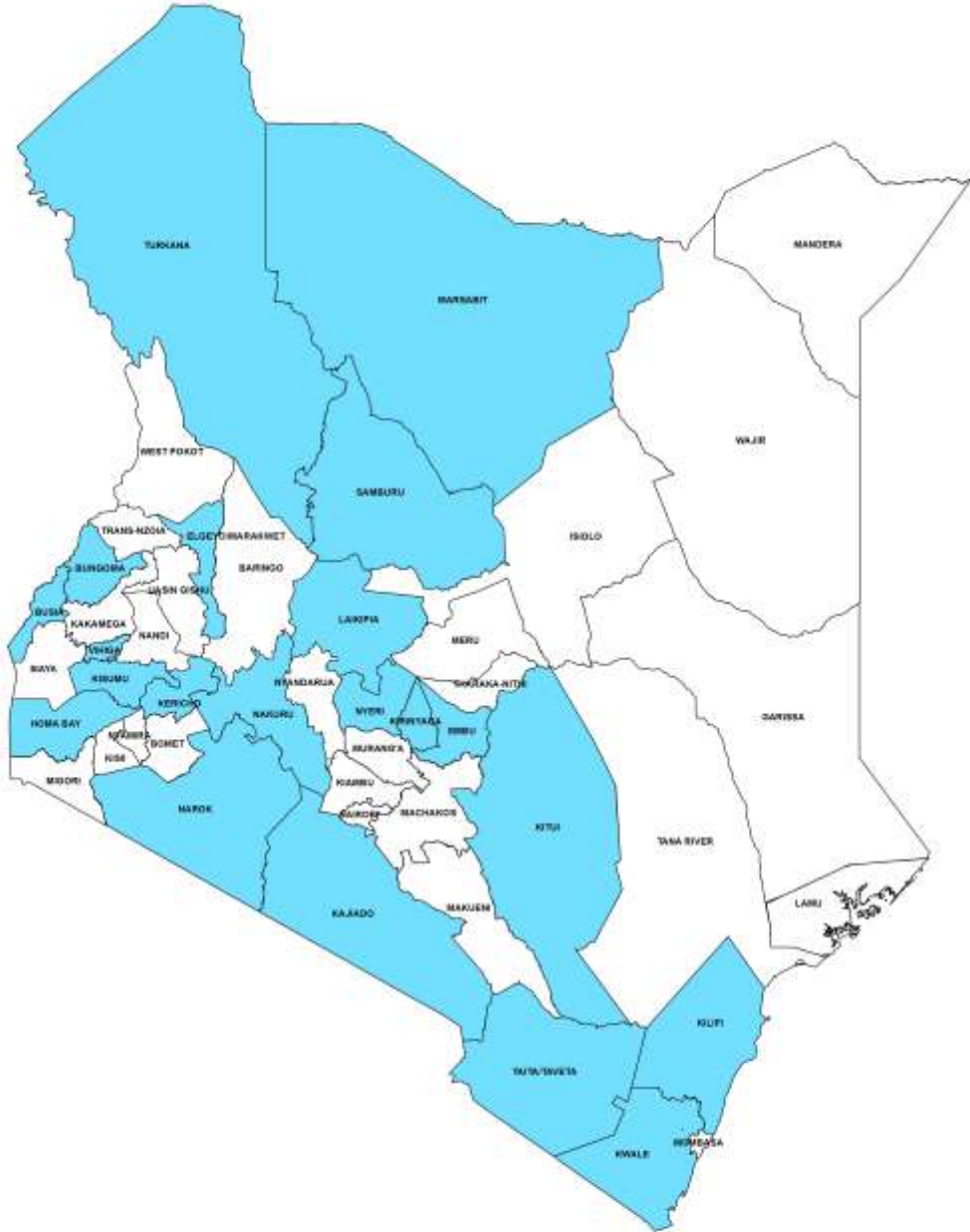




Empowered lives  
Resilient nations



Implementing Partners	Development Partners
<ul style="list-style-type: none"> <li>• Ministry of Devolution and Planning</li> <li>• Council of Governors</li> <li>• Kenya School of Government</li> <li>• Commission for Revenue Allocation</li> <li>• Intergovernmental Budget and Economic Council</li> <li>• Transition Authority (Up to March 2016)</li> <li>• 21 counties*</li> </ul>	<ul style="list-style-type: none"> <li>• Government of the United Kingdom through DFID</li> <li>• Government of the United States of America through USAID</li> <li>• Government of Sweden through Sida</li> <li>• The Royal Government of the Kingdom of Norway through Norwegian Embassy in Kenya</li> </ul>



**KEY**  
 Counties directly supported by UNDP

\* Bungoma, Busia, Elgeyo Marakwet, Embu, Homa Bay, Kajiado, Kericho, Kilifi, Kirinyaga, Kisumu, Kitui, Kwale, Laikipia, Marsabit, Nakuru, Narok, Nyeri, Samburu, Taita Taveta, Turkana, Vihiga



# Results of the UNDP Devolution Support



Siddharth Chatterjee, UN Resident Coordinator, UNDP Resident Representative

On behalf of UNDP Kenya, I am pleased to share some highlights of the results of devolution under our support to the Government of Kenya through the Integrated Support to the Devolution Process in Kenya project (2014 - 2018). This project has been implemented with the invaluable contribution of the Governments of United Kingdom through DFID, the United States through USAID, Sweden through SIDA and the Royal Government of the Kingdom of Norway through the Norwegian Embassy in Kenya. The development partners have been supporting Kenya on the devolution journey, and remain committed to continuing this support. UNDP's support is in collaboration with the national and county governments. The support is derived from the United Nations Development Assistance Framework (UNDAF), which is aligned to the Kenya Vision 2030 and its attendant Medium Term Plan II.

The project's focus is on the following devolution areas: enhancing service delivery through county performance management systems; promoting civic education and public participation; national capacity building through training and curriculum development; policy formulation and legislative drafting support; strengthening county

planning process through County Integrated Plan Reviews, mainstreaming climate change and disaster risk reduction and technical support to spatial planning; gender responsive planning and budgeting; county-to-county peer learning and knowledge sharing. A key and innovative youth development support that UNDP has provided to devolution is the technical assistance to both national and county governments through the United Nations Volunteers in the areas including Public Financial Management, Monitoring and Evaluation and Statistics, Human Resource Management and GIS.

The project is implemented within the UN Delivering as One modality and partners with other UN agencies including UN Women, UNICEF, UNFPA and WFP.

This publication shares some of the results under this project, which have been achieved through the strong partnership of all the stakeholders under the coordination and leadership of the Ministry of Devolution and Planning. Devolution has brought great hope to the people of Kenya, let us collectively and relentlessly continue to work together to ensure that this hope is realized.

## **Kenyans Reiterate that indeed Devolution is working**

Kenyans remain committed to devolution. The support for devolution by citizens has improved from 66% in September 2014 to 77% in September 2016, according to an IPSOS Synovate Survey Report which interviewed 2,067 people. The respondents cited reasons for supporting devolution to be easier/closer access to officials/officers, 35%; Increased Public Participation, 20%; Improved Health Services, 19%; Improved Roads, 11%; Increased Local Employment Opportunities, 10%.

The Business Daily published on Wednesday 7 September 2016 also noted that devolution has brought services closer to the people. *“One of the objectives of devolution is to promote social and economic development and provision of proximate, easily accessible service throughout Kenya. This particular objective is continually being met as the rural areas in Kenya have realized that they can access government and its services without having to travel to the bigger towns or even to the capital”.*

# Devolution Legislation and Model County Laws

The Constitution, under Chapter 11, requires the enactment of a number of laws to operationalize the system of devolved government. Some of the devolution laws that were enacted in the initial stages are: The County Governments Act 2012, The Transition to Devolved Government Act 2012, Urban Areas and Cities Act 2012, The Inter-Governmental Relations Act 2012, and The Public Finance Management Act 2012 (revised in 2014).

Efforts to support the development and dissemination of model county laws and devolution legislation are bearing fruits. Both the Ministry of Devolution and Planning (MoDP) and the Council of Governors (CoG) have supported county governments' efforts to put in place sectoral policies, laws and institutional reforms for effective implementation of devolution. To this end a dual-strategy that entails technical support through a pool of law drafters to develop model legislation and capacity strengthening for counties in legislation drafting has been adopted. Furthermore, MoDP in collaboration with Kenya Law Reform Commission (KLRC), AHADI and other government agencies has also developed model

laws. To date 51 model laws have been developed and were launched during the month of November 2016. The capacity strengthening of counties in legislative drafting is a long term sustainability focus, which is bearing fruits as demonstrated by the fact that counties have established the positions of county attorneys.

The 47 county attorneys have been undergoing training on county legislation and policies drafting, and have also been interacting and collaborating with the members of the pool of experts. All these efforts will progressively and ultimately make counties self-sufficient in legislative drafting. The county attorneys and other county senior staff who have been trained in law drafting have reported ability to give informed and critical input to the legal drafting process. This is a shift from earlier past practices where the experts worked independently with minimal inputs from counties. The county attorneys have formed a forum which has also contributed to the county legislation drafting process by promoting evidence based legislative drafting process through extensive research.



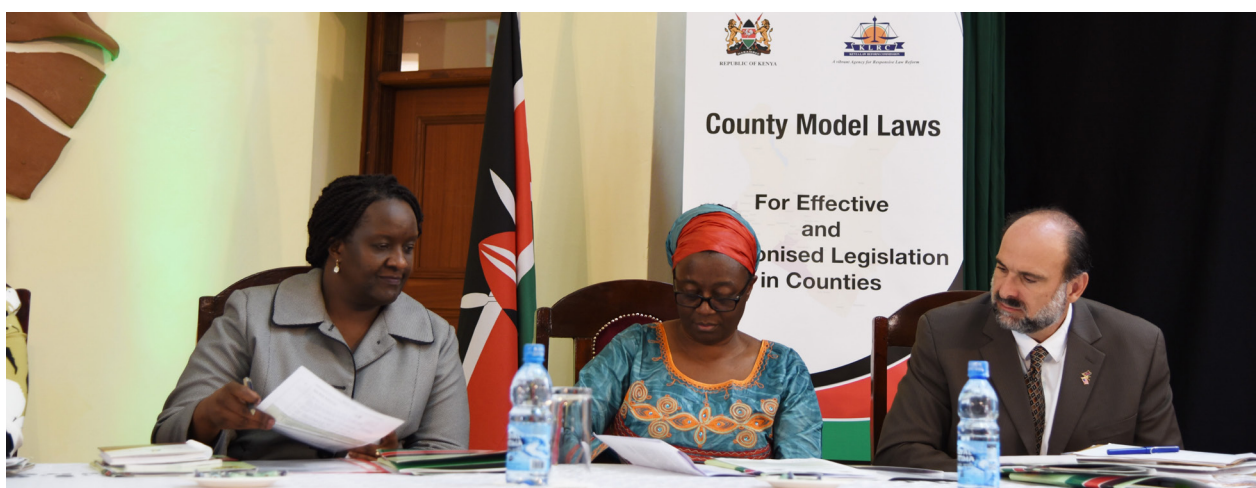
51 model laws launch ceremony at KSG on 16 November 2016

## County Model Laws

1. County Model Law on Revenue Administration;
2. County Model Law on Rating;
3. County Model Law on Public Participation;
4. County Model Law on Trade;
5. County Model Law on Tourism;
6. County Model Law on Co-operatives;
7. County Model Law on Trade/Business Licensing;
8. County Model Law on Liquor Licensing;
9. County Model Law on Early Childhood Education;
10. County Model Law on Child Care Facilities;
11. County Model Law on Public Entertainment and Amenities;
12. County Model Law on Cultural Heritage;
13. County Model Law on Vetting of Public Officers;
14. County Model Law on Fire and Rescue Services;
15. County Model Law on Disaster Management;
16. County Model Law on Agriculture;
17. County Model Law on Public Entertainment;
18. County Model Law on Village Polytechnics;
19. County Model Law on Outdoor Advertising;
20. County Model Law on Public Nuisance;
21. County Model Law on Public Amenities;
22. County Model Law on Transport;
23. County Model Law on Ward Development Fund;
24. County Model Law on Water;
25. County Model Law on Sand Harvesting and Quarrying;
26. County Model Law on County Assembly Service Board;
27. County Model Law on Public Service Board;
28. County Model Law on Small and Medium Enterprise Fund;
29. County Model Law on Abattoirs;
30. County Model Law on Designated Parking Places;
31. County Model Law on Taxi Cab, Wheel Barrow and Cart [Licensing];
32. County Model Law on Omnibus Stations and Parking;
33. County Model Law on outdoor Advertisement;
34. County Model Law on General Nuisance;
35. County Model Law on Waste Management;
36. County Model Law on Livestock Auctions and Sales;
37. County Model Law on Public Markets;
38. Garissa Model Law on County Hawking;
39. County Model Law on Business Permits;
40. County Model Law on Persons Living with Disabilities;
41. County Model Law on Promotion of Primary Health Care;
42. County Model Law on Tourism Development;
43. County Model Law on Horticulture Development;
44. County Model Law on Affirmative Action;
45. County Model Law on Maternal Health Rights Bill;
46. County Model Law on Reproductive Health Rights;
47. County Model Law on Planning;
48. County Model Law on Investment Promotion and Development;
49. County Model Law on Control of Drugs;
50. County Model Law on Animal Welfare; and
51. County Model Law on Agricultural Development Fund.

Some counties are using the model laws to develop county laws and policies. Kilifi County for example, was supported through the project to develop seven bills and regulations to enhance its legal framework. Their enactment which

is underway will promote public participation in decision making, strengthen accountability and effectiveness in the delivery of public service, and enhance service delivery standards.





## Kilifi County has developed 7 laws

1. Regulation for Tax Waivers Administration Act;
2. Regulation for Fund Acts (generic);
3. Health Services Bill;
4. Civic Education Bill;
5. Bill on Fair Trading Practices (Anti-competition law);
6. Physical Planning and Development Bill; and
7. Agriculture Bill.



### Taita Taveta became the first county to adopt the civic education and public participation policy and developing the public participation bill.

Following the launch of civic education curriculum and public participation policy by the Ministry of Devolution and Planning, a joint collaboration between UNDP's Amkeni Wakenya Programme and the Devolution Project, has supported Taita Taveta County to develop the public participation and civic education policies. Through a highly consultative process the County developed a draft civic education and public participation policy and submitted to the Governor's office in July 2016 for concurrence and circulation to stakeholders for feedback prior to validation. This was then followed by a two stage joint validation process by the civil society organizations (CSOs) and county staff of the Department of Devolution and Public Administration first, then the County Assembly. The CSOs and county staff workshop largely endorsed the policy document albeit with minimal inputs. The workshop pointed to the need for the policy and the draft public participation bill to be aligned.

The second stage was to have the County Assembly Members (MCAs) review the policy document and examine the contents of the Draft Public Participation Bill. The MCAs endorsed the Draft Policy Document but proposed fundamental changes to the Bill in order to ensure congruence with the policy.

The changes proposed were: (i) Revision of the institutional framework for managing public participation processes by doing away with an independent committee and instead vesting responsibility with the County Secretary and County Assembly Clerk for facilitating and coordinating public participation and civic education within the county executive and county assembly respectively; (ii) Provide for additional platforms and mechanisms of public participation such as holding monthly county public participation day, establishment of project oversight committees, accreditation of diaspora associations and county referenda; (iii) Provide for adequate financing of public participation and civic education through establishment of a fund for that purpose and ensuring linkage of stakeholder engagement plans with the county budget and planning processes; and (iv) Provide adequate mechanisms for feedback and complaint handling related to public participation.

In the final phase of this process, UNDP devolution project has supported the county with technical support through the Kenya Law Reform Commission (KLRC) to assist a joint secretariat comprising of county executive and county assembly to work on the proposed amendments so that the bill is presented to the Assembly. The relevant departmental committee has resolved to ensure the Bill is adopted before the end of the current session in early December 2016.

# Devolution Policy gets Approved

## 2

The approval of the Devolution Policy by the Cabinet in October 2016 is a profound milestone for the devolution process. It is a core principle of good governance that policy should precede legislation but in the case of devolution laws, there was no policy in place. The main framework underpinning implementation of devolution in the absence of a national policy has been the “Report of the Taskforce on Devolved Government, 2011” and “Sessional Paper on Devolved Government in Kenya, 2011”.

The Ministry of Devolution and Planning in a highly consultative and participatory process has worked with stakeholders to develop a national policy on devolution, which was approved by the Cabinet in October 2016. The overall goal of the policy is to promote involvement and public participation in decision making, strengthen accountability and effectiveness in the delivery of public service, and enhance the capacity of all levels of government to deliver on their mandate. The policy will: clarify the status, roles and relationships between the two levels of government and the different actors; strengthen the participation and contribution of non-state actors in governance; enable quality public service delivery;

promote public participation and citizen engagement in governance; and encourage a rights-based orientation to development at all levels.

This policy is founded on the Sovereignty of the People of Kenya, Supremacy of the Constitution, National Values and Principles of Governance, the Bill of Rights, the Objects of Devolution and the Principles of Devolved Governments. It intends that devolution will attain its stated objects under Article 174 of the Constitution, which are to: Promote democratic and accountable exercise of power; foster national unity by recognizing diversity; give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them; recognize the right of communities to manage their own affairs and to further their development; protect and promote the interests and rights of minorities and marginalized communities; promote social and economic development and the provision of proximate, easily accessible services throughout Kenya; ensure equitable sharing of national and local resources throughout Kenya; facilitate the decentralization of State organs, their functions and services, from the capital of Kenya; and enhance checks and balances and the separation of powers.

### The Values of the Devolution Policy

- D** Development First
- E** Equitable Sharing of National Resources
- V** Vigour and Vitality in the pursuit of the Objects of Devolution
- O** Open and Accountable Governments
- L** Leveraging on the strength of each County
- U** Unity of Purpose
- T** Tapping into local resources
- I** Involvement of all Kenyans in their Diversity
- O** Organised and Effective Governance
- N** No turning back on Devolution

### The Policy is Anchored on 11

#### Inter-linked Pillars

1. Capacity Building for Devolved Governance
2. Leadership and Governance
3. Decentralized (Devolved) Units
4. Public Service Transformation
5. Public Finance Management
6. Inter-Governmental Relations
7. Public Participation in Governance
8. Civic Education
9. Public Communication
10. Equity and Inclusivity
11. Management of Transfer of Responsibilities, Powers, and Functions between the National and the County Governments

## Capacity Building Interventions

The programme is supporting capacity building and change management programmes aimed at strengthening institutional and human capacities at national and county levels. Counties have been supported with equipment to enable them set up systems and process for efficiency and effective service delivery. Furthermore, the project has supported the Kenya School of Government (KSG) towards developing curricular to support counties' human resource capacity strengthening. Counties in collaboration with the KSG, have rolled out the curricular.

The capacity building interventions through the project have been through a combination of training, mentoring and coaching and limited but targeted external learning. To date a total of 6,823 (2,104 women and 4,719 men) national and county governments' officers have been reached by at least one capacity building intervention.

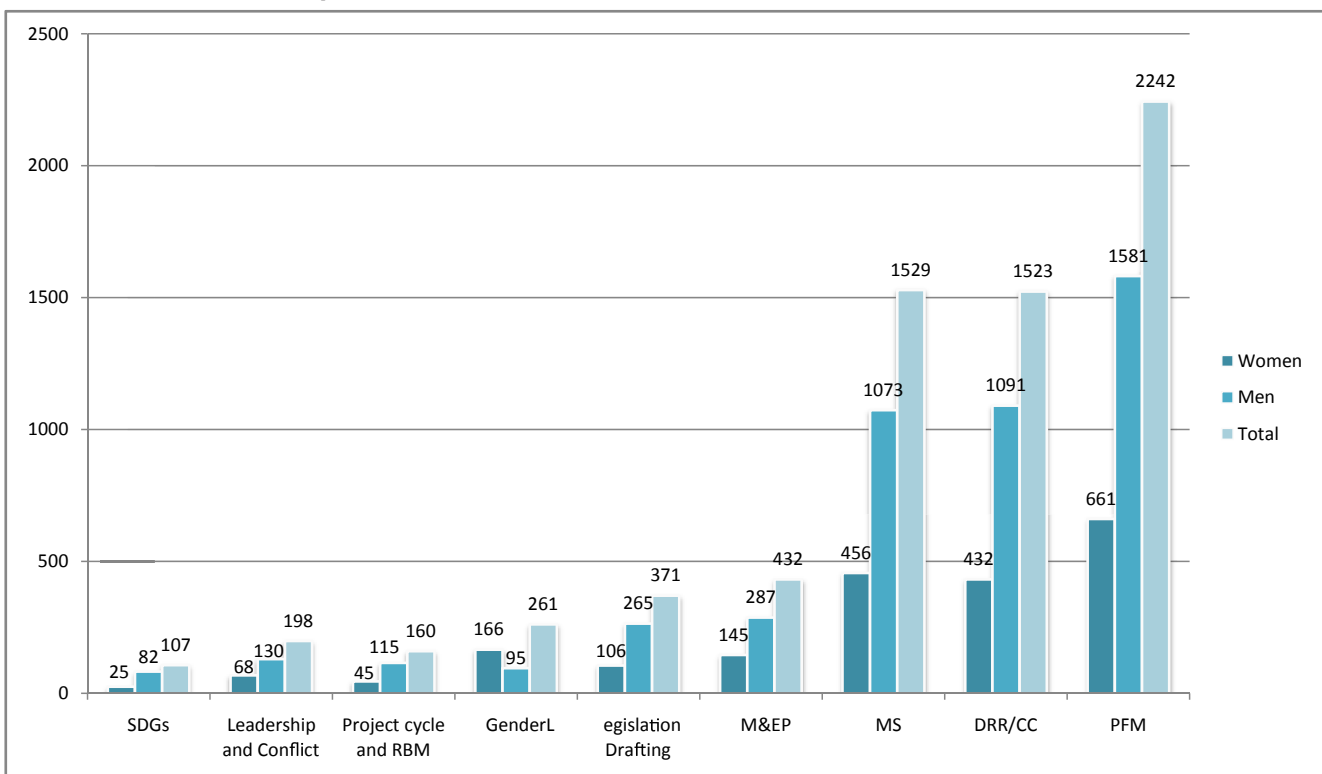
### Impact of the Training Interventions

Some of the reported impact of the training by the counties include:

- compliance with budget making and reporting process leading to county budgets being approved on time;
- development of county indicator handbooks that feeds into the county monitoring and evaluation process;
- enhanced capacity in policy formulation and legislation drafting;
- localization of SDGs by Taita Taveta county;
- improved service delivery resulting from implementation of performance management system (PMS) including performance contracting;
- improved responsive gender budgeting process at both national and county level;
- improved participation of women in county issues and more women reporting intention to vie for political positions in particular in Taita Taveta County;
- enhanced public participation in budget and policy making process;
- improved county spatial planning and preparedness for disaster risks; and
- reduced inter-communities' conflict reported in Samburu County.

The chart below gives a breakdown of people trained.

**Chart 1: Number of People Trained**





# Gender Mainstreaming



*Hope Mruttu - Taita Taveta County First Lady plants a tree during a women's advocacy rally*

The Constitution of Kenya 2010 outlines a progressive devolved governance and gender transformation by prescribing the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. Three years since Kenya rolled out the devolved system of government, there has been progress in gender mainstreaming and there are efforts to ensure equitable distribution of resources across the country, by ensuring that all citizens, female and male, have access to information, choices, opportunities and resources. To augment the government's gender interventions, the UNDP in collaboration with UNWomen and with support from DFID is undertaking gender-based interventions. The Programme has ensured that gender-sensitive approaches are supported to tackle some of the underlying gender disparities in Kenya's society from a governance supply perspective particularly in the area of gender responsive planning and budgeting.

The programme, through the UN Women, works in collaboration and partnership with the Public Finance

Management Reforms Secretariat and the Department of Public Procurement both of the National Treasury; Office of the Controller of Budget; Kenya School of Government; Council of Governors; and two CSOs, Maendeleo ya Wanawake Organization and Joyful Women's Organization, in Turkana County.

Some of the achievements so far include: review of the Public Finance Management (PFM) Reforms Strategy 2013-2018 to include specific interventions and indicators on GRB; enactment of the Public Procurement and Asset Disposal (PPAD) Act (2015) that spells out the implementation of the preference and reservation scheme for women, youth and people living with disabilities (PWDs); and the Public Procurement and Disposal Preference and Reservations Amendment Regulations (2013), which expressly requires a procuring entity to allocate at least 30 percent of its procurement spent for the purposes of procuring goods, works and services from micro and small enterprises owned by youth, women and PWDs.

The programme has assisted the government to develop gender mainstreaming tools including review of the PPAD (2015) Act regulations with a gender lens to be gender inclusive, and provision of gender disaggregated data for Medium Term Expenditure Framework guidelines for preparation of the 2017/18–2019/20 medium term budget. In addition, the State Department of Gender Affairs has reviewed the National Gender and Development Policy to enshrine GRB within the policy framework, while GRB guidelines have been integrated into the counties' budget process including into performance management systems and performance contracts through the review of the Public Finance Management (PFM) Reforms Strategy 2013-2018.

The objective of the PFM Reforms Strategy 2013-2018 is to guide the reform process and improve service delivery on the awareness that impressive progress in economic development and poverty reduction is attributable to improved governance systems that are gender sensitive. The strategy is premised on four thematic areas that clearly integrated gender issues: strategic planning and budget preparation; budget execution, accounting and reporting; external audit and oversight; and legal and institutional framework.

### Rapid Assessment for 30 Percent Public Procurement

A Rapid Assessment of the 30 percent public procurement quota for women, youth and PWDs was conducted in five sampled counties (Turkana, Uasin Gishu, Kilifi, Kiambu,

and Kisumu) to understand the uptake of the Access to Government Procurement Opportunities (AGPO) revealed that the level of awareness about government procurement opportunities still remains low among the target group. This is despite the government putting structures in place for the implementation of AGPO and establishment of trust funds for credit facilitation. Factors that contribute to the slow uptake include: bureaucratic business registration processes; complex bidding documents; lack of access to capital to enable women, youth and PWDs owned businesses to participate in tendering as well as delayed payments to contractors by some public entities. The report presents key recommendations that would address the slow absorption of the AGPO, among them being a countrywide awareness campaign about AGPO targeting a large number of women, youth and PWDs. A key success is the Banking Amendment Act (2016), recently assented, which is expected to improve access to credit by women, youth and PWDs thus enhancing business growth among women entrepreneurs.

To strengthen government officers in the administration of the affirmative principle, Kenya School of Government developed a County Procurement Curriculum program in line with the Public Procurement and Disposal Act (2015) and a Sensitization Curriculum on the 30% prevalence and reservation scheme in public procurement. The County Procurement Curriculum program, which has already been rolled out will enhance understanding and compliance of the national and county governments with the requirements under the Act.



Ms. Mwanamaka Mabruki (second left), Permanent Secretary, State Department for Devolution, MoDP in a gender panel discussion during the 3rd Devolution Conference



# Disaster Risk Reduction and Climate Change Mainstreaming

## 5

Kenya enacted the Climate Change Act (2016) to provide a regulatory framework and mechanism for enhanced response to climate change and measures to achieve low carbon climate development. This is in line with Kenya's Constitution that elevates issues of environment and development as human rights, which lays a firm foundation for climate change response. To respond to this call, the UNDP, through the technical input of the Disaster Risk Reduction (DRR) and Environment units supported key government institutions to build their capacity to enhance coherence, coordination and implementation of priority climate change adaptation and mitigation options through the planning and budgeting process at both levels of government.

The project has supported the preparation of a framework to institutionalize County Spatial Plans (CSP) to guide long-term development agenda and mainstream Climate Change/Disaster Risk Reduction priorities and opportunities across the Planning Framework. Five counties (Kilifi, Kwale, Tana River, Baringo and Turkana) have been supported to establish a functional Climate Change/Disaster Risk Reduction coordination structures in line with the Sendai Framework on County Action Plan. The project also supported a review of the National Disaster Risk Management (DRM) Policy while Baringo County drafted and validated a County DRM Policy.

The project has enhanced government capacities in mainstreaming climate change in national planning and budgeting for sustainable development as required by the Paris Agreement. This will enable development of strategies to devise ways of counteracting the effects of climate change in economic development. The capacity would also enable the country to look at emerging opportunities in climate change to transform economic growth and explore various options for mainstreaming best policy practice, to build strategies for responding to the impact of climate change.

### Assessment on the Status of Spatial Planning

An assessment on the status of spatial planning in 13 counties (Lamu, Tana River, Machakos, Makueni, Kitui, Meru, Vihiga, Busia, Siaya, Baringo, Homa Bay, Nyandarua, Isiolo) revealed that nearly all the counties are facing challenges in streamlining county spatial planning. The envisaged role of the CSP as a key instrument to realise the constitutional provisions, including environmental protection, and economic and social rights as envisaged under Article 42 and 43 of the constitution, as well as its role in giving effect to the objects and principles of county planning, budgetary allocations has not been impressed.

Other constraints to the development and implementation of county spatial planning highlighted by the assessment include: inadequate allocation of funds for the CSP process; lack of harmonized structure for management of the entire CSP and coordination of inter-departmental involvement; understaffing of the physical planning departments; lack of data for planning; and lack of capacity to integrate climate change/disaster risk reduction strategies into the CSP.

Through the project support, three counties (Kwale, Kilifi and Baringo) have mapped disaster and climate related risks and utilized the information for evidence-based development planning and budgeting. Four counties (Turkana, Garissa, Baringo and Tana River) have published County Specific Hazard Atlas while the Regional Centre for Mapping and Resource Development developed a training module on the use of the hazard maps and climate risk profiles for planning. Five counties (Kilifi, Kwale, Tana River, Baringo and Turkana) domesticated global and national Climate Change/Disaster Risk Reduction frameworks including relevant policies based on the Sendai Framework and developed County Action Plans. Each of the five counties has a County Disaster Risk Reduction Action Plan based on the Sendai Framework with budgetary allocation for the implementation of Climate Change/Disaster Risk Reduction interventions into key sectors focusing on Health, Water, and Infrastructure.



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