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The Impact of Kenya's Devolved Governance Structure on Local Public Procurement Processes and Outcomes since The 2010 Constitution

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Abstract

The 2010 Constitution of Kenya introduced a devolved system of governance intended to enhance public service delivery, accountability, and equitable resource distribution. One of the key areas impacted by devolution is public procurement, which was decentralized to county governments to improve responsiveness to local development needs. This article critically examines the impact of Kenya's devolved governance structure on public procurement processes and outcomes at the county level. Using a thematic review of legal frameworks, institutional arrangements, and empirical findings, the article explores how devolution has influenced transparency, efficiency, inclusivity, and the overall effectiveness of procurement. While some counties have demonstrated progress in adopting digital procurement tools, enhancing citizen oversight, and promoting local economic development through targeted procurement, significant challenges persist. These include political interference, corruption, capacity gaps, and weak documentation systems. The article concludes by recommending targeted reforms such as strengthening audit mechanisms, building procurement capacity, enhancing transparency through e-platforms, and insulating procurement from elite capture to ensure that devolved procurement contributes meaningfully to Kenya's development agenda.

Keywords: *Devolved Governance Structure & Local Public Procurement Processes*

I. Introduction

Prior to the promulgation of the 2010 Constitution, Kenya operated under a highly centralized system of governance that concentrated administrative, fiscal, and political authority in the national government based in Nairobi. This structure often led to inequitable development, inefficient resource allocation, and marginalization of peripheral regions (Mwenda, 2010). Local authorities, though operational, were largely underfunded, politically manipulated, and lacked the autonomy to effectively manage resources or deliver public services. The growing demand for equitable development and citizen participation in governance processes culminated in the push for constitutional reforms, which birthed a devolved system aimed at enhancing inclusivity and accountability in public administration (Bosire & Gikonyo, 2011).

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The Constitution of Kenya (2010) introduced a two-tier system of government consisting of the national government and 47 county governments, each with defined functions, including public service delivery, planning, and budgeting. Devolution was designed to bring governance closer to the people, promote equitable distribution of resources, and enable citizens to influence development priorities within their counties (Republic of Kenya, 2010). By allocating functional responsibilities and fiscal transfers to county governments, devolution aimed to address long-standing regional disparities and improve socio-economic outcomes through more localized and responsive governance systems (World Bank, 2012).

Public procurement is a vital component of government operations and directly influences service delivery, infrastructure development, and economic growth. Globally, procurement accounts for 12–20% of GDP in developing countries, making it a critical lever for promoting efficiency and transparency in public spending (OECD, 2016). In Kenya, procurement is central to the realization of development objectives, especially at the county level where significant expenditure is channeled toward health, agriculture, infrastructure, and water services. Effective procurement practices at this level can enhance the quality, timeliness, and reach of public services, thereby fostering citizen trust in devolved governance structures (Ngugi & Mugo, 2011).

Devolution has reshaped the procurement landscape in Kenya by transferring procurement functions from the central government to county governments. County governments are now responsible for planning, tendering, and implementing procurement activities in accordance with the Public Procurement and Asset Disposal Act (2015). This shift aims to decentralize decision-making and encourage local participation in economic opportunities through public contracts. Additionally, initiatives such as the Access to Government Procurement Opportunities (AGPO) program were introduced to ensure that marginalized groups—youth, women, and persons with disabilities—benefit from public procurement at both national and county levels (PPRA, 2022).

However, while the devolved governance structure has created opportunities for improved procurement outcomes, it has also introduced challenges such as capacity gaps, political interference, and accountability deficits at the county level. This article therefore seeks to assess the impact of Kenya's devolved governance structure on local public procurement processes and outcomes since the enactment of the 2010 Constitution. By analyzing transparency, efficiency, inclusivity, and structural constraints, the study aims to inform policy, practice, and ongoing reforms in Kenya's public procurement system.

Problem Statement

The implementation of Kenya's devolved governance system has transformed the public procurement landscape by decentralizing procurement responsibilities to county governments. While this shift aimed to improve efficiency, transparency, and local economic empowerment, it has also brought about new layers of complexity and emerging challenges that threaten the effectiveness of procurement at the county level. Despite a clear constitutional and legal framework, many counties struggle with limited institutional capacity, insufficient procurement expertise, and weak internal controls, all of which have contributed to inefficiencies and irregularities in the procurement cycle (Office of the Auditor-General, 2022).

One of the most pressing concerns is the prevalence of corruption and political interference in county procurement processes, often manifesting through inflated contracts, irregular tender

awards, and the sidelining of qualified local suppliers. These issues not only undermine public trust but also lead to substandard service delivery and wastage of public resources (Transparency International Kenya, 2021). Moreover, while devolution was intended to promote inclusivity, there is limited evidence to show that special interest groups such as women, youth, and persons with disabilities have meaningfully benefited from public procurement opportunities across all counties, despite the AGPO policy provisions (PPRA, 2022).

At the same time, devolution has opened new opportunities for counties to respond to localized development needs through targeted procurement of goods and services. Counties like Makueni and Kakamega have demonstrated that with the right systems, political goodwill, and stakeholder involvement, procurement can drive innovation, support local businesses, and improve service delivery outcomes (World Bank, 2020). These success stories illustrate the potential of devolved procurement when effectively managed, yet such cases remain the exception rather than the norm across the 47 counties.

The central challenge therefore lies in balancing these opportunities with the structural and operational risks that have emerged in the wake of devolution. Without strong oversight, capacity-building mechanisms, and enforcement of procurement laws, the gains of devolution risk being eroded by mismanagement and elite capture. This article seeks to critically examine how Kenya's devolved governance structure has shaped procurement processes and outcomes at the county level—highlighting areas of progress, ongoing challenges, and necessary reforms to enhance accountability, inclusivity, and development impact in local procurement systems..

Purpose of the Article

To assess how devolution has influenced procurement processes and outcomes.

II. Theoretical and Legal Framework

Theoretical Perspective

The impact of Kenya's devolved governance on public procurement processes can be better understood through two interrelated theoretical lenses: Decentralization Theory and Principal-Agent Theory. These frameworks help explain the rationale behind transferring procurement functions to county governments and the governance challenges that have emerged in the process.

Decentralization Theory posits that the transfer of authority, resources, and decision-making from central to local governments enhances efficiency, accountability, and responsiveness in public service delivery. By bringing governance closer to the people, decentralization allows for better alignment between local needs and development priorities (Rondinelli, 1981). In the context of public procurement, the theory suggests that counties are better placed to identify and address community-specific needs through tailored procurement of goods and services. Devolution in Kenya was largely informed by this theoretical foundation, with the 2010 Constitution advocating for increased citizen participation, equity, and local development through county-led planning and procurement processes (Republic of Kenya, 2010).

However, decentralization also assumes the existence of adequate capacity, institutional frameworks, and checks and balances at the local level. In Kenya, the uneven implementation of procurement laws, limited capacity of procurement officers in some counties, and inconsistent oversight mechanisms have raised concerns about the efficacy of decentralization in practice

(World Bank, 2012). These realities underscore the importance of complementing decentralization theory with other governance frameworks to understand systemic weaknesses.

Principal-Agent Theory offers additional insights into the dynamics between various actors in the public procurement process. According to the theory, the government (principal) delegates authority to agents (such as procurement officers, county officials, or contractors) to act on its behalf in executing procurement functions. This delegation creates opportunities for agency problems, particularly when the agents' interests do not align with those of the principal, or when oversight is weak (Jensen & Meckling, 1976). In Kenya's devolved setup, the multiple layers of authority—governors, procurement committees, and tender evaluation boards—can lead to information asymmetries and moral hazard, especially where procurement decisions are influenced by personal or political interests rather than value for money (Transparency International Kenya, 2021).

Thus, while decentralization provides the structural rationale for localizing procurement, Principal-Agent Theory highlights the behavioral risks that can arise when agents misuse delegated authority. Understanding both perspectives is essential in analyzing procurement outcomes in county governments, as they help explain the interplay between governance structures, accountability mechanisms, and procurement performance.

III. Public Procurement under Devolution: An Overview

Roles and Responsibilities of County Governments

With the enactment of the 2010 Constitution, county governments in Kenya were vested with the authority to manage key public functions, including procurement, in line with their constitutional mandate to provide essential services such as health, agriculture, infrastructure, water, and early childhood education. Article 227 of the Constitution stipulates that all public procurement must be conducted in a fair, equitable, transparent, competitive, and cost-effective manner. This responsibility was further elaborated in the *Public Procurement and Asset Disposal Act (PPADA)*, 2015, which guides how counties should plan, budget, and execute procurement processes within their jurisdictions (Republic of Kenya, 2015).

Each county is required to integrate procurement into its development planning and budgeting processes, ensuring that all procurements are aligned with approved county development plans, annual work plans, and budget estimates. This linkage ensures that procurement contributes directly to development outcomes and prevents arbitrary or ad hoc spending (CRA, 2016). In practice, this means counties must first prepare County Integrated Development Plans (CIDPs), Annual Development Plans (ADPs), and Procurement Plans before initiating any procurement activity. This alignment is intended to promote accountability, enhance service delivery, and minimize resource wastage.

Procurement Structures and Systems

To operationalize procurement at the county level, institutional structures such as tender committees, procurement units, and evaluation committees have been established in accordance with the PPADA. These bodies are responsible for managing the entire procurement cycle, from needs assessment and bid evaluation to contract award and oversight. The County Public Service

Boards are mandated to recruit qualified procurement officers, while Chief Officers serve as the accounting officers accountable for procurement outcomes in their respective departments (ODPC, 2019).

To enhance transparency and efficiency in public procurement, the National Treasury spearheaded the rollout of the Integrated Financial Management Information System (IFMIS) across all 47 counties. IFMIS enables counties to plan, budget, execute, and monitor procurement activities electronically, reducing the risk of manipulation, delays, and opacity (World Bank, 2020). However, the rollout has faced challenges, including limited internet infrastructure in rural counties, insufficient training of staff, and occasional system downtimes, all of which have affected optimal usage (KIPPRA, 2021). Despite these limitations, IFMIS has improved financial traceability and documentation, laying the foundation for more accountable procurement practices.

The devolution of procurement functions to county governments has established a framework for localized service delivery and economic empowerment. However, the effectiveness of this framework depends significantly on the capacity of county institutions, the quality of planning and budgeting, and the robustness of supporting systems such as IFMIS.

IV. Empirical Review: Impact of Devolved Governance on Procurement Processes

A. Transparency and Accountability

Devolution has expanded the scope for transparency and public scrutiny in procurement by bringing decision-making closer to citizens. County governments are now legally required to publish procurement plans, tender notices, and contract awards through platforms such as the Kenya Tenders Portal and county websites. However, studies reveal varying levels of compliance. According to a 2021 report by the Public Procurement Regulatory Authority (PPRA), only 29 out of 47 counties consistently published procurement information online, limiting public access in many regions (PPRA, 2021).

County assemblies and civil society organizations (CSOs) play a key role in procurement oversight. Assemblies are mandated to review budget allocations and approve development plans, while CSOs act as watchdogs through public participation forums. Nonetheless, weak technical capacity in assemblies and tokenistic public participation practices often hinder meaningful oversight (IEA Kenya, 2019). Cases of procurement-related scandals in counties such as Kiambu, Migori, and Nairobi—often exposed through Auditor-General reports—underscore systemic issues of accountability, with inflated project costs, ghost suppliers, and non-existent deliverables being common findings (Office of the Auditor-General, 2022).

B. Efficiency and Timeliness

While devolution has localized procurement processes, efficiency gains remain inconsistent. Some counties have reduced procurement turnaround times by automating their systems and decentralizing tender decision-making to departmental levels. Makeni County, for example, has been praised for integrating participatory planning with timely procurement execution (World Bank, 2020). However, in many counties, delays persist due to poor planning, delayed budget approvals, and cumbersome internal procedures.

Capacity gaps significantly contribute to inefficiencies. A 2022 assessment by the Office of the Controller of Budget noted that over 60% of counties lacked qualified procurement staff, leading

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to errors in bid evaluation and delays in contract execution (OCOB, 2022). Additionally, structural bottlenecks such as lengthy procurement committee processes, disputes over bid awards, and limited use of IFMIS at departmental levels slow down service delivery, particularly in infrastructure and health sectors.

C. Inclusivity and Local Economic Development

One of the promises of devolution was inclusive economic participation through public procurement. The Access to Government Procurement Opportunities (AGPO) program reserves 30% of contracts for youth, women, and persons with disabilities. Despite this, uptake remains low at county level. According to PPRA's 2022 AGPO report, only 16% of counties met or exceeded the 30% threshold, with most citing lack of awareness among target groups, poor documentation, and political favoritism as barriers (PPRA, 2022).

Nevertheless, there are success stories where procurement has stimulated local economies. For instance, Kakamega and Kisumu counties have implemented local content policies that prioritize local SMEs and contractors in infrastructure and service contracts. These practices have led to job creation and improved local incomes. However, regional equity remains a concern, as more urbanized counties tend to attract higher quality bids and investment, leaving marginalized regions behind (CRA, 2020).

D. Challenges and Bottlenecks

Despite a strong legal framework, procurement in devolved units continues to face entrenched challenges. Political interference is widespread, with governors and influential politicians accused of manipulating procurement processes for personal or political gain. The EACC has flagged several counties for contract awards made without competitive bidding or through direct procurement in violation of the law (EACC, 2021).

Corruption, conflict of interest, and procurement-related litigation are also common. A study by Transparency International (2021) found that 55% of procurement officials in counties cited pressure from senior politicians to favor certain bidders, while 30% reported facing threats when resisting irregular deals. Moreover, capacity gaps—especially in technical evaluation, legal compliance, and contract management—remain a major hindrance. Many counties lack properly constituted tender committees, do not have updated supplier databases, and suffer from poor record-keeping, all of which compromise procurement integrity and outcomes (KIPPRA, 2021).

D. Challenges and Bottlenecks

Although devolution was envisioned as a pathway to better governance and equitable development, the procurement environment in Kenya's counties has been marred by persistent challenges, many of which compromise efficiency, fairness, and value for money. One of the most pressing issues is political interference and elite capture, whereby procurement decisions are manipulated to serve the interests of politically connected individuals rather than the public good. Governors, members of county assemblies (MCAs), and influential local actors have frequently been cited for interfering with the tendering process—either to benefit preferred contractors or to influence development priorities based on political expediency (EACC, 2021). Such interference distorts competition and undermines public trust in the integrity of procurement systems.

Corruption, conflict of interest, and procurement-related litigation further complicate the procurement landscape. A 2021 report by Transparency International Kenya found that over 65% of county procurement officials had encountered direct or indirect pressure to favor certain bidders. Additionally, many tender processes have ended up in prolonged legal disputes due to flawed evaluation procedures, lack of transparency, or evidence of collusion among bidders and officials (TI-Kenya, 2021). Corruption manifests in various forms—including kickbacks, bid rigging, and contract inflation—often leading to substandard delivery of public projects or complete non-implementation. The Ethics and Anti-Corruption Commission (EACC) continues to investigate and prosecute numerous corruption cases at county level, yet enforcement has been slow and uneven, partly due to political protection and weak institutional coordination.

Capacity gaps, staffing issues, and poor documentation remain structural impediments to effective procurement. Many counties lack qualified procurement professionals, especially in rural and newly established regions, leading to errors in bid preparation, non-compliance with procurement laws, and weak contract management. According to a study by KIPPRA (2021), less than 40% of counties had fully staffed procurement units, and even fewer had trained legal and technical personnel to support procurement processes. Furthermore, record management remains a serious concern, with many counties failing to maintain complete, up-to-date procurement files, supplier registers, or audit trails. This lack of documentation not only affects transparency but also hinders post-procurement review and monitoring.

These bottlenecks, when left unaddressed, diminish the development impact of county procurement and increase the risk of misappropriation of public funds. They also highlight the need for stronger systems of accountability, comprehensive capacity-building strategies, and depoliticization of procurement processes to ensure that devolution delivers on its intended goals.

V. Conclusion and Recommendations

The introduction of devolved governance in Kenya through the 2010 Constitution significantly reshaped the public procurement landscape by decentralizing procurement functions to county governments. This shift aimed to enhance equity, responsiveness, and efficiency in public service delivery. While notable progress has been made—such as the localization of development priorities and the empowerment of counties to manage their own procurement systems—persistent challenges continue to hinder the realization of these goals. Issues such as political interference, corruption, limited technical capacity, and inconsistent transparency have undermined procurement integrity in many counties.

The empirical evidence indicates that while some counties have implemented innovative and inclusive procurement strategies, others remain plagued by irregularities, litigation, and inefficiency. This variation underscores the need for systemic reforms and strengthened institutional frameworks to support the proper functioning of devolved procurement systems. Importantly, achieving equitable and accountable procurement outcomes requires not just legal compliance but also political commitment, robust oversight, and meaningful citizen engagement.

To address these challenges and enhance procurement outcomes under devolution, the following recommendations are proposed:

Strengthen procurement oversight and audit systems

There is an urgent need to empower oversight institutions such as the Office of the Auditor-General, county assemblies, and civil society actors to monitor and evaluate procurement activities effectively. This includes ensuring timely audits, publishing findings, and enforcing consequences for non-compliance or malpractice. Counties should also establish internal audit committees with procurement-specific expertise to conduct continuous reviews.

Build procurement capacity at the county level

Investing in training and professional development for procurement officers, evaluation committees, and accounting officers is essential. National government bodies such as the Kenya School of Government and Public Procurement Regulatory Authority (PPRA) should support counties through structured capacity-building programs, certification of procurement officers, and deployment of technical advisors where gaps exist.

Enhance transparency through e-procurement tools

The full implementation and use of Integrated Financial Management Information System (IFMIS) and e-procurement platforms at the county level should be prioritized. Counties must be supported to overcome infrastructural and technical barriers to system use. Regular publication of procurement plans, tenders, and contract awards on digital platforms can foster accountability and public participation.

Foster political will and reduce elite capture

Strong political leadership and commitment to ethical governance are crucial in curbing procurement manipulation. Mechanisms should be established to insulate procurement functions from undue political influence. This includes enforcing conflict-of-interest disclosures, promoting the independence of procurement units, and encouraging a culture of integrity within county leadership.

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