

Challenges to Actualization of Decentralization Forest Management Functions: Experiences and Lessons on Devolving Forestry Management Functions in Kenya

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Abstract

The first attempts to devolve forest management operation in Kenya started in 1997 when piloting of participatory forest management (PFM) was introduced. However, the promulgation of the Constitution of Kenya 2010 that entrenched public consultation and creation of two level of government at national and county levels that provided sound legal framework for devolution of natural resources management in the country. Several pieces of forestry legislation and transitional implementation plans on last forest management including devolution guidelines have been launched since then. However, there has been limited work on performance of forest devolution processes and associated challenges. In 2017, KEFRI initiated a study in Kilifi, Kwale, Mombasa, Lamu and Taita Taveta Counties in the Coast region of Kenya to determine how forest devolution was being undertaken and propose intervention actions to enhance devolution framework. The study was done through literature reviews on policy and legislative instruments, questionnaires, Key informant interviews and Focus group discussion. The study revealed that Kenya Forest Service has operationalized devolution of forest activities through development of devolution framework the Transitional Implementation Plans that have been signed with couple of counties. The transition process according to the findings was done without adequate consultation with county governments most of which were not prepared legally, financially and management capacity to handle forest management matters. Therefore most counties that had signed the transitional implementation plans with Kenya Forest Service had actualized their forest management operations. The study recommends that the transitional process from national to county levels should be gradual with Kenya Forest Service providing technical backstopping to the counties until they are able to effectively manage the devolved forestry functions. The counties need to build their capacity on forest management and access to financial resources to fund forest operations.

Keywords: Devolution of forest management, National government and County government

Introduction

Formal forest management in Kenya can be traced to 1891 when the first forest legislation was enacted and the first Chief Conservator of Forests Sir Elliot was posted to Kenya in 1902 (Logie & Jones, 1968). This witnessed the gradual phasing out of traditional community based forest management with formal state forest management through from 1891 to 1997, when decentralized forest governance was successfully piloted through Participatory Forest Management in Kenya (Mbuvi & Musyoki, 2013). In Kenya, centralized forest management failures have been widely acknowledged (MENR, 1994; Wass, 1995; Republic of Kenya – RoK, 2016a). The main causes for the failure included: vast sizes of the forests, inadequate management resources (financial and administrative – human and physical), insufficient technological and enforcement capacity, corruption, political interference in management forests and cartelism in access to benefits. Further, government agencies have not fully appreciated the opportunities in partnerships with communities and other stakeholders (MENR, 1994).

There was agreement that the failure to give the local people a role in the management of forests resources in the country greatly contributed to forest resource degradation and therefore their inclusion could reverse this negative trend (RoK, 2016). There decentralization of forest management was not only to secure forest resources but also an avenue to enhance benefits to the local communities and other stakeholders (Franks, 2004).

Therefore, the concept on decentralization¹ of natural resource management was aimed at increasing service efficiency, democracy, devolution of powers over the disposition of resources, improving community livelihoods and managing divergent multi-stakeholder interests while ensuring equity of costs and benefits. It is assumed that direct participation of the people who are directly in contact with forest resources in decision making on how they are managed will result in emergence of viable economic alternatives to forest degradation that lead to

¹ Decentralization in this paper refers to any act in which a central government formally cedes powers and resources to actors and institutions at lower levels in a political-administrative and territorial hierarchy (Ribot, 2002).

the conservation of such forest resources (Wyckoff-Baird *et al.*, 2000).

The decentralization process in the forestry sector in Kenya can be traced back to Sessional Paper No 10 of 1965 that advocated for Government and the people to be fully informed and their cooperation in the conservation of forests for enhanced water supplies, maintenance of forests and prevention of fires and floods (GoK, 1965). However, the unitary state systems the emerged aster series of amendments to the independence 1963 constitution reversed decentralization opportunities until the current Constitution of Kenya was launched in August 2010 that brought far-reaching provisions for democratization, including the devolution of government to 47 counties (Nyanjom, 2011). It is worth noting that the Forest Act Chapter 385 (RoK, 1962) had a provision for addressing the interests of the forest adjacent communities with special rules that gave quantum of access rights for several forests (GoK, 1962).

The road to decentralization in the forestry sector started with the development of the Forestry Master Plan (FMP, 1994) that provided the formal platform to initiate to give power to the local communities in management forest resources (MENR, 1994; Wass, 1995). It recognized the roles of various non state actors mostly community based organisation and NGOs in forest management. The latest government forest development blue print, the National Forest Programme (GoK, 2016) preamble recognizes that transition from a centralised system to devolved governance with lots opportunities for all citizens to get fully involved in decision making on forest issues including rights to forest resources and their management.

The Kenya Constitution is very clear on devolved management and individual rights to the environment (RoK, 2010) hence the foundation for the existing sector-specific decentralization policies and legislations. The Vision 2030 indicates that “Kenya will adopt a democratic decentralization process with substantial devolution² in policy-making, public resource management and revenue sharing through devolved funds” (RoK, 2007). Several policies and laws have since then been enacted to support decentralization of forest management. These include; the Forest Conservation and Management Act 2016, Participatory Forest Management Guidelines (KFS, 2015a), Participatory Forest Management Plans (KFS, 2015b), Manual of formation and registration of Community Forest Associations (KFS, 2009), County government Act, 2012, Community Land Act, 2016 and Transition Implementation Plans KFS, 2015c) among many others.

The Constitution of Kenya 2010 provides for devolution of forest extension services and management of community forests to the counties (GoK, 2010). The National and County governments have been developing approaches to support the devolution through assignment of specific functions each level of government management responsibilities (KFS, 2015). However, many agree that although some functions on forest management have been devolved, no study had been undertaken to assess the County government preparedness to implement devolved forest functions and determine the extent of implementation of devolved forest functions. The study was therefore informed by the need to gauge progress on the devolution of forest functions from central government to counties since the promulgation of the Constitution in 2010.

This study aimed to provide the necessary policy direction and develop models for equitable forest resource management and devolution as a contribution to states obligation of achieving and maintaining a tree cover of at least ten per cent of the land area of Kenya (GoK, 2010).

The specific objectives of the study were to: Determine the national and county forest management models being implemented in the country; assess the effectiveness of the models in the management of national and county forest resources; analyze the emerging national and county government’s forest management frameworks. Further, it was to assess the county governments’ preparedness to implement devolved functions and adequacy of the supporting policies and legislation on management of forest resources.

2.0 Materials and Methods

2.1 Study Area

The survey was conducted in Kilifi, Kwale, Taita Taveta, Lamu and Mombasa Counties in the Coast region (Figure 1).

² Devolution in this paper refers to the transfer of political, administrative and fiscal management power between central government and lower levels of government (Potter, 2001, quoted in Institute of Economic Affairs, 2010).

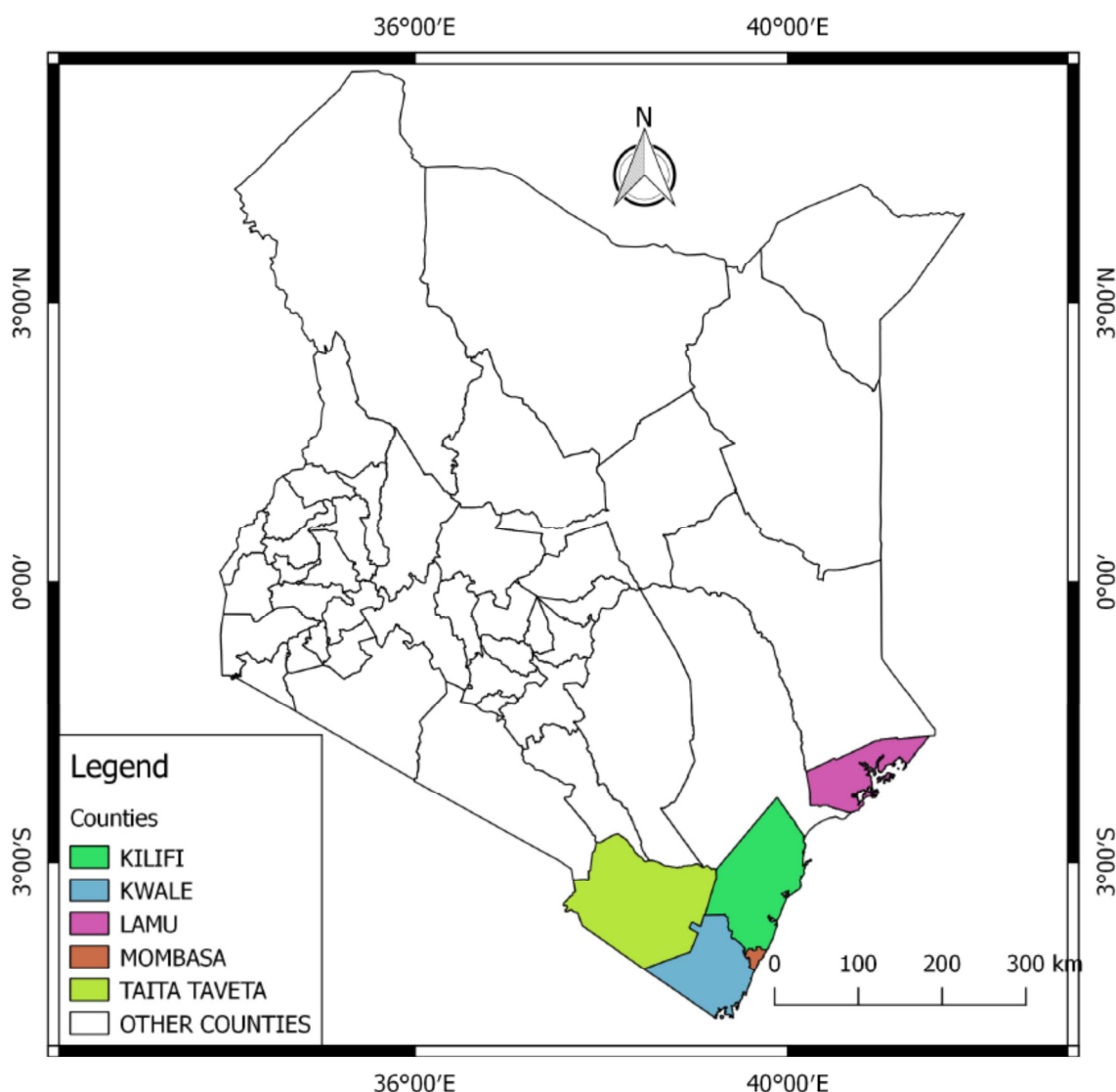


Figure 1: The five counties where survey was undertaken.

2.2 Data collection methods

Semi-structured questionnaires were administered and key informant interviews conducted with National Government officers who included: The Head of Conservancy-Coast Conservancy, County Ecosystem Conservators, KFS forest station managers, Chief Inspectors in charge of forest protection and Forest Extension officers; Non-Governmental Organizations; Community organizations which included Community Forest Associations, Tour guides, Charcoal Producers associations and forest users; and County Government officials including County Executive Members of Environment, Chief officers, County Directors of Environment/Forestry, Sub-county Environment officers and County Legal departments. In addition, Focus group discussion were held with officials of Community forest associations and Charcoal Producers associations. Literature review was undertaken to assess models used by the national and county governments to manage their forest resources, and analysis of policies and legislations guiding the management of forests in the country.

3.0 Results and Discussion

3.1. Characterization of respondents

Majority of the respondents interviewed were KFS officials (33%), followed by Community Forest Associations (26%), County government officials (22%), NGOs (10%) and CBOs (9%) (Figure 2). Data obtained from the various stakeholders were validated during subsequent Key informants' interviews and focus group discussion.

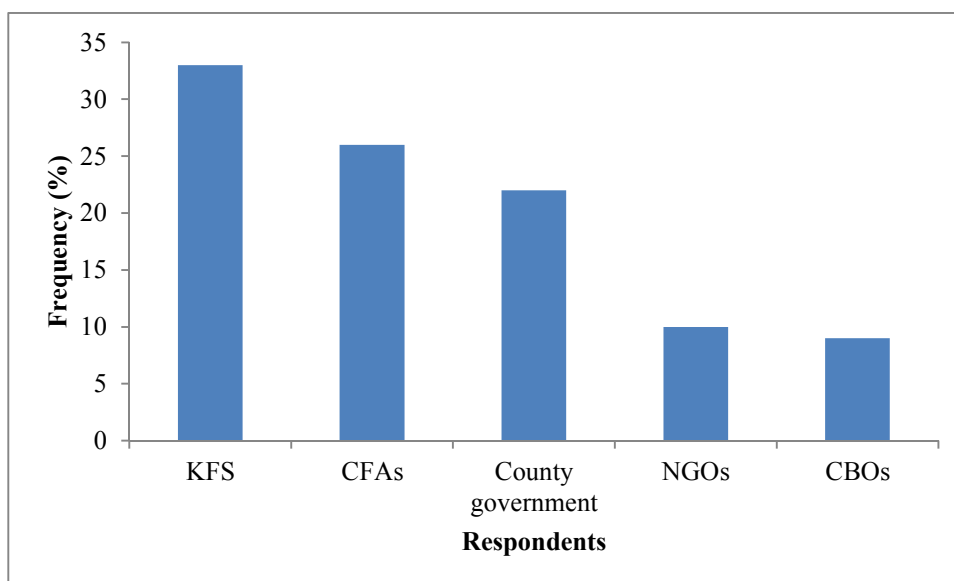


Figure 2: Respondents characterization

3.2. Forest Management regime and organization structure

Participatory forest management and enforcement were the main forest management functions undertaken at the national level as indicated by 90% of the respondents. Another key national function was the management of Plantation Establishment and Livelihood Improvement Scheme (PELIS) (Kagombe & Gitonga, 2005; GoK, 2016a) mentioned by 11% of the respondents. The two activities are supported by the Forest Conservation and Management Act, 2016 (RoK, 2016b). At the County level, the Participatory Forest Management (PFM) was indicated by 97% of the respondents as the most appropriate model because it is inclusive and ensures active participation of all stakeholders in forest management. Inadequate benefit sharing mechanisms was however mentioned as a shortcoming of this model. The community members raised a concern that they do not benefit equitably from forest resources despite playing key role in conservation of public forests. Public-private partnerships was mentioned as an emerging forest management model at the County level, with most county officials optimistic that it is a cost effective method that leverages on the existing expertise to effectively manage forests and was indicated to be useful in mitigating budget deficits. Doubts however exist of whether this approach could shift the focus from forest conservation to commercialization. The fear was based on the fact that laws on public-private partnerships were more developed at national levels but least developed at lower levels hence no appropriate guidelines on Community-Public-Private-Partnership (CPPP) that was more relevant at county level actions.

3.3. Forest management effectiveness

About 62% of the respondents were of the opinion that national forests were relatively well managed as compared to County government managed forests. This was attributed to regular patrols and enforcement by KFS that had acted as a deterrent to forest destruction. In County forests mainly the kaya forests, there were widespread cases of destruction as indicated by 71% of the respondents. Cases of encroachment for development, illegal logging and land grabbing were widespread in these forests-a scenario that was attributed to inadequate county staff to man these forests coupled with inadequate financial resources allocated to forest management in the counties. An example was the Dakatcha Woodland in Kilifi County, which is managed by the county on behalf of the local community, where the trend was reported to be similar to that observed in kaya forests. The community forests in general were characterized by indiscriminate cutting of timber for charcoal production, encroachment for settlement and agricultural expansion. Similarly, the scenario in these forests was attributed to inadequate human and technical capacity of the counties to manage the forests. Low priority allocated to forestry has resulted to less budget allocation which has affected forest development in the counties. In order to enhance effectiveness of forest management, the respondents' proposals were; employment of adequate and competent foresters and forest guards to manage the forests, mapping the county forests and allocation of adequate financial resources for forest management. Respondents also recommended multi-stakeholder involvement and particularly active involvement of local communities to enhance effectiveness of forest management.

3.4. Policies and legislations

Among the key legislations supporting the devolution of forest management were Constitution of Kenya 2010

and Forest Conservation and Management Act 2016 that was mentioned by 62% of the respondents. These laws provide for both PFM and enforcement by KFS which are the main approaches currently used to manage forests both at the national and county levels. All the studied counties were developing policies with support from civil society groups and had minimal resources for forestry operations as compared to other sectors such as education, road, health and water.

In the case of PFM, inadequate training of the implementers, lack of benefit sharing mechanisms and inadequate mechanisms for community and other stakeholders' involvement in forest management remain key challenges. Majority of the field officers indicated that they have not undertaken training courses on forest devolution and other community level forest related initiatives despite graduating over thirty years. Most community members proposed that a benefit sharing mechanism should be entrenched in law to facilitate equitable access to forest benefits. Other recommendation were empowering of CFAs for effective forest management, allocation of adequate human and financial resources and KFS officers undertake refresher courses on devolution of forest functions and community roles in overall forest managements.

3.5 Financial resource allocations

Financial resource allocation at both national and county levels was mentioned to be inadequate indicating the need for vigorous resource mobilization for forest operations in the country. The NGOs operating the study counties proposed more external support to counties and enhanced budget support for forestry through the consolidated funds to be released to counties based on their detailed proposal for forestry development. This was to guard against funds being diverted to other high priority areas in the county recognizing that forestry is a public and at times trans-county resource.

Many respondents were in agreement that the Constitution of Kenya 2010, Vision 2030 and other development blueprints have established the need for Kenya to work towards attaining of 10% forest cover. Furthermore, there is need for both the National Government (NG) and the County Governments (CGs) to work closely in order to realize national goals through joint program and policy implementation.

3.6 Forest management functions

The national government (NG) for many years has been implementing three core programs namely: Forest conservation and management with focus on the management of natural forests in public land; Forest plantations and enterprise with a focus on the development of industrial forest plantations on public land; and Farm forestry development with a focus on the provision of forest extension services for the development of private forests, agroforestry and tree growers. The devolution process has given the county government (CG) bigger responsibilities in the implementation of tree growing on farms with technical support from the Kenya Forest Service (KFS) a national government agency. It is for this reason that Transition Implementation Plans (TIPs) (KFS, 2015c) were developed to provide smooth transfer of the identified functions from KFS to CG across the country. Under the TIPs, counties are expected to perform the following devolved forest management functions:

- a) Mainstreaming of national forest policies in their county integrated development plans (CIDPs) and implement activities related to these policies;
- b) draft relevant bills to address local level issues facing forestry development in their respective counties;
- c) facilitate and involve local communities in the development of management plans for both community and county forests
- d) facilitate local conservation groups to identify and develop nature based enterprises for social economic development;
- e) rehabilitate fragile and degraded county and community forests,
- f) issue guidelines, rules and regulations that would govern forest operations within private farms, county forests and community lands to ensure sustainable management of forest resources within the county;
- g) maintain county forest and farm forestry records, databases and information,
- h) promote tree planting in community, private and county lands;
- i) provide forestry extension services in the county and
- j) enforce forest legislations within county forests and private farms.

The central government is expected to provide technical support, policy leadership and capacity building of the counties to take charge of managing their respective forestry resources. Focus group discussion and Key Informant were in agreement that the two levels of government required to put in place a robust mechanism to actualize the TIPs. During the survey county government respondents reported that the process had been suspended, they felt it was top down and they required more consultation. The CGs expected the NG through KFS to perform more implementation roles than the current supervisory work to enable both levels of government to play synergistic complementary roles in forest management in the country.

3.7 Assessment of devolved functions

The surveyed counties showed very varied levels of implementation of devolved forestry functions that ranged from levels of awareness, partnerships to process support through capacity building, organization development and budget support as discussed below for each county studied and outlined in Table 1.

Table 1: Assessment of CGs capacity to implement devolved forest management

County Devolution parameter	Taita Tavetta	Kwale	Mombasa	Kilifi	Tana River	Lamu	Community (CFA)
Awareness on devolution	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Aware of their forests	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Forest unit/department	None	None	None	None	None	None	N/A
Staff (Director)	None	None	None	None	None	None	N/A
Staff (Foresters)	None	Yes	None	None	None	None	N/A
Staff(Forest guards)	None	None	None	Yes	None	None	
Strategy (County forest master plan)	None	None	None	None	None	None	None
County forest Management plan	None	None	None	Yes	None	None	Yes (
Budget	Yes (very low)	Yes (very low)	Yes (very low)	Yes (very low)	Yes (very low)	Yes (very low)	N/A
Policy	Yes (Draft)	Yes (Draft)	N/A	Yes (Draft)	N/A	Yes (Draft)	N/A
Legislation	Yes (Draft)	Yes (Draft)		Yes (Draft)		Yes (Draft)	Yes (constitution/guidelines)
Regulations (permits issuance)	N/A	N/A	N/A	N/A	N/A	N/A	Yes (authorization)
Regulations (harvesting of forest products)	N/A	N/A	N/A	N/A	N/A	N/A	Yes (authorization)
Offices	None	Yes	None	None	None	None	Yes
Partners	Yes	Yes	??	Yes	Yes	Yes	Yes

From Table 1 shows many of the counties signed and launched the TIPs but they did not take any further initiative to institutionalize the processes required to effectively manage their forests. This underscores the need to fast track development forestry devolution strategy to ensure that forests functions that were devolved were adequately managed form their various threats. The counties indicated that the NG has not played its role adequately as envisaged under TIPs (KFS, 2015). The counties continue to get support from civil society to develop mainly forest policies and Acts as was noted in Kwale and Kilifi counties. The county specific status is presented in the following sections.

3.7.1 Taita Taveta County

Taita Taveta became the first county in the country to complete the forestry transition process in 2016 by signing and launching the Transition Implementation Plans (TIPs). The TIPs resulted in the handing over of 44 out of 68 forests that were previously managed by the Kenya forest Service. During the survey the county had not started a programme to manage the forests. In the meantime KFS continued to manage all county forests handed over through TIPs. The county government was over-stretched its human and financial resources in managing other sectors making it unable to take up management of forests devolved so far. Further, it was observed that information on which forests were devolved was not adequately disseminated to many stakeholders resulting KFS being blamed for neglecting management of devolved county forest.

Forestry has been placed under the County Director of Environment who oversees the coordination of all environmental issues in the county with focus on public health environment (waste management) related issues. Lack of specific officers dealing with forestry issues has ensured that it receives low attention and budgetary because there are no forest professionals to articulate forest management activities including work plans. The county has requested for more funding from national government for employment of staff and the matter has been plced before the county executive for consideration.

From FGD and KI respondents it is obvious that the County government lacks the technical and human resource capacity to undertake the devolved forests functions. All the respondents proposed that KFS should continue to manage the county forests through some well-structured negotiated process and mutually agreed terms and conditions as the county government deliberately undertakes efforts to address the shortfall in budget, staff and development of a forest management plans. Non-governmental organizations (NGOs) proposed forest management functions should be referred to KFS and to be devolved under a phased approach guided by adequate county preparedness. It was also recommended that there was need to develop a clear organization linkages between the two levels of government to facilitate communication and reporting on forest management matters to nurture collaboration and minimize conflicts. For example it was observed that reporting and consultative structures were not clear resulting in county government official including the Governor sometimes communicating issues to Cabinet Secretary (CS) and Principal Secretary (PS) on matters that KFS officials at county level can handle.

3.7.2 Kilifi County

Devolution of forest management is yet to be fully implemented in Kilifi County. The KFS still perform most of the devolved forestry functions because the county lacks the capacity to perform most of these functions due to inadequate requisite structures and funding. The county is collecting revenue from issuance of charcoal movement permits that in is reported to have contributed to over-harvesting of charcoal in Dakatcha woodland as the COG is more concerned with maximization of revenue to forest conservation. The recently recruited County forest rangers (Table 1) have inadequate technical capacity and are stationed at revenue (cess) collection points. Though county has employed foresters in their environment department, they have been posted as environment officers. The county has not developed relevant laws to facilitate the officers execute their functions for the Forest Conservation and Management Act 2016 (RoK, 2016) is more explicit on national matters that relate more to KFS. Moreover, most county officials are not aware of the Forest Conservation and Management Act, 2016 which provide guidance on management of County forests.

The allocation of inadequate resources for forest management has further compounded the problem. The community key informants recommended the need to sensitize counties on the value of forests and development of management plans to guide sustainable utilization and conservation of County forests. They further recommended the gazettelement of county forests to safeguard them against human encroachment and initiation of alternative livelihood activities to forest adjacent communities as an incentive motivate them to participate in the conservation of forests and improve their livelihoods.

One of the key functions devolved to the county government was forest extension but the county has not employed staff leaving KFS to perform extension services. KFS currently issues movement permits that the county governments felt that the function was within their mandate it has no legal framework to issue inter-county charcoal movement permits. FGD and KI indicated that it was prudent that KFS continue to perform this function. Felling permits are however issued by the Sub-county environment officer in collaboration with KFS Foresters. This is an additional layer of authorization to the community which may act as a disincentive to tree growing. It was noted that it is easier for a farmer to sell his livestock as compared to trees.

Moreover, the County government of Kilifi has been supporting tree planting activities in the county, but tree survival rates are low and the respondents emphasized the need for County government to collaborate with KFS and KEFRI to provide technical backstopping in tree planting activities.

3.7.3 Kwale County

In Kwale County, devolved management of forests remains largely unimplemented due to inadequate technical capacity of the CG to perform the devolved forestry functions. The CG was attending to some of its functions through developing strong working relationship with KFS and NGOs to provide technical backstopping in the management of County forest resources. The county was the only that had employed a forester (Table 1) and they were in the process of employing more staff.

The CG has not employed staff and allocated funds except for seedlings procurement. The county and the community were expecting KFS to continue with the function but it had no budgetary allocation for forestry extension which was fully devolved. KFS has however retained the station manager anticipating that the CG would use them for continued technical support. The irony is that local communities are still visiting KFS offices for technical support and guidance since they perceive that all forest functions are still implemented by KFS. This requires adequate awareness creation of the forestry management at county levels to enable the stakeholders understand the roles of each level of government.

The Community forest Associations participating in the management of forests in Kwale had mixed understanding of the various legislative provisions and their role in forest management. Those from forests near the county headquarters and the office of the EC had a very good understanding especially the Shimba Hills Community Forest Association (SHICOFA), while those located far had inadequate knowledge on forest legislation and the community organization structure requirements by the law and how they should be formed and managed. The CFAs had not had active engagement with the County government with regard to forest

conservation and also be able to understand the forestry functions of the two levels of government.

3.7.4 Lamu County

Devolution of forest management in Lamu County has been similarly slow with most devolved forestry functions being undertaken by KFS. Lack of requisite human and financial resources has further affected the process. For instance, the CG has not employed any forester, and the budgetary allocation to forestry remains very low.

3.8. Emerging Issues

The operations of devolved forest governance were devolved to the Counties without prior development of requisite devolution structures, legislation, regulations and guidelines. Moreover, the capacity of the county government was not assessed before handing over of the forests by the national government. This has been a major setback to effective implementation of devolved forest governance.

Even if the counties are to employ foresters, they have to enact forest legislation to guide their operations. The counties are faced with inadequate financial and human resources that have proved to be a major setback to effective devolution of forestry management functions (Table 1). Given the shortage of finances that most counties face forestry management function has been lowly prioritized as compared to other sectors such as health, public health (environment), roads and water.

KFS has continued to provide services otherwise meant for CGs but since limited funds are made available for such devolved functions the issues of environmental degradation have not been adequately addressed and may not become better into the future given the over-stretched County Government capacity in meeting basic operations.

Therefore implementation of Transitional Implementation Plans has not been actualized in most counties further worsening the situation. Furthermore, about 70% of key informants from the selected counties indicated that TIPs was a top-down approach that does not address the needs of stakeholders at the grassroots. Most advocate for its re-evaluation through a more consultative process where each level of government holds each other accountable for agreed measures to be put in place. Some NGOs proposed a reverse approach where KFS retakes the forest management functions until a well-structured devolved framework is put in place and an inclusive assessment process on their readiness to take up phased out management functions based on prior-agreed criteria undertaken.

Forestry management functions are rooted centuries old science that has evolved over time hence is less understood by many the non-government stakeholders and the county governments with minimal knowledge on forestry. This calls for a systematic education and awareness creation to enhance understanding of forestry through consultative forums and training seminars to ensure effective implementation functions and activities in the counties.

There is need for concerted efforts for KFS and stakeholders to build capacity of field foresters' officers operating in counties on forestry and other emerging issues like climate change. The CGs should also employ competent staff who should work closely with KFS officers to build their capacity. There is also need to enact County Forest Bills to guide the implementation of devolved forest management since this is currently lacking in all the counties.

4.0 Conclusion

From the study is pertinent that some forest management functions were devolved to the Counties without prior devolution of the requisite structures. This has been a major setback to effective implementation of devolved forest governance. The implementation of Transitional Implementation Plans has not been actualized in most counties further worsening the situation.

KFS should continue supporting extension services as the counties prepare themselves to take over the responsibility. Moreover, the Coast region counties except Kwale, which has employed one forester, have employed environment officers. The environment departments in the selected counties were strong focused on public health and waste management as compared to forest management functions that is lowly funded and lowly prioritized.

Inadequate financial and human resources are major setbacks to effective devolution of forestry management function in counties in the country as forest extension services are absent in most counties as tree growers and other stakeholders still visiting KFS offices for technical support and guidance.

Despite devolution of some forest management function to County Governments most of the stakeholders still perceive that all forests management functions are still under the docket of KFS and are not aware of the devolved forest management functions placed under the CG.

The study recommends that the process of devolution of forest management functions should be undertaken gradually with KFS providing technical backstopping to the Counties until they are able to effectively take over the devolved forestry functions.

This paper avers that effective devolution of forest functions could be achieved through participatory development of a devolution strategy bringing on board stakeholders at all levels of government. This will provide a framework that shall facilitate a seamless management system between the national government and the county government, and support the participation of other stakeholders especially communities in forest management. Further, forests are important national assets of immense ecological values that have need positively permeated the political fabric hence the need for innovative ways rally the support for forestry development and management beyond the signing and launch of documents.

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