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GENDER EQUITY ANALYSIS OF THE PROPOSED OWN SOURCE REVENUE POLICY AND LEGISLATION IN KENYA:

CASE OF TURKANA AND NAIROBI CITY COUNTIES

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LIST OF ACRONYMS /ABBREVIATIONS

ASAL - Arid and Semi-Arid Lands

CAF - County Assemblies Forum

CEC - County Executive Committee

CoG - Council of Governors

CSO - Civil Society Organizations

FCPA - Feminist Critical Policy Analysis

FCPAF - Feminist Critical Policy Analysis Framework

IAWC - Inter Agency Working Committee

IBEC - Intergovernmental Budget and Economic Council

ICPAK - Institute for Certified Public Accountants of Kenya

ICT - Information Communication Technology

IMF - International Monetary Fund

KAM - Kenya Association of Manufacturers

KAPS - Kenya Airports Parking Services Limited

KEPSA - Kenya Private Sector Alliance

KIPPRA - Kenya Institute of Public Policy Research Analysis

KNBS - Kenya National Bureau of Statistics

KRA - Kenya Revenue Authority

M&E - Monitoring and Evaluation

NGEC - National Gender and Equality Commission

OSR - Own-Source Revenue

PFM - Public Financial Management

EXECUTIVE SUMMARY

The purpose of this review was to identify proposed interventions in the National Policy to Support Enhancement of County Governments' Own-Source Revenue (OSR) and the County Governments (Revenue Raising Process) Bill, 2018 that undermine or have potential to undermine needs of the heterogeneities of all women from gender equity. This policy and legal framework are interventions of the National Treasury and other partners to address underperformance of County Governments' Own-Source Revenue (OSR). The OSR policy highlights numerous challenges facing performance of local revenue among them inadequate revenue policies and legislation; multiplicity of fees and charges; human resource capacity deficits; weaknesses in enforcing compliance by taxpayers; low automation and integration of revenue administration; ineffective internal controls and audit mechanisms. The study also provides a comparative analysis on revenue performance for Turkana and Nairobi county, and establishes patterns and trends of revenue mobilization to provide appropriate recommendations that situate the policy and the legal provisions within the respective contexts.

The study is anchored on Feminist Critical Policy Analysis Framework and Feminist Standpoint Theory. It employed descriptive design to examine the proposed policy and bill to detect those provisions that undermine gender equity in collection of revenue. The target population for this study includes the key stakeholders in formulation and implementation of the OSR policy and law. The review used Expert Sampling technique to select participants based on their expertise on the phenomenon issues being studied. The sample size for this study was thirty (30) respondents drawn from County Executive committee Members, Lodwar Municipality, National Land Commission, County Assembly committees and organized interest groups. The study used unstructured Key Informant Interview Guide to collect primary data from the respondents. Quantitative data were analyzed using descriptive and inferential statistics. Thematic analysis was used to analyze qualitative data. The results were presented in the tables, figures, charts, and narratives. The researchers obtained authorization from the National Commission on Science Technology and Innovation and the County Commissioners before proceeding to collect data from the participants.

Findings revealed several interventions within the policy and law that undermine or have the potential to undermine gender equity. Institutions that represent and promote the rights of women including the state department for Gender and the National Gender and Equality Commission did not participate in the formulation of this policy. This omission has the potential to overlook the needs of women and resulting in a gender-neutral policy. Regulations on waivers and variations are neutral on gender equity, the provisions on proposals for new taxes, fees and charges by County Governments do not include an indication of the likely economic impact and tax burden on women as a marginalized group.

Additionally, County governments are meant to develop principal legislations and policies on which to collect their taxes, fees, and charges. This has potential to formulate male-gendered legislations since County Assemblies and executive committee members are male dominated as observed in other countries. The situation is similar in the two counties under the study. For example, there are 17 female MCAs out of the total 47 in Turkana County Assembly and out of 10 County Executive Committee Members (CECM), only 3 are females. In Nairobi City County, female MCAs are 40 against 83 male counterparts. On the executive side, out of the 8 CECMs in office, only 2 are females. Provisions prescribing a standardized revenue collection through electronic payments including: mobile money, direct bank deposits, credit and debit cards and e-wallet have potential to undermine gender equity as a majority of women still fall behind their male counterparts on ICT access and utilization. In addition, the President's direction to the National Treasury to implement a single revenue collection system integrated with National Government systems for all the Counties poses a gender equity issue.

The National Treasury is considering whether to recommend to the counties the Kenya Revenue Authority (KRA) - iTax System, E-citizen, adopt one of the solutions implemented in a County or develop a new County revenue management system. Provisions such as simba and itax are being displayed as successes by simplifying filing of returns in contrast to manual paper filing. This provision also violates the guiding taxation principle of simplicity and enforceability. This provision will therefore pause a challenge to poor women in the rural and informal settlements in their effort to comply with this provision. The study identifies Independent Boundaries and Electoral Commission (IBEC), KRA, the National Treasury, Council of Governors, County Executives, County Assemblies, Ministry of Devolution, International Monetary Fund, and the World Bank as the most influential institutions in formulation and implementation of this policy.

CESS on transport of charcoal, hide & skin, firewood, and miraa is the highest contributor to OSR in Turkana County followed by Single Business Permit and fees from Hides and Skins. Advertisement and Liquor Licenses contribute the least. This implies that women contribute most to these streams given that most charcoal, firewood and hide and skins businesses are owned by them. The county does not have revenue streams on land rates, this could be because most of land in the County is not registered and is communally owned. In Nairobi, land rates and business permits are the highest contributor to the County's OSR despite using a very old valuation roll that was last updated in 1982. The study recommends inclusion of the State department for Gender and National Gender and Equality Commission in formulation of this policy and law, review and during introduction of new revenue streams or waivers. The study also recommends that OSR should be reviewed to incorporate gender equity principles. The government and other stakeholders should also promote data collection on gender needs for ease of policy and bill implementation. The study further recommends that the valuation rolls in both counties be updated regularly to enhance collection of land rates and property rates. The County governments should initiate programs for boosting women's skills in access and use of ICT.

CHAPTER ONE: INTRODUCTION

1.1 BACKGROUND TO THE STUDY AND PROBLEM STATEMENT

1.1.1 GENDER EQUITY

Gender equity in revenue generation can be assessed from various angles; if women as a group or on average have similar economic roles, income or behavior as compared to men, they should be treated similarly by the revenue generation and administration policy. On the other hand, if women as a group or on average have different economic roles, income or behavior as compared to men, they should be treated differently. Statistics indicate that in low income countries, households headed by females are likely to be poorer than those headed by men. For example, Kenya National Bureau of Statistics (KNBS) in its 2018 report on Well-Being in Kenya observed that female-headed households account for 32.4 per cent of all households and 30.2 percent of them are poor compared to 26.0 per cent of their male counterpart, hence a policy that addresses the ability to pay will improve gender equity (Kenya National Bureau of Statistics, 2018). Gender analysis involves examining the inequalities between women and men that result from social power relations in households, markets, and organizations. Social power relations are based not only on gender but also arise from class, race, ethnicity, caste, and location (e.g., urban or rural), which again vary across societies (Grown, Gender Equality and Economy Program, 2005).

1.1.2 NATIONAL POLICY AND BILL TO ENHANCE COUNTY GOVERNMENTS' OWN-SOURCE REVENUE

The goal of this framework is to enhance collection of locally generated revenue and improve its administration. Its justification arose from an Intergovernmental Budget and Economic Council (IBEC) resolution in 2015 on the need to address underperformance of County Governments' Own-Source Revenue (OSR). The identified challenges include inadequate revenue policies and legislation; multiplicity of fees and charges; human resource; capacity deficits; weaknesses in enforcing compliance by taxpayers; low automation and integration of revenue administration; and ineffective internal controls and audit mechanisms. The IBEC resolution also sought to deal with Counties' revenue measures that have negative implications for national economic policies and economic activities, including mobility of goods, services, capital, and labor. An Interagency Working Committee led by the National Treasury's Director - General for Budget, Fiscal and Economic Affairs was constituted to develop the policy and draft the legislation in 2018.

To support implementation of the Policy, a range of national-level legislative reforms have been proposed encompassing land, entertainment, trade, tourism, agriculture, and the financing of urban areas and cities. The framework outlines the process to be followed by Counties in exercising their power under Articles 209 and 210 of the Constitution to impose, vary or waiver taxes, fees, levies, and other charges. Implementation of this Policy will be achieved through an intergovernmental

institutional framework led by the IBEC and supported by a steering committee to make policy decisions, a technical committee to oversee capacity building to the Counties, and an interagency secretariat. It is expected that the Policy will be operational for ten (10) years, with a midterm review after five (5) years, and its impact on the economy will be monitored annually by the National Treasury jointly with all stakeholders (The National Treasury, 2019). With the imminent adoption of the policy and enactment of the Bill to address underperformance of County Governments' OSR,
it is vital that the revenue generation measures proposed do not undermine gender equity and further disenfranchise vulnerable groups.

1.2 OBJECTIVES OF THIS STUDY

1. To undertake a gendered review of the proposed policy and law on own source revenue in Kenya and identify gaps within the law and policy from a gender equity perspective and propose recommendations based on the findings.
2. To provide a comparative analysis on revenue performance for Turkana and Nairobi county to establish patterns and trends of revenue mobilisation to situate the policy and legal provisions within the respective contexts.
3. To provide recommendations on the immediate and long-term approaches/strategies that Oxfam and other critical stakeholders such as governments, companies, investors and civil society- can use to ensure adoption and implementation of progressive OSR legal and operational framework

CHAPTER TWO: LITERATURE REVIEW AND STUDY METHODOLOGY

2.1 THEORETICAL LITERATURE

The study is anchored on Feminist Critical Policy Analysis Framework and Feminist Standpoint Theory.

2.1.1 FEMINIST CRITICAL POLICY ANALYSIS FRAMEWORK (FCPA)

This framework was developed by Catherine Marshall in 1998 and it lays both a methodological and a theoretical basis for use in examining gender equity in revenue mobilization at subnational levels of government (Ferree, 2010). FCPA questions the entire policy analysis process, from the formulation to implementation of the policy (Zwingel, 2005). Marshall developed three fundamental steps in undertaking a feminist analysis (Lind, et al., 2016). First, gender must be the central focus of the policy or research and must be conceptualized as an important category. Secondly, the feminist critical policy analyst should focus on ways in which context, gender, race, and other factors vary the effects of a policy or law. This is because, feminist critical policy analysts, like most feminist researchers, rely primarily on data collected on the lived experiences of women, as told by the women themselves, and they also utilize discourse analysis to uncover the ideologies and assumptions embedded in policy documents. Lastly, feminist critical policy analysis should be designed to transform the institution or arm of the state in question (Anderson, 2018).

2.1.2 FEMINIST STANDPOINT THEORY

This theory was developed by Sarah Harding in the 1980s. The Feminist standpoint theory prioritizes thinking from women's perspective or marginalized groups. The theory emphasizes the need to involve women and marginalized groups in decision making. Feminist theories analyzing gender equity first emerged in 1974 on publications that addressed the rights of women. The pioneer writers on feminism included Mary Wollstone, Susan Anthony, and Elizabeth Cady Stanton. Susan Anthony questioned the authoritative principles of the constitution and its male-gendered language in the USA. She questioned why women are accountable to be punished by law but were not able to make laws nor use the same laws to protect themselves. (women could not vote, own property, nor themselves in marriage). She also critiqued the constitution for its male-gendered language and questioned why women should have to abide by laws that do not specify women. The goal of the pioneers of Feminism was to reduce gender bias and to reveal the hidden assumptions in laws, jobs, and the society.

2.1.3 RELEVANCE OF THE THEORIES TO THE CURRENT STUDY

The two theories are relevant to the current study in several ways: first, the study question the entire Own Source Revenue policy and law from the formation to implementation from a gender viewpoint in the same manner as advanced by the advocates of Feminist Critical Policy Analysis Framework Feminist Standpoint Theory. The proponents of these theories argue that gendered policy analysis should be designed to transform the institution or arm of the state in question. The findings of the current study aim to influence decision makers to embed gender equity in proposed OSR policy and law by having them perceive women's or marginalized groups' unique needs. Feminist Standpoint Theory questions why women should be accountable to policies and laws but not able to let them neither use the same laws and policies to protect themselves. The current study too observes that public decision-making positions in Kenya are male dominated. The 2020 Economic survey shows that there are 17 female Members of County Assemblies (MCAs) out of the total 47 in Turkana County Assembly and out of 10 County Executive Committee Members (CECM), only 3 are females. In Nairobi City County, female MCAs are 40 against 83 male counterparts. In the executive side, out of the 8 CECMs in office, only 2 are females (Kenya National Bureau of Statistics, 2020). This study therefore argues that decisions made in such male dominated institutions as seen in the County Executives and Assemblies could be gender-neutral or biased against women.

2.2 EMPIRICAL LITERATURE REVIEW

This section reviews related empirical literature guided by key concepts and objectives of the study.

2.2.1 REVENUE GENERATION POLICY AND LEGAL FRAMEWORK AND GENDER EQUITY AT SUB-NATIONAL LEVEL

Nanda's (2002) notes that a gender-based analysis of user fees should look at two aspects: the differential impact of user fees on utilisation of healthcare between men and women; and how user fees affect women's utilisation of healthcare for themselves. Findings reported by Pyone, Smith and van den Broek (2017) and Calhoun, Speizer, Guilkey and Bukusi, (2018) indicate that Payments for health services, in the form of user charges present a barrier to access and subsequent drop in utilization of curative health and family planning services in Zambia and Malawi for those groups that would be eligible to pay for them. The magnitude of this barrier and drop is often greater and occurs over a longer period for the poor where the women are the majority.

In Kenya, the introduction of user fees (amounting to half a day's pay for a poor person) in government outpatient health facilities led to a dramatic reduction in utilisation of Sexually Transmitted Infections' (STIs) services by both men and women, but the fall was significantly greater for women. Fewer women than men utilised the services before the introduction of user fees. Nine (9) months after their introduction, the fees were revoked and women's utilisation rose to a greater level than the pre-fee levels. Use of maternal healthcare services was also affected when fees were introduced or revoked. Although some basic antenatal care and family planning services are exempt from user fees in some countries, there was little incentive for providers to apply exemptions, and abuses and inconsistencies in application were widespread (Nanda, 2002). A review of gender equity considerations in domestic resource mobilization in Sub Saharan Africa by Barnett(2018) concluded that by expanding the traditional public finance concepts of revenue policies to reflect gender can ensure that women are treated fairly by the revenue policies in practice (Barnett, 2018).

A study on Women and Tax in South Africa by Smith found the tax policy to be regressive, placing a disproportionate burden on the poor and the majority of women. The study recommends that a more gendered analysis of the policy be done and the government to collect more detailed data on gender and tax revenue (Smith, 2000). Barnett and Grown (2004) analyzed the gender impacts of government revenue collection with special focus on taxation policies in developing countries. The study concluded that tax systems are often not gender neutral and recommends support research on equity and gender improvements (Stostsky, 2006) (Barnett & Grown, Gender Impacts of Government Revenue Collection: The Case of Taxation, 2004).

2.2.2 OWN SOURCE REVENUE PERFORMANCE IN DIFFERENT CONTEXTS

A study conducted in Ghana by (Ankamah & Yao, 2013) on Evaluating the Effectiveness of Local Revenue Mobilization in Kumasi found that Kumasi assembly depended more on transfers to finance its development. The study recommended for the need to outline pragmatic measures to increase its own internal revenue.

In Indonesia, the insignificant role of own source revenue in local budgets cannot be separated from the tax assignment system which still gives full authority to the central government to collect potential taxes such as income tax, value-added tax and toll. The facts so far have shown that the distribution of authority between the central and local tax collection in Papua province show that almost all districts and cities overlap. This means that the amount of tax revenue collected by the region amounted to only 0.78% -19.30% of total tax revenue (Bird & Enid, 2002).

In Namibia, many town councils are not determining their tariffs in accordance with an approved tariff policy of cost recovery (Fjeldstad & Kari, 2012) .Hence, several trading services, including water distribution, are operated with significant losses in several local authorities. This is also the situation for around a quarter of the municipalities in South Africa (Bahl, Smoke, & David, 2003). The situation is worsened by an increasing number of outstanding debtors in many local authorities – consumers who do not pay for basic services due to various reasons, including affordability. Experience from South Africa and Namibia shows that there are several obvious constraints on user charges and other means of cost recovery. These arise from equity considerations (i.e. ability to pay), collection and billing methods.

In francophone Africa, local governments levy a tax called the Patente, which was originally based on the French Taxe Professionelle (Devas & Roy, 2001). In Cote D'Ivoire, the Patente was the largest single local revenue source in the 1990s, financing about

17 percent of the local government budget, and more in the commercial capital Abidjan. The calculation of this tax is quite complex, involving the value of the premises, number of employees, turnover, machinery employed, installed energy capacity, and other size proxies. Moreover, within this formula, rental value of premises is by far the largest factor, so the tax starts to resemble a property tax.

2.3 STUDY METHODOLOGY

2.3.1 RESEARCH DESIGN

The study used descriptive research design and adopted a feminist approach to uncover those provisions that undermine or have potential to undermine gender equity in OSR generation in the study areas. According to Rahi (2017) and Doyle, McCabe, Keogh, Brady and McCann (2019), descriptive design involves making careful observations and detailed documentation of a phenomenon of interest. It examines the what, where, and when of a phenomenon. It attempts to examine situations to establish what is the norm, i.e. what can be predicted to happen again under the same circumstances. Descriptive research design was found more suitable because a careful examination of the OSR Policy and law were required without any manipulation whatsoever to identify what provisions undermine gender equity and document them. The context in which the policy and the law will be applied was also scrutinized as well as what is likely to happen should the policy and the law be implemented in their current situation. Some weaknesses of descriptive designs include inability to test or verify the research problem statistically which may lead to a certain level of bias due to the absence of statistical tests. Secondly, most descriptive studies are not repeatable' due to their observational nature. However, these weaknesses were mitigated by first conducting a thorough theoretical and empirical literature review to establish the trends and data triangulation to boost the validity of the research findings.

2.3.2 TARGET POPULATION

The target population for this study include the key stakeholders in formulation and implementation of the OSR policy and law which include: The National Treasury; Council of Governors (CoG); Commission on Revenue Allocation; Intergovernmental Relations Technical Committee; Office of the Controller of Budget; Kenya Institute for Public Policy Research and Analysis; Kenya Revenue Authority; Kenya Law Reform Commission; Office of the Attorney General; Parliamentary Budget Office; National Land Commission; Ministry of Devolution and Arid and Semi-Arid Lands (ASAL); Ministry of Tourism and Wildlife; Ministry of Lands; Ministry of Agriculture and Irrigation; and Ministry of Transport, Infrastructure, Housing and Urban Development. Private sector agencies include Kenya Private Sector Alliance (KEPSA); Kenya Association of Manufacturers (KAM); Institute for Certified Public Accountants of Kenya (ICPAK), Kenya Airports Parking Services Limited (KAPs); and Land Development and Governance Institute. The target also includes Civil Society Organizations (CSOs) and members of the public in Nairobi City and Turkana Counties.

2.3.4 SAMPLING DESIGN AND SAMPLE SIZE

2.3.4.1 SAMPLING DESIGN

This review used purposive and expert sampling techniques to select participants. Purposive sampling is preferred where study participants must meet a certain criterion to participate in the study. On the other hand, expert sampling chooses respondents in a non-random manner based on their expertise, knowledge and experience on the phenomenon being studied (Etikan & Bala, 2017; Etikan, Musa & Alkassim, 2016). For this study, the respondents were chosen based on their expertise, knowledge and experience on the Own Source Revenue generation policy and bill, gender equality and local revenue generation.

The sample size for this study comprises of the following:

1. County executive committee Member for Finance
2. County executive committee for Trade, Gender and Youth Affairs
3. Budget and appropriation committee
4. Chairperson of the County Assembly Finance Committee

2.3.5 DATA COLLECTION INSTRUMENTS

The study used Unstructured Key Informant Interview to collect primary data from the respondents.

2.3.6 DATA COLLECTION

Secondary data was collected through discourse and document analysis of the policy and bill and budget documents while primary data was collected through key informant interviews.

2.3.7 DATA ANALYSIS AND PRESENTATION

Quantitative data was analyzed using descriptive statistics with help of Microsoft Excel while qualitative data analysis used thematic analysis and quotes (participants voices). The results of data analysis are presented in tables, figures, charts, and narratives.

2.3.8 LOGISTICAL AND ETHICAL CONSIDERATIONS

2.3.8.1 LOGISTICAL CONSIDERATIONS

The researchers obtained authorization from the National Commission on Science Technology and Innovation and the County Commissioners before proceeding to the field.

2.3.8.2 ETHICAL CONSIDERATIONS

To protect human rights of research participants by ensuring that they suffer no harm from the research process and outcomes, researchers ensured respondents' confidentiality, anonymity, and solicited informed consent from the respondents.

CHAPTER 3: RESEARCH FINDINGS

3.1 GENDERED REVIEW OF THE PROPOSED NATIONAL POLICY TO SUPPORT ENHANCEMENT OF COUNTY GOVERNMENTS' OWN-SOURCE REVENUE IN KENYA.

The study reviewed the Proposed National Policy to Support Enhancement of County Governments' Own-Source Revenue identifying those provisions that undermine gender equity in collection of own source revenue. The study addressed both intended and unintended impacts of the options prescribed within the proposed policy framework. It considered both contextual political, social and economic realities around the specific provisions. The results on the gendered review of the proposed OSR Policy indicate the following:

EXCLUSION OF KEY INSTITUTIONS IN POLICY FORMULATION

Key Institutions that represent and promote the rights of women such as the State Department for Gender and The National Gender and Equality Commission (NGEC) were not included in the OSR policy formulation. This omission has the potential of limiting incorporation and reflection of gender concepts in the policy to ensure that women are treated fairly by the policy in practice. The proposed change to this omission is to include Institutions such as the state department for gender and the national commission on gender development in the Inter Agency Working Committee (IAWC) to differentiate the unique needs of women and men and ensure that the policy treats women fairly in practice. The findings concur with those reported by Coplin & Nwafor (2019), which show that gender inequality is propagated by poor laws, policies, constitution and lack of inclusive stakeholder participation. It is important to note that despite the OSR policy being critical in enhancing local revenue mobilization, it fails to uphold the principle of gender equality.

LEGAL QUESTIONS RELATING TO REVENUE RAISING MEASURES

The OSR policy fails to clarify the legal questions, especially those pertaining to gender equity laws on revenue collection. It is important to include gender provisions that will enhance gender equity. Uganda has engendered its budget after realizing that it cannot tackle the unique economic and social challenges women face without identifying and analyzing tax policies and laws.

WEAKNESS IN REGULATORY FRAMEWORK, LAXITY IN REVENUE COLLECTION

County governments inherited all revenue streams administered by the defunct local authorities. Some of the problems inherited include weakness in regulatory framework, laxity in revenue collection, and poor setting of revenue targets. Another problem is that gender needs between men and women are assumed to be similar, but they are not. This assumption is likely to enhance gender bias and promote discrimination of women. The Kenyan Government should make laws (Legislative laws) which address the gendered nature of economic behaviors and social arrangements such as women raising children on their own, earning lower wages, shouldering more family responsibilities and more women in the informal sector.

ISSUES ON REGULATIONS ON WAIVERS

Among the reasons required for a waiver or variation is the category of taxpayers who will benefit from such waiver/variation. However, the policy does not clearly show the groups that will benefit from the waiver. Therefore, this provision is likely to undermine gender equity and rights of women in revenue collection. Disadvantaged groups/classes of taxpayers should be stated clearly, and women should be included because they are economically and socially disadvantaged. The provision on waivers and variations is likely to undermine gender equity in revenue mobilization. Among the reasons required for a waiver or variation is the category of taxpayers who will benefit from such waiver/variation. However, the policy does not clearly state who the taxpayers are. By clearly stating the specific taxpayer category a waiver or variation will be applied appropriately.

POLICIES TO COLLECT THEIR TAXES, FEES AND CHARGES MAY PROMOTE GENDER INEQUALITY

The OSR policy provides for County governments to develop principal legislation and policies on which to collect their taxes, fees and charges. This provision has a very high tendency of infringing the rights of women because of under representation at both county and national levels. The laws which will be developed on taxes, fees and charges are likely to bias women because most of the legislators are male (CAF, 2018). For instance, out of the1450 members of county assembly who were elected in 2017, only 96 women were elected. This translates to 6.62% representation of women at the county assembly. Additionally, there are only 2 female governors out of the 47county governments (CoG, 2020). This means the laws passed are likely to be gender neutral because the female legislators are few in both the national and county assembly. This finding is similar to that of Stotsky (2007), who found out that women remain disadvantaged, especially in the poorest countries. Their opportunities for educational, social, and economic advancement are usually markedly inferior to those of men, and they often face barriers in gaining access to political positions, good education and health care for both economic and cultural reasons (Stotsky, 2007). Therefore, the government of Kenya should ensure that the one third gender rule is passed so that the rights of women are promoted. Additionally, by letting each county develop its tariff and pricing policy, it should ensure that the needs of economically vulnerable groups: The poor, aged and people living with disabilities are taken into consideration.

NETWORK AND CONNECTIVITY CHALLENGES

The policy prescribes a standardized revenue collection management system that allows for revenue collection through electronic payments including: Mobile money, direct bank deposits, credit and debit cards and e-wallet. However, there are internet and connectivity issues which are likely to hinder County revenue collection. For instance, Counties including Turkana, Marsabit, Tana River, Lamu, Isiolo, Wajir, Mandera, Makueni, and Garissa have network connectivity issues. Additionally, over 57% of women have never used a smart phone or internet connected phones in Africa (GSMA, 2019). This provision also violates the guiding principle of simplicity and enforceability, revenue collection by the counties should be made simple so that every individual, both men and women, can pay without complications. Despite the challenges associated with internet connectivity, electronic payments have yielded great results in other counties. In Ghana, Government revenue from the Ministry of Tourism Arts and Culture increased in four folds due to the introduction of a pilot electronic payment system at the ministry. The payment was introduced to digitize the collection and administration of fees at tourist sites and national monuments. Ghana introduced the digital payment system in three phases which included providing technical support to the merchants, set aggressive goals for merchants to digitize merchant payments and giving incentives to companies which accept and/or make digital-only payments (Ministry of Finance Republic of Ghana, 2017).

The proposed recommendation is to ensure stability in network and internet connectivity in counties including Turkana, Marsabit, Tana River, Lamu, Isiolo, Wajir, Mandera, Makueni, and Garissa. Furthermore, the revenue payments system should be simplified so that women are not disadvantaged. Use of mobile money platforms which do not require the internet should be encouraged. Lastly, the communities should be trained on county revenue payments processes and women should be given priority.

PROPERTY RELATED REVENUE

The OSR policy provides a property related revenue stream. However, the provision does not consider the Gender differences in Property rights. In many Developing countries, women own very little property. Women also lag behind men in land ownership, access to finance, access to machinery and other inputs, and educational achievements (Williams, 2013). Gender-based constraints that limit women's role in property ownership include the risk of physical, sexual and other gender-based violence, social or cultural confinement and immobility, inadequate legal protection or enforcement of existing laws, traditional gender roles and expectations (Andrews, 2019). In Kenya, the majority of land is owned by men or communally and this is due to culture. This communal land ownership complicates property taxation. This policy needs improvement especially on land registration for both men and women in different counties.

GOVERNANCE, ACCOUNTABILITY AND OVERSIGHT

The Constitution lays down national values and principles of governance under Article 10(2) which include rule of law, public participation, and inclusiveness among others. However the principle of gender equity which states that "that a right or liability should as far as possible be equalized among men and women" was omitted among the principles. Gender equity principles should be included in the principles of good governance in revenue collection in counties.

3.2 GENDERED REVIEW OF THE COUNTY GOVERNMENTS (REVENUE RAISING REGULATION PROCESS) BILL, 2017 IN KENYA.

The study reviewed the County Governments (Revenue Raising Regulation Process) Bill, 2017 to identify those provisions of the bill that undermine or have the potential to undermine gender equity in collection of own source revenue. The results are presented below:

DEFINITION OF TERMS

The bill defines and interprets terms including cabinet secretary, charge, fee, committee among others. The bill omitted interpretation of key terms including "gender equity" and some of its principles assumed the needs of men and women to be similar. The term gender equity (that a right or liability should as far as possible be equalized among men and women) should be incorporated and interpreted accordingly in section 2. This omission is likely to affect women in business and other sectors of the economy because most women are poor as compared to men and if there are no laws to protect them then they are likely to be discriminated upon (Kabeer, 2005) . Failure of defining this term under the OSR bill has a potential of infringing the rights of women because there is a likelihood of administering taxes, fees and charges on a neutral basis.

EXCLUSION OF GENDER EQUITY PRINCIPLE

The general principles 3(1) asserts that a county government may not exercise its power to tax a levy, fee, charge in a way that unreasonably prejudices national economic policies, economic activities across county boundaries, and National mobility of goods, services and labor. Section 3(1) has a possibility of undermining the rights of women because it does not mention gender equity as an aspect in which taxes or fees are likely to prejudice. It is important to incorporate the gender equity principle which states that "that a right or liability should as far as possible be equalized among men and women" to ensure that the rights of women are not infringed. By incorporating the gender equity principle, women will be given opportunities such as access to education, access to land ownership and other platforms which will enable them to own businesses and contribute towards payment of taxes as a form of OSR to the counties.

This finding is in line with study findings in Ghana on subnational revenue mobilization and gender equity. The study found that limited information on guidelines detailing the modality for assessing the tax liability of small individual businesses coupled with poor record keeping by the women has in several ways led to arbitrary determination of their tax liability. The effect of this is that most women are not able to pay the high tax liabilities on time and so have to suffer shop lockouts, seizure of possessions and in some cases public embarrassment (Carrol, 2011).

IMPOSITION TAX, FEE OR CHARGE

Section 4 (1) has a likelihood of infringing the rights of women because the National Commission on Gender development and State Department for Gender are key institutions excluded from the institutions to which the CEC finance is supposed to send proposals to before imposition of a tax, a fee or a levy. Proposals on imposition of a tax, levy or charge should be submitted to the National Treasury, Commission on Revenue allocation and to the National Gender and Equality commission. Section three of the bill outlines that a tax imposed by the county should not be prejudiced against national economic policies, mobility of goods and services as well as economic activities. The section fails to prevent prejudice against women by excluding gender equity among the principles.

Gender equity in revenue mobilization and taxation will ensure that women are treated fairly (Razavi, 2016). This is because women are more likely to earn less in paid work, they are more likely to do greater amounts of unpaid care and household work, they are more likely to spend greater proportions of their income on consumption and care goods, and they are less likely to save for their old-age because of their gender roles in society (OECD, 2014).

WAIVERS AND VARIATION

The OSR bill does not explicitly elaborate the category of taxpayers who should be waived or varied a tax, charge, or fee. This shows that the waiver or variation to a specific individual whether male or female, poor or rich or a person living with disability is not clearly shown. This provision is likely to affect women negatively because "the category of taxpayers" is not explicitly explained. Are the taxpayer's men, women or People living with disabilities? There is a need to explicitly elaborate on categories of people who will get waivers and variations otherwise gender inequality is likely to increase.

ESTABLISHMENT OF INTER-AGENCY TRANSITION COMMITTEE

Section 8(2) has a likelihood of discriminating against the rights of women because the inter-Agency transition committee comprises of: National Treasury, Commission on Revenue Allocation, Intergovernmental Relations Technical committee, Council of Governors, and Kenya Revenue Authority. The national Commission on Gender development and state department for gender are not involved. The inter-Agency committee should incorporate the national gender and Equality commission to ensure the rights of women are not compromised. NGEC will promote gender equality and freedom from all forms of discrimination, especially for special interest groups through ensuring compliance with policies, laws and practice. Additionally, it will help eliminate all forms of discrimination and enhance fairness, inclusiveness, accountability, teamwork and integrity in all gender matters. The findings from the review are alike to those by the International Monetary Fund (IMF) gender study in 140 countries.
The findings show that discrimination against women is embedded in their laws, policies and constitution (Coplin & Nwafor, 2019). These findings provide an important aspect of gaps in the OSR bill that need to be added in order to provide both economic and political opportunities to women and girls in Society. The legislators in Kenya should make OSR laws which promote gender equity.

3.3 STAKEHOLDER ANALYSIS

The study conducted Power Mapping of key actors to identify key stakeholders both formal and informal and the influence they wield in the formulation of the OSR policy and law as well as their interests and the implications on practice and citizens. The results indicate that the IMF and the World Bank are development partners. The 2015 National conference researchers both Kenyan and International authored papers which shaped recommendations in the OSR policy. Furthermore, IAWC constituted of 18 institutions including National Treasury's Director-general for Budget, Fiscal and Economic Affairs, IBEC (Intergovernmental Budget and Economic Council), National Treasury, CoG, CRA, Intergovernmental Relations Technical committee, Office of Controller of Budget, Kenya Institute of Public Policy Research Analysis(KIPPRA), Kenya Revenue Authority, Kenya Law Reform Commission , Office of the Attorney General , Parliamentary Budget Office, National Land Commission, Ministry of Devolution and ASAL Areas, Ministry of Tourism and Wildlife, Ministry of Lands, Ministry of Agriculture and Irrigation, Ministry of Transport, Infrastructure and Housing and Urban Development.

Power Mapping of Key stakeholders and the influence they wield in the formulation of the OSR policy and law as well as their interests show that High power/ Influence Institutions includes the Kenya Revenue Authority (KRA) which is mandated by the government to collect revenue on behalf of the government and also advise the counties in formulating tax policies. The national treasury makes budgets for the national government. The Council of governors is an important body because it constitutes of the & governors of Kenya who head the different counties. The County assemblies are mandated to make county policies on taxes, charges and other fees. The State Department for Devolution is responsible for supporting county governments through policy formulation, capacity support and intergovernmental relations. Additionally, the state department manages the shared function of disaster risk management between the National and County governments. The National Gender and Equality Commission (NGEC) which promotes gender equality and freedom from discrimination in accordance with Article 27 of the Constitution is a high interest/low power institution. The IMF provides technical assistance on effective fiscal decentralization in Kenya whereas the World bank provides funding. Institutions which have low power/influence include: Ministry of Tourism and Wildlife, Ministry of Lands, Ministry of Agriculture and Irrigation, Ministry of Transport, Infrastructure, Housing and Urban Development. There are no opponents of high power and low power for the OSR bill and policy.

3.4 DEMOGRAPHICS FOR TURKANA AND NAIROBI COUNTIES

Nairobi County is one of the 47 counties in Kenya. It is the third smallest county situated at 1°09′S 36°39′E and 1°27′S 37°06′E and occupies 696 square kilometers (270 sq mi). Nairobi is the Capital city of Kenya the capital city of Kenya. It consists of 17 constituencies and 35 electoral wards (Ratemo, 2014).

Nairobi County experiences the most rapid growth because it is in the most urban area. Despite its small size Nairobi has a total population of 4,337,080 as reported by the Kenya National Bureau of Statistics (KNBS, 2019). Its overall growth from 2009 to 2019 is 38.19% which is above the national average of 23.04%. On the other hand, Turkana County is the second largest county located in the Arid and semi-arid region of Kenya. Turkana County is sub divided into 7 sub counties 30 wards. It is situated at 3.3122° N, and 35.5658° E and occupies 68,680 km² (ADP Turkana County, 2019). It has a population of 926,976 (KNBS).

3.5 COMPARATIVE ANALYSIS ON REVENUE PERFORMANCE FOR TURKANA AND NAIROBI

3.5.1 NAIROBI COUNTY

Table 3.1: Own Source Revenue in Nairobi County in Ksh. Billions

	2013/2014		2014/2015		2015/2016		2016/2017		2017/2018		2018/2019		2019/2020	
Stream	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
Rates (land)	3,050	2,582	2,800	2,593	3,800	3,160	5,500	2,253	4,842	1,871	3,600	1,994	3,925	332.77
Single business Permit	1,600	1,542	2,200	1,814	2,826	1,786	3,600	1,776	3,169	1,786	2,600	1,933	2,892	422.87
Parking Fees	1,820	1,551	2,800	2,016	2,600	2,038	3,540	1,974	3,116	1,876	3,030	1,991	2,763	801.63
Building Permits	2,200	760	1,300	1,349	1,650	1,171	1,700	843	1,497	239	1,500	1,018	2,101	215.26
Billboard and Adverts	520	693	700	676	800	663	1,200	720	1,056	829	1,000	797	1,425	362.99
Others	2936	2,199	3,764	3,134	2,614	2,890	4,026	3,363	3,549	3,501	3,766.98	2,439	4,210	1,002.41
Total OSR	12,126	9,327	11,582	15,290	15,290	11,708	19,566	10,929	17,229	10,109	15,496.98	10,172	17,316	3,137.94

Source: (CBROP, 2017, 2018, 2019)

Table 3.1 above, shows own source revenue performance in Nairobi City County. From the table Nairobi County's actual OSR is always below the targeted. Over the years 2013 to half year 2020 the underperformance was attributed to poor collection mechanisms and enforceability challenges. The highest contributor to OSR in Nairobi County has been land rates and other incomes. Other incomes comprise of Rents, Decentralization Wards, Construction Site Board incomes, incomes from Fire Inspection Certificates and Market fees.

3.6 TURKANA COUNTY

Turkana County is in the Arid and Semi-Arid lands and its revenue performance is among the lowest performing counties in terms of revenue collection (Kinunge, 2020).

Table 3 below shows Own source revenue performance in Turkana County. The table indicates that the highest revenue is collected from CESS (Transport, Charcoal cess, Hide & skin, firewood, miraa cess) over 2017 to 2020.

Table 3.2: Own Source Revenue Performance in Turkana County 2017/2018, 2018/2019 and 2019/2020 Targets

Revenue Stream	Ministry	2017/2018	2018/2019	2019/2020 Targets
Single business Permit	Trade	24,337,650.00	35,088,370.00	33,734,184.00
Royalty (Murram, hardcore, sand, ballast, Exploitation, Burrow pit)	Lands	29,879,868.80	22,060,957.00	41,416,180.00
Cess (Transport, Charcoal cess, Hide & Skin, firewood, miraa Cess)	Transport	37,398,850.00	43,267,800.00	51,838,188.00
MARKET FEE (Barter, fish, market stall fees, offloading)	Trade	4,984,720.00	3,743,790.00	6,909,276.00
SLAUGHTER/AUCTION FEE (Small and Big animals)	Pastoral	3,292,290.00	4,747,660.00	4,563,408.00
ADVERTISEMENT (Signpost, sign boards)	Lands	127,400.00	1,061,760.00	176,592.00
PARKING FEE (all vehicles)	Lands	2,734,450.00	4,098,640.00	3,790,200.00
TRANSPORT OPERATION FEE (Taxi, Bodaboda, Matatu, Canter, Lorry and buses)	Roads	9,562,230.00	5,955,940.00	13,254,115.00
LIQUOR LICENCES (Liquor SBP and Application Fee)	Health	45,000.00	102,500.00	62,376.00
LAND SURVEY/APPLICATION/ BUILDING APPROVAL	Lands	10,501,600.00	16,219,619.35	14,556,167.00
HOUSE RENT/KIOSKS/STALLS	Lands	1,636,390.00	902,950.00	2,268,184.00
HEALTH (Public health & cost sharing)	Health	420,080.00	30,503,670.85	50,582,269.00
WEIGHTS AND MEASURES	Trade	169,200.00	681,000.00	234,528.00
OTHER FEES AND CHARGES (Hides and Skins)	Finance	19,201,008.90	5,911,027.80	26,614,333.00
TOTAL		144,290,737.70	174,345,685.00	250,000,000.00

Source: (CBROP, 2018/2019).

Table 4.5 above shows the sources of OSR in Turkana County. Turkana County projected revenue collections for the Financial Year 2019/20 at Kshs. 250,000,000.00. The highest contributions were expected from CESS (20.74%), Health Services Fees (20.23%) and Royalty (16.57%).

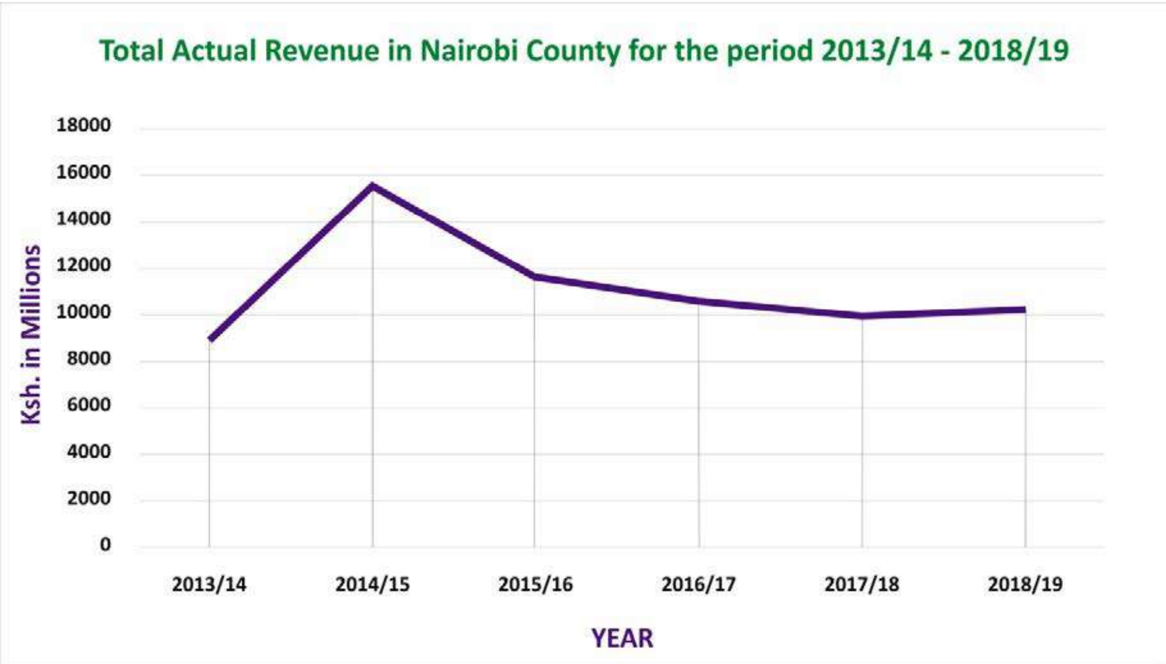
Turkana County does not have income from land rates and building permits. It is important to note that the segregated data for the different revenue streams for the data for 2013 to 2016 is not publicly available. However, the table 4.6 below shows the total OSR for Turkana County from 2013/2014 to half year 2019/2020.

Table 3.3: Total Own Source Revenue Performance in Turkana County between 2013/2014 -2019/2020 half year

Year	Target OSR in Ksh Millions	Actual OSR in Ksh Millions
2013/2014	249.33	129.65
2014/2015	110.02	126.52
2015/2016	200.03	134.02
2016/2017	180	186.32
2017/2018	200.12	144.29
2018/2019	250.04	175.03
2019/2020	249.63	79.88

Source: OCOB Reports 2013-2019).

Table 4.6 shows Total Own Source Revenue Performance in Turkana County between 2013/2014 -2019/2020 half year. From the data presented, actual OSR collected is lower than the target OSR except for the year 2016/2017. Failure to achieve the targets of OSR could be setting unrealistic targets.

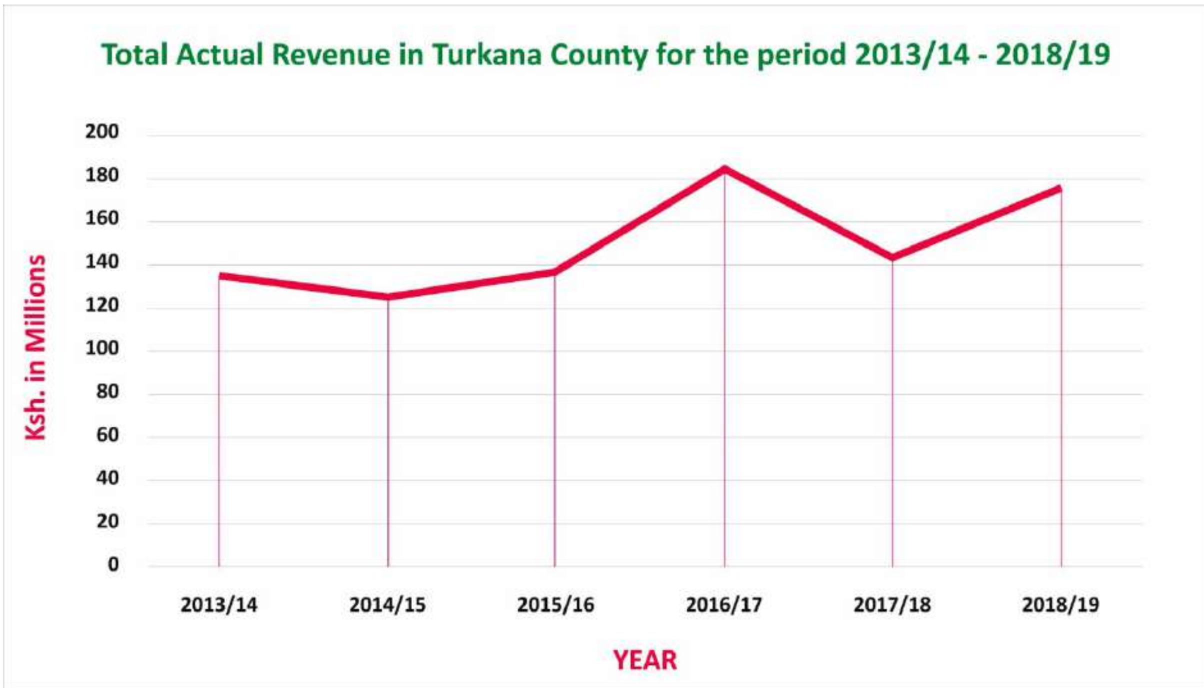


Source :(BROP & BIRR, 2016, 2017, 2018, 2019).

Figure 3.1: Trends of Actual OSR in Nairobi City County

The share of own-source revenue in total county revenue is very small – it averages 10.8% between 2013/14 and 2017/18 and has been decreasing since 2015/16. Nairobi has the lowest level of fiscal dependence given that 45.3% of its total revenue for the period 2013/14 and 2017/18 came from own sources. The high OSR Nairobi can be attributed to high levels of urbanization and diverse economic activities which generate revenue in the city.

The inability of Nairobi County to meet its targeted revenue could be attributed to low capacity of the county to collect revenues; unrealistic forecasts, noncompliance with payment of fees and charges and property rates; pilferage due to manual collection systems and resulting failure to adequately report all revenues collected at the county level. There is also a likelihood of intentionally preparing unrealistic revenue forecasts as a balancing mechanism to meet the PFM Act 2012 requirement of a balanced budget. The huge shortfalls in OSR collections in respect of meeting revenue targets poses a financial risk as evidenced by huge pending bills estimated at Kshs. 35.84 billion by the end of 30th June 2017. It also perpetuates dependency on equitable share.

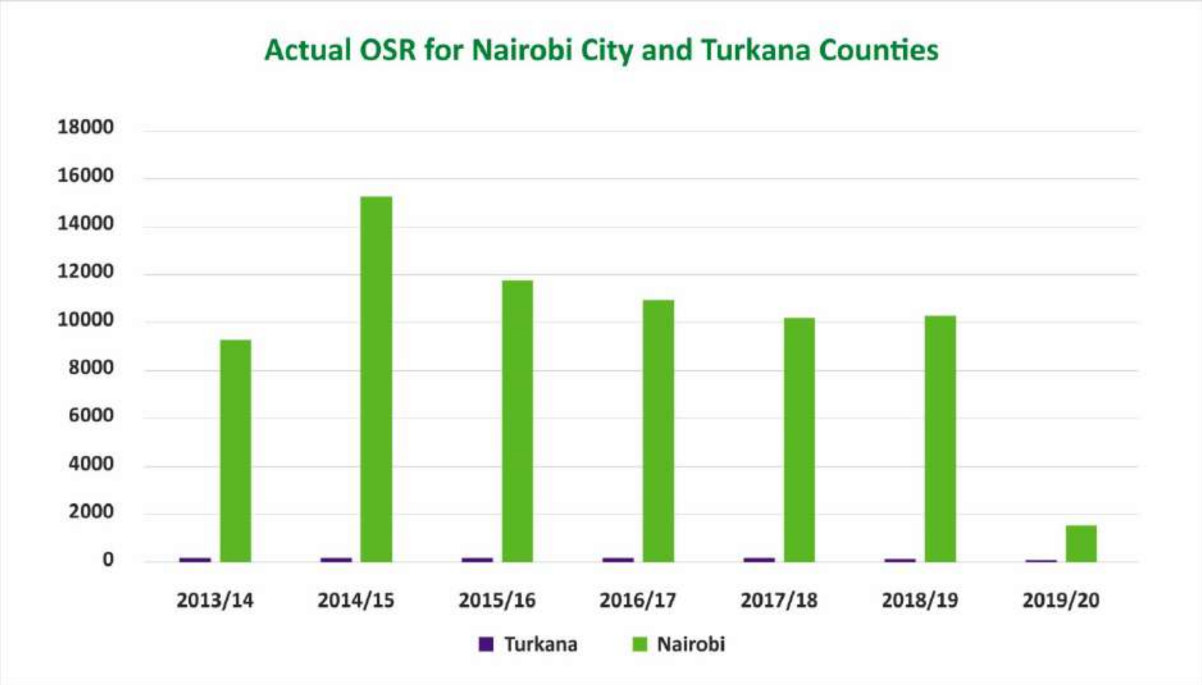


Source: BROP & BIRR, 2016, 2017, 2018, 2019).

Figure 3.2: Trends in Total Actual Revenue in Turkana County

Turkana County is in the Arid and Semi-Arid lands as compared to Nairobi County which is in the urban area/ highly commercial area and due to low levels of urbanization in Turkana very little revenue is collected. The trend in OSR generation in Turkana rose steadily between 2013 and 2015, then there was a sharp increase in revenue in 2016, but in 2017 and 2018 it declined and increased in 2019.

The reasons to low revenue collection in Turkana county include; Majority of land in Turkana is communally owned thus complicating property taxation, Turkana's population is a pastoralist community thus most taxes are concentrated on market taxes and slaughterhouse, the county is in the Arid and semi-arid lands thus less commercialization and lastly there is very little to no manufacturing and industrialization in the county.



Source: (County Government Implementation Review Report 2017, 2018 and 2019)

Figure 3.3: Actual OSR for Nairobi City and Turkana Counties

Figure 4.7 shows the total revenue comparison between Turkana and Nairobi Counties. Between the years 2013/14 to 2019/2020, It is important to note that the total annual own source revenues data in both counties is publicly available but the disaggregated data for Turkana County for 2013-2016 is not available. The year 2019/20 has the first quarter of the total revenues collected in both Turkana and Nairobi.

During the period 2013 to 2020 Nairobi County has higher revenue as compared to Turkana County. This could be attributed to the different sources of revenue, the commercial level of each County, valuation rolls and location of the Counties i.e. Nairobi is located in an urban setting whereas Turkana is located in the Arid and Semi-Arid area.

CHAPTER FOUR: SUMMARY AND RECOMMENDATIONS

4.1 SUMMARY

Based on the study findings, this study concludes that the Proposed National Policy to Support Enhancement of County Governments' Own-Source Revenue and the County Governments (Revenue Raising Regulation Process) Bill, 2017 in Kenya is gender neutral and contains provisions that undermine gender equity or have potential to do so.

The high OSR in Nairobi is due to greater levels of urbanization and diverse economic activities which generate revenue in the city. The inability of Nairobi County to meet its targeted revenue are due to low capacity of the county to collect revenues; unrealistic forecasts, noncompliance with payment of fees and charges and property rates; pilferage due to manual collection systems and resulting failure to adequately report all revenues collected at the county level.

The reasons to low revenue collection in Turkana county include; Majority of land in Turkana being communally owned thus complicating property taxation, Turkana's population is a pastoralist community thus most taxes are concentrated on market taxes and slaughterhouse, the county is in the ASAL area thus less commercialization and lastly there is very little to no manufacturing and industrialization in the county.

4.2 RECOMMENDATIONS

i. The legislation process should be engendered such that whether the women are there or not there, gender principles have to be adhered to. Additionally, participation of gender-based organizations/Institutions in Kenya including State department for gender, National commission on gender equity among others in formulation of policies and laws in order to ensure that the needs of women are considered.
ii. Independent Electoral Board Commission (IEBC), should encourage women to vie for political seats through making the 1/3 gender rule into law. For instance, if a governor is male then the deputy governor should be female and vice versa. In so doing the number of female lawmakers will increase thus the laws made will promote gender equity in Kenya. Additionally, the existing Policy and law on OSR should be reviewed based on its inability to incorporate gender equity principles. The government and other stakeholders should also promote data collection on gender needs for ease of policy and bill implementation. Furthermore, institutions including the National Treasury, KRA, Councils of Governors, national commission on Gender Equity and other stakeholders should create a favorable environment for female candidates and encourage them to apply for positions in the institutions.
iii. On the comparative analysis between Nairobi and Turkana Counties, there is a common need in setting achievable targets based on their revenue capacity. By doing so, Counties will comfortably achieve their targets and promote fairness

in Revenue collection. Since Nairobi County is in the urban center which is highly commercialized, whereas Turkana is located in the ASAL area their revenue streams need to be streamlined and differentiated accordingly. We also recommend that the valuation rolls in both counties be updated regularly to enhance collection of land rates and property rates.

iv. Lastly, the technology used should be easy to use and access in order to enhance the rights of men and women. Kenya should adopt the three phase digitization payment mechanism used in Ghana which includes providing technical support to the citizens, Set aggressive goals for merchants and citizens to digitize payments and give incentives to companies which accept and/or make digital-only payments. Furthermore, the communities should be trained on county revenue payments processes and women should be given priority.

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ANNEXURE I: KEY INFORMANTS INTERVIEW GUIDE AND INFORMED CONSENT

VIRTUAL KEY INFORMANT INTERVIEWS WITH RELEVANT STAKEHOLDERS

Date of Interview ____
Venue of Interview ____
Name of the Organization ______________________________________
Position within the organization _________________________________

Dear Respondent,
Thank you for agreeing to participate in this study.
We are very interested to hear your valuable views on the proposed National Policy to Support Enhancement of County Governments' Own-Source Revenue and *County Governments (Revenue Raising Process) Bill, 2017*.

The purpose of the study is to identify those provisions in both the policy and the proposed law that undermine or have potential to undermine gender equity in collection of local revenue. The study also undertakes a comparative approach by looking at past revenue performance to identify both gaps and opportunities for counties and the national government that need to be addressed to promote generation of own source revenue.

Specific Objectives

1. To undertake a gendered review of the proposed policy and law on own source revenue in Kenya.
2. To identify gaps within the law and policy from a gender equity perspective and propose recommendations based on the findings.
3. To provide a comparative analysis on revenue performance for Turkana and Nairobi county to establish patterns and trends of revenue mobilization to situate the policy and legal provisions within the respective contexts.
4. To provide recommendations on the immediate and long-term approaches/strategies on how to entrench gendered approaches within both policy and law.

Please note that:

a) We would like to record the interview so that we can make sure to capture the thoughts, opinions, and ideas we hear from the interview.
b) Your name will not be attached to the interview and the recordings will be destroyed as soon as they are transcribed.
c) You may refuse to answer any question or withdraw from the study at anytime
d) If you have any questions now or after, you can always contact us.

Please sign to show you agree to participate in this interview

Interviewee's Signature ____

INTERVIEW QUESTIONS

SECTION I: Questions on provisions of the National Policy to Support Enhancement of County Governments' Own-Source Revenue that undermine or have potential to undermine gender equity as well as the principle of equity in collection of revenue.

NB: *Address both the intended and unintended impacts of the options prescribed both within the proposed law and policy framework*

1. Seek views on the exclusion of institutions that represent and promote the rights of women such as the state department for Gender and the National commission on gender equality from participation in the formulation of this policy.
2. Probe on the consequence of this and to gender equity/needs of women and girls
3. The purpose of this policy and legal framework is to address poor performance of County Governments' own revenue generation. Do you think the need to address gender inequalities in revenue generation should be included? Probe further on the experiences in collection of local revenue in relation to the needs of women. Seek for instances where women have been affected adversely and differently from men
4. Some of the problems inherited by county governments from the defunct local authorities include weakness in regulatory framework, laxity in revenue collection and poor setting of revenue targets. Interrogate on gender needs between men and women in this context
5. Among the reasons required for a waiver or variation is the category of taxpayers who will benefit from such waiver/variation. The category of taxpayers does not clearly show the groups that will benefit from the waiver. Therefore, this provision is likely to undermine gender equity and rights of women in revenue collection. Seek explanation on this on the need to have the disadvantage groups/classes of taxpayers stated clearly, and women included because they are economically and socially disadvantaged
6. County governments are meant to develop principal legislation and policies on which to collect their taxes, fees and charges. This provision has a very high tendency of infringing the rights of women because of under representation at both county and national levels. The laws which will be developed on taxes, fees and charges are likely to be biased against women because most of the legislators are male. For instance, out of the 1,450 members of county assembly who were elected in 2017, only 96 women were elected. This translates to 6.62% representation of women at the county assembly. Additionally, there are only 3 female governors out of the 47 county governments. Interrogate on this.

7. Tariffs and Pricing Policy: By each county developing its tariff and pricing policy, it should ensure that the needs of economically vulnerable groups: The poor, aged and people living with disabilities are taken into consideration. This policy has not mentioned women as part of an economically vulnerable group. However, women are disadvantaged both economically and socially. This policy has the ability of increasing gender inequality and putting women in a disadvantaged position in society. Generally, it has been found that women tend to consume goods and services that benefit family health, education and Nutrition while men spend their income on personal items. This is proof that women are economically disadvantaged and should be exempted from some tariffs and prices. Interrogate on this proposition
8. The policy provides that new County levies be introduced after review and ratification of proposed levies by the National Treasury and the Commission on Revenue Allocation 10 months before commencement of FY. This process also applies to issuance of waivers and variations of levies. Seek respondents' views on this in relation to independence of county governments. Should new proposals be assessed on their gender impacts too?
9. National property taxation legislation to replace pre-devolution legislation National valuation plan to facilitate preparation of valuation rolls, investigate on status of the National valuation plan and its perception at county level Land Act to be amended so that Counties directly collect rent. Land rents to be revised upwards
10. Single Business Permit to be primary business regulatory instrument, anchored in an Act of Parliament, and in County-specific legislation
11. Policy discourages cess except where it: i) applies to agricultural produce (including livestock, fisheries); ii) is done at source; and, iii) projected revenues exceed administration costs. Counties intending to impose cess to develop supportive laws, indicating that levy is for infrastructure development and % of collections to be ploughed back into sectors of origin Tax revenue databases of two levels of Government to be integrated.
12. Counties to distinguish between branding and mobile advertising, so that branded vehicles are not charged advertising fees in multiple Counties CRA to consider enhancing fiscal responsibility parameter within revenue sharing formula seek views on current status and potential impacts in line with determination of administration costs
13. Implementation (Enhancement of compliance enforcement) of this policy will heavily depend on Cooperation between two the levels of Government on enforcement

SECTION II: Questions on County Governments (Revenue Raising Regulation Process) Bill, 2017

1. General Principles 3(1) Asserts that a county government may not exercise its power to tax a levy, fee, charge in a way that unreasonably prejudices National economic policies, Economic activities across county boundaries, National

mobility of goods, services and labour. Seek views on inclusion of Gender equity/Equity principle to ensure women are not discriminated against.

2. Section 4 (1) Where a county government intends to impose a tax, fee or charge, the County Executive Member for finance shall, ten months before the commencement of the financial year, submit particulars of the proposal to the National Treasury and the Commission on Revenue Allocation. Proposals on imposition of a tax, levy or charge should be submitted to the National Treasury, Commission on Revenue allocation and to the National Gender and Equality commission Section 4 (1) has a likelihood of infringing the rights of women because among the institutions which the CEC finance is supposed to send proposals to before imposition of a tax, a fee or a levy exclude the national gender and Equality commission.

3. Waivers and variation: Section 5 (3) (b)Waiver or variation of any tax or licensing fee shall identify the category of taxpayers to benefit or burden from such variation or waiver. This provision is likely to affect women negatively because "the category of taxpayers" is not explicitly explained. Are the taxpayer's men? Women? The poor or People living with disabilities?

4. Establishment of Inter-Agency transition Committee: The inter-Agency committee should incorporate the national gender and Equality commission to ensure the rights of women are not compromised. Section 8(2) has a likelihood of discriminating against the rights of women because the inter-Agency transition committee comprises of: National Treasury, Commission on Revenue Allocation, Intergovernmental Relations Technical committee, Council of Governors, and Kenya Revenue Authority. The national Gender and equality commission is not involved

SECTION III: Stakeholder Analysis

Interrogate on who has the highest interest, type of interest, influence and why. Plot a power map

Development Partners	International Monetary Fund (IMF) World Bank
2015 national conference	Kenyan and International researchers who authored papers which shaped recommendations in the OSR policy

Interagency Working Committee (IAWC)	National Treasury's Director-general for Budget, Fiscal and Economic Affairs IBEC (Intergovernmental Budget and Economic Council) National Treasury, CoG, CRA Intergovernmental Relations Technical committee Office of Controller of Budget Kenya Institute of Public Policy Research Analysis(kippra) Kenya Revenue Authority Kenya Law Reform Commission Office of the Attorney General Parliamentary Budget Office National Land Commission Ministry of Devolution and ASAL Areas Ministry of Tourism and Wildlife Ministry of Lands Ministry of Agriculture and Irrigation Ministry of Transport, Infrastructure, Housing and Urban Development
Private Sector Agencies	Kenya Private Sector Alliance Kenya Association of Manufacturers Institute for Certified Public Accountants of Kenya Land Development and Governance Institute General Public

SECTION IV: Comparative Analysis on Revenue Performance for Turkana and Nairobi City County

Nairobi City County

Interrogate on:

1. The underperformance has been attributed to poor collection mechanisms and enforceability challenges.
2. The highest contributor to OSR in Nairobi County has been land rates despite using outdated Valuation roll.
3. The lowest source of revenue from 2013-2018 was from advertisements and billboards. Why?
4. The inability of Nairobi County to meet its targeted revenue could be attributed to low capacity of the county to collect revenues; unrealistic forecasts, noncompliance with payment of fees and charges and property rates; pilferage due to manual collection systems and resulting failure to adequately report all revenues collected at the county level.

Turkana County

Interrogate on:

1. Highest revenue is collected from CESS (Transport, Charcoal cess, Hide & skin, firewood, miraa cess). The highest contributions are expected from CESS (20.74%), Health Services Fees (20.23%) and Royalty (16.57%). Turkana County does not have income from land rates and building permits.
2. Possibility of Health Services Fees (20.23%) being a barrier to access to healthcare services, more so by women
3. Absence of revenue from land rates and building permits.
4. The actual revenue collected was below the target revenue because of the following reasons: delay in approval of Finance Act 2017 to guide collection of revenue from certain revenue streams that had been targeted.
5. County entities were spending at source instead of remitting to the County Revenue Fund Account e.g. Department of Health services and Sanitation.
6. Unavailability of revenue streams data for Turkana County for the years 2013/14, 2016/17, 2019/20 the
7. Likelihood of intentionally preparing unrealistic revenue forecasts as a balancing mechanism to meet the PFM Act 2012 requirement of a balanced budget. The huge shortfalls in OSR collections in respect of meeting revenue targets poses a financial risk as evidenced by huge pending bills estimated at Kshs. 35.84 billion

Notes

Key Stakeholders and their role in the implementation of the policy and the law

National Treasury

- Train staff in County Treasuries and revenue collecting departments
- Provide TA on preparation of credible revenue forecasts
- Design a revenue collection and management system compatible with the IFMIS for use by *all* Counties
- Issue guidelines on application of the Standard Chart of Accounts to ensure Counties comply with prescribed financial reporting standards

County Executives

- Develop revenue legislation and policies anchoring levies
- Designate Receivers of Revenue
- Establish Municipal Boards/Town Committees
- Develop mechanisms for receiving public feedback and providing information on revenue raising measures
- Review revenue collection performance vis-à-vis targets and report on progress (*County Treasuries*)
- Review revenue collection and management procedures and systems (*County internal audit departments and audit committees*)

- Channel revenue-related conflicts through intergovernmental bodies before court action

County Assemblies

- Develop procedures on reviewing audited accounts on revenue
- Follow up on audit issues
- Establish mechanisms on receiving, considering and determining petitions by the public on revenue collection and management
- Receive training on oversight from Centre for Parliamentary Studies & Training (CPST)

CEC Member for Finance

- Implement national policy and legislation on OSR
- Manage and coordinate County OSR administration functions and departments
- Prepare proposed legislation on OSR for consideration by the County Assembly
- Provide the County Assembly with full and regular reports on matters relating to OSR
- Designate persons to be responsible for collecting, receiving
- and accounting for County OSR
- May authorize KRA or appoint a collection agent to be a Collector of Revenue
- May waive a tax, fee or charge in accordance with criteria prescribed in regulations

Receiver of Revenue

- Is responsible to the CEC Member for Finance for ensuring that revenue is collected or recovered, and is accounted for
- May authorize any County public officer or any of its entities to be a Collector of Revenue
- Shall ensure adequate books of accounts are kept relating to revenue collection and management
- Shall provide quarterly statements to the County Treasury with copies to NT, CRA and Auditor General

Collector of Revenue

May be:

- Internal County department
- Autonomous County revenue authority
- KRA; or, private firm/agent

Accounting Unit

Prepares monthly, quarterly and annual OSR revenue accounts

Steering Committee

- CS, National Treasury & Planning
- CS, Ministry of Devolution & ASAL Areas
- CS, Ministry of Lands
- Chair, Commission on Revenue Allocation
- Chair, National Land Commission
- Chair, Finance Committee, Council of Governors
- Chair, Intergovernmental Relations Technical Committee

Technical Committee

- PS, National Treasury & Planning
- PS, Ministry of Devolution & ASAL Areas
- PS, Ministry of Lands
- PS, Ministry of Agriculture & Irrigation
- PS, Ministry of Tourism & Wildlife
- CEO, Commission on Revenue Allocation
- CEO, National Land Commission
- Executive Director, Kenya Institute for Public Policy Research & Analysis
- CEO, Council of Governors
- Representative of CECs Finance
- Controller of Budget
- Attorney-General
- Director, Parliamentary Budget Office
- Commissioner-General, Kenya Revenue Authority
- CEO, Intergovernmental Relations Technical Committee

NB: In Feb 2019, H.E the President directed the National Treasury to constitute a multi-agency taskforce to implement a single revenue collection system integrated with National Government systems and to be used across all 47 Counties. The taskforce has since been formed to assess following systems to determine their suitability and advise on way forward:

- KRA-iTax System
- E-citizen (Government Digital Payment Platform)
- Adopting one of the solutions implemented in a County
- Develop new County revenue management system

GENDER EQUITY ANALYSIS OF THE PROPOSED OWN SOURCE REVENUE POLICY AND LEGISLATION IN KENYA:

CASE OF TURKANA AND NAIROBI CITY COUNTIES

Norad

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