Research Paper

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Meeting the Promise of the 2010 Constitution

Devolution, Gender and Equality in Kenya

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Summary

- The 2010 constitution was intended to transform the lives of Kenya's minorities and marginalized groups, notably women. It enshrined equality in law, and led to the establishment of key institutions aimed at promoting and protecting minorities, particularly women.

- But 10 years on, women remain significantly marginalized in Kenya. The government has failed to comply with the constitution and has not adequately funded or supported gender policy commitments. Little progress has been made towards mainstreaming gender considerations into fiscal policy or budgetary decisions. Programmes to support women's economic participation and entrepreneurship have been small-scale, marginal and short-term.

- The other centrepiece of the 2010 constitution was the 'big bang' devolution of power to Kenya's 47 county governments, implemented in 2013. This had the potential to reshape gender dynamics in Kenya and to improve county governments' decision-making. County governments represent the level of government closest to the people, and are therefore better positioned than national-level policymakers to directly address gender inequality.

- Devolved government has faced significant challenges, including incoherent national policymaking and leadership, weak technical capacity at county level, poorly implemented or non-existent mechanisms for public consultation, and a lack of gender-disaggregated data on which to base policymaking.

- Despite these obstacles, some counties have made real progress. But overall the impact of devolution on equality has been limited. Projects to help marginalized groups still account for a minimal percentage of county government budgets, and fail to address the systematic gendered impacts of decision-making and budgeting. There is a glaring gap between policy commitments and actual investments by county governments.

- However, devolved governance in Kenya is in its infancy and still offers a window of opportunity for effective policy initiatives and real-world change. An approach that emphasizes gender-responsive budgeting can begin to address systematic inequalities, including through gender budget statements, the collection of accurate gender-disaggregated statistics, and the provision of adequate support to mechanisms for public consultation. Effective oversight is possible through elected county assemblies. National and county treasuries should spearhead initiatives in this field with relevant support from all stakeholders.

- Gender-responsive budgeting is sustainable only if policymakers at both central and local levels of government own the process. This depends on sustained political will. There are multiple cross-cutting cultural, political and economic dynamics that shape outcomes in Kenya, most of which lie outside the scope of this paper. Further research is necessary. But though its first 10 years have not brought the change that Kenya's most marginalized people had hoped to see, the 2010 constitution can still fulfil its promise, and act as an effective vehicle for achieving broad-based and sustainable equality for all.

Introduction

Despite enshrining gender equality in law, Kenya's 2010 constitution has failed to deliver the transformation many had hoped for. Women remain significantly marginalized – owning about 1 per cent of agricultural land and receiving 10 per cent of available financial credit, even though they provide 80 per cent of farm labour and manage 40 per cent of smallholder farms.[1] An estimated 54 per cent and 63 per cent of rural and urban women respectively still live below the poverty line.

In part, such problems reflect the challenges arising from the devolution of financial and administrative autonomy to Kenya's 47 county governments, a policy that was at the heart of the 2010 constitution. Devolution had been expected to have a positive impact on women, as well as other marginalized communities, by bringing decision-making closer to the public[2] and empowering citizens to influence policy and access resources.[3]

But 10 years after the promulgation of the new constitution, there are still no national guidelines for gender mainstreaming. Public participation in policy formulation by women and/or minorities has remained weak. Rather than systematically addressing decision-making and the gendered impacts of devolution, county governments have focused on isolated and piecemeal programmes. Moreover, these initiatives account for a minimal percentage of county budgets and frequently are not sustained. A glaring gap remains between policy commitments and actual investments.

However, devolved government is still young in Kenya. Integrating gender-responsive mechanisms into local governance continues to present a significant opportunity for positive change, notably around participation in policy planning, budget allocation and oversight. Some Kenyan county governments have already made progress, and there are also important lessons to be learned from the experiences of other countries.

This research paper is based on interviews conducted in Nairobi, Mombasa, Kisumu, Kajiado and Kirinyaga counties between November 2017 and January 2018. It starts by taking stock of political and legal developments around gender equality, both nationally and locally. It also seeks to highlight the importance of devolution in enhancing gender equality in Kenya. It concludes by suggesting practical ways forward to facilitate more gender-responsive approaches to county-level budgeting and planning.

[1] Kenya National Bureau of Statistics (2017), 'Women and Men in Kenya, facts and figures', https://www.knbs.or.ke/download/women-men-kenya-facts-figures-2017/.
[2] Ali Khan, S. (2005), 'Decentralization and Women Empowerment: Exploring the Linkages', *Journal of Political Studies*, 18(1), pp. 61–75, http://pu.edu.pk/images/journal/pols/pdf-files/Decentralization per cent20-per cent205.pdf.
[3] This presupposed, of course, that the proximity of local government to the people would be likely to enhance gender sensitivity in respect of local challenges, conditions, priorities, planning and service delivery. Maharaj, N. and Maharaj, B. (2004), 'Engendering local government in post-apartheid South Africa – Experiences of female councillors in Durban (1996-2000)', *GeoJournal*, 61(3): pp. 263–72; Devas, N. and Grant, U. (2003), 'Local decision making – citizens participation and local accountability: Some evidence from Kenya and Uganda', *Public Administration and Development*, 23(4): pp. 307–16; Bergh, S. (2004), 'Democratic decentralization and participation: a review of recent research', *Development in Practice*, 14(6): pp. 780–90; Gavan-Koop D. and Smith P. (2008), 'Gendering Local Governing: Canadian and Comparative Lessons – The Case of Metropolitan Vancouver', *Canadian Political Science Review*, 2(3), https://ojs.unbc.ca/index.php/cpsr/article/view/26/117; and Bahl, R. (2008), 'Opportunities and Risks of Fiscal Decentralization: A Developing Country Perspective', in Ingram, G. K. and Hong, Y. (eds) (2008), *Fiscal Decentralization and Land Policies*, Lincoln Institute of Land Policy.

State of play

Constitutional provisions on gender equality

Provisions in Kenya's 2010 constitution included rights to equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized.[4] Before the new constitution's promulgation, the space for political, economic and social participation by women in Kenya had been extremely small. Not only was discrimination on the basis of gender *not* prohibited, but the previous constitution actually contained explicitly discriminatory provisions.[5]

The new constitution stipulated that national and county governments take legislative and other measures, including affirmative action programmes and policies, to redress any disadvantage(s) suffered by individuals or groups because of past discrimination.[6] The constitution established institutions such as the National Gender and Equality Commission (NGEC) and the Kenya National Commission on Human Rights, which were tasked with overseeing the protection and promotion of gender equality, inclusiveness and non-discrimination.

The national government subsequently created 'focal points' in every ministry to coordinate gender mainstreaming in national development and planning.[7] (Efforts are currently under way to finalize the review of the National Policy on Gender and Development of 2000, to ensure that it is aligned with the 2010 constitution as well as with relevant legislation and policy.[8]) In 2014, the NGEC developed guidelines on gender-responsive budgeting.[9]

Each of the 47 county governments now has a gender department, tasked with developing and implementing programmes that empower women. A gender department has also been established at the Council of Governors – which brings together the leaders of Kenya's 47 county administrations – tasked with carrying out research and developing programmes that can be implemented broadly and uniformly.[10] The central government has established several funds that enable women to access affordable financial and technical support from government agencies. These include the Women Enterprise Fund, the Youth Enterprise Development Fund and the Uwezo Fund. All are aimed, at least in part, at providing micro-finance credit and other financial support to enable women to establish businesses and earn a living, thus reducing unemployment and supporting poverty alleviation.

The route towards equality

However, the real-world impact of these initiatives has been minimal. Between 2006 and 2020, Kenya dropped 36 places in the World Economic Forum's Global Gender Gap Index, to rank 109th

[4] Articles 10, 19, 27 and 56 of the constitution.
[5] Article 82(4) of the constitution.
[6] Article 27(6) of the constitution.
[7] Research interviews, 2017–18.
[8] Ibid.
[9] National Gender and Equality Commission (NGEC) (2014), 'Guidelines for Gender Responsive Budgeting (GRB) in Kenya', http://www.ngeckenya.org/Downloads/NGEC-GRB-Guidelines-for-national-Govt-in-Kenya.pdf. The NGEC derives its mandate from Articles 10, 27, 43 and 59, and Chapter 15, of the constitution. Its mandate is also prescribed in Section 8 of the NGEC Act, 2011.
[10] Research interviews, 2017–18.

out of 153 countries.[11] The constitution requires that not more than two-thirds of the members of elective or appointive public bodies shall be of the same gender,[12] but in the 2017 elections women won only 23 out of 290 constituency seats in the National Assembly, three out of 69 seats in the Senate and three out of 47 county governorships. While this was the first time that women had been elected as senators and governors in Kenya, and the number of women in the county assemblies also increased – from 84 to 96 out of 1,450 members[13] – these figures still fall far short of the constitutional threshold. Kenya has the fewest female parliamentarians of any East African Community member state.[14]

In December 2016, Kenyan courts declared the cabinet unconstitutional because it did not meet the two-thirds gender rule (only four of the 20 cabinet secretaries appointed were women). The executive and legislature largely ignored the ruling, and no action was taken to appoint more women to the cabinet. Following the 2017 elections, of 22 cabinet secretaries appointed in 2018, only six were women.

The government is yet to report on the level of gender mainstreaming in ministries, departments and agencies, or on the monitoring tools used to evaluate gender equality.[15] Guidelines on gender-responsive budgeting were drawn up by the NGEC without consulting the Treasury, county governments or the Council of Governors, and so have proved impossible to implement.[16] A lack of funding for promulgation means that there is barely any knowledge of the guidelines' existence in either national or local government.[17] The NGEC also reviewed the 2015/16 national budget with a specific focus on trade and agriculture.[18] However, its findings were not tabled before parliament or discussed with the Treasury and other relevant state offices.[19]

As noted, the Kenyan government allocated new funds aimed at helping women to engage in entrepreneurial activities. However, these facilities provide very low levels of support, with women often forced to supplement their funding with loans from self-help groups and banks. Though the government often provides training on the use of its entrepreneurship funds, very few women attend such sessions; very often, those who attend lack financial literacy, and many, especially in rural areas, are unable to use credit effectively. Some, especially at the grassroots level, use the money they receive to meet domestic and other household needs.[20] This often leaves them worse off than they were before.[21] Moreover, a large proportion of the women who have actually succeeded in

[11] World Economic Forum (2017), *The Global Gender Gap Report*, http://www3.weforum.org/docs/WEF_GGGR_2020.pdf.
[12] Article 81(b) of the constitution.
[13] *East African* (2017), 'More women elected in Kenya, but the numbers still fall short', 12 August 2017, http://www.theeastafrican.co.ke/news/Women-elected-in-Kenya-/2558-4054988-d8a9guz/index.html.
[14] Inter-Parliamentary Union (2019), 'Women in national parliaments', situation as of 1 February 2019, http://archive.ipu.org/wmn-e/classif.htm.
[15] Research interviews, 2017–18.
[16] Ibid.
[17] Ibid.
[18] NGEC (2015), 'Financial Year 2015/2016 Budget Analysis on Gender and Inclusion: A Special Focus on Trade and Agriculture', http://www.ngeckenya.org/Downloads/Final per cent20national per cent20Budget per cent20Analysis per cent20Report.pdf.
[19] Research interviews, 2017–18.
[20] Ng'etich, K., Mwangi, S. and Ijaza, A. (2014), 'Challenges Faced by the Women Enterprise Fund in Kenya: A Survey of Hamisi Constituency, Vihiga County- Kenya', *Research on Humanities and Social Sciences*, 4(14), http://www.iiste.org/Journals/index.php/RHSS/article/viewFile/14316/14624.
[21] Research interviews, 2017–18.

accessing such funds come from privileged backgrounds rather than from marginalized and minority communities.[22]

Gender equality has not been a priority for policymakers,[23] which has resulted in the provision of inadequate financial and human resources and limited technical capacity, especially at county level.[24] The NGEC and the National Commission on Human Rights are underfunded.[25] They do not have the capacity to monitor the government effectively, a problem also due in part to a lack of disaggregated and adequate data on gender dynamics – Kenyan authorities do not routinely collect relevant data, and government databases are of poor quality.[26] The level of citizen participation in governance mandated by the constitution[27] has not been achieved, and public engagement often excludes women, especially in rural areas. Public engagement by the authorities rarely, if ever, involves a gendered approach.[28] Budgets are too complex for the average citizen to understand.[29] The design of key infrastructure and services thus remains gender-blind,[30] and can perpetuate inequalities rather than tackling them.[31]

In short, the executive has failed to comply with constitutional provisions and has ignored legal rulings. Fiscal policies at both national and county levels of government still have no gender-related component, resulting in a gap between gender policy commitments and actual investments. The limited financial provision that has been made has been spent on ineffective, short-term projects that have failed to address systematic gendered constraints around women's entrepreneurial development, or to address fundamental issues of inequality and historical injustice. Reform is nothing without effective implementation.

The challenges of devolution

The context of devolution

In addition to addressing gender inequality, Kenya's 2010 constitution also mandated a radical 'big bang' devolution of government, with financial and administrative autonomy transferred simultaneously to county governments.[32] The reform, eventually enacted in 2013, marked a response to a collapse of public faith in the previously extremely centralized system of government,[33] which had inhibited the active participation of citizens (especially at grassroots

[22] Ibid.
[23] Ibid.
[24] Ibid.
[25] Ibid.
[26] Ibid.
[27] Articles 10, 35, 174, 184 and 201 of the constitution.
[28] Research interviews, 2017–18.
[29] Ibid.
[30] Ibid.
[31] International Budget Partnership (2014), *County Budget and Economic Forums (CBEFs) and Public Participation in Kenya: A Synthesis of Case Studies from Five Counties*, https://www.internationalbudget.org/wp-content/uploads/County-Budget-and-Economic-Forums-CBEFs-and-Public-Participation-in-Kenya.pdf.
[32] This was somewhat similar to Indonesia's equally radical shift to a devolved system in 1999, and contrasts with the experience in other countries that have undergone decentralization, where the process has often been gradual. See Manor, J. (1999), *The Political Economy of Democratic Decentralization*, Washington, DC: World Bank, http://documents.worldbank.org/curated/en/386101468739238037/pdf/multi-page.pdf; Kennedy, B. and Bieniek, L. (2010), 'Moving forward with Constitutional Reform in Kenya', Center for Strategic and International Studies, https://csis-prod.s3.amazonaws.com/s3fspublic/legacy_files/files/publication/101203_Kennedy_MovingForwardKenya_Web.pdf; and Finch, C. and Omolo, A. (2015), *Building Public Participation in Kenya's Devolved Government*, Washington, DC: World Bank, https://openknowledge.worldbank.org/bitstream/handle/10986/21663/94497.pdf?sequence=1&isAllowed=y.
[33] Kennedy and Bieniek (2010), 'Moving forward with Constitutional Reform in Kenya', p. 14.

level), had enabled resource mismanagement, and had excluded many communities from decision-making. There had also been persistent perceptions – and actual evidence – of vast inequalities between regions, leading to the marginalization and under-development of some regions.

Some of the objectives of devolution outlined in the constitution include promoting the democratic and accountable exercise of power; enhancing popular participation in the exercise of the powers of the state and in decision-making that affects citizens; protecting and promoting the interests and rights of minorities and marginalized communities; promoting social and economic development; and providing easily accessible services throughout Kenya.[34]

Devolution was intended to bring services closer to the people and create a platform from which women, marginalized communities and minorities could participate more effectively in decisions that affected their economic and political well-being. Under the post-2013 system, county governments were given a constitutional mandate to raise revenue, and to develop and implement budgets, plans and policies for delivering effective services that improve the welfare of Kenyans. Their record to date has been mixed.

Incoherent policy formulation

There remains significant tension between national and local responsibilities. The central government is constitutionally mandated to formulate national policy for implementation by both levels of government. The Ministry of Public Service, Youth and Gender Affairs is tasked with developing national policy on gender mainstreaming, but it is yet to develop a policy or regulations that can be adopted at both national and local level. As noted, NGEC guidelines on gender-responsive budgeting are not widely known and cannot be implemented, while the Treasury, which formulates national economic policy and planning, is yet to develop guidelines or a policy establishing how both national and county levels of government should mainstream gender equality into budgeting and planning. There is therefore no coherent national approach to entrenching gender equality in Kenya, and no clear policy lead. This has resulted in an absence of accountability. Indeed, it is often difficult to tell what outcomes specific initiatives achieve, as there is a lack of reporting on their performance.[35]

Partly as a result, most county governments lack formal strategies for gender mainstreaming, and often group women, people with disabilities, young people, the elderly and children together under the rubric of 'special interest groups', failing to consider the different dynamics and needs of each constituency.[36] Women's empowerment programmes offered by county governments are frequently piecemeal, short-term in scope, and lean towards traditionally construed roles. For example, some programmes seek to increase the number of local town markets (*sokoni*). They allocate spaces to women by encouraging the organization of women into self-help groups (*chama*) for collective projects. While this has had some positive effects in some counties, it does not address fundamental issues of inequality and historical injustice. What is more, such projects and programmes often

[34] Article 174 of the constitution.
[35] Research interviews, 2017–18.
[36] Ibid.

account for less than 1 per cent of budgets, are politically motivated, are unaligned with county governments' wider economic agendas, and are thus unsustainable in the long run.

County governments have also largely failed to engage the public in deciding what to spend money on. County governments are required to publish simplified, 'popular' versions of their proposed budgets in order to encourage citizen participation.[37] None has yet done so.[38] Each is also legally mandated to set up a County Budget and Economic Forum (CBEF)[39] to engage members of the public and collect views on local budget issues.[40] Several county governments have delayed establishing and operationalizing these forums,[41] however, or have used membership as a reward for political allies.[42] Documents are rarely provided in advance, which leaves the public with very little time to submit proposals or recommendations.[43] The public is often only consulted at the end of the budgeting process, when little can be done to change proposals.[44]

This marginalization is more acute for women. Women rarely attend budget forums, as it is presumed that men are able to understand the issues better.[45] County governments are yet to take steps to increase participation by women or to sensitize the public to the importance of broader participation by both men and women.[46] Instead, county governments often encourage women to participate in programme-specific forums, such as those relating to funding for women/youth or women's empowerment.[47] Officials often lack the technical capacity to understand the different impacts of budgets on women and men respectively, and thus continue to perceive budgets as gender-neutral.[48]

Box 1: Gender-responsive budgeting

When correctly implemented, gender-responsive budgeting offers an effective way of ensuring that decision-making, as well as access to economic and political resources, is equally shared and available to men and women alike. It is not about the creation of isolated budgets specifically earmarked for women. Rather, it requires governments to consider, in the development and implementation of their budgets and plans, the different outcomes and impacts that policies have on both men and women. Direct impacts include the provision of services and infrastructure, and outcomes implemented via budget decision-making processes. Indirect impacts include job creation, economic growth and wider access to public resources.[49]

While the main objective of gender-responsive budgeting is to integrate gender issues into fiscal policy decisions, many other benefits arise when governments apply its methods. These include

[37] Ibid.
[38] Ibid.
[39] Public Finance Management Act, 2012.
[40] Commission on Revenue Allocation (2015), 'Guidelines on Formation Of The County Budget And Economic Forum', https://www.internationalbudget.org/wp-content/uploads/Signed-Circular-Cheserem-CRA-CBEF.pdf.
[41] Ibid.
[42] Research interviews, 2018.
[43] Ibid.
[44] Ibid.
[45] Ibid.
[46] Ibid.
[47] Ibid.
[48] Ibid.
[49] Elson, D. and Sharp, R. (2010), 'Gender responsive budgeting and women's poverty', in Chant, S. (ed.) (2010), *The International Handbook of Gender and Poverty: Concepts, Research and Policy*, Cheltenham: Edward Elgar, pp. 522–27.

enhanced public and civil society participation and accountability.[50] Gender-responsive budgeting is increasingly advocated as a means of improving the management of public finances and supporting democratic governance.[51] It also reflects the premise that fiscal policies should address gender disparity and the needs of women, as this often translates into better economic and social outcomes.[52] The reduction of gender gaps has huge potential to accelerate economic development.[53] Promoting and enhancing gender equality also includes improving women's access to healthcare and their ability to engage in paid employment, recognizing their unpaid labour and increasing opportunities to access education.[54] Gendered barriers to basic services restrict the opportunities available to women and gender minorities.

Opportunities and recommendations

Despite the challenges mentioned in the preceding sections, it must be noted that devolution in Kenya is barely seven years old. County governments and members of the public alike are still trying to understand and navigate the new constitutional landscape. Devolution opens up opportunities for women and other disadvantaged groups to participate in policy planning, budget allocation and monitoring of expenditure,[55] and there is still an important opportunity for county governments to integrate gender-responsive mechanisms into their developing budgetary and planning processes. Some counties, notably Kisumu and Kirinyaga, have made significant strides in generating sex-disaggregated data to inform their policy planning,[56] and in developing frameworks to ensure that county budgets and plans are gender-responsive.[57] Several lessons could also be learned from other national contexts, indicating possible avenues for progress.

Key opportunities for policy reform are as follows:

- An increasingly common practice in countries outside Kenya is the development of 'gender budget statements',[58] which are typically presented before a given country's parliament together

[50] Holmes, R., Slater, R. and Acker, A. (2014), 'Gender-responsive budgeting in fragile and conflict-affected states: a review', Secure Livelihoods Research Consortium, https://securelivelihoods.org/wp-content/uploads/Gender-responsive-budgeting-in-fragile-and-conflict-affected-states-a-review.pdf; and Budlender, D. and Hewitt, G. (2002), *Gender Budgets Make More Cents: Country Studies and Good Practice*, London: Commonwealth Secretariat, https://www.internationalbudget.org/wp-content/uploads/Gender-Budgets-Make-More-Cents-Country-Studies-and-Good-Practice.pdf.
[51] European Parliament (2015), 'The EU Budget for Gender Equality: Study for FEMM Committee', http://www.europarl.europa.eu/RegData/etudes/STUD/2015/490708/IPOL_STU per cent282015 per cent29490708_EN.pdf.
[52] Elborgh-Woytek, K., Newiak, M., Kochhar, K., Fabrizio, S., Kpodar, K., Wingender, P., Clements, B. and Schwartz, G. (2013), *Women, Work, and the Economy: Macroeconomic Gains from Gender Equity*, Washington, DC: International Monetary Fund, https://www.imf.org/external/pubs/ft/sdn/2013/sdn1310.pdf.
[53] Elborgh-Woytek et al. (2013), *Women, Work, and the Economy*; Alter Chen, M. and Moussié, R. (2017), *The IMF, Gender Equality and Labour: Turning a blind eye to women in the informal economy*, Bretton Woods Project, http://www.brettonwoodsproject.org/wp-content/uploads/2017/10/The-IMF-Gender-Equality-and-Labour-final.pdf.
[54] Stotsky, J. G. (2016), *Gender Budgeting: Fiscal Context and Current Outcomes*, WP/16/149, IMF Working Paper.
[55] Research interviews, 2018.
[56] Ibid.
[57] Research interviews, 2017–18.
[58] Gender statements originated in Australia, where between 1983 and 2013 the federal, state and territory governments analysed budgets and their effects on women and girls. The Australian approach increased international awareness of, and attention to, the importance of gender-responsive budgeting as a tool for enhancing gender equality. The Office of the Status of Women, a federal-level body, spearheaded initiatives that required government agencies to scrutinize all their programmes for their impact on girls and women. This approach, which focuses on addressing gender inequality through better fiscal policies and resource allocation, has been linked to improved conditions for women and girls in Australia. Since 2011, however, Australia's approach to gender-responsive budgeting has weakened, which has in turn led to the country performing poorly in terms of gender metrics compared to other OECD countries.

with the budget itself. A gender budget statement details the social and economic impact that the previous budget has had, and the forecast impact of the proposed budget on enhancing gender equality. Publishing gender statements would allow county governments in Kenya to more effectively track the impact of their budgets. This could, in turn, inform the national agenda and assist national-level budget planning. Thus far, however, Kirinyaga is the only county focusing – as part of its long-term strategy – on the development of gender statements to be tabled alongside budgets.[59]

- Kenya's county governments can learn from the South African[60] example and engage with relevant stakeholders, such as local community organizations and women's groups, to leverage resources, knowledge and information. This is already happening to a limited degree, with the governments of Kisumu, Kajiado and Mombasa counties focusing on strategies to enhance public participation and engagement in budgeting, and developing initiatives to partner with civil society.[61] They have an opportunity to engage organizations that have readily available information on the gender dynamics in each county.

- CBEFs provide a critical entry point for enhancing public awareness of gender-responsive budgeting. County governments must operationalize CBEFs, ensure that representatives receive regular training on budget processes, participatory budgeting and gender-responsive budgeting, and publish regular reports on progress. Through CBEFs, county governments can establish and coordinate sectoral working groups, consisting of major stakeholders, to assist in the review of budgetary processes and the promotion of public awareness. Stakeholders could include professional bodies such as the Kenya Association of Manufacturers, community organizations, civil society organizations and development partners.

- Devolution in Kenya created 47 county assemblies, constitutionally mandated to provide oversight of county executives and their spending priorities. Most county assemblies have limited capacity, and need training on the budgetary process and its impact on gender equality. County assemblies can also partner with civil society and community organizations to provide the technical expertise and data necessary to make informed decisions when developing and reviewing policy and legislation. South Africa's Women's Budget Initiative is a good example of a legislature–civil society partnership that can provide a template for policy in Kenya.

[59] Research interviews, 2017–18.
[60] South Africa spearheaded gender-responsive budgeting. The Women's Budget Initiative was established in 1995, after the adoption of the post-apartheid constitution, with significant support from a coalition of parliamentary committees and two non-governmental organizations (NGOs). The former collected and collated information and carried out a social audit of budgetary processes. The parliamentarians also provided political and official support for the (radical) recommendations made by the NGOs. A further initiative was introduced in 1998 by South Africa's Ministry of Finance, with the technical support of organizations that had worked on the first collaboration between parliament and civil society. Overall, the successful introduction of fiscal policy and programme changes at various levels of government – including the child support grant for primary caregivers – has been attributed to the initiatives of 1995 and 1998. Though gender-responsive budgeting has had a lower profile in recent years, the initial efforts mentioned above did lead to some effective fiscal and policy changes addressing gender inequality.
[61] Research interviews, 2017–18.

- Most successful gender-responsive budgeting approaches are initiated by finance ministries.[62] A good entry point for gender-responsive budgeting in Kenya, therefore, is the Treasury, which is constitutionally mandated to drive development and to assist county governments in developing capacity in public financial management.[63] The Office of the Auditor General could also play a role alongside the NGEC in scrutinizing whether public funds are allocated and spent in a gender-responsive manner. Such a 'joint audit' could highlight gaps between government policy commitments and investments. Ministries, departments and agencies at both national and county levels of government are more likely to integrate gender-responsive budgeting when there is a uniform approach supported by clear directives.[64] The Treasury may need to establish a committee or taskforce mandated to create regulations, monitoring tools and guidelines, to be implemented at both levels of government, in order to enhance cooperation and coordination.

- It is imperative that officials are adequately supported in the development and implementation of gender-responsive fiscal policies and budgets. The NGEC's activities, for example, have been impaired by a lack of adequate resources. It can only carry out its constitutional mandate in an enabling environment. Funding must follow functions.

Conclusion

None of the policies mentioned in the preceding sections will be effective without leadership. Many gender-responsive budget initiatives fail due to a lack of political will and support from government – and, as noted, progressive legislation and institutions backed by the constitution and legal judgments have not to date been sufficient to change the gender landscape. Powerful cultural, political and economic factors, outside the scope of this paper, act together to protect the status quo. Further research is needed, notably detailed political economy analysis at both national and county levels to uncover the multiple overlapping interests and actors that either hinder or could accelerate progress towards gender equality. Research would be particularly valuable in respect of those counties – such as Kisumu and Kirinyaga – where important steps have already been taken.

Nonetheless, promoting the principle of gender-responsive budgeting, increasing the capacity and reach of the oversight mechanisms that already exist, and taking advantage of the window of opportunity presented by Kenya's radical and still-new system of devolved governance all offer potential avenues for progress. Lessons can be learned from other African states, such as Rwanda and South Africa. A great deal of work remains to be done to bridge the gap between policy commitments and resource allocation, revenue and expenditure in Kenya. But though its first 10 years have not brought the change that Kenya's most marginalized hoped to see, the 2010 constitution can still fulfil its promise, and act as an effective vehicle for achieving broad-based and sustainable equality for all.

[62] In Rwanda, the Ministry of Finance has championed the mainstreaming of gender-responsive budgeting in all ministries, departments and programmes. It published guidelines for gender-responsive budgeting in 2008. The country's Gender Monitoring Office also implemented gender-responsive budgeting at the local level, enabling it to track successes and implementation challenges. See Stotsky, J. G., Kolovich, L. and Kebhaj, S. (2016), *Sub-Saharan Africa: A Survey of Gender Budgeting Efforts*, IMF Working Paper WP/16/152, Washington, DC: IMF, https://www.imf.org/external/pubs/ft/wp/2016/wp16152.pdf; and Ministry of Finance and Economic Planning of Rwanda (2008), 'Gender budgeting Guidelines', http://www.migeprof.gov.rw/fileadmin/_migrated/content_uploads/GENDER_BUDGETING_GUIDELINES-2.pdf.
[63] Article 225 of the constitution and Section 12 of the Public Finance Management Act, 2012.
[64] Research interviews, 2017–18.

About the author

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Cover image: A person carries a giant replica of the constitution of Kenya to be installed on a stage during a rehearsal for the presidential inauguration ceremony in Nairobi on 27 November 2017.

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