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Influence of the Kenya Constitution on Revenue Allocation Formula in Kenya

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ABSTRACT
Federations distribute expenditure responsibility and public service delivery to sub-national levels of government, but each country's approach is influenced by historical, cultural, institutional factors, and legal-judicial interpretations. These are usually anchored in the country's Constitution. The Constitution of Kenya adopted in August 2010, although does not mention the word federal, established two orders of government; a national government and 47 counties which are guaranteed by the constitution. This paper sought to establish the constitutional guide in the revenue allocation formula in Kenya. The study adopted a cross sectional survey research design. A survey was considered most appropriate in establishing characteristics and relationships between key variables and in facilitating collection of relevant information whose results are to be generalised to a defined larger population. The population of this study consisted of the 47 counties established by the Kenya constitution 2010. A sample size of nine (9) counties representing 19.15% of the total population was used. The study used cluster random sampling technique to provide a fair representation of the county governments. Data was analysed using Descriptive statistics, Principle Component Analysis, Analysis of variance and Communality Analysis. The findings revealed that indeed there is a positive correlation between the constitutional guide and the revenue allocation Formula for the devolved governments in Kenya. This confirms that the constitution plays a critical role in determining the revenue allocation formula.
Keywords: Federations, Constitution, Revenue Allocation, Devolution, Fiscal Responsibility, Regimes.

INTRODUCTION

Revenue allocation in post independent Kenya can be traced from 1963 when Kenya attained independence. During President Kenyatta era (1963–1978), the country's broad development environment was governed by a development blueprint contained in the *Sessional Paper No. 10 of 1965.* This provided a strategy that involved concentrating the small national investment capacity in the areas with the greatest absorptive capacity, with mere surpluses being directed to marginalized areas (ROK, 1965).

Another significant moment in the Kenyatta years was the release of the Public Service Structure and Remuneration Commission report in 1971 – popularly known as the Ndegwa Report (ROK, 1971) – which sanctioned public officers' participation in private business, potentially undermining integrity over their management of state resources. The report implicitly permitted – or at least facilitated – the award of government contracts under serving officers' stewardship to their own companies. Halfway through his tenure in 1971, Kenyatta introduced the Special Rural Development Programme (SRDP), which was launched in only 5 of the 15 arid and semi-arid districts originally targeted (Ergas, 1982). Weak government support was evident in the poor implementation of an initiative characterized by excessive donor dependence, which in turn undermined grassroots participation. Nonetheless valuable lessons were learnt (although not necessarily optimized) about integrating agriculture strategies with rural development strategies (such as in the rural works programmes).

The dynamics of inequalities during the years of President Moi's reign (1978–2002) were different from those of the founding president in significant ways, even though the second president fundamentally followed his predecessor's footsteps. During his years in office, poverty in Kenya reached its highest levels since independence. While his mid-1980s District Focus for Rural Development (DFRD) planning strategy could have focused the spotlight on grassroots development bottlenecks, its full implementation would have taken attention away from a highly narcissistic individual whose exploits typically accounted for more than half the news broadcasts on the monopoly national broadcaster.

President Kibaki's tenure (2003-2013) saw extensive economic revival, based on growth in tourism, construction, roads and telecommunications sectors. But this revival has barely diminished poverty and regional inequalities, both of which have traditionally driven demands for devolution. GDP growth rose from 2.9 per cent (2003) to 7 per cent (2007), and per capita income declined to Ksh31,900 in the years to 2003, then rose to Ksh36,000 by 2007 (KIPPRA, 2009). However, this did not end well with the 2008 post election violence which watered down the gains made in NARC's first term in office.

Kenya's 1963 Constitution did not provide for revenue sharing between national and subnational governments, a situation that led to under-provisioning at these lower levels of government, affecting their service delivery. This position has been reversed in the new Constitution, which entrenches fiscal devolution that provides for sharing of both the revenue base and the nationally collected revenues.

RESEARCH METHODOLOGY

The study used cross sectional survey study. This design enabled the study collect data using questionnaires. Face to face Interview were conducted with county government officers to collect data. The study adopted the causal survey research because the data gathered was quantitative and qualitative in nature as well as pre-planned and structured. This helped in attempting to explain the cause and effect relationship between the constitutional influence and the revenue allocation formula. In the end this design helped to understand which variables were the cause and which variables were the effects. It also helped to determine the nature of relationship between the causal variables and the effect predicted. In their studies Sergio (2001), GAO (2001), Moore (2011), Spencer (2012), Rossi and Dafflon (2012) used the causal survey research method to determine the effects of parameters in revenue allocation and also calculate the indices used in determining parameter weights.

LITERATURE REVIEW

Kenya's counties enjoy a constitutional guarantee that at least 15 percent of national revenue will be handed over unconditionally, but the definition of the base has not always been clearly agreed upon (ROK, 2010). First, the definition of the universe of national revenues was initially the subject of some debate. Second, although the Constitution is clear that the formula will be applied to the last audited set of accounts, the implied lag in base years does not appear to be always well understood in policy circles (and much less the media or the public who understand the 15 percent as applying to the current year's budget). The ultimate definition of the base may not matter so much, although some choices appear more rational. To the extent that the CRA has the ability to recommend any percentage for the unconditional equitable share above the ceiling of 15 percent, it has the flexibility to determine what combination of base and rate corresponds to the targeted level of unconditional transfer. The CRA Act, currently the only legal definition of the base, appears sensible to the extent that it includes the main sources of revenue (tax and non-tax revenues), but excludes donor funding, appropriations in aid, domestic borrowing and 'revenues' linked to dedicated funding schemes (such as RLMF and LATF). Because the equitable share is guaranteed in terms of a percentage (and not an amount), including highly volatile elements in the base (such as domestic borrowing or donor funding) that would be detrimental to the predictability of transfers to counties. Moreover, it would make little sense to re-channel to counties on an unconditional basis, funds that are collected (internally or externally) with specific purposes in mind, such as donor funds or earmarked funds such as RMLF or LATF (ROK, 2012).

The Constitutional provisions on how to calculate the revenue base for the equitable share, referred to as 'national revenue', have caused some confusion because it is not entirely clear which revenues should be included. In particular: Article 202(1) refers to *"revenue raised nationally"* (the phrasing here implies a consideration for revenues raised in the whole nation rather than by one level of government). Article 203 refers to *"all revenue collected by the national government"* (this might be interpreted to include donor funds, funds from domestic borrowing and AIAs). Article 206 describes the money that should go into the consolidated fund as *"all money raised or received by or on behalf of the national government"* (again this might be interpreted to include donor funds, funds from domestic borrowing and AIAs) (ROK, 2010). During 2011 this ambiguity was exacerbated when two alternative definitions of national revenue were put forward in the Commission on Revenue Allocation (CRA) Act and the Intergovernmental Fiscal Relations Bill. The latter has now been dropped and the definition included in the CRA Act (Section 2(1)) is now accepted, namely that: *"'revenue' means all taxes imposed by the national government under Article 209 of the Constitution and any other revenue (including investment income) that may be authorized by an Act of Parliament, but excludes revenues referred to under Articles 209(4) and 206(1)(a)(b) of the Constitution."*(ROK, 2011)

The revenues excluded from the CRA Act definition referred to in Article 209(4) relate to fees and charges of national and county governments for services and those in Article 206(1) relate to money excluded from the Consolidated Fund by an Act of Parliament and payable into another public fund.

Article 201 of the Constitution sets the following principles to guide all aspects of public finance in the Republic (a) there shall be openness and accountability, including public participation in financial matters; (b) the public finance system shall promote an equitable society, and in particular, (i) the burden of taxation shall be shared fairly, (ii) revenue raised nationally shall be shared equitably among national and county governments; and (iii) expenditure shall promote the equitable development of the country, including by making special provision for marginalized groups and areas; (c) the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations; (d) public money shall be used in a prudent and responsible way; and (e) financial management shall be responsible, and fiscal reporting shall be clear (ROK, 2010).

RESULTS AND INTERPRETATIONS

The study sought to establish the influence of the constitution on revenue allocation in Kenya, most of the respondents agreed that minimum revenue allocation to county governments of 15% of all revenue collected nationally is sufficient as provided for by the Kenya Constitution 2010 (58.33%), the mandate

Table 1.1: Constitutional Influence Statistics

	Agree Percent (%)	Neutral Percent (%)	Disagree Percent (%)
The minimum Revenue allocation to county governments of 15% of the GDP is sufficient.	58.33	12.72	28.95
The mandate/powers conferred on the Commission for Revenue Allocation in revenue allocation are sufficient	39.04	28.07	32.89
County revenue taxes are adequate in running county governments	22.37	21.93	55.70
Marginalized areas are adequately catered for by the current constitution	38.59	28.95	32.46
The role of the senate in revenue allocation is sufficiently provided for in the constitution	38.16	26.75	35.09
Equalization fund is sufficiently addressed by the constitution	42.98	30.70	26.32

conferred on the Commission for Revenue Allocation in revenue allocation are sufficient (39.04%), The County revenue taxes are adequate in running county governments (22.37%), Marginalized areas are adequately catered for by the current constitution (38.59%), The role of the senate in revenue allocation is sufficiently provided for in the constitution (38.16%), Equalization fund is sufficiently addressed by the constitution (42.98%). The results of the respondents are presented in Table 1.1

Weighted Mean Statistics for Constitutional Influence on Revenue Allocation

The mean and standard deviations for constitutional influence on revenue allocation are indicated in table 1.2. As discussed in chapter three the mean range used in the study is 0 to 5 inclusive. The mean obtained for the findings are between 2 and 3. The scale 2 is valid extent and 3 moderate. We can conclude the findings are valid since the means of the data obtained are within acceptable range.

The standard deviation is used to measure how concentrated the data are around the mean. The more concentrated the data, the smaller the standard deviation. A small standard deviation means that the values in a statistical data set are close to the mean of the data set. The findings as shown in table 1.2 indicate that all the standard deviations are close to 1 for all the data findings. This implies all the data sets are concentrated around the mean scores hence valid for interpretations.

Table 1.2: Weighted Means Constitution

	N	Mean		Std. Deviation
		Statistic	Std. Error	
The minimum Revenue allocation to county governments of 15% of the GDP is adequate.	228	2.09	.083	1.245
The mandate/powers conferred on the Commission for Revenue Allocation in revenue allocation are sufficient	228	3.19	.093	1.147
County revenue taxes are adequate in running county governments	228	3.63	.062	1.135
Marginalized areas are adequately catered for by the current constitution	228	2.58	.087	.967
The role of the senate in revenue allocation is sufficiently provided for in the constitution	228	2.48	.091	1.081
Equalization fund is sufficiently addressed by the constitution	228	2.10	.088	1.113

Standardized Coefficients on Constitutional Influence on Revenue Allocation

Standardized coefficients beta was used to interpret the relative ranking of the factors in the model. It refers to how many standard deviations a dependent variable will change, per standard deviation increase

Table 1.3: Coefficients of Constitutional Influence

Model	Unstandardized Coefficients		Standardized Coefficients	T	Sig.
	B	Std. Error	Beta		
(Constant)	17.130	2.214		7.381	.000
Constitutional influence on revenue Allocation	.435	.073	.308	4.898	.000

in the predictor variable. Standardization of the coefficient is usually done to answer the question of which of the independent variables have a greater effect on the dependent variable in a multiple regression analysis, when the variables are measured in different units of measurement. As shown in table 1.3 the standardized coefficient indicates that the constitutional influence on revenue allocation is significant with a positive beta coefficient of 30.8%, which further confirms that constitutional influence

on revenue allocation, has a positive influence on the revenue allocation model for the devolved government of Kenya.
Using the summary presented in Table 1.3, a linear regression model of the form, $Y = \alpha + \beta X_i$ can be fitted as follows:

$$Y = 17.130 + 0.435X_1 + \mu$$

Pearson Correlation Coefficient for Constitutional influence on Revenue Allocation

Pearson's Correlation indicates the extent of interdependence between two variables. As already noted from Table 1.4, there is a 30.8% positive correlation between constitutional influence on revenue allocation and the revenue share per county in Kenya. The Pearson correlation coefficient is shown in table 1.4

Table 1.4: Pearson Coefficients for Constitutional influence on Revenue Allocation

		Revenue Allocation Per County	**Constitutional influence on Revenue Allocation**
	Pearson Correlation	1	.308
Revenue Allocation per County	Sig. (2-tailed)		.000
	N	228	228
	Pearson Correlation	.308	1
Constitutional influence on	Sig. (2-tailed)	.000	
Revenue Allocation	N	228	228

Table 1.4 indicates that constitutional influence on revenue allocation is statistically significant since its p-value is less than .05 (*p*-value =.000).

Regression analysis for Constitutional influence on Revenue Allocation

In order to rank the various factors in the order of their ability to influence revenue allocation, the study utilized regression. R is a measure of the correlation between the observed value and the predicted value of the criterion variable. R Square (R^2) is the square of this measure of correlation and indicates the proportion of the variance in the criterion variable which is accounted for by our model. In essence, this is a measure of how good a prediction of the criterion variable we can make by knowing the predictor variables. However, R square tends to somewhat over-estimate the success of the model when applied to the real world, so an adjusted R square value is calculated which takes into account the number of variables in the model and the number of observations (participants) our model is based on. This Adjusted R Square value gives the most useful measure of the success of our model. The results show an Adjusted R Square value of 0.074; this means that the model has accounted for 7.40% of the variance in the criterion variable. The findings are shown in table 1.5.

Table 1.5: Model Fitness

Table 2. Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.308[a]	.095	.074	1.118

Analysis of Variance on Constitutional influence on Revenue Allocation

The study used ANOVA to determine the Model Significance. ANOVA assesses the overall significance of the model, determining if the test data fit to the model. A significance value of P<0.05 is allowed. The model has significance value of .000, the model is significant. Table 1.6 presents the result of these findings.

Table 1.6: ANOVA

Model		Sum of Squares	Df	Mean Square	F	Sig.
1	Regression	29.011	5	5.802	4.639	.000[a]
	Residual	277.668	222	1.251		
	Total	306.680	227			

Based on the empirical results presented in Table 1.6, the Null Hypothesis (H_0) is rejected and a conclusion reached that, at 5% level of significance, The Kenya Constitution plays a significant role in revenue allocation model for the devolved governments in Kenya. These results are in agreement with the findings of Borck (2005) which revealed that a notable characteristic of the German federation is the extensive constitutional and political interlocking of the federal and state governments. Similar findings were observed in South Africa where the Constitution did not leave the important matter of budget resource allocations to be subjected to the vagaries of day-to-day political machination (Morobe, 2001). In Nigeria the assignments of fiscal instruments are guided by constitutional provision. The federal constitution gave the federal government exclusive power to collect levies like customs and excise, company tax, education tax and mining rents, VAT etc. All these revenues (with the exception of education tax) are paid into the federation account for distribution among the three tiers of government in line with national constitution (Anderson, 2007). Theoretically this supports the legal theory of finance which states that the financial status of a country and its economic development is related to the legal system of that specific country. The legal system of any country is anchored on its constitution. Constitutional influence in revenue allocation is therefore a Key factor in determining the revenue share to the devolved governments in Kenya.

CONCLUSIONS AND RECOMMENDATIONS

The study sought to establish if the Kenyan Constitution 2010 influences revenue allocation to Counties in Kenya. The findings revealed that indeed there is a positive correlation between the constitutional guide and the revenue allocation Formula for the devolved governments in Kenya. This confirms that the constitution plays a critical role in determining the revenue allocation formula. Based on the empirical results from this study, the Null Hypothesis (H_0) is rejected and a conclusion reached that, at 5% level of significance, the Kenyan Constitution has an influence on revenue allocation in Kenya.

It was established that the Kenya Constitution plays a major role in determining the parameters to be used in revenue allocation formula in Kenya. Further, a linear regression model combining all the independent variable and the moderating variable were fitted. The results indicate that the beta coefficients of all the independent variables, were positive, demonstrating that they all have a positive contribution to the dependent variable, revenue allocation formula in Kenya. Based on the study findings and conclusions, the study recommends that the CRA Parameters be enhanced so that their impact on the revenue allocation formula meets the basic principles of equity.

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