

Conflict sensitivity in county governance: Lessons from Marsabit, Kisumu and Isiolo Counties

Introduction

The introduction of devolved governance in Kenya following the 2013 elections means that for the first time county level structures are responsible for delivering basic services to their communities, and have a role to play in the sphere of peace and security. This offers a critical opportunity to address the legacy of public marginalisation from decision-making, bringing processes closer to Kenyan citizens and make them increasingly transparent and accountable.

However, much work is required to support county institutions to carry out their mandate and to act in an inclusive manner, particularly in ethnically diverse counties. If this is not done, and citizens are excluded from decision-making processes, there is strong risk of exacerbating conflict and insecurity between communities, particularly those that have had a history of violent conflict.

Conflict sensitivity in the context of devolution should mean that the authorities understand the county's specific potential sources of tension, particularly issues that could result in tensions or conflict. It also means that authorities should ensure that county development, planning, and implementation processes take into consideration these dynamics, to avoid either exacerbating existing tensions or giving rise to new tensions. Key considerations include inclusive and transparent processes, fairness, particularly in resource allocation, and accountability and responsiveness on the part of the leaders.

Saferworld is supporting the conflict sensitive implementation of devolution in three counties in Kenya: Kisumu, Isiolo, and Marsabit, to support counties to increase transparency, inclusivity and responsiveness, and to support citizens to better realise their constitutional rights to participate in governance. This briefing makes a series of recommendations to county authorities based on common trends and concerns raised in the conflict

analyses conducted in the three counties, from July to November 2014, to better support the process of devolution across the country.¹

A series of common issues emerged despite the vastly different contexts in the three counties: uncertainty between county and national administrative officials – particularly when it comes to the roles of the County Governors and County Commissioners – remains acute in many places and has led to overt tension between authorities in some instances; public engagement in county administration remains weak – communication, outreach and engagement with the county constituency has not necessarily improved in the new devolved system; actual or perceived ethnic control over county administrations has emerged, posing a significant challenge to the legitimacy of county administrations; finally, there are few peace structures that report into county administrative structures, and where they do exist, they are often linked exclusively to the County Commissioner's office – the representative of the national government at the county level.

1. Strengthen coordination and cooperation between and within the county and national administrations

Nationally, concerns have been raised about strained and increasingly divisive working relationships within county administrations and between county administrations and their national counterparts. These working relationships need to be clarified and more productive working practices instituted at county level to ensure coherence in governance at the local level and to avoid disruption, delay, and creating the space for corruption and further conflict.

¹ Conflict analyses in three Kenyan counties: Isiolo, Kisumu, and Marsabit.

In Kisumu and Isiolo, there have been disputes between the county administration and the County Commissioners, who remain part of the national governance architecture, and whose mandates were expected to have come to an end with devolution. Uncertainty about the difference in the respective mandates between the County Executive, County Assembly, County Commissioner, Governor, Senator, and other institutions in Kenya and, in some instances, directly overlapping mandates have created competitions for power, and have limited the ability of any administration to provide services to their constituency. In Isiolo, better working relationships were reported, despite the existence of some suspicion. According to officials, this came because of an awareness of the potential of these suspicions to derail or delay governance processes in the county; this resulted in commitments on both sides to share information and seek opportunities for collaboration, particularly on development issues, rather than viewing themselves as competitors.

Emerging from both counties is the knowledge trust and collaboration between levels of administration are crucial – establishing effective partnerships maximises accountability and transparency and utilises resources in both levels of government for the benefit of citizens in the county.

Recommendation

- Convene forums that bring together the different structures within the County government structure to articulate roles and responsibilities and discuss ways of building cross departmental synergy and oversight to enhance accountability.

2. Facilitate public participation in county governance structures, including through civic education

A number of provisions of the Constitution and the County Government Act 2012 provide for citizen participation in county governance processes.

In Isiolo, examples of emerging good practice include the creation of an SMS system allowing members of the public to send information and questions to the administration relating to county affairs, particularly on budgeting processes. In one area of the county, Tulo roba Bula pesa, community members were able to effectively raise concerns with the administration about the service provision in their local health facilities, which resulted in reported improvements, and they were able to question the quality of a road being constructed, which led to the authorities summoning the contractor to discuss public concerns.

In Kisumu, public forums on budget decisions were welcomed by citizens interviewed during the analysis process.

However, while administrations in Isiolo and Kisumu counties both claimed they were active in promoting and guaranteeing public participation, this perspective was not shared by the vast majority of community members interviewed during the conflict analysis process. Positive efforts to support greater public participation should be accompanied by measures to legally enshrine this participation and by effective communication strategies and institutionalisation of processes that facilitate participation. In both Isiolo and Kisumu, communications about the avenues available for citizen participation remained weak, resulting in relatively low public awareness and engagement in established structures and process. In Isiolo, awareness of the SMS number was low at community level, and the communications strategy used to disseminate the number unclear.

Some participants reported a broader lack of trust in consultative processes which should be urgently addressed, claiming consultations that have taken place to date were either done as a formality or only involved those politically or ethnically aligned to the administration, in some instances describing it as 'favour' to be invited. In Kisumu there was a strong perception from some that participants were 'hand-picked' to participate in consultations, and that their choice was based on their affiliations with the county administration. In this regard, building trust between county administrations and citizens as well as across groups remains an imperative if counties are to maximise the input of citizens into decision-making processes and respond effectively to citizens' needs and concerns. This should extend to providing information about the selection process for limited consultations and, as far as possible, inviting the widest possible engagement and participation from the public. This will help in dispelling fears about the reasons behind consultation, but will also help to strengthen confidence in the decisions that are taken on the basis of that consultation or engagement. For example, while a bursary programme for poor children in Isiolo county was lauded as an important use of county funds, the disbursement of funds under the programme, particularly the identification of eligible children, remained unclear to many, which led to concerns as different children were allocated different amounts.

Another critical gap remains broader civic education on the rights and responsibilities of citizens, and the means by which they can participate in local governance, as well as on the functions of the county government. In Isiolo and Kisumu, this was identified as a significant gap, and one which contributed to the lack of public engagement in existing structures. Communities need to understand the role they have to play in decision making in order to exercise it,

otherwise supporting their engagement will remain challenging for all parties involved.

Recommendations

- Support the establishment of accountability mechanisms that involve members of the public. This could include specific complaints feedback mechanisms and inter-community or inter-ward accountability teams involving both the authorities and public representatives.
- Set out clearly in guidelines that any and all public committees are representative of all areas and ethnic groups. The selection criteria for community representatives who will be involved in implementation of projects should be transparent and communicated to the broader public.
- Prioritise citizen participation and access to information legislation to ensure that these principles are legally binding at county level.
- Support civic education programmes which emphasise the roles and responsibilities of citizens under the Constitution and the role of the county government in supporting their effective participation.

3. Support efforts to address real or perceived ethnic or clan hegemony in county administrations

The conflict analyses in all three counties emphasised strong perceptions of ethnic or clan dominance of county elective and administrative positions and in the allocation of county development funds. In Marsabit during the 2013 elections, a coalition of ethnic groups coordinated to share elective positions amongst themselves and exclude the majority Borana ethnic group, who have traditionally dominated local politics. In Kisumu, there were concerns about a perceived Luo domination of local politics, and networks of political patronage that have stifled the development of local political leaders. In Isiolo, a system of negotiated democracy assigned elective positions across the ethnic groups resident in the county, but this has not necessarily served to improve community relations and historical tensions between various groups remain.

Perceptions of ethnic or clan dominance affect interpretations of funding or resource allocations. In Isiolo, for example, there were concerns that the majority of development initiatives were concentrated around Isiolo town, and while this was in part attributed to transition into devolution, there were concerns that neglected areas overlapped with existing conflict fault lines – that is, interior areas of

the county which are associated with ethnic groups that felt left out of decision-making in the county. In Marsabit, there were concerns from Borana people about development projects being concentrated in areas of the county dominated by the Gabra community and were being used to strengthen Gabra economic resources. In Kisumu, there are concerns about county contracts and jobs being allocated to individuals from specific Luo clans and a lack of open competition in tender processes, leading to concerns about potential corruption. If not directly addressed, these concerns risk undermining the legitimacy of county administrations by reducing public confidence in administrations' willingness and ability to act in the best interests for all of their citizens.

It is important to note that not all of these issues are necessarily linked to ethnicity, but the perception that they are is alarming in and of itself. There is need for greater transparency across a range of county government functions. This should cover development project planning, including the identification of beneficiaries, associated procurement and fund disbursement in order to dispel perceptions of bias and remove any actual bias which may exist in some of these processes. In this regard, transparency and communications are crucial; but these perceptions also speak to the urgent need to commence social cohesion initiatives. These have largely been confined to election periods in Kenya, but increasingly the historical mistrust and enmity that exists between ethnic groups is undermining effective local governance – broader and longer-term reconciliation strategies which build social cohesion at county level will be vital in this process.

Recommendations

- Support reconciliation efforts at cross-county, county, sub-county, and ward levels. This should particularly focus on outreach to communities who feel they lost out in the general elections.
- Regularly convene inclusive meetings in order to assess and understand changes to local dynamics, particularly changes that could potentially cause tensions within the county, and use this to guide programming decisions and implementation.
- Require that all committees and consultation processes include representatives from all areas and all identity groups and that the selection criteria for community representatives should be transparent and communicated widely.
- Support the development of guidelines for information sharing about the rationale used to determine resource and service distribution.
- Conduct a civic education campaign to challenge negative ethnic attitudes, to encourage the reporting of politicians who

engage in inciting ethnic hatred or who promote negative ethnic sentiments, and promote social cohesion.

- Facilitate the identification of guidelines on the transparency in the recruitment and vetting of county employees and officials and tendering processes to dispel concerns about ethnic dominance.
- Monitor and publicly report on the gender and ethnic balance within the county and take steps to ensure employment is open to citizens of all ethnic groups in the county.

4. Enhance peace and security structures at all levels within the county

The Constitution and subsequent enabling policies and legislation provide for the establishment of formal peace and security structures to be established nationally, as well as at county, district, and village levels. These are intended to formalise a range of existing informal structures, such as peace committees, and ensure information sharing and coordination between different levels of authority, as well as to build systems for people to share information and participate in decision-making on security and peace issues that affect their lives.

However, these have not as yet been established in many counties, including Marsabit, Isiolo, and Kisumu, limiting formal coordination, with the potential to impede efforts to address emerging peace and security concerns. Instead, what is in place is a series of informal structures which attempt to monitor and respond to developing conflict issues at a local level. Across Marsabit, Isiolo, and Kisumu, this includes peace committees at various levels, traditional elders, and religious leaders. These rely largely on funding received through non-governmental organisations, are linked to specific types of events or incidents, rather than monitoring tensions more broadly, and do not have formal reporting or coordination links with the authorities in the areas in which they operate, undermining their overall effectiveness. Information is not always shared within a coherent or transparent network or reporting chain – information about potential local conflicts does not always reach decision-makers at the national level who have the overall responsibility for coordinating any potential response, meaning that these responses often come once violence has already begun, rather than to prevent it. They are often also piecemeal and unsustainable.

For example, in Marsabit, peacebuilding efforts that came in the immediate wake of violent confrontations between late 2013 and early 2014 have not been sustained. As a result, the situation remains tense,

and increased security patrols which have continued can only impose a negative peace by preventing people from becoming violent rather than addressing the causes of conflict. In Kisumu and Isiolo, although peacebuilding is ongoing, projects are tied to specific events or types of incidents, including elections and cattle rustling, among others. This serves to limit the ability of actors, including the authorities, to positively intervene to prevent tensions from turning violent and promote peace in the longer term.

Recommendation

- Establish key institutions, particularly the County Peace Forums in all remaining counties, including Marsabit, Isiolo, and Kisumu, and the County Policing Authorities without any further delay and ensure they are equipped with all necessary resources to carry out their role.

Acknowledgements

Saferworld would like to thank UKAID for their financial support.



About Saferworld

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. We work with local people affected by conflict to improve their safety and sense of security, and conduct wider research and analysis. We use this evidence and learning to improve local, national and international policies and practices that can help build lasting peace. Our priority is people – we believe that everyone should be able to lead peaceful, fulfilling lives, free from insecurity and violent conflict.

We are a not-for-profit organisation with programmes in nearly 20 countries and territories across Africa, the Middle East, Asia and Europe.

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