country. A clear economic argument is made to invest in education to achieve this objective. Education is both on paper and in budgetary terms a government priority. Health is stated as a priority based on a 'rights argument', but is less prominent in the national budget, and spending on health seems to vary greatly per county. Within the sector, priority leans towards curative health and priority setting is hindered by DPs providing off-budget aid. Social Protection was also proclaimed as a 'right' in the constitution, and has achieved good results. However, the sector is in need for additional funding and faces spending efficiency issues.

The Government’s long term policy framework is based on Vision 2030, which is operationalised in five-year implementation plans, popularly known as Medium Term Plans (MTPs). Vision 2030 is the key long-term vision document on which all other policy is based. The aim of Vision 2030 is for Kenya to become "a globally competitive and prosperous country with a high quality of life by 2030". It seeks to transform Kenya into "a newly industrializing, middle income country providing a high quality of life to all its citizens in a clean and secure environment."

The Vision was developed in 2007 under the previous government, but is still regarded as the roadmap to Kenya’s future. Vision 2030 consists of three pillars: an economic, social and political pillar. The social pillar includes the education and health sector as priorities. Social equity and poverty reduction are mentioned as well, but are less prominently featured. The sectors infrastructure and energy are identified as key foundations for socio-economic transformation.

Vision 2030 is implemented through five-year Medium Term Plans (MTPs). The MTP 2013-2017 is the second MTP, and aims to describe the implementation of the Vision 2030. The MTP II states: "In line with the priorities outlined in the Jubilee Coalition Manifesto ‘Agenda for Kenya 2013-17 and Beyond’ the plan aims at accelerating economic growth putting the economy on a higher, inclusive and sustainable growth trajectory leading to a double digit GDP growth rate within the five-year period." Important aspects are job creation and the implementation of devolution. The MTP II also introduces two new priorities compared to the first MTP: development of oil and other mineral resources, and building “National Values and Ethics”.

Vision 2030 and the MTPs are also leading for the strategies at county level. Counties have, similar to the MTP at national level, a five-year

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40 Ibidem.
County Integrated Development Plan (CIDP). Counties are also required make sectoral plans, which cover the next 10 years.\textsuperscript{41}

**Priorities across sectors**

Infrastructure and education are government prioritised both in the respective policy and strategic documents and in terms of funding. The infrastructure sector is seen as a key driver in promoting trade and economic growth in the Vision 2030 and the MTP II (2013-2017).\textsuperscript{42} This is translated to the national budget, as can be seen in figure 2.1: the energy and infrastructure sector received the largest share of national budget allocations (27.2%). However, education is still the largest sector when actual national expenditures are considered (25.4%) – not all funds in energy and infrastructure were exhausted which made its share in expenditures 21%. National security is an upcoming sector – it is a concern among Kenyans and has therefore received more funding. In the national budget for Financial Year (FY) 2014-15 Ksh 98 billion was allocated to the sector, in FY2015-16 this had increased to an allocation of Ksh 113.8 billion.

**Figure 2.1 Gross national budget allocations and expenditures per sector, FY2015-16**

![Budget allocation chart](chart.png)


Except for the education sector, other sectors that are assumed to capture much of children’s issues and needs, namely social protection and health, are relatively small in budgetary terms.\textsuperscript{43} It has to be emphasised that health is largely a devolved function. The sections below describe the government narrative on education, health and social protection.

**Education is a high priority**

Education is a high priority for the government. The Constitution 2010 provides for free and compulsory basic education as a human right to every child. The social pillar of the Vision 2030 presents education as a main vehicle for Kenya to become a middle-income country. The current MTP also addresses education as a priority area. The MTP II states: “Kenya views Education and Training (E&T) as the primary means of upward social mobility, national cohesion and socioeconomic development.” It presents an economic argument to invest in education, next to the

\textsuperscript{41} County Governments Act, Article 109.
\textsuperscript{42} World Bank, PER, 2014.
\textsuperscript{43} Mutua et.al., Child Budget Analysis in Kenya, 2015.
right's argument underlined by the Constitution. This seems to be effective as education is also prioritised in terms of national budgetary allocations.

**Priorities within the education sector**

The education sector has remained largely the responsibility of the national government except for Early Childhood Development Education (ECDE) and vocational education, which have been transferred to counties. The priority setting within the education sector is guided by the Jubilee Manifesto and the MTP II. In addition, the sector has a dedicated National Education Sector Plan covering 2013-2018.

The Ministry Of Education, Science and Technology (MOEST) is the responsible government entity at the national level. The Ministry consists of three State Departments: (Basic) Education, University (Higher) Education, and Vocational and Technical Education. The Teacher Service Commission (TSC) is an independent commission, established under the 2010 Constitution, and tasked with human resource management in the education sector. Its functions are to recruit and employ registered teachers; to assign teachers employed by the TSC for service in any public school or institution; to promote and transfer teachers; to exercise disciplinary control over teachers; and to terminate employment of teachers.

**Quality of education** has been a focus since the introduction of ‘Education for all’ in 2003. Within a short period, many children enrolled in schools, which led to a higher quantity of enrolments but was not necessarily accompanied by additional teachers and materials. As funds are allocated per child, recording the right number of children is key to allocate the proper amount of funds. In this context, collecting the correct data is a challenge and an important point for improvement. The Ministry is working on a single source for information – an information management system for the sector (Education Management Information System), together with the Kenya Bureau of Statistics, as they observe inefficiency in quality of information, tracking collection and analysis. According to the respondent at MOEST, currently there is a real push for data digitalisation, because the cabinet secretary in education has an ICT background. Ownership will be essential to make the data system a success.

**Relevance of education** is also an important element of the sector’s strategy. MOEST is working on a new curriculum covering the full education process, including ECDE. The private sector and civil society organisations (CSOs) are also involved in this process. Piloting of the curriculum is planned for 2017. It was confirmed by respondents, including within MOEST, that the government is pushing for this, since it is one of its main action points in its Manifesto. The content of the new curriculum will have implications on the future costs expected for the education sector, i.e. on future needs for priority expenditure.

**Equal access** to education is still a challenge, which can be witnessed by lack of access of some (rural) groups, and low transition rates in particular areas. Claims have been made that the government has not focused sufficiently on equality, by putting more emphasis on higher education instead of basic education. The World Bank claimed in its Public Expenditure Review (PER) 2014 that the government is skewing its education budget towards the tertiary sector. This statement is a bit misleading because it does not include the Teachers Service Commission’s budget, which is an important part of government-funded education spending (in the estimates of FY2016-17, 57% of the education budget goes to the TSC). However, the statement that the government is focusing

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44 IEA mentions three forms of advocacy arguments: the rights argument (children are entitled to wellbeing), the economic argument (the returns of investing in children) and the political and social argument (child deprivation negatively affects democratization and inclusion in society).

more on ‘pro-rich’ or ‘urban’ reforms was recognised by some respondents as well as by local media. Both do not always agree with the priorities in the government’s Jubilee Manifesto, which identifies ICT as a key driver to curriculum implementation. According to some respondents, the “laptop project” was not an appropriate approach. The investments in ICT are often set against the fact that part of the education sector still receives funding from Development Partners (DPs). It appears that some programmes, such as the School Feeding Programme, are largely aid dependent, which raises questions about their sustainability.\textsuperscript{46} It raises questions on the priority setting within the sector, as some argue the government should focus less on laptops and more on school nutrition, for example. It seems that this issue has been partly responded to by government, to move the budget away from the Education to the ICT sector; and to shift the focus to power provision in schools, rather than digitalisation.

**Health as a ‘right’ is less prominent in terms of budgetary allocations**

The MTP II states on health: “The Constitution through the Bill of Rights puts a heavy responsibility on the health sector to ensure realization of right to health”. A ‘rights’ argument is used for the health sector. The sector is mentioned by the Government as a priority, but this is less predominant when looking at the national budget. Actual spending on development is quite low at the national level. In FY2015-16 52.6% of the allocated budget to development expenditure was executed. Another issue is the alleged mismanagement of funds. In October 2016, the internal auditor raised queries on irregular payments amounting to Ksh 5 billion in the Ministry of Health (MoH).\textsuperscript{47} These claims are currently under investigation. The amount of on-budget DP funding and the estimated off-budget DP funds suggest more funds are needed in the sector.

It is argued that since health is now a largely devolved sector, it makes more sense to look at budget allocation at the sector level. It is yet unknown whether sufficient funds are allocated to health services at county level: first, because the administrative budget classification used by counties does not reveal exactly how much is spent on health as a function; and second, because there is no information on what the appropriate amount would be for counties to spend on health. Some respondents doubted whether the amount of funds allocated to the counties is sufficient to carry out their devolved health functions. A budget analysis done for six counties showed the differences between counties, and stated the variations in financing had little relation to the need for health services. It noted one county allocating about 5% of its budget to health and another is allocating over 20% to health services – while they do not significantly differ in terms of health situation.\textsuperscript{48} This suggests prioritisation problems in certain areas. It is important to realise that the counties are not under any obligation to reserve a specific part for health – nor do they work on the basis of costed policies. In addition, counties struggled to absorb the available funding or plan for its use when devolution was introduced, as there was no gradual transition to the new devolved system.\textsuperscript{49} Counties are still in the process of adapting to their new functions.

The 2016 PERs UNICEF has been undertaking in the Health and Water, Sanitation and Hygiene (WASH) sectors will offer more insight into these numbers, and into the priority setting of health at county level. This will be important information to target specific counties which are lagging behind in certain areas.

\textsuperscript{46} Mutua et.al., Child Budget Analysis in Kenya, 2015, p. 22.
\textsuperscript{48} Ibidem. p. 28.
**Priority setting in the Health sector**

The MoH is the relevant ministry at national level. It is supported by eight Semi-Autonomous Government Agencies, which specialise in specific services: Kenyatta National Hospital, Moi Teaching and Referral Hospital, Kenya Medical Research Institute, Kenya Medical Supplies Agency, Kenya Medical Training College, National Health Insurance Fund, National AIDS Control Council and HIV & AIDS Equity Tribunal. It was mentioned by a key respondent that additional partners in the Health Sector Working Group (SWG) are faith-based organizations and private hospital associations. As health is the most devolved sector of the social sectors, the Ministry of Devolution also plays a relatively larger role in this sector.

The main issue in the health sector was identified by many respondents as the prioritisation within the sector. The spending profile of the health sector in the FSA shows that relatively most money is spent on curative care. The World Bank highlighted this issue also in its PER (2014): curative spending receives the highest allocation (40%) whereas 26% is allocated to preventive health care, while the latter is known to be more beneficial for the poor. Investment in curative care however is much more visible.

Another hindrance to adequate priority setting is the large amount of off-budget support by DPs. This interferes at times with the overall priority setting. DPs tend to work more with non-governmental organisations (NGOs) than with the government, which is not beneficial to comprehensive management of the sector and at times results in overlaps. In some cases, DP funding also highlights the priority-setting issue, with DPs providing support to preventive health care measures: the large share of DP funds in the Kenya Expanded Programme on Immunization raises questions about the sustainability of this programme.

Among interviewees, there were some critical voices that the investment in child and maternal health is still not a real priority; and that there is a lack of knowledge and/or awareness of the economic returns of investing in these sectors. As mentioned before, the ‘rights’ argument seems to attract less attention than the ‘economic’ argument. One of the respondents suggested as entry point making use of the involvement of the First Lady in the sector, via the Beyond Zero Campaign.

**Social Protection could benefit from more funding**

MTP II mentions social protection as one of its priorities: “Strengthening social protection: the Government will deepen the effectiveness of social protection by bringing more areas and groups under social protection coverage. This will be done by enhancing social assistance, social security and health insurance.” Actions on social protection are mentioned in the plan, mostly under ‘youth’, but are not specified. The Constitution includes social protection as a right.

**Priority setting towards the social protection sector**

Over the past years, social protection has been implemented by many different actors across ministries, state agencies, DPs, NGOs, CSOs, private sector etc. As a result, there are various social security provisions. The Ministry divides them into three components: Social Assistance, Social Security and Social Health Insurance. Various social safety nets exist, most notably various cash transfer schemes for vulnerable groups, support for the youth, and additional programmes in other sectors (health, education, agriculture). Currently, social protection falls under the Ministry of East African Community (EAC), Labour and Social Protection. This Ministry has a dedicated

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52 Mutua et.al., Child Budget Analysis in Kenya, 2015, p. 23.
State Department of Social Protection, which comprises of two departments: Children Service and Social Development.

Significant progress made in the past ten years.\(^{54}\) Cash transfers have increased; the Hunger Safety Net Program has become a flagship programme for Kenya in FY2013-14; the Government doubled its budgetary allocation to all the cash transfer programs; and the National Safety Net Program was launched. The outreach of the National Social Safety Net Programme has increased from 239,000 in FY2012-12 to 507,000 in FY2014-15.\(^{55}\) In addition, an integrated Single Registry for the National Safety Net Programme was established and decentralised to ten counties to improve transparency and accountability.

The main issue in social protection is not necessarily the prioritisation within the sector (as noted above, many good results have been achieved within the sector) but the prioritisation for the sector at national government level. One of the main issues identified by a paper published in April 2016 by an European network of CSOs is the need for more funding: "The available funding for social protection is falling far short of the need, with spending currently at less than 1% of GDP. At the same time, the quality and accessibility of essential services is a concern, with large geographical disparities creating inequities in health and educational outcomes."\(^{56}\) Mobilisation of additional funding is deemed necessary. The African Platform for Social Protection is concerned that people view social protection programmes as charity, rather than an entitlement. It advises to invest in promoting social protection as a right, to increase knowledge on entitlements and increase citizen demand for accountability and service provision from their government.\(^{57}\)

The State Department for Social Protection reports in the Program-Based Budget FY2016-17 report previously experienced challenges with regard to the budget:\(^{58}\)

- reduction in budgetary allocation in the last phases of budget preparation which resulted in to withdrawal of funding earmarked for key projects;
- delay and lack of exchequer release;
- an unchanged budget ceiling for development expenditures;
- slow procurement procedures for DP-funded projects.

The first bullet is interesting: while the allocations to the sector has been increasing, it could have been higher. These points also indicate much could be gained from increased efficiency in release of funds and procurement.


In this section, political party manifestos are discussed, to see differences in prioritisation of key child issues in party programs and to determine the importance of manifestos in government’s policies.

It is typical for Kenyan political parties to participate in the elections as a coalition. A presidential candidate has a clear benefit in amassing a large number of political parties under his banner to be able to pass the majority mark.\(^5^9\) It moreover makes politicians more likely to highlight ethnic ties to gather support. For instance, in the most recent elections in 2013, 98% of the votes were cast on one of the following coalitions:
- **Jubilee Alliance**: the center-right ruling coalition of president Uhuru Kenyatta (TNA) and deputy president William Ruto (URP);
- **Coalition for Reforms and Democracy (CORD)**: the centre-left opposition coalition led by Raila Odinga of the Orange Democratic Movement (ODM);
- **Amani Coalition**: the center coalition of Musalia Mudavadi.\(^6^0\)

### Priorities in the manifestos

Each of the narratives of the coalitions is predominantly focused on expanded service delivery in the social sectors. For example, each manifesto states its coalition’s commitment to fully realising Kenyan’s constitutional right to free primary education, or to making healthcare services accessible in rural areas. The table below summarises the key points of the manifestos on the education, health and social protection sectors.

Jubilee ran on a manifesto structured around three pillars: 1) unity; 2) economy; 3) openness. The social sectors are all part of pillar 1. The Jubilee manifesto includes specific budgetary targets for education and health.

### Table 2.1 Jubilee manifesto on health, education and social protection

<table>
<thead>
<tr>
<th><strong>Priority sectors in the Jubilee manifesto</strong>(^6^1)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Health care goals:</strong></td>
</tr>
<tr>
<td>- Focus on preventive health care;</td>
</tr>
<tr>
<td>- Free primary healthcare for all Kenyans, <strong>increasing health financing from 6% -15%</strong>;</td>
</tr>
<tr>
<td>- Better provisions: physical facilities, mobile clinics, fully equipped health centres, upgrade hospitals, fully-fledged low-cost diagnostic centres;</td>
</tr>
<tr>
<td>- Reform the National Health Insurance Fund to uproot corruption and bureaucracy;</td>
</tr>
<tr>
<td>- Encourage private sector investment in healthcare;</td>
</tr>
<tr>
<td>- Ensure improved pay packages for doctors and other health practitioners;</td>
</tr>
</tbody>
</table>

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\(^5^9\) Kanyinga, Kenya democracy and political participation, p. 19.

\(^6^0\) Mudavadi first contested to be leader of the CORD, then of the Jubilee, but after losing both he founded the United Democratic Front and the Amani coalition which support his own presidential candidacy.

\(^6^1\) Jubilee Coalition Manifesto, 2013.
Priority sectors in the Jubilee manifesto

- Distribute free mosquito nets. Promoting better nutrition;
- Promote medical research;
- E-Health.

Education goals:
- Increase the number of schools in disadvantaged areas and restrict class sizes to a maximum of 40.
  Increase the student-teacher ratio (1:40);
- Encourage county Governments to boost central Government’s funding of the education sector with additional local resources;
- Work with international partners to provide solar powered lap-top computers equipped with relevant content for every school age child;
- Ensure that learning institutions adequately safeguard the rights of pupils with special needs;
- Invest heavily in disadvantaged counties by providing textbooks, teaching materials, stationery and teachers;
- Increase education funding by 1% each year so that by 2018 it reaches 32% of Government spending:
  - Use equalisation fund to introduce school feeding programmes in disadvantaged areas;
  - Several specific objectives for primary, secondary and tertiary schools.

Social Protection goals:
- Create a new legislative framework to place cash transfers for the needy on a solid foundation through a new system of social protection payments administered by County Governments;
- Provide universal healthcare for all Kenyans by 2020;
- Use the tax system to provide incentives to people to save for their old age;
- Reform the NSSF to provide efficient and effective management;
- Guarantee free water supplies to all those living in informal settlements pending slum upgrading;
- Boost agricultural production through mechanisation, irrigation and assistance grants to smallholders;
- Fully implement the constitution and guarantee all Kenyan communities equal access to our natural resources;
- Increase the reach of cash transfers to attain universal coverage for older persons and persons with disabilities;
- Include greater participation/inclusion for persons with disabilities in all sectors of the economy.

Source: Transforming Kenya: securing Kenya’s prosperity, the shared manifesto of the coalition between the National Alliance (TNA), the United Republican Party (URP), the National Rainbow Coalition (NARC) and the Republican Congress Party (RC) (Jubilee Coalition Manifesto, 2013).

The main opposition coalition CORD put together a 10-point programme: 1) Jobs; 2) Food security; 3) Security; 4) People-led government; 5) Poverty & cost of living; 6) Social equality; 7) Infrastructure & land; 8) Quality education; 9) Health care; 10) One indivisible nation.

Table 2.2 CORD manifesto on health, education and social protection

Priority sectors in the CORD manifesto

Health care goals:
- National health insurance scheme;
- Extend health education and concentrate on preventive health care;
- Renovate health facilities so citizens are able to access high-quality services;
- Train more doctors, nurses and other health personnel;
- Work with county governments and the private sector to ‘Bring health care to the people’ right across the country;
- Invest in specialised services, such as treatment for cancer, and ensure such services are available at different levels;

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CORD Coalition Manifesto, 2013.
Priority sectors in the CORD manifesto

• Provide quality maternal health care to needy women and those in remote and marginalised regions, at subsidised rates.

Education goals:

• Basic, free and compulsory education;
• Through public-private partnerships, transform public education facilities to offer quality free education;
• Review the employment terms of teachers and lecturers to ensure long service and harmony;
• Recruit more teachers to correct the high pupil/teacher ratios in some areas;
• Review curriculum delivery to hard-to-reach children;
• Continuously assess learning outcomes to correct poor performance, especially at lower levels;
• Link education with the requirements of industry, to ensure youths attain skills that are required in society;
• In partnership with major global IT firms, launch e-learning and ICT education programmes;
• Establish computer laboratories and internet services in all public schools;
• Give more attention to gender issues, socioeconomic and regional disparities.

Social Protection goals:

• Introduce a pension scheme for those aged 65 and over;
• Extend to all major urban centres cash transfers for the urban poor;
• Extend cash transfers for orphans and vulnerable children;
• Design a scheme of targeted relief to poor rural households;
• Design tax policies for redistribution of income and wealth, by focusing on counties with limited capacity;
• Protect individuals and households from the impact of adverse shocks to their consumption;
• Cushion workers and their dependants from the consequences of income-threatening risks;
• Ensure that counties meet their constitutional obligations on the provision of basic services;
• Establish a national health insurance scheme.

Source: Coalition for Reforms and Democracy (CORD), Manifesto 2013: Unleashing Kenya’s potential (CORD Coalition Manifesto, 2013).

In the manifestos, references to funding often target inequality: the rich must contribute to the promised services and the poor can make use of them freely. In the case of healthcare institutions, however, both the Jubilee and the CORD also focus on reducing bureaucracy and leakage of resources as a way to free up funds for improving healthcare quality, calling the healthcare institutions “bloated and corrupt”. The three main coalitions largely coincide on the objective of reducing inequality across counties. Each coalition manifesto explicitly recognises the problem and additional support in the health, education, and promises social protection to the arid and semi-arid lands. Furthermore, health insurance is a key topic within healthcare. This seems to be caused by the desire of each coalition to combat inequality: the pledge to make free health insurance available to all they are implicitly mostly helping out the poor who could not have afforded the health care otherwise.

At many points, the Jubilee and CORD manifesto are quite similar in terms of their ideas about the social sector. Jubilee is a bit more explicit on budgetary issues, stating goals in terms of budgetary allocation and also addressing the issue of mismanagement of resources. What can also be noted is that plans are not worked out in detail. Since parties and constitutions often change with each election, there is not a strong ideological basis on which these party programmes are built.

Political party manifestos are important documents. In terms of budgeting, funding flagship projects formulated in the Jubilee manifesto is becoming more pressing, in the light of the upcoming
elections in 2017. As is the case for many governments up for re-election, the government is aiming for (visible) results on a couple of key projects to use as promotion in the upcoming elections, which are mostly capital expenditures (e.g. building a hospital, stadium). As of early 2017, various parties are working on their manifestos. Gatherings and meetings are taking place to get input from the public on the new political strategies.

2.3 International Development Partners

**Key findings**

In line with its status as lower middle income country, the emphasis of development cooperation is shifting from grants to loans. China has become an important partner, which does not necessarily benefit the priority sectors, as China does not attach conditions to its loans. Official Development Aid (concessional in character with a grant element of at least 25 percent) is mainly allocated to the social sectors. DPs have been working together on Public Finance for Children, as demonstrated in various coordinated efforts, but separate interventions are still undertaken. DP coordination has become less strong than it used to be, partly because they have lost leverage as a result of the access to loans, partly because there are different opinions on working with or without the government.

In terms of official development assistance (ODA), the latest figures of the Organisation for Economic Co-operation and Development (OECD) show that the largest contributors in Kenya were the United States (US) and the World Bank. Figure 2-2 displays the ten largest DPs in Kenya in terms of ODA.

**Figure 2.2 Top ten DPs of gross ODA for Kenya, 2014-2015 average (USD million)**

<table>
<thead>
<tr>
<th>Country</th>
<th>ODA (USD million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>762.3</td>
</tr>
<tr>
<td>IDA</td>
<td>526.6</td>
</tr>
<tr>
<td>African Development Fund</td>
<td>248</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>235.2</td>
</tr>
<tr>
<td>EU Institutions</td>
<td>170.4</td>
</tr>
<tr>
<td>Japan</td>
<td>167.8</td>
</tr>
<tr>
<td>Global Fund</td>
<td>117</td>
</tr>
<tr>
<td>France</td>
<td>115.2</td>
</tr>
<tr>
<td>Germany</td>
<td>96.4</td>
</tr>
<tr>
<td>Sweden</td>
<td>68.9</td>
</tr>
</tbody>
</table>


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Trends in development aid

It should be noted that in development cooperation in Kenya emphasis has been shifting towards loans. In FY2014-15, Ksh 242 billion (about USD 2.56 billion) was disbursed by the DPs – of which the largest share existed of loans (90%). The Budget Implementation Report 2015/2016 noted as one of the challenges faced the non-disclosure of appropriations of aid in the Integrated Financial Management Information System. It does not report on the actual disbursements.

The current budget shows a continued trend in attracting more loans, especially for investments. In the budget published by National Treasury for FY2016-17, appropriations in aid in the recurrent budget book are Ksh 66.7 billion or 4.8% of the total recurrent budget. Ksh 403.8 billion is included in the development budget book, which is 49.2% of the total government’s development budget. According to the budget, of this amount Ksh 297.8 billion is provided in loans (73.8%), Ksh 57.4 billion (14.2%) is local aid, and Ksh 48.6 (12%) are grants.

Most of the aid is provided bilaterally: Ksh 216.6 billion in bilateral loans and Ksh 15.6 billion in bilateral grants. China is the biggest lender (its appropriations in aid are estimated at Ksh 137.2 billion). The United Kingdom provides the largest amount of grants (Ksh 4.3 billion). Japan is the second biggest lender (Ksh 23 billion) and second largest grant provider (Ksh 3.6 billion). The US is the third grant provider (Ksh 3.5 billion) and does not provide bilateral loans. Multilateral DPs thus provide Ksh 81.2 billion in loans and Ksh 33 billion in grants. The International Development Association is the biggest lender (Ksh 49.1 billion), followed by the African Development Bank (Ksh 26.5 billion). Most grants are allocated by the Global Fund (Ksh 17.9 billion) and the European Development Fund (Ksh 5.8 billion).

Actual disbursements tend to be lower than the estimates and not all aid is provided on-budget. The World Bank’s PER (2014) claims that a significant part of DP assistance is delivered off-budget. The off-budget support is perceived as problematic by some DPs and government as it interferes with strategic priority setting – by circumventing the government, the position in the policy dialogue becomes weaker. Some argue that this also makes it difficult to advocate for more resource allocation by the government when funds are provided off-budget.

The OECD statistics noted that on average, in 2013/2014 most ODA was allocated to infrastructure, which is in line with government priorities. However, the ODA for 2014/2015 is much more directed towards the social sectors, with more than half of the funding being spent on the health sector (see figure 2-3). The 2016/2017 budget estimates showed Ksh 25.5 billion in appropriations in aid to education, Ksh 14.5 billion to health, and Ksh 45 million to social protection. This also includes loans, so it differs from the ODA composition (as ODA is concessional in character with a grant element of at least 25 percent).

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Figure 2.3 Bilateral ODA per sector for Kenya, 2014-2015 average

<table>
<thead>
<tr>
<th>Sector</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic infrastructures and services</td>
<td>11%</td>
</tr>
<tr>
<td>Production</td>
<td>5%</td>
</tr>
<tr>
<td>Humanitarian Aid</td>
<td>10%</td>
</tr>
<tr>
<td>Programme assistance &amp; other</td>
<td>1%</td>
</tr>
<tr>
<td>Multisector</td>
<td>5%</td>
</tr>
<tr>
<td>Other social infrastructures and services</td>
<td>11%</td>
</tr>
<tr>
<td>Education</td>
<td>3%</td>
</tr>
<tr>
<td>Health and population</td>
<td>54%</td>
</tr>
<tr>
<td>Other social infrastructures and services</td>
<td>11%</td>
</tr>
</tbody>
</table>


DPs’ attitudes and child-friendly sectors

The current 2016/2017 budget displays the rise of loans compared to grants, and of China, which covers 33.9% of the total appropriations in aid to the development budget. The shift to China also means a different dynamic in international development, as China tends to provide loans without any conditions. This has reduced leverage for other DPs, who provided loans or budget support based on conditions often related to efficiency and effectiveness in service delivery and protection of human rights. As a result, DPs are rethinking their strategy towards working with the Kenyan government. One respondent from a DP organisation noted that they were debating the continuation of bilateral aid, as they feel they have not much leverage towards the government. In addition, the non-conditioned loans from China tend to be invested mainly in economic sectors, and less in social sectors. While loans are increasing, the public opinion is increasingly critical towards being indebted to China. After Kenya’s first Eurobond submission in 2014 and its unclear results, talks about a new Eurobond issue are politically sensitive.

Cooperation in child-friendly sectors is affected by the different attitudes DPs have towards working or not working with the government. As some are questioning bilateral aid, others are intensifying their relations to government. Compared to a few years ago when DPs operated under a Kenyan Joint Assistance Strategy, DPs are now less united. The provision of off-budget aid, which was according to some respondents partly the result of circumventing a government-to-government relation, further distorts organisation of effective aid provision. Some respondents mentioned situations where four DPs were working on the same square kilometre on a health project.

Cooperation is an important win to make support more effective. There is quite some interest in increasing fiscal space to advance spending on children, and some cooperation too (for example: the joint PER in the health sector carried out by UNICEF, UNWOMEN and the World Bank), but parallel interventions remain. At the moment, similar interventions are directed at identifying fiscal space and at improving budgeting at county level. A better degree of coordination on public finance management (PFM), or specifically Public Finance for Children, could thus be established. A PFM coordination group exists, led by Denmark, but from the interviews it appeared this group was not very active at the moment - there is potential to make more use of it, to maximise opportunities and create synergies.

70 World Bank is doing a tax gap analysis and a Health fiscal space analysis.
71 Various DPs (http://www.ieakenya.or.ke/about/donors) are working with IAE on budgeting in counties.
To avoid an overload of additional efforts and requirements imposed on government officials, particularly at county level, it is key to create a broad partnership for these kind of interventions. In the absence of such coordination, the leverage of DPs decreases. Combined with less attention of the government to grant funding, DPs face a difficult situation in advocating for change. In such a situation, joint efforts are of utmost importance.

USAID has an all-encompassing programme document (2014-2018), covering many aspects of development. The World Bank country programme, covering the same period, is also broad, with relatively more focus on economic aspects – including protection. USAID and World Bank have the same programming cycle as UNICEF: both their programmes also run up to 2018. In 2017, programming for the next cycle will take place. It could be an opportunity to reach out to main DPs such as USAID and World Bank, to seek alignment in the next multi-annual programmes, and coordinate efforts – although this might be affected by the new Republican president who was inaugurated in January 2017.

2.4 Other stakeholders and their relationship to political priorities

This section briefly discusses some of the main other interest groups outside of the government which play a role in advocating spending on child-friendly sectors.

**Independent think tanks**

The International Budget Partnership (IBP) and the Institute of Economic Affairs (IEA) promote better spending on public goods. They are advocating for more transparent and efficient spending which is in line with increased spending in child-friendly sectors.

**IBP** is an international initiative, promoting citizen awareness on the budget and transparency. They publish Kenya’s results in the Open Budget Survey72, an internationally implemented assessment of budget transparency. The local office, IBP Kenya, publishes guidelines on how to read and understand the budget as well as papers in which they analyse recently published budget documents, such as the budget estimates.

**IEA** does research in various fields of public policy. They are also active in PFM. The IEA PFM programme is directed at enhancing participation of Parliamentarians and citizens in budgeting. This includes for example providing decision-makers with information on the economic returns of investing in maternal and child health and investing in social protection. Awareness of this should be

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at the same level as the economic benefit of investing in education, which seems to be generally accepted.

They also try to increase public participation and accountability, focusing on county level. An example of an initiative to increase awareness of budgeting and public service delivery are the Community Score Cards: in 2016, IEA published together with Action Aid International Kenya and the Danish Agency for International Development a Citizen Report Card for Education, on Service delivery in public primary schools in seven counties.

During national budget preparation, they also try to come up every year with an Alternative Budget, together with the Kenya Alliance for Children’s Right, in which they propose options for enhancing fiscal space. This proposal is sent to the National Treasury and published online. They propose not only reallocation of expenditures but also come up with new ideas to generate revenues. The Alternative Budget for 2016-2017 for example includes specific proposals for tax reforms. In the alternative budget, IAE makes sure the proposals are in line with the Budget Policy Statement (BPS), but also to political manifestos, international conventions and Vision 2030.

These organisations are respected institutes working with DPs and government. The Parliamentary Initiatives Network is another group working on educating citizens on the budget process. They all underline the importance of education and awareness of the public of the budget process and their role in it, to eventually improve service delivery.

Civil society

Freedom House praises Kenya for having a relatively accommodating legal and institutional environment for political parties, CSOs, the media, and various social groups. Protection for these groups exist and are taken seriously. CSOs and non-governmental organisations (NGOs, currently called public benefit organisations or PBOs) have traditionally played an important part in Kenyan politics and used to be a strong advocate for change. They are however hindered by government attempts to limit their powers. Several instances of intimidation and restrictions of means have been reported. It is speculated that this is related the fact that CSOs are predominantly associated with governance and human rights groups which have been critical on the current government – while CSOs are covering topics much broader than that. CSOs try to get back on the narrative that civil society is a good thing for Kenya. Even in this difficult context, there are quite some examples in the past years in which CSOs had a positive influence on the government’s policy and legislative agenda.

Most CSOs receive their funding from third (foreign) parties, which may also explain suspicion from the government. It was added by a respondent that this resulted in CSOs being driven by topics which receive much funding. For example, at the moment funding is made available for activities surrounding the elections of next year, so many organizations tend to focus on this. However, this also creates more tension between CSOs and government. In addition, DPs tend more often to give funding to umbrella organisations.

74 For example, their guide on understanding National and County Audit Reports.
At county level, it is attempted to create networks of CSOs, to assist the county governments in executing their duties. Limited capacity and a lack of motivation to stay active remain challenges. One of the opportunities mentioned by some respondents would be to stimulate cooperation between CSOs and private sector at county level.

*Trade unions* could also play a role in impacting fiscal space, as they are putting pressure on the government to increase salaries, i.e. recurrent expenditures.

**Children and youth**

Nearly 80% of the Kenyan population is below 35: young people could potentially be a big factor in advocating for resource allocation to child-friendly sectors. However, the interest in politics is not strongly present among young people. As the chief executive officer of the Independent Electoral and Boundaries Commission (IEBC) said in an interview in July 2016: "The fact that Kenyan youth do not see the direct link between politics and their general wellbeing is matter of concern." The low turnout to register for the upcoming election is reason for the IEBC to further promote voting amongst youth. Raphael Obonyo, policy specialist and a youth advocate, underscores this need, as in his opinion, government, NGOs as well as religious and learning institutions, have not been able to explain to young people the importance of voting and how it matters for them. Youth representation has not been very high in Kenyan political parties. Several youth groups, such as the UN Youth Association, are drafting a youth manifesto, as input to the upcoming elections.

Talking to young people in Kenya reveals that the largest concern of the youth is unemployment – but as explained in the previous paragraph, for most of them, there is little relation between increasing employment and voting. It was noted by one of the respondents from a CSO and by another DP respondent that there is a sense of “ignorance” among the people to advocate for change, or on more spending to the social sectors. The Aga Khan Youth Survey registers a “crisis of identity” among young people: on the one hand, they are quite positive about the future, they find voting important, but on the other hand they are tolerant to corruption (including vote bribing). Interestingly, the survey found that most young respondents identified themselves first as Kenyans, then as youth, and only thirdly as belonging to an ethnic tribe. While ethnicity is said to still play a role in determining what young people vote for, this survey on the identity suggests that young people might be receptive to arguments made from a specific ‘youth’ point of view.

Some organisations make an attempt to raise awareness among the community about the rights they have in the 2010 Constitution. It was found that many people were not aware of the power that they have. Supporting these kind of activities help engaging young people in politics and society.

**Media**

The media in Kenya is relatively vocal and open. Freedom House rates Kenyan media as ‘partly free’ – ‘partly’ because of numerous attempts to restrict the powers of the media. Kenyan Professor Kanyinga but also international DPs note the media reports openly on issues of mismanagement and patronage, but does not touch upon the real sensitive issues. For example, the media pays less attention to the role of ethnicity. As in most countries, there is a difference

81 Ibidem.
between different media channels in political orientations. It is recommended to pay attention to the ownership structure and editorial political preferences from key media channels.

The media seems to be more effective at the local level. County politics are attractive for the media to report on, as it appeals to the people – it is closer to them. This was viewed by some respondents to have some effect on the policies of county politicians. An example is the reporting of the media on the findings of World Bank’s PER: the media ranked the governors from 1 to 47 in terms of spending on development expenditures. This created a large debate, and forced some governors at the bottom of the list to give an explanation. This example demonstrates that publication of county budget data on social sectors could be an opportunity to lobby for improved service delivery at the local level. Dissemination of the results of UNICEF’s Social Sector Budget Briefs and the PERs of Health and WASH could contribute to this.

The high degree of digitalisation in Kenya’s society is becoming increasingly interesting for CSOs to reach out to young Kenyans. Using new media and mobile applications are new ways of reaching out to citizens, increasing awareness (see box below).

Using Kenya’s online culture
An initiative developed by a CSO is the development of an app for service delivery in the education sector. The app shows the budget a school has received from the government, and what it has been spending so far. It also shows the number of teachers reported by the government and reported by the school. Users of the app can report the institution to raise an issue, for example if there are not enough teachers. This app is now in the test phase, but has already been used in Uganda and Zimbabwe. The biggest challenge here was to get people to download the app. This problem is expected here as well, considering the relative lack of interest of especially younger people. However, the vibrant mobile culture in Kenya, where online service delivery is at some aspects way ahead of developed countries, makes it a potentially good method to raise awareness from the grassroots.

Private sector
Historically, businesses and politics have been closely connected. Freedom House notes in its report that there is also evidence that nowadays businesses fund political campaigns. The involvement of the private sector can be detrimental to fiscal space, for example overpricing of contracts in public procurement absorbs many resources. However, the private sector can also serve as an ally. The Kenya Private Sector Alliance (KEPSA) took part in the decision to accept an anti-bribery bill which is meant to criminalise both offering and receiving of bribes by any person. For the social sectors, it was noted mentioned that the Association of Manufacturers is at times an ally: at county level, the association gets involved to push for better health services for its members. However, they do not always advocate for a particular child-friendly agenda. It is thus not always a potential ally – as their nature is profit-driven, they are lobbying for investments in productive sectors instead of social sectors.

The private sector is more involved at the national level. At county level, there is some participation. Public Private Partnerships have not really been taken up yet in the social sectors. It was said that private partners were looking for faster returns, and that therefore these partnerships had not been of great success so far.

89 Ibidem.
Religious organisations

Around 84% of the Kenyan population is Christian. Religion plays an important role in people’s daily life. Recently, the churches have become a stronger force as a non-governmental actor. They do not have a specific child-friendly agenda, but are an actor that cuts through tribal lines, thereby uniting different groups. They are a potential ally to foster national cohesion and integration, in shaping the context for improvement for children. At sector level, they have historically an important role in service delivery, in for example providing Catholic schools and faith-based health care provision.

The tensions at the Somalian border and the increase in violent attacks from Al Shabaab since 2011 have drawn more attention to Muslim population in Northern Kenya. Due attention needs to be paid to these developments to prevent increased radicalisation of parts of Muslim youth, as it affects security and social service delivery.
This chapter focuses on the actual process of resource allocation. The first section describes the formal budget process at national and county level. The second section analyses the main actors in the budget process and their decision-making powers. The third section discusses the role of devolution on the budget process and what it means specifically for the three sectors of “priority expenditure”: education, health and social protection.

3.1 The budget process

Key findings

The budget process is well-documented and structured: the governments at both levels are required to table specific deliverables to the respective Assemblies at certain dates. Sector coordination and public participation is enshrined in the law and takes place, although processes can be more open and structured here.

Allocation from national to county governments is based on recommendations from the Commission on Revenue Allocation (CRA). Vertical allocation to the counties is fixed at 15% of national government’s revenues, but allocation is not based on actual costing of devolved tasks. Horizontal allocation between counties is so quite predictable, as most parameters in CRA’s allocation formula are constant variables. Fiscal responsibility is one parameter that counties can influence, by raising more own revenue.

The Assemblies have two months to study and amend the budgets. On the last day of the current FY (30 June) the new budgets should be approved: the National and County Appropriation Bills. Budget execution is done by the relevant government agencies, upon receipt of a cash release by the National Treasury. Supplementary budgets can be submitted during the year, to reallocate resources. The Office of the Controller of Budget (OCOB) supervises budget implementation and submits quarterly budget implementation reports to Parliament, while the core audit function remains with the Office of the Auditor-General (OAG).

As a result of the high degree of autonomy of the counties, Kenya has not one but two parallel budget processes. The principles of public finance management (PFM) and budgeting are enshrined in the Constitution. The 2012 PFM Act stipulates the rules for national and county governments on raising and spending money. Kenya works with Financial Years (FYs), which start 1st of July and end 30th of June.

The budget process at national level is set out in article 35 of the PFM Act and is led by the National Treasury. The procedures to be followed in the budget making process at county level are included in Section 125 of the PFM Act and is led by the county treasuries.

Budget preparation

The national and county budgets follow the same calendar. Preparation of next FY’s budget starts already in the first quarter of execution of the current budget: on 30th of August, the National Treasury sends the budget circular to the line ministries. The same happens at county level, where the circular is distributed by the county treasuries among county departments. Counties have to submit an Annual Development Plan to the County Assembly (CA), on 1 September. This plan is an
extract of the guiding five-year County Integrated Development Plan (CIDP) and should guide the planning of the budgeting process for the next year.

On 21st of October, the national and county **Budget Review and Outlook Papers (BROPs)** are tabled to respectively the National Assembly and County Assemblies, after being reviewed and approved by Cabinet. These papers provide information on:

- Budget performance of the previous FY;
- Update of current year economic expectations;
- Proposed distribution of funds across key sectors (“provisional ceilings”).

Based on the national BROP, the National Treasury prepares a **Budget Policy Statement (BPS)**. This document should be tabled in the National Assembly on 15 February. The BPS includes the final decisions on the total size of the budget and the allocation of the budget to the sectors: the definitive ceilings. The BPS is accompanied by the Debt Management Strategy Paper. At the county level, the county treasuries prepare the **County Fiscal Strategy Paper (CFSP)**, which is presented to the CA on 28 February, also accompanied by a Debt Management Strategy Paper. Both Assemblies have two weeks to approve the BPS or the CFSP.

Consultation on the budget ceilings takes place in the Sector Working Groups (SWGs). These groups are launched in August and led by the line ministries. In principle, these groups are open for Civil Society Organisations (CSOs) and private sector actors, which have to apply to participate. It has however been difficult to determine who is in which SWG, as this information does not seem to be publicised. A source within government noted that at the moment only ministries and departments are taking part in these groups.

The public is consulted in public sector hearings. These used to be not well advertised, resulting in only a select group of people being present. This has however improved; UNICEF is also participating in some of these hearings. Public participation is ensured in the 2010 Constitution, but its implementation and efficacy is not yet optimal. This was confirmed by the latest Open Budget Survey done in Kenya from 2015, which gave a score of 33 out of 100 for its level of public participation. It stated: “The Government of Kenya is weak in providing the public with opportunities to engage in the budget process.”

At county level, similar discussions take place in county sector units. Public consultation is done through the **County Budget and Economic Forum (CBEF)**, which is a forum set up in each county as prescribed in the PFM Act 2012. This process is not yet very structured, with public participation taking a different form in each county.

**Allocation of national funds to the counties**

Chapter 12 of the Constitution states that county governments will receive at least 15% of the most recently audited accounts approved by Parliament. The Commission of Revenue Allocation (CRA) is tasked with providing a recommendation on the vertical and horizontal allocation to the counties.

In the first budget after devolution the amount that should be transferred to the countries was determined by taking the costing of the tasks that will be devolved of the latest national government budget. Key respondents explained that the current allocation to the counties is still based on historical data, topped up by GDP growth. From the various interviews, it emerged that it is not entirely clear if the counties have enough money to carry out the tasks allocated to them, as the

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92 Oduor, Handbook on County Planning, County Budgeting and Social Accountability, 2014.
transferred budget is not based on the costing of the devolved functions by the counties themselves, but on historic data of national government costing of these functions. In addition, counties tend to overestimate their own revenue collection. This further complicates the estimation of budgetary needs. The World Bank is currently working on this, undertaking a tax gap analysis to get a better view on the own revenue potential of the counties.

To recommend how the funds should be distributed between the counties, the CRA set up a formula that based allocation on:

- **Population (45%)**: the parameter with the most weight is based on the number of people in the respective counties. It is based on the 2009 population census;
- **Equal share (25%)**: all counties receive at least a minimum amount of funding for certain key functions. This is based on the assumption that some basic costs such as running an administration are similar for all county governments;
- **Poverty (20%)**: the parameter uses the poverty gap index, so that the poorest of the poor get the highest allocations. Data on the poverty gap is from 2005/06;
- **Land area (8%)**: the size of a county (relative to the country) is one of the parameters as it is assumed that a county with a larger area has additional costs in service delivery;
- **Fiscal responsibility (2%)**: this parameter was meant to be based on the implementation of sound economic and budgetary practices, but in this first formula, the 2% was divided equally across all countries as they needed to set up financial management systems.

Resource allocation between counties has not been optimal. This formula developed by the CRA did not include some key elements: (i) inherited recurrent costs as a result of staff from the previous local government administrations and staff working for the national government in the counties, that were now as per devolution transferred to the county payroll; (ii) minimum package for service delivery; (iii) capacity to generate own revenues; (iv) incentives for fiscal responsibility. While the latter was included in the formula on paper, effectively it was similar for all counties.

Currently, a new formula is being developed. In the new formula, not all these changes have been incorporated. A personnel emolument factor, to compensate for the inherited recurrent costs, was planned for, but later removed. The new formula is intended to look the following:

- **Population (45%)**: this parameter has not changed;
- **Poverty (18%)**: the second formula uses the poverty gap data from 2009;
- **Land area (8%)**: this parameter has changed a bit, as in the first formula the size of land was capped between 1% and 10%;
- **Equal share (26%)**: this has been increased with 1%;
- **Fiscal responsibility (2%)**: now that counties have developed their financial administrations, this parameter will in the future be based on the increase in county’s own revenues per capita. The goal is to provide incentives to counties to collect more revenue, as well as to encourage fiscal prudence;
- **Development Factor (1%)**: this parameter complements the parameter of poverty, as it considers access to water, electricity and roads. This factor was added to make sure the counties with the highest needs receive additional resources to improve basic service delivery.

The fiscal responsibility factor is an interesting entry point, as it is basically the only parameter counties can actively influence. The fiscal responsibility factor used to be an equal 2% among all counties but is now planned to be calculated from each county’s annual revenue increase per capita. This seeks to incentive counties to maximise revenue collection and encourage fiscal prudence. One concern is that the definition of ‘fiscal responsibility’ is too much explained in terms

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of being able to generate own revenues, instead of encouraging fiscal discipline. The parameter could be further refined by measuring if the increase on own revenue was measured against a county’s own tax potential, or by looking at other indicators of fiscal prudence.

The CRA submits its recommendations on revenue allocation on the 1st of January to the National Government. On 15 February, the Division of Revenue and County Allocation of Revenue Bills are officially tabled in Parliament. They include final allocation to and between counties, and are based on the recommendations of the Commission on Revenue Allocation (CRA) done in January. Both bills have to be approved in March.

This planning is not fully consistent with the budget process at county level, as this means that the counties prepare their CFSP while officially not knowing how much resources they will receive from the national government. For now, this issue is not very persistent, as allocations to the counties are quite predictable: the vertical allocation is based on historical figures and the parameters for horizontal allocation are more or less fixed. To increase vertical allocation, counties could work on costing of the devolved tasks to provide evidence to the national government that more money is needed for its tasks. This was also a recommendation made by the Auditor General, in its socio-economic audit of the Constitution. Counties can at the moment influence horizontal allocation via the fiscal responsibility factor. In case the formula changes, and allocations are not based anymore on historical figures, the timing of the Division of Revenue and County Allocation of Revenue Bills becomes tense.

**Budget approval**

On April 30, the national and county budget estimates, detailed at program level, are tabled in the respective assemblies. The Assemblies have two months to study and amend the budgets. This is amongst others done by hearings of the estimates by the budget committees. On the last day of the current FY (30 June) the new budgets should be approved: the National and County Appropriation Bills.

**Budget execution & control**

Budget execution is done by the relevant government agencies, upon receipt of a cash release by the National Treasury. Supplementary budgets can be submitted during the year, to reallocate resources.

The Constitution 2010 separated the control function of the Controller and Auditor General into two: the Office of the Controller of Budget (OCOB) and the Office of the Auditor-General (OAG). The OCOB supervises budget implementation and submits quarterly budget implementation reports to Parliament, while the core audit function remains with the OAG. The OCOB and OAG cover both levels of government: they report on both national and county budgets.

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3.2 Main actors in the budget process

Key findings

The Presidency and National Treasury appear key drivers behind resource allocations. The influence of line ministries is smaller, as they are confronted with deviations from agreed ceilings during budget preparation and unanticipated supplementary budgets during budget execution. The Kenya Institute for Public Policy Research and Analysis (KIPPRA) as an independent government institute is quite well-informed, taking part in various groups and discussions.

The Parliament has a strong mandate by being able to amend and approve the budget, but less power during budget execution as no prior approval of supplementary budgets is needed. The parliamentary budget committee has not used its power extensively, as in the past it mainly proposed amendments related to its own budget and that of other oversight bodies. The Parliament has not asserted itself yet, and can improve in providing legislative oversight of the budget. The Parliamentary Budget Office (PBO) is a potentially strong actor, being technically equipped and having close access to MPs.

The OCOB and OAG are important institutions as they provide information essential to improved resource allocation (e.g. signalling budget inefficiencies), but its provided information requires stronger follow up by Parliament and the Executive.

At county level, the County Assembly appears to be the key driver behind resource allocation.

This section discusses the key decision-makers or decision-influencers in the budget process and their relative power.

The Presidency

Cabinet needs to agree first on the proposed allocations, and thus plays an important role in the budget preparation process. As described in the historical context, Kenya has a tradition of a strong executive power. Although this has been significantly altered by the Constitution 2010, several research papers conclude that the Presidency is still the most important institution, and its priorities are seen the main determinants for resource allocation. Key respondents of this particular study, including multiple persons inside the Government, see the Presidency (also named “the State House” in various interviews) as the main driver for change and the key decision-maker behind resource allocation. They furthermore noted that the politicisation of government in general posed a main challenge to efficient and effective resource allocation and budget execution. For example, the wish to achieve political goals have resulted in mid-year supplementary budgets for Ministries. These budgets are not always well justified. They are challenging for Ministries, which are faced with an supplementary budget in the middle of the year. This partly explains the low absorption rates of some Ministries.

National Treasury

The role of the National Treasury in budget preparation has been curtailed by the Constitution 2010, which gives more power to the Parliament. The National Treasury still leads the agenda-setting, but the oversight role of the Parliament has been significantly enhanced. The National Treasury however remains a strong institution relative to other ministries, because of its extensive mandate (see box below).

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Mandate of the National Treasury

- **Macro-economic policy:** Formulate, implement and monitor macro-economic policies involving expenditure and revenue;
- **Debt management:** Manage the level and composition of national public debt, national guarantees and other financial obligations of national government;
- **Economic and financial policies:** Formulate, evaluate and promote economic and financial policies that facilitate social and economic development in conjunction with other national government entities;
- **Resource mobilisation:** Mobilize domestic and external resources for financing national and county government budgetary requirements;
- **IFMIS:** Design and prescribe an efficient financial management system for the national and county governments to ensure transparent financial management and standard financial reporting.
- **Accounting standards:** In consultation with the Accounting Standards Board, ensure that uniform accounting standards are applied by the national government and its entities;
- **Public funds:** Develop policy for the establishment, management, operation and winding up of public funds;
- **Allocation to counties:** Prepare the annual Division of Revenue Bill and the County Allocation of Revenue Bill;
- **Intergovernmental fiscal relations:** Strengthen financial and fiscal relations between the national government and county governments and encourage support for county governments;
- **Capacity building to devolved units:** Assist county governments to develop their capacity for efficient, effective and transparent financial management;
- **Budget preparation:** To prepare the National Budget, execute/implement and control approved budgetary resources to MDAs and other Government agencies/entities.

The National Treasury has used its power to consolidate the budget and determine the final sector allocation. The International Budget Partnership (IBP) analysed the differences between the sector ceilings set in the BPS and the final amounts in the National Budget Estimates, and finds that the past years the some of the sector budgets deviated from the set ceilings. This trend was recognised by some key respondents, who indicated the National Treasury has a powerful role in determining the final inter-sectoral allocations.

National Treasury is however not one unified entity. It was indicated by respondents that staff within the National Treasury also have different motivations: some are really championing in reforms, others are preferring the status quo.

**Line Ministries**

A key feature of the Constitution is that Cabinet Secretaries (ministers) are not elected, but are technocrats. This makes them less prone to party politics and enables them to operate relatively independent. They are however more closer related to the appointing authority: the President and his deputy.

While the line ministries play a role in the budgeting process, the BPS is not always in line with their sector plans, and the Appropriation Bill does not match the set sector ceilings. This suggests that the National Treasury has a powerful role over the line ministries. In intra-sectoral priority setting, the line ministries tend to be overruled by the national government. The line ministries are in charge of leading the SWGs, which discuss the sector ceilings, and in organising public sector hearings, to gain input from the public. It is however found that public input is not well translated into the final

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BPS and the outcome of the SWGs is not very clear. Moreover, it has been found that in the final consolidation of the budget by the National Treasury, ceilings are adjusted again and do not necessarily adhere to the BPS. This indicates a strong say of the National Treasury in determining the final budgets of line ministries. During budget execution, line ministries have to deal with government priorities which creates supplementary budgets to implement its priorities – which do not always fit the priorities set in the sector plans.\footnote{IBP Kenya, What Does the 2015/2016 Supplementary Budget Say About Kenya’s Priorities?, April 2016.}

In addition, the budgeting powers of the line ministries have been influenced by the devolution. The ministries are still leading on the policy part, and are chairing the SWGs, but some of their implementation tasks have been devolved to county level. This is mostly the case for the health sector.

**Kenya Institute for Public Policy Research and Analysis (KIPPRA)**

KIPPRA is a public autonomous institute providing objective research on public policy to the Government. KIPPRA is well-known and enjoys a respectable reputation. KIPPRA is part of a number of key budget preparation activities. It has its own macroeconomic model and is part of the macro-working group, with the National Treasury, the Ministry of Planning, the Kenya Revenue Authority, and Kenya Bureau of Statistics. KIPPRA is also part of the SWGs, and participates in 40 public task forces. In addition, KIPPRA also works with the Delivery Unit of the Presidency.

**Parliament**

The 2010 Constitution of Kenya and the PFM Act 2012 enhanced the role of Parliament in the budget process. It has received the power to approve the division of revenue between national government and counties; amending and approving the sector ceilings in the BPS; and deciding on the final allocation by approving the Budget Appropriation Bill.\footnote{IBP, Open Budget Survey 2015 Questionnaire.} The Parliament has been given a broad mandate in the approval process, as it has unlimited authority to amend the proposed budget: "the Constitution signifies a shift from budget approval to budget making legislature with powers to increase or reduce not only expenditures but also taxes, remove items from the budget and introduce new ones".\footnote{IBP, Open Budget Survey 2015.} Obviously, these proposed changes should fit in the approved ceilings set by the BPS. The Parliament has adequate oversight during the budget preparation stage, but not during the implementation of the budget. It does not give prior approval to supplementary budgets, and it is not consulted about virements of funds in the enacted budget, or the spending of unexpected revenues and contingency funds.\footnote{IBP, Open Budget Survey 2015.}

The Parliament exists of two chambers: the National Assembly and the Senate. The National Assembly has 349 seats and are elected representatives of the people. The Senate represents the counties, having 47 seats – one for each county – but also 16 seats for women representatives, 2 for youth representatives and 2 representing persons with disabilities.\footnote{IBP Kenya, What Does the 2015/2016 Supplementary Budget Say About Kenya’s Priorities?, April 2016.} As laid down in the Constitution, the National Assembly determines the allocation of national revenue between the levels of government; appropriates funds for expenditure by the national government and other national State organs; and exercises oversight over national revenue and its expenditure. Article 217 of the Constitution states that the Senate determines the allocation of national revenue among counties and exercises oversight over national revenue allocated to the county governments.\footnote{Parliament of Kenya, The Senate in the Constitution, http://www.parliament.go.ke/the-senate/the-senate-in-the-constitution.} It
should give consent to legislation which affects county interests. According to the Political Economy Analysis (PEA) done by Rift Valley, the Senate has been largely side-lined.\textsuperscript{107}

The Parliament has not used its increased mandate yet to exert its full authority. Various examples around the budget illustrate the Parliament has not raised many questions surrounding anomalies in the budget documents and deviating from set expenditure ceilings.\textsuperscript{108} In addition, the powerful position of the Parliament make it an interesting target for lobbying, and have led to allegations of rent-seeking amongst the members of Parliament (MPs).\textsuperscript{109} Furthermore, the party politics are quite determining, resulting in an almost secured majority to support the Jubilee government. Lastly, the control function of the Parliament can be improved, as the Public Accounts Committee has been subjected to several scandals.

\textit{The Parliamentary Budget and Appropriation Committee (BAC)}

The BAC is the key committee in the approval of the budget. It is also the largest committee in the Parliament with 51 members. The BAC examines all submitted financial and budgetary documents and provides recommendations to the National Assembly regarding national government budgetary concerns. The senate budget committee is responsible for examination of financial and budgetary documents submitted by county treasuries.\textsuperscript{110}

The BAC first examines the BPS and produces a report. This report is debated in the National Assembly and either approved or rejected.\textsuperscript{111} For the final budget, the parliamentary sector committees present their findings to the BAC and the BAC organises public hearings. The BAC then presents its assessment to the National Treasury. The National Treasury amends the budget and sends it back to the Parliament for final approval.

The current BAC has been appointed in April 2016 as the former committee was disbanded, due to arrangements made on allocations to specific constituencies.\textsuperscript{112} On the previous BAC, research done by IBP found that its proposed changes for the BPS were not clearly explained. It was noted that many proposed increases were related to allocating more money to Parliament and other oversight bodies.\textsuperscript{113} In the final BPS, some changes were incorporated by the National Treasury. It was noted that "the small changes made by the National Assembly were mostly related to Parliament’s own budgets and the funds over which it has influence, with further modest increases for other oversight institutions."\textsuperscript{114} On the consolidated budget, the committee did not push to bring the budget back within the agreed budget ceiling in the BPS. It allowed higher spending and thus a higher deficit. It proposed some changes to the allocations to the Ministries, Departments and Agencies, proposing more money to independent commission at the expense of Salaries and Remuneration Commission and the Judiciary. While many of these changes could be justified, a clear explanation from the BAC was not provided.\textsuperscript{115}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{107} Willis, The Political Economy of Kenya, September 2016.
\item \textsuperscript{108} Lakin and Kinuthia, Parliament and National Treasury: How are They Playing Their Roles in Kenya’s New Budget Process?, October 2015.
\item \textsuperscript{109} Booth et. al., East African prospects: an update on the political economy of Kenya, Rwanda, Tanzania and Uganda, May 2014.
\item \textsuperscript{110} ADILI, Budget Making in Kenya, Transparency International Kenya, Issue 154, August/September 2015.
\item \textsuperscript{111} Lakin and Kinuthia, Parliament and National Treasury: How are They Playing Their Roles in Kenya’s New Budget Process?, October 2015.
\item \textsuperscript{113} Lakin and Kinuthia, Parliament and National Treasury: How are They Playing Their Roles in Kenya’s New Budget Process?, October 2015.
\item \textsuperscript{114} Ibidem.
\item \textsuperscript{115} Ibidem.
\end{itemize}
\end{footnotesize}
The close link between MPs and their constituencies is an important driver for budget allocation lobbies. In addition, it was found in the review of the budget process of 2015/2016 that with regard to the BPS, the National Assembly mainly proposed changes to protect its own budget. Some changes to the final budget allocations show genuine concern for oversight, but some reallocations seemed to be related to "petty grievances with specific institutions".116 The finding of this paper was recognised by key respondents, namely that the Parliament has not asserted itself yet, and can improve in providing legislative oversight of the budget.

Parliamentary Budget Office (PBO)

The PBO is the technical arm of Parliament. It provides advice to the respective sector committees, on value for money of the budgets, and also submits a feedback report to the BAC on the consolidated budget. The PBO has its own macroeconomic model, in which it projects budget options. The model includes a poverty module, to demonstrate the effect of policy decisions on poverty for counties. The PBO tries to advocate for changes in the budgets by showing MPs budget analysis and the results, but it varies how responsive MPs are (as explained above). By producing quality budget analysis and being adequately staffed117, the PBO is a potentially strong counterpart for lobbying for child-friendly revenue allocation.

The Office of the Controller of Budget (OCOB)

Its core mandate is to oversee implementation of the budgets of the national and county governments by authorising withdrawal from public funds.118 The OCOB’s execution reports are monetary reports, and do not present information in terms of progress on results. During the interviews, it was noted that there is some variance of opinions of respondents: some thought the OCOB is being restricted, others noted the OCOB is already reaching the limits of their mandate. It was noted by one key respondent that a bill has been passed by Parliament to further limit the power of the OCOB, by not letting them report anymore on revenues – this was said to be related to the increasing debt. The OCOB is a strong institution, but is based on its mandate not in a position to champion on resource allocation efficiency and effectiveness. However, the provision of detailed and timely reports on budget implementation is important to provide more information on budget inefficiencies.

Office of the Auditor-General (OAG)

The OAG’s mandate is fixed in the Constitution and further complemented in the Public Audit Act 2015. The OAG has to audit the Government’s accounts within six months after the end of the FY. This includes both levels of government and all the state institutions. This audit report is both a financial and compliance report. It reports on all aspects, including sensitive issues such as unsupported expenditures.119 A large part of spending is subject to adverse and disclaimer audit opinions: in the Audit Report 2014/2015, 28% of the national government’s financial statements received such an opinion, which indicates issues in the quality of reporting.120 The OAG also undertakes performance audits, these can be found on their website under ‘special audit reports’. It has the power to initiate an investigation into a specific matter. As such, they are potentially a powerful actor in detecting inefficiencies in spending.

In practice, the timeframe of six months is relatively short. In addition, according to an analysis done by ICPAK the Audit Office has suffered from a lack of adequate funds and staff.121 The same

117 IBP, Open Budget Survey 2015.
120 Ibidem.
note indicates a lack of adequate follow up processes of the reports. The Open Budget Survey 2015 found that reports are available at the government printers on the memorandum of Public Accounts Committee and Public Investment Committee with respect to implementation, which does not include follow-ups of all recommendations. It was however not possible to get access to a free copy of these reports.\(^\text{122}\) This missing information of follow-up of the audit findings can be related back to the earlier comment that more progress is needed on impunity.

**The Commission on Revenue Allocation (CRA)**

A key role in the allocation of resources to counties is fulfilled by the CRA. The CRA advises how much money should be transferred to the counties, and also recommends how the funds should be distributed between the counties. Its recommendations are taken into account in the formulation of the two bills outlining, firstly, the division of revenue between national and county governments, and secondly, the division across country governments (see previous section 3.1).

Although the CRA has an important role to play, it officially only recommends – the CRA has no decision-making powers. Stakeholders involved in this resource allocation process are the Senate, the Intergovernmental Budget and Economic Council, National Treasury, OCOB, and the OAG.

**County executive**

The county treasuries are responsible for all public finance and economic matters at county level. The country executive level is as the national executive quite powerful and therefore many people are interested in running for government. The quality of governance varies per county. While there are examples of county governors that are performing badly, also positive examples can be noted, such as in Turkana, where the goal of devolution can be recognised: the executive power is motivated to do good for their county. One worrying development has been the tendency to create a lot of institutions at county level - some counties even want to set up their own Embassy.

**County Assembly (CA)**

In comparison to the national level, at the county level, the CA is more influential than the executive arm of government. Various respondents identified the Members of the CA (MCAs) as the key persons at county level. The CA has the power to approve the budget and also to impeach the governor. The CA thus has relatively much power to influence the budget allocation in its advantage. It was noted that often MCAs used this power to push their own agenda and include new items in the budget.\(^\text{123}\) Within the CA, a similar specialised committee exists at the county level, examining the county budget on behalf of the CA. However, MCAs do not always have the capacity to effectively oversee the executive, as they miss either skills or information to do a thorough budget check.

**County audit functions**

Counties are subjected to report to the OCOB and OAG. The audit function is less strong compared to the national level. It was mentioned by a well-informed respondent that the internal auditor is often a junior person, instead of a senior person that has the authority to stand up against the executives. Many counties have not set up audit committees yet.

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\(^\text{122}\) IBP, Kenya Open Budget Survey 2015 Questionnaire.

3.3 Devolution in the budget process

Key findings
Devolution is a fairly recent phenomenon. It goes without saying that many devolved tasks have not been worked out completely, and tensions exist between both levels of government with regard to responsibility and revenue. This is also the case in the education and health sector, where the process to understand the roles and capacity required is still ongoing. Especially in the health sector, which is most devolved, a number of conflicts between the national and county government have taken place.

The devolution process in Kenya is unique and still ongoing. While the intention has been to incrementally devolve services to county levels, because of political reasons tasks were devolved all at once. According to some respondents, the devolution process has been rushed, especially in the health sector. Some argued that counties are not yet ready and certain tasks should be brought back to the national level. Others held a more positive view: counties are improving and are now finally settling with their new tasks.

Counties do possess an independent position with regard to policy making. However, in terms of resources the counties are still dependent on the national government as only a small part of their resources is derived from own revenue. While some thought counties could gain much more own revenues, others pointed at the limited number of tax functions (four taxes) that had been devolved to the county level. In addition, some of the devolved functions are not adhered to or open to discussion. The taxation of betting seems to become a source for the centrally organised Kenya Revenue Authority, while others argue this is part of the devolved ‘entertainment tax’. Some sources point at a reluctance of the national government to pass on authority to the county executives. For example, aid money for devolved functions is still channelled through the national government and earmarked conditional grants are transferred by the national government to counties.

The introduction of devolution also called for a number of intergovernmental bodies, such as the National and County Government Coordinating Summit (the President and the 47 Governors); the Council of County Governors (47 Governors); and the Intergovernmental Budget and Economic Council. The latter is a biannual forum to solve issues between the national and the county level: as a joint institution. Important issues have been solved in the past years in this committee, such as who pays for the medical equipment, or county pensions. Its effectiveness is currently affected by the fact that governors attend, while it is meant for departmental staff. Other bodies are also involved in county budgeting. The County Annual Development Plans and County Financial Strategic Plans are sent to the OCOB, which provides recommendations to the counties. The counties also receive recommendations on their plans from the CRA. A diffusion of power among a range of institutions can be noticed.

Some respondents are doubtful on the priority setting by county governments. However, this is difficult to confirm, as no data is available that shows precisely what is spent on specific sectors by all counties. This is primarily due to the budget classification: while counties all report quarterly to the OCOB, they use different classifications. Counties can have a maximum of 11 ministries (departments) but they can themselves decide what the content is of these ministries. For example, in one county the health sector is included in department of Health & Sports, while in another county it is the county of Water, Sanitation & Health. As a result, no information is available on the total sub-national spending on the health sector, because no use is made of functional budget classifications.
Sector-specific effects of devolution

The different levels of devolution in the respective sectors also influence the power dynamics. In general, service delivery is affected by the process of devolution, notably by the many institutions involved and the tense relationship between the national governments and the counties.

**Education** has largely remained a national government function. Only the Early Childhood Development Education (ECDE) and vocational education are now county functions. There are differences of opinion about the performance of the counties on ECDE. Some respondents indicated the counties are doing well, others thought counties were not allocating sufficient funds and prioritising other matters, notably infrastructure for political and policy reasons (showing tangible results). Also, there is no harmonization of approaches. It is thought that counties implement their own versions of ECDE for political reasons.

An intergovernmental committee for Education exists, where county and national level meet and agree on Memoranda of Understanding. It was the opinion of one respondent that this committee could still be more effective as it was at the moment too much influenced by the political dimension. However, devolution is still very new and also in the education sector, it is also still a process to understand the roles and capacity guidelines (what capacity do you need) at county level.

The Ministry of **Health** (MoH) is still responsible for the policy, while the counties carry out service delivery. The MoH gives technical assistance to counties on how to budget for health, but has no further influence on the counties. Interactions take place throughout the year, but also in the annual intergovernmental forum. Counties are independent, but still have to adhere to the set policies, e.g. they have to report to the national government on the Sustainable Development Goals (SDGs), to present achieved results in the intergovernmental forum.

It was the opinion of some respondents that the devolution in the health sector was rushed, and some issues were not adequately addressed. This has caused a number of conflicts between the national and county governments. A few of these are the channelling of Development Partner’s (DP) funds through the MoH. The counties receive a number of conditional grants from the government, also for the health sector. The fact that the counties are on the one hand completely independent from the national government, but on the other hand need to report on the grants, creates frustration. In addition, with regard to the conditional grants, the basis for the allocation of these grants is at times unclear. For example, the distribution of the medical leasing scheme on an equal basis across counties is not linked to different health needs or fiscal capacity of counties. Reports were also made on issues with staff that now work under the counties, instead of under the national government.

In sum, as the Health Policy Project states, there are three major interests: "MoH civil servants, county political leadership, and health workers - each of whom would like to retain or expand their influence over the health system."

**Social protection** has still remained a national government task. Budget responsibility is spread across different ministries and organisations, and that there are multiple structures set up: the

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124 The social sector budget briefs should bring deeper insight here.


government is currently implementing four social cash transfer programmes covering approximately 600,000 beneficiary households.\textsuperscript{128} Some counties also have proposed social protection programmes for children.\textsuperscript{129} A positive development is the recently launched Single Registry, an online platform which unites all the social protection programme, which UNICEF has been supporting.

Figure 3-1 summarises the budget process as discussed in this chapter.

\textsuperscript{128} Winnie Mwasiaji, Strengthening the cash transfer payment systems in Kenya, International Policy Centre for Inclusive Growth, March 2016.
\textsuperscript{129} Mutua et.al., Child Budget Analysis in Kenya, 2015, p. 34.
Figure 3.1 Budget calendars of Kenya

Source: author’s compilation from various sources, notably materials received from IEA and IBP.
4 Advocacy entry points for resource allocation

Key findings
Four advocacy points are identified in this section:

1. Safeguarding resource allocation to the priority sectors
   Main advocacy would take place during the budgeting timeframe in which the ceilings are determined for the sectors. Potential partners can be KIPPRA (at national level) and CSOs and private sector (at county level). The drafting of the MTP III and political manifests offer opening for advocating for priority-setting on the medium-term;

2. Better intra-sectoral resource allocation in the priority sectors
   Main advocacy would take place between March and June. At national level, this can be done through cooperation with PBO and the National Treasury. At county level, the most influential driver are the Members of the County Assembly;

3. Increased efficiency of priority expenditures
   UNICEF can build on the economic argument, by proving to Government with evidence the potential gains from increased efficiency. DP cooperation in the area of PFM increases knowledge and leverage. The rights argument can be supported indirectly;

4. Increased efficiency of revenue allocation
   Working with the National Treasury and other DPs would be key to enhance advocacy for increased revenue collection efficiency. At local level, specific counties could be targeted with which to collaborate on increasing local revenue.

The four main advocacy messages deriving from the Fiscal Space Analysis (FSA) and the Political Economy Analysis (PEA) would be the following:

1. Safeguarding resource allocation to the priority sectors;
2. Better intra-sectoral resource allocation in the priority sectors;
3. Increased efficiency of priority expenditures;
4. Increased efficiency of revenue allocation.

The remainder of this section describes advocacy entry points which could be considered for each of these messages. The first two messages would mainly be advocated in the budget preparation process, the last two messages are related to budget execution.

1. Safeguarding resource allocation to the priority sectors
   In line with the conclusions presented in the FSA, the main focus would be advocating for protection of the current level of spending in the social sectors.

   Openings for advocacy at the national level:
   At the national level, the period between the Budget Review and Outlook Paper (BROP) and the submission of the Budget Policy Statement (BPS) is the period to advocate for priority-setting between sectors. In the BPS, the ceilings will be set for the next three years.

   Discussions on sector ceilings take place in Sector Working Groups (SWGs), led by the line ministries. These groups are launched every August. Non-state actors such as Civil Society Organisations (CSOs), the private sector, development partners (DPs) and other groups are able to participate in the SWGs; CSOs and private sector actors have to apply to participate. However, respondents explained that there is little transparency over which partners participate in the SWGs:
for example, it is difficult to find lists of participants on government websites. At the moment, it seems that only ministries and departments are participating in the groups. This was mentioned by someone inside the government and participating in the SWGs but could not be further confirmed, as most respondents did not know who were in the SWGs and the information is not publicly available.

In particular, cooperating with the Kenya Institute for Public Policy Research and Analysis (KIPPRA) could be an option, as KIPPRA is participating in the SWGs and would also be able to provide more information on other members in these groups. UNICEF could then also opt to liaise with these partners. KIPPRA is also an important partner to get access to politicians, as they work with the Presidency. During the mission, it was mentioned that UNICEF was working on a memorandum of understanding with KIPPRA for the sector hearings. It could be a possibility to extend this agreement to also cover cooperation in the SWGs.

Public Sector hearings are organised usually around October-November. These hearings appear to not always reach all interested parties. The Open Budget Survey 2015 notes for instance that although public hearings were indeed announced, they were not always well articulated and also not send well in advance.\(^\text{130}\) This was confirmed by some respondents, who at the same time noted that this has been improved and functions better than before. UNICEF also engages in some of these sector hearings.

Mid-January, the government is required to publish the draft BPS. This is an opportunity to keep track of the developments in resource allocation and anticipate on deviations. When the BPS is tabled in Parliament at the 15th of February, Parliament has to approve the BPS and the ceilings within two weeks. There is very little time to advocate for changes within this short period of time.

The key government documents, Vision 2030 and the Constitution of 2010, were cited by nearly all respondents to be most effective in advocating for changes. It was the perception that the Sustainable Development Goals (SDGs) were less strong advocacy points, although government devotes attention to these goals. The upcoming elections mean that there are opportunities to lobby in the medium-term planning. The last quarter of 2016, the government, led by the Ministry of Planning and Devolution, starts developing the third Medium Term Plan (MTP). Liaising again with KIPPRA, or with the National Treasury, could be useful to take part in these discussions, ensuring continued priority for the social sectors.

Advocating for spending on the priority sectors can also be done by referring to promises made in the political manifestos. The Jubilee manifesto includes some specific references to the amount of budget that should be allocated to education and health. At the time of writing (early 2017), political parties are developing their manifestos. Lobbying for sustained prioritisation of health and social protection, strengthened by using an economic argument as well, via interest groups could be a way of making these manifestos more child-friendly. Initiatives such as the UN Youth Manifesto could be promoted to increase the youth aspect in the manifestos.

UNICEF is currently working with the National Treasury to strengthen the capacities of child/gender-responsive budgeting. This would make it in the future easier to protect child-friendly spending.

Key message
Engaging at an early stage in the budget process to protect spending on child-friendly sectors. A partnership with KIPPRA can lead to more insights of UNICEF in the national government dynamics. Mid-January the draft BPS is produced. UNICEF can monitor here what are the intended sector allocations. Current good relations with the National Treasury can be used at this stage to ensure these allocations are in line with the discussions in the SWGs.

Openings for advocacy at county level:
At county level inter-sectoral priority setting takes place in the time period between the County BROP and the submission the County Fiscal Strategy Paper (CFSP). The same discussions take place in the sector units as in the SWGs at national level. It is important to emphasise that while specific functions were devolved to the counties, they are not required to allocate certain percentages of their budgets to these functions.

County governments are obliged to facilitate public participation in the budget process, but no separate public sector hearings take place. Public consultation is done on the consolidated plans in the County Budget and Economic Forum (CBEF). The PFM Act 2012 requires every county to create a CBEF, with the following composition: the governor as the chair, members of the County Executive Committee and an equal number of nominated representatives from professionals, businesses, labour groups, faith based groups, women groups, the elderly, and person with disabilities.

CBEFs were intended to facilitate public consultation on issues around the county budget and the broader county economy. Up to now, public participation is not yet very structured, as each county practices its own form of public participation. Some decide to host one large conference, others decide to organise multiple hearings. While some respondents indicated improvements in public consultation, the process still needs to be mainstreamed between counties and further improved to ensure a high level of public participation. Participating in these CBEFs would require a different approach per county.

Another entry point would be to look for partnerships between CSOs and private sector, to create a stronger voice in the public participation process. In specific counties, UNICEF could act as an intermediary between the private sector and CSOs. UNICEF Kenya has a relatively high number of partnerships with private sector companies, partnering up with Philips, Unilever, and Safaricom for newborn care, WASH, and promotion of child right’s business principles, respectively. In other countries in the region there is no mention of such an explicit partnership agreement. Especially at county level, some businesses and civil organisations have the same interests but do not work together.

UNICEF is working on a manual in ‘social budgeting’, together with the Kenyan School of Governance and has commissioned the drafting of budget analysis briefs for the social sectors, at national and county level. These initiatives increase awareness of social budgeting at county level in the future.

Key message
Engaging in county budget allocation demands good intelligence on the ground, to be able to participate in the CBEFs (which are organised differently per county) and establish contacts with key persons in the County Assembly and County Executive. Focusing on a few counties where service delivery is lagging behind (information that can be taken from the recently undertaken studies: PER Health and WASH, and the budget briefs on the social sectors) and where UNICEF is able to have a presence (either via local
offices or partnership with CSOs or private sector) could lead to a meaningful engagement in resource allocation at county level. Due to the tensions between national and county governments, it is probably more effective to engage with local stakeholders than through the national government.

2. Better intra-sectoral resource allocation in the priority sectors

It has been identified that the resource allocation within the sectors could be improved, to make sure most money is spent on the programmes with most benefit to children. Below some ideas are outlined, but further research on how prioritisation in the specific sectors should be undertaken.

**Education:** overall resource allocation to the sector is quite high: priority setting within the sector as well as actual spending of the available budget are key points for improvement. The power is still in national government. The Ministry Of Education, Science and Technology (MOEST) is working on the improvement of its data systems, which could be something UNICEF could support them in. Using improved data could foster the efficiency of the education sector as well as lead to better prioritisation.

**Health:** the main priority setting needs to take place at the county levels – the Public Expenditure Review (PER) on Health shall give better insight on the county budgeting in the health sector. If it is known how counties spent their money, an advocacy strategy can be developed how to promote not necessarily more, but *better* spending on health. For some counties increased spending of health might be appropriate. Benchmarking health expenditures as well as working with the various intergovernmental agencies to provide a suggestion on the minimum level that should be spent on health.

**Social Protection:** this is still a national government function; and could benefit from *more* funds. However, it will be challenging to generate additional funding, as appears from the FSA. Therefore, promoting intra-sectoral priority setting is again important, such as further harmonisation of social safety nets.

**Openings for advocacy at national level:**

At the national level, in March and April the sector committees discuss the sector budgets and priorities within the sectors are set. This is also the period when the National Treasury drafts the consolidated budget. As mentioned above, it would not be possible to raise the ceilings any more, but the past has proven that reprioritisation still occurs.

Not much public consultation is taking place in this period. Key are the parliamentary committees, to advocate for allocation / priority setting within the sectors. These committees tend to be not so easy to reach, therefore UNICEF could formalise the partnership with Parliamentary Budget Office (PBO). PBO is a relatively less politicised institute and has access to the members of Parliament (MPs). It has its own sector experts, who work with the respective sector committees on assessing the budget estimates and planning and propose alternatives. At the time of the field mission of this study, it was shared that contact had been made between UNICEF and PBO, but a partnership had not yet been formalised.

**Engage with National Treasury** on the consolidation of the budget, e.g. possibility to submit an alternative budget. Working with the Institute of Economic Affairs (IEA) on their alternative budget could be an option to use the collected data on child-spending and fiscal space. Based on this evidence, advocacy could take place for alternative ways of revenue collecting and spending to the National Treasury. The FSA model could be used in these discussions, to advocate for sustainable fiscal options to create additional fiscal space. UNICEF has established good contacts with the
National Treasury and is undertaking various activities to support child-budgeting. The established contacts with the National Treasury could help in working together to increase fiscal space.

In May, Parliament has received the consolidated budget, and now has to approve it. It is assisted by its technical arm, the PBO, in reviewing the budget. The budget appropriation committee (BAC) holds public hearings on the consolidated budget. The Parliamentary committees submit feedback reports to the respective sectors. A cooperation with PBO would also give access to the Parliamentary budget appropriations committee.

The key decision-makers are the MPs. Again, liaising with the PBO could increase access to MPs and the BAC. Further investigation would be needed on the composition on the current BAC.

**Key message**
A partnership with the PBO would offer entry points at this stage, to advocate for optimal resource allocation within the sector. They operate at sector level, which allows for targeting specific changes within the sector budget. They are in a position to engage with MPs and provide concrete entry points to UNICEF about the BAC. In terms of engaging in resource allocations the focus would lie on sectors which are still primarily run by the national government, such as education and social protection. In case of the largely devolved health sector, engagement would be more directed to influence policy making, rather than allocations – although the PER on Health could be used to advocate for a revision of the transfers of the national government to the counties, to deliver health services.

**Openings for advocacy at county level:**

At county level, in March and April the County Executive (the Governor and the people he has appointed to the County Executive Committee) prepare and submit budget estimates to the County Assembly (CA) for discussion, amendment and approval.\(^\text{131}\)

Similar to the national level, the CA now has to review and approve the budget. The Members of the CA (MCAs), and notably the budget appropriation committee, are key. Public hearings can take place.

The UNICEF zonal offices could provide collected evidence (coming from the various studies undertaken by UNICEF’s country office in Nairobi) to MCAs and the executive. It would require a different approach per county, as in some counties it might be easier to work with the executive; while in other countries, this is the other way around. Some interviewees mentioned successful cooperation with county administrations, i.e. the civil servants who have been there for years and therefore have quite some influence.

**Key message**
As mentioned above, focusing on a few counties where service delivery is lagging behind and where UNICEF is able to have a presence could lead to a meaningful engagement in intra-sectoral priority setting. Per country, a targeted approach should be adapted. In some counties, it has proven effective to pay more attention to building capacity in the administration (civil servants) to institutionalise good practice.

\(^{131}\) The Institute for Social Accountability (TISA), A Popular Guide to County Planning and Budgeting: Case of Nairobi City, 2013.
3. Increased efficiency of priority expenditures

In line with the projections of the FSA, increased efficiency would contribute to more resources available for the priority sectors. This is related to improved intra-sectoral priority setting, as discussed in the previous paragraph, but also relates to improved spending mechanism, improved administration, better procurement systems. Specific efficiency improvements should be further identified using the results of the studies commissioned by UNICEF, such as the PER for the Health and WASH sector, as well as studies undertaken by other DPs.

Openings for advocacy:

UNICEF has established good relations with the Government, notably with the National Treasury, and has been collecting much evidence on budgeting at sector and county level. Advocating on the basis of this evidence, thereby using the economic rationale to promote improving efficiency in the social sectors, could be one approach to take. The FSA can serve to demonstrate potential gains from improved spending efficiency in the social sectors. For example, showing the economic gains of solving budgetary issues, such as the delay of exchequer release and slow procurement processes, in the social protection sector.

Another way to advocate for expenditure efficiency is to reviving a common DP approach to PFM issues, specifically those that affect children. This would firstly result in even more data evidence to use; and secondly create a stronger leverage towards the government. Largest DPs USAID and World Bank would be key partners. Their programming cycles are similar to that of UNICEF, which means next year the programming for the new cycle starts. This is an opportunity to align interventions and strategies. Reviving the PFM sector group, and maybe establishing a Public Finance for Children sub-group of DPs specifically engaging in child-budgeting, could be another option.

Another way is to strengthen the rights argument for increased efficiency of spending, and thus improved service delivery. This can be done by promoting awareness and participation of the public. Many positive steps have been taken in terms of public participation of the budget process, which has improved enormously in the past years. Kenya’s score (33/100) in the Open Budget Survey 2015 is higher than the global average (25/100). However, there is still room for improvement as the Survey qualifies a score of 33 as ‘weak’.

UNICEF is already working with the National Treasury on the introduction of tools to integrate budget transparency (e.g. BOOST). Another option could be to collaborate with the think-tanks, to increase budget transparency and public participation. Joining forces and cooperating organisations such as IEA and International Budget Partnership (IBP), that have similar interests, and can particularly offer support that are a bit outside UNICEF’s scope of work. Smaller initiatives such as PAWA 254 could be an option to reach younger people, stimulate grassroots support.

Political economy at the county level is much more personal. Here might be most chances to advocate for change, increasing pressure for changes that result in more efficient spending of resources. This is in line with UNICEF’s main advocacy logic, which is intervention at the county level. Media tend to report more on county budgeting issues. Benchmarking of the performance of counties and disseminating results, e.g. publication of the PER on WASH and Health and the budget briefs, could stimulate the need to do better. The fact that the elected persons are closer to their community further adds to the greater chances to increase service delivery through efficiency at the county level.
Key message
The quantitative evidence collected by UNICEF over the last years on public finance management can be used, in collaboration with other donors, especially the International Financial Institutions (IFIs), to emphasise the economic argument in talks with the Government and the National Treasury, and through potential partnerships with KIPPRA and the PBO. At the same time, the rights argument can also be expressed by UNICEF and its development partners, referring to international agreements but also to nationally made promises (in MTPs or in political manifestos). A common position of the UN, with UNICEF as main advocate for children’s rights, would make the argument stronger; the leverage of the UN of having Kenya as its host-country in the region could potentially be a strong factor in advocating for increased efficiency in government spending, to ensure more funds go to child-friendly sectors. Lastly, investing in non-governmental initiatives to increase awareness and public participation may have an effect in the long run, leading to a louder voice from the public for more efficiency in government spending.

4. Increased efficiency of revenue allocation
The FSA identified as one of the most viable options increasing tax collection efficiency, notably of value-added tax and company tax. The model could provide evidence of possible gains from increased efficiency. As presented above on promoting expenditure efficiency, working with the National Treasury and other DPs would be key to enhance advocacy for increased revenue collection efficiency. Based on the findings from the FSA on local taxation, in combination with the anticipated tax gap revenue study of the World Bank, specific counties could be targeted with which to collaborate on increasing local revenue.

Key message
As UNICEF is by definition not a financial institution, advocacy for increased efficiency in revenue allocation would be strengthened through partnerships with the IFIs and other donors who are active in PFM in Kenya, e.g. via the PFM donor coordination group. Sharing results is key in an enhanced cooperation, for example engaging with the World Bank on the tax gap analysis they are undertaking in Kenya.
Conclusion

A heritage from the past has been Kenya’s government system with a strong executive branch and a legislative power which is, due to a weak political party culture, vulnerable for lobbying by interest groups.

The government’s narrative puts priority to economic growth. It recognises education as an important factor for economic development, and gives in terms of budget allocations high priority to this sector. Health and social protection are mentioned in the key government documents as important sectors, based on a ‘rights’ argument, but feature less prominent in the budget, which suggests higher priority is given to other areas. Devolution could be another explanation for the relatively small allocation to the health sector, as the main service tasks in the health sector are now with the county governments. It appears that there is a great variety in prioritisation to health among counties, which deserves further research. A closer look to government policies within the three sectors suggest that improvements could be made in terms of intra-sectoral allocations.

Political party manifestos are important documents as they contain a government’s priority, and could be used as benchmarks for performance. The manifestos of the two largest coalitions (Jubilee and CORD) do not differ much, which emphasises the similarities between different parties in ideologies. Candidates and their (ethnic) constituencies are stronger than political parties.

Development Partners (DPs) continue to play an important role, especially in the social sectors where over 50% of official development aid (ODA) goes to the health sectors. However, DP’s leverage is less strong compared to a few years ago, due to the rise of alternative partners such as China.

Kenya benefits from quality think tanks and a strong CSO movement, although the latter is currently less powerful. The current government is sceptical about motives of some of the CSOs and took some measures to curtail their powers. The private sector plays a double role when it comes to child-friendly spending, being a potential ally in some cases but also frustrating more fiscal space by engaging in tactics of overpricing of procured goods.

The Constitution 2010 has had major influence on the budget process. Together with the PFM Act 2012 it provides a solid framework for budget procedures. It has altered the power divisions by transferring more power to the Parliament. In practice, it appears that Parliament only uses its enhanced power position to a limited extent, which make the State House and National Treasury the main determinants of resource allocations.

Counties are independent in making their budgets, but remain dependent on the national government for their revenues. This has caused some tensions in some of the institutions set up to coordinate the devolution. At county level, the County Assembly (CA) holds a powerful role as it is entitled to impeach the Executive Branch.

In combination with the findings of the Fiscal Space Analysis (FSA), this study identifies four main advocacy messages:

1. **Safeguarding resource allocation to the priority sectors.**
   Main advocacy would take place during the budgeting timeframe in which the ceilings are determined for the sectors.
On the national level, this could be done through participation in the Sector Working Groups (SWGs), for example together with KIPPRA; promotion of and coalition building in public sector hearings; taking advantage of the information provided in the draft BPS which is published mid-January. Key policy documents are most effective for advocacy and the formulation of the third MTP offer an opening to secure long-term prioritisation for the social sectors. In addition, the political manifestos are currently drafted for the upcoming elections.

On county level, engagement in the CBEF of some counties is a place for advocacy. Where possible and appropriate, UNICEF could broker partnerships between Civil Society Organisations (CSOs) and private sector parties with similar interests. UNICEF’s educational material on social budgeting can further promote awareness of the importance of allocating sufficient funds to social sectors.

2. Better intra-sectoral resource allocation in the priority sectors
   It has been identified that the resource allocation within the sectors could be improved, to make sure most money is spend on the programmes with most benefit to children.

On national level, the period between March and June is key to advocate for changes in intra-sectoral allocation. This can be done by working via the Parliamentary Budget Office (PBO) with the parliamentary sector committees and the Budget Appropriation committee. UNICEF’s established contacts with National Treasury are an opening to discuss possibilities for additional revenue collection; an alternative route would be to work with other organisations on an alternative budget.

At county level, the approach would be different per county, as in some counties, it is easier to work with the executive branch, in others it is possible to cooperate with the key decision-makers: the Members of the CA. A possible third option would be to look into working with the administrative branch.

3. Increased efficiency of priority expenditures
   In line with the projections of the FSA, increased efficiency would contribute to more resources available for the priority sectors.

UNICEF can build on the economic argument, by proving to Government with evidence the potential gains from increased efficiency. DP cooperation in the area of PFM increases knowledge and leverage.

The rights argument can be supported indirectly, by stimulating grassroots demand for increased efficiency in spending which leads to improved service delivery. Here, UNICEF can take benefit of some of well-established non-governmental organisations (NGOs). Specifically at county level, working with the media could lead to increased sense of urgency to tackle spending inefficiencies.

4. Increased efficiency of revenue allocation
   The FSA identified as one of the most viable options increasing tax collection efficiency, notably of value-added tax. The model could provide evidence of possible gains from increased efficiency. As presented above on promoting expenditure efficiency, working with the National Treasury and other DPs would be key to enhance advocacy for increased revenue collection efficiency. At local level, specific counties could be targeted with which to collaborate on increasing local revenue.
## Appendix 1 List of interviewees

### Table A.1 Full organisation titles (undisclosed: for UNICEF only)

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Organisation</th>
<th>Focus</th>
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<tr>
<td>10th October</td>
<td>11:00</td>
<td>UNICEF kick-off meeting with Social Policy team UNICEF KCO, and UNICEF ESARO</td>
<td>PEA &amp; FSA</td>
</tr>
<tr>
<td>11th October</td>
<td>11:00</td>
<td>PAWA 254 (CSO)</td>
<td>PEA</td>
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<td>11th October</td>
<td>13:00</td>
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<td>PEA &amp; FSA</td>
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<td>11th October</td>
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<td>PEA</td>
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<td>12th October</td>
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<td>PEA</td>
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<td>International Budget Partnership</td>
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<td>14th October</td>
<td>14:00</td>
<td>UNICEF KCO – update &amp; further questions</td>
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<td>PEA &amp; FSA</td>
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<td>KIPPRA</td>
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<td>Parliamentary Budget Office</td>
<td>PEA &amp; FSA</td>
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Appendix 2 List of references


CORD, CORD Coalition Manifesto, 2013.


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Mwasiagji, W., Strengthening the cash transfer payment systems in Kenya, International Policy Centre for Inclusive Growth, March 2016.


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The Institute for Social Accountability (TISA), A Popular Guide to County Planning and Budgeting: Case of Nairobi City, 2013.


